

1 April 5th, 2011 Redwood City, Ca

2 P R O C E E D I N G S

3 MORNING SESSION

4 THE COURT: Good morning, everybody. We are  
5 here on the record in the matter of People vs. Alexander  
6 Youshock, Case Number SC070984A. The record should  
7 reflect party and counsel are present, all members of  
8 our jury are also present.

9 And folks, I just want to let you know that in  
10 this case the entry of plea of not guilty by reason of  
11 insanity was entered on the 14th of December 2010 in  
12 this matter. Ms. Guidotti, do you have another witness  
13 to call at this time?

14 MS. GUIDOTTI: Your Honor, the People call  
15 Dr. Jeffrey Gould.

16 JEFFREY GOULD,  
17 called as a witness by and for the  
18 People having been first duly  
19 sworn was examined and testified as follows:

20 THE CLERK: Will you please state your name  
21 spelling your first and last name for the record.

22 THE WITNESS: Jeffrey Gould, J-e-f-f-r-e-y  
23 G-o-u-l-d.

24 THE COURT: All right. Dr. Gould, you are  
25 familiar with the admonition, keep that in mind, and you  
26 may proceed, Ms. Guidotti.

1 MS. GUIDOTTI: Thank you.

2 DIRECT EXAMINATION

3 BY MS. GUIDOTTI:

4 Q Dr. Gould, you have a laptop there in front of  
5 you?

6 A Correct.

7 Q Is that for purposes of reviewing your report  
8 and notes that you may have in this case?

9 A Yes.

10 Q Thank you. So Dr. Gould, you have already  
11 testified before once in this case during the guilt phase,  
12 correct?

13 A Correct.

14 Q And so I will spare both you and the jury for  
15 all your background information. I just want to review a  
16 couple of things with you.

17 A Certainly.

18 Q You have an M.D., is that right?

19 A Yes.

20 Q And that's from the Mayo Clinic?

21 A Yes.

22 Q And then in the late '90's you did a residency  
23 in psychiatry, correct?

24 A Correct.

25 Q Where was that?

26 A San Mateo County Hospital.

1 Q There is a psychiatric unit there?

2 A Yes.

3 Q And then you did a fellowship additionally, is  
4 that right?

5 A Correct, I did.

6 Q And that was in 2000-2001?

7 A Yes.

8 Q And what was the major of your fellowship?

9 A It was a sub-specialty of psychiatry called  
10 forensic psychiatry.

11 Q Having to do with criminal law?

12 A Yes.

13 Q And where did you do that fellowship?

14 A UCSF.

15 Q Is that -- is the fellowship a requirement for  
16 your degree or your profession?

17 A No. There are many psychiatrists who consult to  
18 the legal system who do not have fellowship training, have  
19 not been to a subspecialty program. It's not a  
20 requirement.

21 Q And what is the purpose then for you to undergo  
22 fellowship. What does it do for you in your career?

23 A It's an intensive education program around  
24 interface between psychiatry and the law. For  
25 psychiatrists who are medical doctors like myself, you  
26 don't have a lot of legal background. It's very

1 educational in that we get to work with the Courts. We  
2 get to work in the prisons, we go to law school at  
3 Hastings, we get an intensive education in how to perform  
4 our role as consultation to the court system in a  
5 professional way that's helpful for the Court.

6 Q And you are certified by the American Board of  
7 Psychiatry, correct?

8 A Yes.

9 Q And then presently also you do some work at the  
10 Maguire Correctional facility here in San Mateo County,  
11 correct?

12 A Correct.

13 Q Can you tell the jury what your role is in that  
14 respect?

15 A I am a treating psychiatrist. So for patients  
16 we have at the jail who have major mental illness, I  
17 provide treatment, usually in the form of medications and  
18 then I will have an ongoing patient group that is mine  
19 that I follow over time.

20 Q In 2008 you gave a presentation at the American  
21 Academy of Psychiatry and the Law, is that right?

22 A I think I did. I have to bring out my resume to  
23 see exactly, it sounds about right.

24 Q If you would do that because that was  
25 specifically regarding evaluations of claims of not guilty  
26 by reason of insanity, isn't that true? Under invited

1 presentations, national?

2 A Yes. I just have to bring it up, excuse me for  
3 a second. Yes, that's correct.

4 Q And specifically, what was that presentation on?

5 A It was not guilty by reason of insanity  
6 evaluations under California case law.

7 Q And then finally, if you need to refer  
8 specifically to your CV, it's on page five, you indicate  
9 that you were involved with criminal sanity evaluations  
10 seminar from 2003 through 2011, is that correct?

11 A Yes.

12 Q Can you tell us what that was, please?

13 A Well, that was a seminar that I gave both to  
14 psychiatrists as well as to law students at different  
15 times. And it again deals with the interface between  
16 psychiatry and instead of general legal context,  
17 specifically, not guilty by reason of insanity evaluation,  
18 and the different criteria for that and how psychiatry and  
19 the law interface around those legal questions that are  
20 offsets as a psychiatrist.

21 Q Now you, Dr. Gould, you are on the San Mateo  
22 County panel of forensic evaluators, are you not?

23 A Yes, I am.

24 Q For how many years have you been a member of  
25 that panel?

26 A 12, 11, something like that.

1 Q And as a member of that panel, are you appointed  
2 by the San Mateo County Courts to do evaluations of  
3 persons for mental health issues?

4 A Yes.

5 Q Are you sometimes appointed to evaluate a  
6 person's competency to stand trial?

7 A Yes.

8 Q And are you additionally appointed to evaluate  
9 whether or not a person is sane?

10 A Yes.

11 Q What portion of your practice involves cases for  
12 which you are appointed to do evaluations for the Court?

13 A Well, Court appointed cases specifically versus  
14 when I am privately retained, it depends. Over the years  
15 maybe 20, 25 percent.

16 Q So you are then -- there are of course occasions  
17 where you are retained by one party or the other to  
18 testify, correct?

19 A Yes. And it's a little bit hard to answer  
20 because it's whether it's the time spent or number of  
21 cases, because there is far more numbers of cases that I  
22 get referred from the Court specifically, but they are  
23 often times cases that are quick and small and don't take  
24 a lot of time compared to the retained cases. I am not  
25 sure how to answer that. I do have privately retained  
26 cases.

1 Q I just need to remind you to slow down.

2 A Thank you.

3 Q You have a private practice where you see  
4 patients?

5 A Yes.

6 Q You are also an instructor, correct?

7 A Correct.

8 Q Now, you were appointed by the San Mateo County  
9 Courts on this particular case, were you not?

10 A Yes, I was.

11 Q And what date were you appointed to do an  
12 evaluation in this case?

13 A I don't know the exact date, I can find the  
14 Court order, if you like.

15 Q Was it approximately, mid-December?

16 A Yes, that sounds about right.

17 Q And what were you asked to do when you were  
18 appointed to do an evaluation in this case?

19 A I was asked to assess Mr. Youshock's psychiatric  
20 condition, and whether or not he met the legal criteria  
21 for sanity from a psychiatric perspective.

22 Q Now, had you had any prior contact with the  
23 defendant?

24 A No.

25 Q Had you had, for example, been treating him in  
26 the Maguire facility you wouldn't have accepted this case,

1 is that true?

2 A That's correct. I have to and I do keep  
3 separate the evaluations in which I am doing for the Court  
4 process versus patients I am treating in the jail. I  
5 never have overlap or have a patient I am treating also  
6 someone I am evaluating for the Court process or vice  
7 versa. I keep those separate.

8 Q Is that because you want to be extremely  
9 independent when you are doing evaluations for the Court?

10 A Yes, exactly. As a treating physician our  
11 natural inclination is to want to help our patients in  
12 whatever way we can. My role as an evaluator of the Court  
13 process is very different. It's more fact finding and a  
14 very neutral sort of critical analysis of the information,  
15 which is different than our role as treating physicians.  
16 It becomes confusing for both ourselves and our patients.

17 Q In this particular case, is it fair to say you  
18 received a voluminous amount of material?

19 A Yes, that's fair to say.

20 Q You received the entire San Mateo police  
21 investigation reports, correct?

22 A Correct.

23 Q The hours of interviews of the defendant by the  
24 officers?

25 A Yes.

26 Q The journal that the defendant wrote?

1 A Yes.

2 Q Suicide note the defendant wrote?

3 A Yes.

4 Q Manifesto that he wrote and recorded?

5 A Yes.

6 Q Did you also get the DVD's, CDs of the  
7 experiment that he conducted in his backyard?

8 A Yes.

9 Q And cartoons or animations that he created?

10 A Yes.

11 Q Did you additionally review a number of other  
12 doctors' reports on the defendant?

13 A Yes.

14 Q Including Dr. Wilkinson, Dr. Patterson,  
15 Dr. Berke, Dr. Fricke, Dr. Gregory, Dr. Stewart, did you  
16 receive all those?

17 A Yes. Some of them had more than one report.

18 Q And Dr. Kline?

19 A Yes.

20 Q And Dr. Missett?

21 A Yes.

22 Q Did you also review the defendant's records from  
23 jail, medical records from the jail and Juvenile Hall?

24 A Yes.

25 Q And did you review his school records from  
26 middle school, grammar school, Hillsdale High School and

1 finally West Bay High School?

2 A I would have to look at how far back and which  
3 schools were encompassed in those records. I don't  
4 remember off the top of my head, but yes, I do have school  
5 records.

6 Q Now, after reading all of this voluminous  
7 material, did you decide that you wanted to conduct more  
8 interviews yourself?

9 A Yes.

10 Q And specifically, who else did you ask to  
11 interview in this case?

12 A I asked and did interview Mr. Tickel, who is an  
13 instructor or Mr. Youshock's teacher at West Bay High  
14 School. I interviewed Mr. Prakish, who was a friend of  
15 Mr. Youshock's, I interviewed Ms. Brown, another friend of  
16 Mr. Youshock's. I interviewed Mr. Youshock's sister  
17 Amber, and mother, Carol Youshock. I interviewed several  
18 of the teachers at Hillsdale High School. Ms. Selinger,  
19 Mr. Hartig, the principal, Mr. Gilbert. I interviewed the  
20 jail mental health staff who is familiar with Mr.  
21 Youshock, Dr. Seever, I interviewed Dr. Fricke and  
22 Dr. Gregory.

23 Q What was the reason that you wanted to interview  
24 those people in addition to all the records that you  
25 received?

26 A I felt there was gaps in the information I had

1 that I wanted to fill in. I also believed that there was  
2 an important question for me to feel comfortable and  
3 answer in my mind about really why, the reason that this  
4 act occurred, the reason that Mr. Youshock performed this  
5 behavior, and from a psychiatric perspective where was it  
6 coming from.

7 Was this coming from personality issues, was this  
8 coming from a psychotic illness, was there some other  
9 explanation. And from the written material I had and from  
10 my interview necessarily I felt that there was more than I  
11 can fill in to get a better picture of what was happening.

12 Q By doing that, did those gaps get filled in for  
13 you?

14 A Yes.

15 Q Did you also interview the defendant?

16 A Yes.

17 Q How many hours did you spend interviewing the  
18 defendant?

19 A Approximately, two and a quarter hours, then I  
20 administered psychological testing as well.

21 Q So basically, a two and a quarter hour interview  
22 then a separate administration of tests, is that right?

23 A There were two separate interviews that made up  
24 that two and a quarter, then a third time that I saw him  
25 that I administered testing.

26 Q And the dates that you interviewed him, were

1 what dates?

2 A January 4th, 2011, and February 2nd, 2011.

3 Q And the date that you administered the tests was  
4 what?

5 A I have to find that, it was around that same  
6 time frame, some time in that month.

7 Q So late January, early February?

8 A Yes.

9 Q Now, because you already testified somewhat to  
10 this, I am just going to very briefly touch on this. Did  
11 you after reviewing all of these documents and  
12 interviewing the defendant, did you arrive at a diagnosis?

13 A Yes.

14 Q And what was that diagnosis?

15 A Schizophrenia.

16 Q And any particular type?

17 A His symptoms would be most consistent with the  
18 paranoid type.

19 Q Is there some question in your mind with regard  
20 to that, just because the way you worded that just now,  
21 most consistent?

22 A There is some sort of slicing and dicing of  
23 different symptoms in schizophrenia, and I think arguments  
24 can be made for undifferentiated type and paranoid type,  
25 but I think it's more predominant in the paranoid type.

26 Q Now, do you have an opinion as to the stage of

1 schizophrenia that he was at on August 24th, 2009?

2 A I did not address that specifically in my  
3 evaluation, and I have seen another report that was  
4 something that was addressed there. I felt that he met  
5 the criteria for having schizophrenia. Now there's some  
6 issue about time course, and so one of the definitions of  
7 schizophrenia is that these symptoms have to be present  
8 for six months and it's questionable right around the time  
9 of the offense if his symptoms had really been present for  
10 the whole six-month required period of time.

11 Now, I had happened to see him much later than that  
12 where that time criteria was clearly met by the time I saw  
13 him in 2011, but at the time of the offense he could have,  
14 if I had interviewed him right at that time he may or may  
15 not have met the time criteria, yes, and it might have  
16 been in the prodromal phase or coming on to schizophrenia,  
17 what we call schizophreno form, but hadn't met that type  
18 of criteria. It's a little unclear of the date the  
19 symptoms started, but clearly by the time I saw him I felt  
20 the criteria had been met.

21 Q Would it be fair to say that if he was meeting  
22 the criteria of schizophrenia on August 24th of 2009, it  
23 was in a fairly early stage?

24 A Yes.

25 Q And just briefly, how would you describe the  
26 severity of the hallucinations up and until August 24th,

1 2009, or up and through August 24th of 2009?

2 A Up to that point, Mr. Youshock had told me that  
3 he had experienced auditory hallucinations or hearing a  
4 voice on two occasions. I think it was once in junior  
5 high school, and once approximately, six weeks prior to  
6 the incident. And as far as visual hallucinations, I  
7 think I talked about this last time.

8 He had these events in his room alone, that were  
9 possibly sort of an enhanced day dreaming and possibly  
10 actually hallucinating. I would say it's a little  
11 unclear. The degree of which these instances in his room  
12 which he was living out of, the incidents that were going  
13 to take place were actually hallucinatory, I am not clear  
14 about that.

15 Q How would you describe the severity of those  
16 symptoms up and until August 24th, 2009?

17 A Well, at that point in time the hallucination  
18 symptoms were brief, intermittent, fairly mild.

19 Q And are you of the opinion that his condition  
20 worsened after he was arrested and incarcerated for some  
21 time?

22 A Yes.

23 Q Are you in agreement that the social isolation  
24 of his incarceration exacerbated his symptoms?

25 A Well, we don't know that. We know that he was  
26 incarcerated and was put in an isolation setting, and we

1 know the symptoms became worse. He was also of the  
2 characteristic age that one would expect if he was going  
3 to have schizophrenia, which I am of the opinion he did,  
4 that it could worsen regardless of the social setting.  
5 Yes, social isolation, social stress can exacerbate  
6 psychotic symptoms for somebody with schizophrenia, but  
7 we have a correlation in time of those taking place. It's  
8 hard for me to make that link, to say social isolation  
9 made that worse, because he could have very well have gone  
10 on to have those symptoms regardless of his social  
11 setting.

12 Q So it sounds like what you are saying, his  
13 symptoms did get worse after his arrest and incarceration,  
14 but you are not willing to say that it was causation?

15 MR. MCDUGALL: I am going to object as to  
16 leading.

17 THE COURT: No. Overruled.

18 BY MS. GUIDOTTI:

19 Q Was I accurate in that characterization?

20 A I would say there is not enough information to  
21 say that that was the cause of the exacerbation of the  
22 symptoms, the socialization.

23 Q So Dr. Gould, then you did make a finding that  
24 the defendant suffers from a mental illness,  
25 schizophrenia, correct?

26 A Correct.

1 Q Now, moving on then to the other prongs of the  
2 sanity, the legal definitions of sanity. Did you in your  
3 evaluation of all the materials in this case and your  
4 interview with the defendant, did you address the issue or  
5 come to a conclusion on the issue of whether or not the  
6 defendant appreciated the nature and quality of his  
7 actions?

8 A Yes.

9 Q Okay. Can you please tell us or define for us  
10 what you mean when you say nature and quality?

11 A Did he know what he was doing, did he know that  
12 he was performing acts in a sense, the word is reality.  
13 Did he think that these were cartoon objects that were  
14 happening. The analogy that is made sometimes is, does  
15 someone stab a human or a stack of potatoes. Did he know  
16 what he was doing and the reality of it at the time.

17 Q Now, did you in your report in fact go through  
18 and list a number of things that you relied upon in coming  
19 to that determination that he understood the nature and  
20 quality of his actions?

21 A Yes.

22 Q And are you on page 20 of your report?

23 A 21, I think.

24 Q All right. Now, let me back up, before we get  
25 into that, let me back up for just a moment. If a person  
26 is schizophrenic, are they nonetheless capable of

1 understanding the nature and quality of their actions?

2 A Well, they certainly can be. There are  
3 certainly people that suffer from schizophrenia who lose  
4 the ability to know what's really happening and what they  
5 are really doing, but having schizophrenia in and of  
6 itself doesn't mean that someone is unable to know the  
7 nature and qualification of their actions.

8 Q In fact, I believe, you testified previously,  
9 you testified about his cognitive processing and his  
10 ability with executive functioning, correct?

11 A Yes.

12 Q And we are talking about the date of the  
13 offense, correct?

14 A Yes.

15 Q And to summarize, what was your finding about  
16 his ability to, about his cognitive processing on  
17 August 24th, 2009?

18 A Mr. Youshock was showing both in his behavior  
19 and his later description of his behavior that he had  
20 intact executive functions. His ability to plan, his  
21 ability to understand his environment and interpret it, at  
22 least the environment correctly was intact.

23 Q And is that something that you consider when you  
24 are determining if a person understands the nature and  
25 quality of their actions?

26 A Yes, definitely. There are, as I think we were

1 talking about last time, sort of the core symptoms of  
2 schizophrenia; delusions, hallucinations and  
3 disorganization, particularly when someone with a  
4 psychotic illness becomes disorganized. They are talking  
5 about random things that don't make sense, they are  
6 behaving in a random, non purposeful way, and people with  
7 psychotic illnesses can become very disorganized in their  
8 behavior and thoughts and not know what they are doing,  
9 and the nature and quality. So, yes, that's very  
10 important to look at how they are actually behaving and  
11 what they are doing at that time, to get some insight into  
12 what's happening with the mental process.

13 Q With regard to how he was functioning at school,  
14 at West Bay High School, at the same time that he was  
15 planning this attack at Hillsdale High School, how does  
16 that impact your finding about his ability to understand  
17 the nature and quality of his conduct?

18 A Well, that was one reason I wanted to speak to  
19 his teacher from that time period, see about his ability  
20 to understand the school work, did he behave  
21 semi-appropriately in the setting of the school. All  
22 these indications that he would be able to understand the  
23 environment around him and plan and organize things were  
24 intact.

25 Q In your opinion, and in your investigation in  
26 this case, in your analysis of this case, have you ever

1 seen an indication of the defendant having a disorganized  
2 thought process?

3 A Some of his journal writings get disorganized at  
4 times. I have never seen him behave in a way that was  
5 disorganized, I haven't. He did not talk or manifest  
6 thought processes in the way that are disorganized. When  
7 I spoke with him he made sense, hopefully in a way that I  
8 do.

9 The one sentence had something to do with the next,  
10 and the next, and can follow his train of thought. I  
11 don't remember seeing any other indication from other  
12 examiners that they saw disorganization in his thoughts.  
13 So a little around his journal there was some disorganized  
14 thoughts, but nothing else.

15 Q I know the journal is long and it might take you  
16 some time to scroll through it, but is there anything that  
17 comes immediately to mind that strikes you of an example  
18 or something that's disorganized in his journal?

19 A Last time I testified I read a piece of his  
20 journal or his writing that had disorganization in it. I  
21 can bring that piece back up, if you like me to reread it.

22 Q Was it just one entry that you found?

23 A There was just one entry that I read here in  
24 Court last time. I don't remember how many entries had  
25 disorganized thoughts. Like you said, it was a very large  
26 journal.

1           Q       I will let everybody rely on their memory  
2 because that wasn't something that was lodged in my mind,  
3 but that's okay. Did you see any evidence of disorganized  
4 behavior in the evidence of his conduct on August 24th,  
5 2009?

6           A       No.

7           Q       Now, going to the issue of nature and quality,  
8 of appreciating the nature and quality of his conduct.  
9 Can you please give us some examples that you documented  
10 or that you recall that indicate to you that he knew the  
11 nature and quality of his conduct?

12          A       Many of the things we've just been discussing.  
13 He was able to function adequately in his academic setting  
14 in the time leading up to the incident. He was able to  
15 function in other life spheres, he was able to and he  
16 documented extensively his ability to prepare and plan and  
17 organize himself around the incident that took place, and  
18 then in order to carry out the act of what he is accused  
19 of, the incident.

20                 He did many complex sort of thought or cognitive  
21 tasks as well as motor or movement oriented. This was not  
22 as I said like some people with psychotic illness in the  
23 hospital setting where we have them, they may be lashing  
24 out, very disorganized, very nonsensical of what they are  
25 saying and what they are doing.

26                 We are trying to keep them safe, maybe get them in a

1 room and someone might get hit, because there is sort of  
2 lashing out in a non directed way, but this sort of  
3 violent incident did not have that same kind of  
4 disorganized appearance. It was very well planned. In  
5 order to carry out the type of planning, the type of  
6 organization that this required, he would have had to  
7 know.

8       There is no way that I can think of this could have  
9 been a coincidental random thought to manifest this type  
10 of organized behavior. In addition, when I discussed the  
11 incident with Mr. Youshock afterwards, he was able to  
12 describe it in a manner in which he described in great  
13 detail his behaviors and his thoughts. At least his  
14 behaviors at those times in a way that he knew what he was  
15 doing, he knew the nature and quality of those actions.

16       Q     When you talk about the complex motor and  
17 cognitive tasks, does that include the ability to  
18 orchestrate this so that would not be detected?

19       A     Yes. That is one aspect of the planning and  
20 organization, yes.

21       Q     So perhaps the choice of clothes, selecting  
22 certain clothes that would allow him to blend in, is that  
23 an example of this?

24       A     Yes, although he did have somewhat unusual  
25 clothing at the time of the incident, but yes, in that he  
26 did not want to be detected by police on his way there,

1 that's true.

2 Q Nor spotted at the school, correct?

3 A Correct.

4 Q And the idea of the planning, of getting a  
5 guitar case, for example, so that he could carry the chain  
6 saw to school, is that also part of this complex planning  
7 that you are discussing?

8 A Yes.

9 Q Making sure that he got a ride to the school  
10 that morning rather than chance being seen by the police  
11 during a walk, is that another example of what you are  
12 referring to?

13 A Well, he did get a ride that day. I did not  
14 question him, so I don't know specifically. I didn't  
15 question him about the reason of getting a ride versus  
16 walking. So I don't know whether that was an attempt to  
17 avoid detection or not.

18 Q Do you recall the journal where he describes  
19 walking to the school and being stopped by a police  
20 officer?

21 A Yes.

22 Q And with regard to knowing what he was doing  
23 that day, was one of items that was important to you the  
24 fact that he told you that he intended to kill people?

25 A Yes. In that his thoughts were congruent, were  
26 in sync with his behavior and manifestation of his acts

1 that day there. It was all in alignment together. This  
2 wasn't a random disorganized process that's happening,  
3 yes.

4 Q Additionally, did you consider the interview  
5 done by the officers where they asked him, do you know  
6 this is real life, it's not a video game, right. And his  
7 answer was, yes.

8 A Yes.

9 Q Was that important in that conclusion that you  
10 made?

11 A Yes, I thought that was important.

12 Q Now, schizophrenia is a psychotic disorder, is  
13 that right?

14 A Correct.

15 Q And do you believe that the defendant was  
16 suffering some psychotic symptoms in the days leading to  
17 and on August 24th, 2009?

18 A Yes.

19 Q And the psychotic symptom that you believe he  
20 was suffering from on that day was what?

21 A Delusions.

22 Q And can you be specific with regard to what you  
23 believe those delusions were?

24 A Certainly. Again, this might be some repeat of  
25 what I said last time, but a delusion is where someone  
26 believes something that's not true, either could not

1 possibly be true or is just highly unlikely to be true for  
2 that particular individual. And Mr. Youshock made the  
3 long standing delusional belief that his former teachers  
4 at Hillsdale High School were attempting to ruin his life.

5 Q And that delusion you are referring to, you  
6 consider that a delusion, correct?

7 A Yes.

8 Q Okay. Even though he was experiencing that  
9 feeling that day that these teachers were going to ruin  
10 his life, did that delusional symptom or that psychotic  
11 symptom that he was experiencing, did it impair his  
12 ability to understand the nature and quality of his acts  
13 on that day?

14 A No.

15 Q Can you just briefly explain to us how one can  
16 be operating under a psychotic symptom and yet not have it  
17 interfere or impair your ability to understand the nature  
18 and quality of your conduct?

19 A Certainly. So I will make it sort of an analogy  
20 first, and then bring it back to Mr. Youshock. We all  
21 have different beliefs about different things in the  
22 world, they might be political or religious beliefs that  
23 might greatly differ from someone who we work with or know  
24 in a setting, but we can still hold those thoughts and  
25 behave in the world in the way we know what we are doing.  
26 And we can drive our cars, do our jobs and do whatever and

1 have those greatly differing belief systems. For Mr.  
2 Youshock's case his belief system was not based in reality  
3 and his psychotic mind was unable to interpret the  
4 environment accurately around his interactions with his  
5 teachers and process how to understand and react to that  
6 in a normal way.

7 But in other aspects of his life, like I was saying  
8 a few minutes ago, he was organized, he was able to  
9 perform his academic functions, perform other functions of  
10 life in a way that he remained in this world, he remained  
11 able to function in a way that was appropriate to the  
12 settings of the world.

13 And so, you can have both a certain belief system  
14 and in his case a very psychotic outside the spectrum of  
15 normal belief system and still manages and behaves in the  
16 world in the way that you know what you are doing.

17 Q Thank you. Now, coming after finishing that  
18 prong which is that he did understand the nature and  
19 quality of his actions, what is the next step that you go  
20 on to in making your determination of sanity?

21 A Whether someone knew or whether when they had  
22 the mental illness and if they had the mental illness, did  
23 it impair their ability to know what they were doing was  
24 wrong at the time or could they know the difference  
25 between right and wrong. There's a variety of ways that  
26 can be defined.

1           Q     Now, you broke that down into three separate  
2 pieces in your evaluation, did you not?

3           A     Yes.

4           Q     Can you tell us the three categories that you  
5 addressed separately in making this finding?

6           A     Certainly. As far as I understand it, I am not  
7 a legal professional, is that the term "wrong" can be  
8 defined in different ways. So I went ahead and just  
9 defined them in the various ways I understand, and the  
10 legal profession can sort out which one of those is the  
11 correct way.

12           But there's legal wrong in that, did someone know it  
13 was against the law at the time that they did something,  
14 and then there is moral wrongfulness, although they might  
15 have known that they can get arrested and it was against  
16 the law, did they believe that morally they were doing the  
17 right thing.

18           And under moral wrongfulness there's then a division  
19 between whether as an individual they felt like they were  
20 doing the right thing or whether they, although they knew  
21 as an individual they were doing the right thing, they  
22 knew that society at large thought this was right or  
23 wrong.

24           So there is the legal wrongfulness, did they know it  
25 was against the law, then as an individual, individual  
26 wrongfulness, did they think they were doing the right

1 thing just themselves or is the standard what the rest of  
2 society would think is right or wrong. So I tried to  
3 answer each of those three separately or what his  
4 knowledge was of each of those three categories.

5 Q Now, you have read other doctor reports on  
6 sanity, correct?

7 A Yes.

8 Q Do all doctors break it down the way you do?

9 A No.

10 Q Is that just a personal comfort that you prefer  
11 to address these areas and then just say to the Courts,  
12 you sort out the legalities or you apply the legal  
13 definitions?

14 A Well, not in all sanity evaluations are all of  
15 those relevant, but for this analysis I thought that there  
16 was different information or different conclusions  
17 regarding the different categories, and since I am not the  
18 one to decide which category to be used, it was most  
19 appropriate to divide it that way.

20 Q Let's start with legal wrongfulness, that's the  
21 first you addressed chronologically?

22 A Yes.

23 Q What was your conclusion with regard to whether  
24 you believed that the defendant knew that his actions on  
25 August 24th, 2009, were legal?

26 A It's my opinion that he knew that his acts at

1 that time were against the law or illegal.

2 Q And can you tell us what you base that  
3 conclusion on?

4 A Well, it's documented, and Mr. Youshock has  
5 informed many people including myself that he thought he  
6 would be killed that day, he thought that when he began  
7 performing his acts at the school that the police would be  
8 called and that the police would be called because it is  
9 against the law and there would be law enforcement  
10 involved.

11 Now his eventual plan was to be killed by law  
12 enforcement that day as he explained it, but still the act  
13 of understanding that this is an illegal act, police would  
14 come and be involved is a recognition that it is against  
15 the law and that was part of the plan that manifested that  
16 day.

17 Q Dr. Gould, in order for you to reach a  
18 conclusion, do you need for a defendant to admit that they  
19 knew it was illegal or can you look at surrounding  
20 circumstances and make that determination?

21 A Well, I would say that if I can step back and  
22 answer that question more broadly first, and then answer  
23 it more specifically, the confidence in which I feel I can  
24 make any opinion is directly based on the amount of  
25 information I have and the validity of that information,  
26 how much and how valid is the information I have.

1           There are many evaluations that I do and other  
2 forensic psychiatrists do where we have little  
3 information, maybe the defendant won't speak to us or  
4 can't, we have a few outside observations.

5           And in those cases I can say that, you know, I have  
6 opinions based on the information, but I am not really  
7 confident because we are missing so much, where in other  
8 situations we have a great deal of information including  
9 cooperation from the defendant in giving us that  
10 information, as well as very importantly what other people  
11 are saying about what was happening.

12           So I have more confidence in knowing I have a lot of  
13 information and can know with greater confidence what I am  
14 saying is correct and valid. If Mr. Youshock or any  
15 defendant is giving that sort of information and it's  
16 consistent with the other outside information we are  
17 getting, that increases the level of confidence that the  
18 information is accurate, correct, so it helps.

19           If Mr. Youshock would not provide the information or  
20 was incapable of providing it, then the amount of  
21 information goes down, and so you may be able to come to  
22 some opinion, but I would have less confidence with less  
23 information.

24           Q       How confident are you that the defendant knew  
25 that what he was doing that day was legally wrong?

26           A       Very.

1 Q Let's move on then. Let me ask you one other  
2 question. Do you recall in the interview that the  
3 officers did with the defendant when they asked him about  
4 whether what he did was wrong that day, and his comment  
5 was, the law defines what is wrong, do you recall that?

6 A Yes.

7 Q Was that significant for you in making your  
8 determination that he knew it was legally wrong?

9 A It was one factor. One factor.

10 Q Then let's move on to the next question, the  
11 next subject matter of moral wrongfulness, and  
12 specifically, let's start with your opinion on his  
13 subjective or his individual opinion as to whether or not  
14 he was doing something wrong that day. Can you address  
15 that, please, and what your findings were?

16 A Yes. I felt, it's my opinion that Mr.  
17 Youshock's psychotic disease, his schizophrenia impaired  
18 his ability to know as an individual what was right and  
19 wrong. Said another way, because of his mental illness he  
20 thought he was doing the right thing. So the criteria of  
21 individual moral wrongfulness where he as an individual  
22 thinks, was impaired to that mental illness.

23 Q And was that, did you rely on comments like, it  
24 was something like, I had to do it, they deserved it, they  
25 had it coming, et cetera?

26 A Yes, that was part of the analysis certainly.

1 Q What else was part of the analysis?

2 A Well, there's several different aspects. One  
3 piece of it is that when someone behaves in a potentially  
4 violent manner that can come from a number of reasons. In  
5 psychiatry when we assess someone who has a greater risk  
6 of becoming violent, there's some well-known personality  
7 characteristics that put him at risk for doing violent  
8 things that has to do with behaviors that start at a  
9 younger age, around aggressiveness and more emotional  
10 chaos, and they manifest in a person, they try to resolve  
11 in a personal conflict through violence.

12 It may start in a school yard, into more serious in  
13 adulthood, escalate into more serious violence and so, as  
14 we all have patterns of our behavior and our personality  
15 that manifest over time, there are ways that someone would  
16 do something that's violent and you would expect it given  
17 their personality, that is something that certainly can  
18 happen, and there is other people that would be highly  
19 unlikely that they would do something violent.

20 So as an individual to believe that it is morally the  
21 right thing to do to solve an inner personal conflict --  
22 if I feel someone is mean to me through violence, it's a  
23 morally held belief, and certainly many people that I talk  
24 to believe that is the morally right thing to do. Mr.  
25 Youshock did not hold that belief, in both prior to the  
26 onset of the psychotic illness and then after his illness

1 had been treated and the symptoms had gone away. That  
2 moral belief of the way in which he should handle an inner  
3 personal conflict was very different than how it  
4 manifested around this incident, when he was suffering  
5 psychotic symptoms and his description of it, as well as  
6 everyone I interviewed, friends, his family, teachers, all  
7 said he was very nice, all refer to him as being quiet,  
8 but had handled inner personal conflicts in the past in  
9 appropriate ways.

10 If someone such as a sister was mean to him, he would  
11 walk away. He even said he let it go, he would go along  
12 with someone else, a friend who was more aggressive,  
13 trying to make them do something. He was much more  
14 passive and never manifested in the type of behavior  
15 around this incident, and so that deviation from his  
16 already held moral -- from his normal personality moral  
17 belief around violence was drastically different around  
18 this incident, and in such a dramatic way that I believe  
19 it was from the psychotic mental illness.

20 The other piece is that -- what's the other piece,  
21 the other piece is the ability to solve problems and think  
22 of alternatives, and his mental illness, in my opinion,  
23 impaired his ability to understand the context of his  
24 misperception of the teachers' overtures towards him and  
25 did not allow the type of flexibility of thinking that  
26 comes up with alternative plans that are non violent.

1           He only saw this as the only option and what he had  
2 to do, and all of those were manifestations, in my  
3 opinion, of an impairment of his already usual baseline  
4 personality, moral beliefs.

5           Q       So because of that psychotic belief he felt  
6 justified in killing the teachers, is that a fair  
7 description?

8           A       Yes, he felt justified and that it was the right  
9 thing to do.

10          Q       Now, to be clear, Dr. Gould, this was not in any  
11 way, shape or form described by him as some kind of self  
12 protection in terms of a fear that these teachers are  
13 going to do something to me, correct?

14          A       Correct, that was not.

15          Q       This thinking was, giving it a different name,  
16 revengeful and it remained that as well, correct?

17          A       Yes, anger and revenge were the emotions driving  
18 it.

19          Q       Now, going on to societal, that standard being  
20 wrong. Did he know that what he was doing was in  
21 violation of the standards, of the generally accepted  
22 standards of society, did you address that prong next?

23          A       Yes.

24          Q       Now, what was your ultimate opinion, Dr. Gould,  
25 as to whether or not he knew that society would deem his  
26 conduct to be wrong?

1           A       It's my opinion that he had the knowledge that  
2 other people in society would think that his acts were  
3 wrong.

4           Q       So, if you will, let's start by describing some  
5 of the factors that you relied upon.

6           A       So even though it's my opinion that his  
7 psychotic illness impaired his ability for himself to  
8 think that, to know that this was right or wrong, he  
9 understood that other people in society would disapprove  
10 of it, in that some of his acts that we described earlier,  
11 about avoiding detection and understanding that it was  
12 illegal comes into play, but also more specifically he  
13 told me that when I asked him that his mom would  
14 disapprove.

15           And I asked what his mom would disapprove of and he  
16 specifically stated, using bombs and using them in the  
17 way he mentioned, against other people, that she would  
18 disapprove of that, and he also indicated that other  
19 people in society would attempt to prevent him if they  
20 knew about it, knew about his plans, would attempt to  
21 prevent him. Also because they would disapprove, I think  
22 it's a wrong thing to do. That very clearly describes  
23 that piece.

24           Q       Did he also display an awareness of other kinds  
25 of crimes that are deemed wrong in society?

26           A       Yes. He indicated other grounds for arrest. I

1 asked him a couple of different questions about, would  
2 this be grounds for arrest, and named a number of  
3 different minor to major criminal acts, and he was able to  
4 indicate that those would be grounds for arrest.

5 Q Do you recall in the journal where he talked  
6 about how wrong it was for countries to commit genocide?

7 A If you give me the passage, I can speak to that  
8 more clearly.

9 Q It would be May 27th, whether American textbooks  
10 ever say anything about your pioneers in the United States  
11 committing genocide against native Americans, do you  
12 recall that?

13 A Yes.

14 Q Is the indication -- and then again let me skip  
15 ahead again, July 29th, discussion of war crimes,  
16 international crimes and genocide, kidnapping and forcing  
17 people into slavery, a country that murders civilians  
18 during war, talks about U.S. soldiers in Iraq killing a  
19 kid and shooting taxi drivers, does that indicate to you  
20 that murder is wrong, Dr. Gould?

21 A It certainly could. I did not ask him  
22 specifically about those passages in his journal. It  
23 certainly could, but I want to know more about what he is  
24 talking about and what he is referring to and his thoughts  
25 to really conclude to that.

26 Q Do you recall in one of his passages, same date,

1 talking about child molesters and rapists should be  
2 electrocuted, does that indicate an awareness of other  
3 crimes that are wrong?

4 A Yes, most likely.

5 Q Does the fact that the defendant was hiding  
6 things, hiding receipts, from the purchase of a guitar  
7 case, chemicals, pieces of pipe, tactical vest, et cetera,  
8 hiding those in a speaker, what does that tell you about  
9 his knowledge of the societal wrongfulness of his conduct.

10 A Well, that information coupled with what he did  
11 describe and avoiding detection because he could be  
12 stopped, because other people thought it was wrong, those  
13 links together are all consistent and help increase my  
14 confidence that he is telling me the truth and is  
15 consistent with the information, other information, and  
16 that he did understand other people would disapprove of  
17 this act.

18 Q What about dressing in a manner to escape  
19 detection, hiding the chain saw in the guitar case,  
20 entering the school through an unguarded entrance, what  
21 does that indicate in terms of understanding moral  
22 wrongfulness, societal wrongfulness?

23 A Again his focus on avoiding detection could  
24 indicate that he was, he knew it was illegal, but in his  
25 case he made the link to me that it was also because he  
26 understood that other people would disapprove and think

1 this is wrong. So he understood that others in society  
2 believed that this was morally wrong and that manifested  
3 in his behavior of attempting to avoid detection.

4 Q What about his lies, the lies that he talks  
5 about in his suicide notes. "The last couple of months I  
6 haven't been very honest with many of you, I have lied,  
7 tricked and used all of you to get through this day and  
8 you are probably angry with me." What significance does  
9 that have for you?

10 A It had several significances, if that's a word.  
11 It was consistent with the part in which I said that his  
12 previous personality functioning was very different than  
13 how he was manifesting around this incident. When I  
14 interviewed his family, they were very clear with the fact  
15 that Mr. Youshock doesn't lie, he never lies to them and  
16 they were, in my discussion with them, I didn't know what  
17 was said here in Court, obviously shocked by the incident.

18 They were also shocked that he had lied to them  
19 because this was so out of character of his thinking, so  
20 more credibility to that aspect of understanding that  
21 individually this was a great departure from his usual  
22 functioning, but it also gave more validity and more  
23 consistency around the avoiding detection piece that he  
24 went to that extreme in his behavior of lying to his  
25 family which he never does in order to avoid detection  
26 around this incident that he felt he needed to do and he

1 avoided because he knew they would disapprove.

2 Q And the comment, if this goes as planned then  
3 you will be bombarded by the media, and what did that tell  
4 you about his comment about the media?

5 A He told me that he felt the media would portray  
6 him in a negative light because of the incident, and he  
7 didn't want his family to feel the pain over that and he  
8 wanted to assure them that those would be lies and not  
9 true what would be told about him.

10 Q Then it will be acknowledged that there would be  
11 media attention because of what he did, would that  
12 indicate to you that he knew he was doing something wrong,  
13 that he was doing something that society would deem wrong?

14 A It was not the strongest factor. Obviously  
15 someone could obtain media attention for something that  
16 was positive or negative in society's view, he felt he  
17 would be portrayed negatively, so it can be referred  
18 that's another consistent factor, but I did not question  
19 about the negative portrayal of the media, why and how  
20 that was integrated into his thoughts about what other  
21 people thought of his act. I didn't ask him.

22 Q Finally, at the bottom of that same note, don't  
23 remember me for my final actions, does that indicate to  
24 you that he knew his final actions were not going to be  
25 approved of in society?

26 A Yes.

1 Q Okay.

2 Q Now, there were times during your interview with  
3 him when you would point blank ask him if he knew what he  
4 was doing was wrong, correct?

5 A Correct.

6 Q And there were many times that he just didn't  
7 supply you with an answer, correct?

8 A Correct.

9 Q He'd say I don't know or he would give you an  
10 evasive answer, is that right?

11 A Certainly more of the I don't know's, but yes.

12 Q Now, did that prohibit you from reaching your  
13 conclusion that he did in fact know that his conduct was  
14 wrong in the eyes of society?

15 A I am sorry, did it prohibit me from knowing?

16 Q Yeah, how did that affect your opinion?

17 A Well, I wanted to understand why he wouldn't  
18 answer, and two, what he really thought, and by repeated  
19 questioning I was able to obtain the information I needed  
20 to understand what his beliefs were about, what other  
21 people thought at the time about his offense.

22 So I felt I got the information. People that I  
23 interviewed certainly say I don't know, I don't want to  
24 talk about it all the time and that can come from a number  
25 of reasons. It could be because they are being evasive  
26 trying to avoid blame or it can be because they have poor

1 memory because of a variety of reasons or it can be that  
2 they just actually don't know, and I might be asking the  
3 question that they just don't know the answer to, so  
4 saying I don't know in and of itself doesn't necessarily  
5 mean they lie, until I understand what the real  
6 information is behind it, which I felt like I did get that  
7 information eventually.

8 Q Now, Dr. Gould, we had testimony here in this  
9 courtroom by another expert who indicated that we can't,  
10 all these items that you have discussed, these pieces of  
11 evidence that you have discussed, the lying, the secretive  
12 nature, the hiding things, et cetera, that we simply  
13 cannot infer that he knew wrongfulness because he was  
14 psychotic. Do you agree with that proposition?

15 A No.

16 Q Okay. Tell us why you disagree with that  
17 proposition.

18 A Well, a few different reasons. At least, my  
19 understanding of the legal question that was referred to  
20 me was more detailed than that. It wasn't just whether  
21 Mr. Youshock has a mental illness or not. It was, does he  
22 have a mental illness and did it affect him in these  
23 various ways. And as I have explained, I believe that I  
24 have information that indicates that we can answer those  
25 questions. Much of that information came directly from  
26 Mr. Youshock, he explained it to me.

1           He explained it to me in a way that was consistent  
2 with the behavior and what was happening around the time  
3 of the incident. Sometimes when someone is having a  
4 psychotic episode they have very poor memory of their  
5 psychotic episode. They might attempt to fill in some  
6 gaps, but it's not consistent with what else we know about  
7 what was happening at that time, different but much like  
8 someone who might be intoxicated.

9           Drinking alcohol, the memory is very vague to what  
10 happened. Sometimes that can happen for someone who had a  
11 psychotic episode. For Mr. Youshock, he had very good  
12 recall, very good memory of many of the aspects that I  
13 needed to know about to answer those questions, so I felt  
14 like confident in answering them, yes.

15           Q       So is there -- what is wrong in your opinion  
16 with an expert who opines that you cannot draw any  
17 conclusion from his conduct because he is psychotic?

18           A       Well, in some instances that certainly can  
19 happen. As I was saying a little while ago, for some  
20 people with a psychotic illness, say in the hospital, they  
21 truly don't know what's going on, are hallucinating,  
22 disorganized, and just their rendition of what might have  
23 been happening is likely not to be very accurate.

24           And so that can occur for some people with mental  
25 illness. In my opinion for Mr. Youshock for all the  
26 reasons that we have described the ways that he knew what

1 was happening in the world, he was able to perform quite  
2 well in his academic function, he was able to perform well  
3 in other areas of life, that indicated he must have known  
4 what he was doing, he would not have gotten straight A's  
5 at West Bay High School if there were random thoughts,  
6 were no basis of reality, it would be extremely unlikely  
7 to happen. So I feel, although that can happen for  
8 someone with mental illness, in this particular case that  
9 would not be the case.

10 Q All right. Then just finally, Dr. Gould, under  
11 the theory or under the standard whether or not the  
12 defendant knew that his conduct was morally, was legally  
13 wrong and morally wrong, according to generally accepted  
14 standards in society, do you believe the defendant was  
15 sane or insane?

16 A So you are asking me, I am sorry, I know I am  
17 not the one to ask questions, I want to make sure I  
18 understand it. If the only criteria for sanity is, did he  
19 have the mental illness and did he know, whether he knew  
20 it was legally wrong and societal wrong, if only those  
21 criteria used for the sanity, would he be considered sane  
22 or insane, is the question?

23 Q Yes.

24 A Under just those criteria, he would be  
25 considered sane, in my opinion.

26 Q Let's add in one more that he suffered from a

1 mental illness, but that he was able to appreciate the  
2 nature and quality of his conduct, and the standard is  
3 that he knew it was legally and morally wrong according to  
4 the standards of society, what is your opinion?

5 A My opinion is that in those criteria Mr.  
6 Youshock's mental illness did not impair his ability to  
7 know those aspects of the legal criteria for sanity, so he  
8 would be considered sane.

9 MS. GUIDOTTI: Thank you. I have no other  
10 questions.

11 THE COURT: Okay, folks, we are going to take  
12 our morning recess now, I would ask you to leave your  
13 notebooks here, wear your juror badges. Remember the  
14 admonition, you are not to converse amongst yourselves  
15 or with anyone else on any subject connected with this  
16 trial, you are not to form or express any opinion until  
17 the case is submitted to you. We will start up at 20 to  
18 the hour, so that's at 10:40 we will start.

19 (Whereupon, a recess was taken.)

20 THE COURT: Thank you everybody. Doctor, do  
21 you want to come up to the stand. The record should  
22 reflect all the members of the jury and alternates are  
23 present. Dr. Gould has now resumed the witness stand.  
24 At this time you may cross-examine.

25 MR. MCDUGALL: Thank you.

26 |||

1 CROSS EXAMINATION

2 BY MR. MCDUGALL:

3 Q Welcome back, Doctor.

4 A Thank you.

5 Q Now, Doctor, you left off with the direct  
6 examination where you had commented that you didn't think  
7 it was, please correct me if I am misusing your words, but  
8 you didn't think it was appropriate to say that you  
9 couldn't infer these pieces of evidence because of the  
10 psychotic nature of Alexander Youshock, that you thought  
11 you could infer certain things despite the fact that he  
12 was suffering from a major psychotic illness. Did I  
13 interpret that correctly?

14 A Yes. If I understand the question, that there  
15 are some of the legal questions that I was asked that I  
16 felt I can answer based on the information I have even  
17 though I am of the opinion that Mr. Youshock had a  
18 psychotic illness at that time. Yes, that's correct.

19 Q In order to do this, in order to come up with  
20 those answers yourself, you had to go through a very  
21 linear progression of issues and questions and answers  
22 that you went through so you can come up with an opinion  
23 to verbalize to these jurors, is that right?

24 A Yes.

25 Q You went through diagnosis, A, figure that one  
26 out, right?

1           A     Yes.

2           Q     B, is it nature and quality and you sort of  
3 address in your linear fashion, nature and quality?

4           A     Yes.

5           Q     In your thought process you had to struggle with  
6 right and wrong, so you broke it down to legal and moral,  
7 and you kind of went 3-A and 3-B with suicidal and  
8 individual moral struggle, right?

9           A     Correct.

10          Q     You are obviously very intelligent, very thought  
11 out, you are not saying that Alexander Youshock followed  
12 that sort of linear thought process during the time  
13 leading up to August 24th, right?

14                MS. GUIDOTTI: I am going to object to that,  
15 that's irrelevant, he's not required to go through the  
16 legal thought process.

17                THE COURT: Sustained as phrased.

18                BY MR. MCDOUGALL:

19          Q     Your thought process is much different than the  
20 thought process that Alexander Youshock was going through  
21 in the time period leading up to August 24th, 2009?

22                MS. GUIDOTTI: Again, irrelevant.

23                THE COURT: Overruled, if he can answer.

24                THE WITNESS: I would say that, if I am  
25 understanding correctly, I would say there are elements  
26 of our thought, content of our thought, what we think,

1 that are drastically different than how Mr. Youshock was  
2 on August of 2009, from how my thoughts are today. And  
3 I would say that there are some elements that are  
4 similar, depends how we break down the different  
5 components.

6 BY MR. MCDUGALL:

7 Q I guess it was poorly phrased, but certainly the  
8 thought process that somebody is suffering from severe  
9 psychotic disease such as schizophrenia is much different  
10 than a sane person?

11 A We have to talk about the definition of sanity  
12 in medical concepts. In medical ideas sanity is not  
13 something we -- a term we use when we talk about psychosis  
14 and certainly someone who has a psychotic mental state.  
15 Psychosis not defined several times describes very  
16 distinct and abnormal mental processes that hopefully you  
17 are right, but I am not suffering from right now.

18 Q So for instance then, a non paranoid  
19 schizophrenic would interpret in terms of an offer of a  
20 glass of water may be drastically different than a  
21 paranoid schizophrenic suffering from the symptoms we  
22 described in this case?

23 A It could be.

24 Q For instance, do your homework would be  
25 perceived much differently from a paranoid schizophrenic  
26 than necessarily someone not suffering from paranoid

1 schizophrenia?

2 A Potentially, it could.

3 Q In this case we saw that, where the relatively  
4 benign request for a teacher resulted in a very severe  
5 misinterpretation.

6 A Correct.

7 Q Now, the prosecutor asked you initially that,  
8 you are a member of the San Mateo County Panel of Forensic  
9 Evaluators, is that what it's called?

10 A I think it's called alienist, but --

11 Q That's different than an alienist being an  
12 examiner for forensic mental health issues?

13 A As far as I understand that's the legal  
14 definition.

15 Q Dr. Al Fricke is a member of that as well?

16 A Yes.

17 Q Dr. Patterson is a member of that panel?

18 A Yes.

19 Q Dr. Jeffrey Kline, he is a member of this panel?

20 A Yes.

21 Q Now, in your -- using the language or expertise  
22 in your field, what is the definition of a personality  
23 disruption?

24 A So, how we all manifest our personalities, we  
25 have different components of our personalities, and again  
26 I spoke to this last time. I testified that hopefully we

1 can adapt our personality appropriately to different  
2 settings. How we may be in the work place versus home  
3 with our feet up on the table, could be different aspects  
4 of ourselves that we appropriately bring out in different  
5 settings and our inner personal, our intimate  
6 relationships, and our ability to have equal and  
7 fulfilling emotional exchange with another individual can  
8 sometimes work well and sometimes not work well.

9 And how our personality is put together influences  
10 all of those aspects. If someone has a personality  
11 disorder they have a very extreme manifestation of  
12 specific parts of personality, such as, the example I used  
13 was narcissistic.

14 If someone is narcissistic they always talk about  
15 themselves, everything is about themselves, they are  
16 usually like that everywhere they go, everyone that knows  
17 them knows that about them, it doesn't adapt to different  
18 settings.

19 If someone is disruptive in their relationships, if  
20 someone has personality disfunction or disruption it could  
21 mean that they have some aspects in their personality that  
22 don't adapt well, don't have relationships well, but it's  
23 not so extreme or or so rigid and unchanging that they  
24 actually have a personality disorder. It's dysfunctional,  
25 they might have problems that are pervasive throughout the  
26 relationship, but it's not so extreme that it's a

1 disorder. That's my understanding of that term.

2 Q Okay. That would be much different than for  
3 instance your opinion about a severe psychotic disease  
4 such as schizophrenia?

5 A Yes. The major mental illnesses as we call  
6 them, the ones like psychotic disorder, like schizophrenia  
7 are different than personality disorder or personality  
8 problem. Someone may have, someone can have both at the  
9 same time, one or the other, and they are sort of  
10 evaluated differently in our session.

11 Q Would the use in your field of the term,  
12 personality disruption, would that be the same as  
13 cognitive disruption or is that something different?

14 A That is different from what a cognitive  
15 disruption is. Cognitive usually refers to someone's  
16 thought abilities. Can they remember things, can they  
17 plan things, can they think abstractly, can they solve  
18 problems, can they weigh consequences of behavior and come  
19 up with cognitive solutions.

20 Many of those tend to break down when someone gets  
21 dementia and they are unable to do many of those cognitive  
22 things, tasks, or someone gets a head injury or brain  
23 injury, some of those functions can start to deteriorate.  
24 Those are different than if someone has a psychotic mental  
25 illness with the delusions and hallucinations that we were  
26 talking about before, or if someone has a personality

1 disorder or disruption where their personality style,  
2 their ability to relate to others is impaired. So, those  
3 are different types of mental diseases.

4 Q You diagnosed Alexander Youshock leading up to  
5 August 24th, 2009, with early stages of severe psychotic  
6 disorder, namely schizophrenia, with most likely of being  
7 paranoid schizophrenia?

8 A I diagnosed Mr. Youshock with schizophrenia and  
9 it's most likely paranoid type, that's true.

10 Q Which is much different than simply calling it a  
11 personality disruption, is that fair, in your field?

12 A Yes, those are distinctly different.

13 Q You read Dr. Jeffrey Kline's sanity report  
14 relating to Mr. Youshock, didn't you?

15 A Yes.

16 Q Dr. Kline both in his report and yesterday in  
17 testimony told us that Alexander Youshock, in his opinion,  
18 was suffering from a personality disruption, and went so  
19 far to say it was fragile personality that he suffered  
20 from. That is much different than what you have elicited  
21 in your report here today, is that fair?

22 A Yes and no. It's complex. Would you like me to  
23 explain?

24 Q Let me go through some questions, if you need to  
25 explain, please do. Dr. Kline specifically stated in his  
26 report which you read, while a defendant suffers from

1 severe psychological and personality disruption leading up  
2 to and during the commission of the offense, he understood  
3 the nature, quality and wrongfulness of his actions. The  
4 opinion that this is a personality disruption is different  
5 than a diagnosis of a severe psychological schizophrenic  
6 opinion, is it not?

7 MS. GUIDOTTI: I am objecting to the  
8 characterization repeatedly of severe schizophrenic,  
9 this witness has not said that.

10 THE COURT: Sustained.

11 BY MR. MCDUGALL:

12 Q The opinion that Alexander Youshock suffered of  
13 a personality disruption is different in your expertise  
14 from a diagnosis of a psychotic disorder, namely  
15 schizophrenia?

16 A Yes, those are different.

17 Q You and Dr. Kline seem to be using different  
18 terms and different diagnosis, both experts in the field,  
19 why is that?

20 A I will make this as succinct as I can. As I was  
21 saying, someone can have both personality disfunction or  
22 disorder as well as major mental illness like  
23 schizophrenia, they can both be there or only one or the  
24 other or neither. I think I testified and spoke about  
25 this last time. There are elements of Mr. Youshock's  
26 personality that may be consistent with schizoid.

1           We talked about schizoid, is where someone is very  
2 detached from relationships, very flat, and so some of  
3 that, and don't necessarily care or have the same  
4 enjoyment from intimate inter personal exchange or  
5 relationships. That's schizoid. Sounds like  
6 schizophrenia, but it's totally different, it's a  
7 personality disorder.

8           There are elements of Mr. Youshock's personality that  
9 may be consistent with a schizoid personality, there are  
10 -- and totally separate from that, there are, as talked  
11 about extensively, many elements that make up the  
12 diagnosis of schizophrenia that he does have, that he did  
13 have, in my opinion.

14           So, as far as the -- whether he had one or both, I  
15 wasn't here for Dr. Kline's testimony, but according to  
16 his report, my understanding is that he felt that Mr.  
17 Youshock had some of the personality disruption or  
18 disfunction, and there was some indications of that in my  
19 evaluation as well.

20           My understanding is that Dr. Kline also thought that  
21 Mr. Youshock had a psychotic illness, as I do as well. I  
22 don't know if that answers it for you or not.

23           Q       Hypothetically speaking, if an expert were to  
24 say that the misinterpretation of the benign actions of  
25 the teachers of Alexander Youshock was not the product of  
26 a psychotic disorder, you would disagree with that,

1 wouldn't you?

2 A Was not the product of a psychotic disorder, I  
3 would disagree with that, yes, that is true.

4 Q So hypothetically, if Dr. Kline had come in here  
5 yesterday and told these jurors that that was the product  
6 of a fragile personality and not the product of a  
7 schizophrenia, that would be different than your opinion?

8 A Yes, my opinion is that Mr. Youshock's  
9 misinterpretation of the acts of his teachers was due to  
10 his psychotic illness, and not due to his possible  
11 schizoid or personality disfunction, that's true, I would  
12 disagree with that.

13 Q Which, no disrespect for Dr. Kline, certainly  
14 happens in your field, that experts can look at  
15 information and have difference of opinion on that  
16 information?

17 A Yes, that can certainly happen in any field, and  
18 certainly in psychiatry. I am of the opinion that that is  
19 also somewhat influenced by what information and the  
20 amount of information each person has to rely upon. As  
21 more as each person gets more of the same information the  
22 opinions start to come closer.

23 Q Which brings me perfectly to my next question.  
24 You went through voluminous materials, police reports and  
25 medical records, correct?

26 A Yes.

1 Q You went through Mr. Youshock's Juvenile Hall  
2 mental health medical records as well as the Maguire adult  
3 records, medical and psychological records, correct?

4 A Yes.

5 Q You went through, you became aware of what  
6 medications he had been prescribed or was currently on  
7 when you were conducting your evaluation, right?

8 A Yes.

9 Q That's something important you want to look at,  
10 whether or not the person you are speaking to now is  
11 different than the person that was present around  
12 August 24th, 2009, right?

13 A Correct.

14 Q You actually went so far as to do interviews  
15 with family and former friends and teachers, correct?

16 A Yes.

17 Q These are all things which in your expertise is  
18 extremely useful in coming to a diagnosis and ultimately  
19 answering those questions that you were asked to answer?

20 A Yes, I believe so.

21 Q Okay. Let's just go back to the more  
22 information, the more reliable your opinion and more  
23 confident you can state your opinion to jurors or lawyers  
24 or a judge, right?

25 A Yes, I believe so.

26 Q Now, there was some questions regarding severity

1 of hallucinations and delusions in terms of a diagnosis.  
2 When you go about trying to determine both the severity,  
3 is there a standard to sort of gauge what is severe and  
4 what is not severe?

5 A The terminology that we have is of mild,  
6 moderate, severe, are usually how mental diseases are  
7 classified. It is close to the cut-off for each of those  
8 criteria.

9 Q But that is certainly taking it from a standard  
10 of a mental health expert versus the person who is  
11 suffering from those hallucinations or delusions, is that  
12 fair to say?

13 A I think I understand that that is our  
14 perspective and not the actual person with the illness  
15 perspective.

16 Q Correct. So for example, a young man that  
17 perhaps hears the word, ouch, when you drop a bag, that  
18 can be very severe for that particular person, but in  
19 terms of your diagnostic scale, that may only reach a  
20 certain quoted severity, is that fair?

21 A Yes.

22 Q So, thinking that your mother is poisoning you  
23 with food may be on a certain scale for experts, but for  
24 the 17-year old who is at home, that can be a much  
25 different severity?

26 MS. GUIDOTTI: I am going to object to the

1 relevance of this.

2 THE COURT: No. Overruled.

3 THE WITNESS: Well, there's certain elements  
4 that come into play, that come into our analysis on how  
5 severe a symptom or disorder is. Duration, frequency,  
6 impact on someone's functioning, those can be all mild,  
7 moderate or severe.

8 So, if someone ends up feeling their food is  
9 poisoned and is in a state of starving themselves  
10 because of fear of poisoned food, that could be a severe  
11 case, sever impairment for them. And again, if that  
12 happens for 20 minutes every two years, that's pretty  
13 mild, because it's just not having that much of an  
14 impact and it's fairly infrequent.

15 If it's more pervasive or more pronounced in  
16 impacting them more severely, it raises the severity of  
17 this particular symptom.

18 BY MR. MCDUGALL:

19 Q And the impairment on Alexander Youshock at the  
20 point of Hillsdale High School when he started to attend  
21 there until August 24th, 2009, you would take those  
22 hallucinations, but you also take a look at the other  
23 delusions that he was suffering from and sort of valuate  
24 the severity of these events, wouldn't you?

25 A Yes.

26 Q And obviously we talked about before you felt

1 there was, sort of what was helpful to you, was you saw  
2 that as a segmentation of the first segment of his life  
3 leading up to Hillsdale, no signs of violence, correct?

4 A Correct.

5 Q Mild mannered and somewhat quiet, correct?

6 A Correct.

7 Q No signs of bullying or violence towards any  
8 sort of animals or anything?

9 A Correct.

10 Q Then there was the segment that extended from  
11 when he started attending Hillsdale and misinterpreting  
12 the benign actions of his teachers all the way up to  
13 August 24th, 2009, as a second segment which evidenced  
14 that he was suffering from a psychotic event. Is that  
15 somewhat of a psychotic disorder?

16 A Yes, although I don't know that it started  
17 actually at the beginning of his attendance at Hillsdale  
18 High School. I think it was a little bit later than that,  
19 but as far as segmenting his pre-illness functioning from  
20 when he developed psychotic symptoms in general, I agree  
21 with the segmenting that you are describing.

22 Q And then what was helpful to you in your  
23 analysis was from the day he was arrested, including  
24 thereafter, with the use of medications he brought a  
25 different belief system back, more similar to the first  
26 stage, would that be fair?

1           A       After his significant symptoms were treated with  
2 medication?

3           Q       Yes.

4           A       Yes. His personality functioning and overall  
5 behavior was similar to what was described before the  
6 onset of his psychotic symptoms, yes.

7           Q       If we can focus on what I call second stage.  
8 You said during that second stage his belief system was  
9 not based in reality. That is what you said on direct, I  
10 think.

11          A       Yes. The definition of a delusion is a fixed or  
12 unchanging false belief, a belief that is not true either  
13 for that individual or cannot be possibly true. So his  
14 beliefs in the specific areas we are discussing were not  
15 based in reality.

16          Q       That sort of seed was planted towards this  
17 period of time in Hillsdale and continued to progress  
18 until August 24, 2009, in terms of the delusion that he  
19 was wronged so severely he needed to take steps.

20          A       Yes.

21          Q       So it was this sort of process, but certainly it  
22 was the events at Hillsdale that started that delusional  
23 belief and extended until his actions on August 24th?

24          A       Yes.

25          Q       Now, you agreed with me I think, Doctor, that  
26 Alexander Youshock was not able to differentiate the right

1 from wrong that his teachers were trying to impose upon  
2 him because of his disorder. Meaning, do your homework is  
3 the right thing to do, would that be fair?

4 A I think I understand the question in that, part  
5 of his misinterpretation was that they were asking him to  
6 do things that were he felt not right.

7 Q Society, would you not agree, not that homework  
8 isn't a good thing, do your homework, be good in school,  
9 keep going and be a good member of society, that is,  
10 quote, society's right thing, correct?

11 MS. GUIDOTTI: I am going to object to this. I  
12 don't think this is relevant to the question before the  
13 jury.

14 THE COURT: Okay. Sustained as phrased.

15 BY MR. MCDOUGALL:

16 Q Alexander Youshock misinterpreted the benign  
17 actions of his teachers to do what society would consider  
18 the right thing, which is do your homework, would you  
19 agree with me with that?

20 MS. GUIDOTTI: I continue to object based on  
21 this.

22 THE COURT: As phrased I am going to sustain it  
23 with reference to society.

24 BY MR. MCDOUGALL:

25 Q You would agree with me, wouldn't you, Doctor,  
26 that Alexander Youshock took what the teachers said as

1 benign actions, do your homework, get your head off your  
2 desk, he interpreted that as a wrong or violation of  
3 something against him, would that be fair?

4 A Yes.

5 Q So taking what in his belief system which you  
6 had said was not based in reality, he had taken that  
7 request, come visit me and let's talk about your problems  
8 from Mr. Gilbert, and he turned that into a violation or  
9 wrong against him, is that right?

10 A That is correct.

11 Q That's an example of what you mean by his belief  
12 system is not based in reality?

13 A Yes.

14 Q And that belief system that he maintained  
15 because of his psychotic disorder, and all the way up to  
16 August 24th, 2009?

17 A Yes.

18 Q Even when he walked onto the campus that day, in  
19 his mind he had been wronged by the three teachers and  
20 Mr. Gilbert at the school, correct?

21 A That is correct.

22 Q And that again was a product of his psychosis,  
23 his schizophrenia?

24 A Yes.

25 Q Would that belief system that was so flawed by  
26 his schizophrenia not also affect the other aspects of

1 differentiating right from wrong?

2 A Can you say that again?

3 Q Sure. Wouldn't that defect in his belief system  
4 also affect his ability of determining what is right and  
5 what is wrong?

6 A In some areas, yes.

7 Q Your testimony is, it's not the areas of legal  
8 right and wrong?

9 A Correct.

10 Q And that's because the police would detect him  
11 and he needed to avoid detection?

12 A Well, and also that he described to me that the  
13 police would be called directly because of his acts. His  
14 plan entailed a knowledge that legal authority would be  
15 called because of what he was doing, not just a general  
16 unspecific act, but it was directly tied to his actions as  
17 having legal consequence.

18 Q And legal consequences was the actions he was  
19 taking for something he felt was correct or right or that  
20 he had to do?

21 A Exactly. That he as an individual, it's my  
22 opinion, that he believed he was doing the right thing.

23 Q Were you able to have him differentiate the  
24 actual what you call societal wrong versus legal wrong?

25 A I felt I was, yes.

26 Q Meaning, you looked at his actions with his

1 mother or his sister, you also looked at his actions in  
2 terms of the police, correct, to see whether or not he  
3 knew that these people were trying to stop him or  
4 disapproved?

5 A I took into account how he described his belief  
6 around his mother's reaction to what he was planning to do  
7 as well as his general understanding of what was legal and  
8 not.

9 Q And I guess where I am going is, you created  
10 this model of legal wrong, societal wrong, individual  
11 moral wrong, you were trying to take his information and  
12 fit it into one of those cubby holes versus him expressing  
13 there's a legal wrong, moral wrong, societal wrong. Is  
14 that fair in terms of how the process worked?

15 A Yes, those were the categories that I did come  
16 up with, but I understood as the legal referral questions,  
17 those were not the ones that Mr. Youshock was  
18 spontaneously describing himself.

19 Q Now, does -- if a paranoid schizophrenic were  
20 attempting to commit an act of violence, is it your  
21 opinion that would only be for purposes of self protection  
22 or self defense?

23 A No.

24 Q So if you actually get to have an act of a  
25 paranoid schizophrenic suffering from that psychotic  
26 disorder that may attempt an act of violence it's not

1 necessarily because he felt that his life or safety was  
2 threatened, correct?

3 A Correct. It doesn't have to be the category of  
4 reason that someone with a particular illness lives in a  
5 violent manner.

6 Q So, if an expert came in and told us that  
7 yesterday you would differ with that opinion?

8 A I would differ with that, right.

9 Q And again, Your Honor, Dr. Gould, you are clear  
10 in your mind that it was the psychotic disorder of  
11 schizophrenia that started the process in terms of his  
12 misinterpretation of those benign acts that led to the  
13 events of August 24th, 2009?

14 MS. GUIDOTTI: Asked and answered.

15 THE COURT: Overruled. You can answer.

16 THE WITNESS: Yes.

17 MR. MCDOUGALL: Thank you, that's all I have.

18 THE COURT: Any redirect?

19 MS. GUIDOTTI: Yes, I do have some questions.

20 REDIRECT EXAMINATION

21 BY MS. GUIDOTTI:

22 Q Dr. Gould, when you were trying to evaluate  
23 his understanding of the wrongfulness of his conduct in  
24 society, it wasn't just his mother and his sister you  
25 were gauging that by, was it?

26 A It wasn't solely that, although -- well, I am

1     sorry.  The information I obtained from his mother and  
2     his sister, or the information that Mr. Youshock  
3     provided me in describing his mother and sister's  
4     reactions, I am not sure which one.

5           Q     Let me ask that more clearly.  When you were  
6     asking him about his knowledge of moral wrongfulness and  
7     society, you used the mother and sister as a launching  
8     point for the discussion, right?

9           A     Yes.

10          Q     Meaning, you were hiding things from your mother  
11     because why, is that the kind of question you were asking?

12          A     Yes.

13          Q     And his response was, because she wouldn't  
14     approve of me blowing up the teachers, in fact was his  
15     response, right?

16                MR. MCDUGALL:  Objection, leading.

17                THE COURT:  Overruled.

18                THE WITNESS:  Essentially, yes.

19                BY MS. GUIDOTTI:

20          Q     And after clarifying that he knew from several  
21     questions that his mother wouldn't approve, you also  
22     incorporated in your questioning whether he thought other  
23     people in society would approve of, for example, blowing  
24     up his teachers, correct?

25          A     Correct.

26                MR. MCDUGALL:  Objection, leading.

1 THE COURT: Overruled.

2 THE WITNESS: Correct.

3 BY MS. GUIDOTTI:

4 Q So you weren't limiting your questions to what  
5 his mother and sister would think?

6 A No.

7 Q Now, this belief system, that was not based in  
8 reality, that was with regard to his teacher's intentions  
9 for him, correct?

10 A Correct.

11 Q Even though that system, that belief system was  
12 not based in reality, his conduct on August 24th, 2009,  
13 was that based in reality?

14 A Do you mean his actual behavior?

15 Q Yes.

16 A Yes.

17 Q He really was bringing pipe bombs to school,  
18 right?

19 A Yes.

20 Q Was he really bringing a chain saw to school?

21 A Yes.

22 Q Was he really trying to kill his teachers?

23 A Yes.

24 Q And did he know that he was doing all of those  
25 things?

26 A Yes.

1           Q       The schizoid personality that you talked about  
2 that you could not exclude Mr. Youshock, that includes  
3 things like the social isolation that you talked about,  
4 right?

5           A       I think I referred to the social isolation, I  
6 think the only reference I made to that is just in the  
7 time just prior to the offense, and I don't know or I  
8 don't think that was necessarily just because of the  
9 schizoid personality traits.

10           He had, sort of had some friends, a few friends,  
11 never a wide social network, maybe not the most intimate  
12 exchange of emotion with his friends, but his socializing  
13 had dramatically decreased in the time just before the  
14 offense, that I think it was more manifestation of the  
15 psychotic illness where it became much more isolative, so  
16 I am not sure what time period. I think I would be only  
17 referring to this immediate time period rather than more  
18 life long process of schizoid type.

19           Q       And lack of compassion is one thing that's  
20 characteristic of the schizoid personality, is that right?

21           A       It can be, yes.

22           Q       Now, finally, just going to the conduct in this  
23 case that indicated to you that the defendant knew that  
24 his conduct was morally wrong in the eyes of society, did  
25 you depend on just one item?

26           A       No.

1           Q       Because if a person is operating under a  
2 psychotic belief that his teachers were out to get him,  
3 you want to sort of have more than one incident to  
4 demonstrate his knowledge, wouldn't you?

5           A       More than one incident?

6           Q       Of knowing wrongfulness, that shows he knew what  
7 he was doing was wrong.

8           A       I guess I am not sure what you mean by one  
9 incident. In general, the more information from various  
10 sources of various aspects of the person that I am  
11 evaluating, the more confidence I can have in my  
12 conclusion. As far as incidents, I am only aware of the  
13 one incident, but we are here for --

14          Q       Let me be more clear. Would you agree that  
15 between the journal, between his conduct on and leading up  
16 to August 24th, and the interview with the police that  
17 there were numerous instances that are evidence that he  
18 knew that what he was doing was wrong in the eyes of  
19 society?

20          A       I would say there are numerous incidents that he  
21 knew what he was doing was against the law, legal  
22 wrongfulness. I guess we have to break down the specific  
23 ones, but as far as if we separate what is illegal from  
24 other people they would just disapprove and not think this  
25 is the right thing. I don't see a lot of other  
26 information outside of interpreting that behavior along

1 with what Mr. Youshock told me from the interview about  
2 what he thought other people would think. Someone can  
3 know it's illegal, but still think it's the right thing,  
4 and that society thinks it's the right thing, and in those  
5 pieces of information you described, I saw those as  
6 speaking more specifically to understanding legal  
7 wrongfulness than societal moral wrongfulness.

8 Q So with regard to his knowledge of societal  
9 moral wrongfulness you have the pieces of objective  
10 information from the journal, from his interviews with the  
11 police, but in addition to that you rely heavily on his  
12 own admissions to you, is that correct?

13 A Yes. I needed Mr. Youshock to make the link for  
14 me to his beliefs around some of those indications that  
15 he understood it was illegal, and where he also understood  
16 other people in society would not approve, as those can  
17 sometimes be somewhat different.

18 Q And he did make those plain for you in the  
19 interviews with him?

20 A Yes.

21 Q As you sit here today, do you have a confidence  
22 in your opinion, that he knew the moral wrongfulness of  
23 his conduct on that day?

24 A Depends on how you define moral wrongfulness.

25 Q Societal moral wrongfulness. Do you have  
26 confidence in your opinion that he knew what he was doing

1 was wrong in the eyes of society?

2 A Yes.

3 MS. GUIDOTTI: I have in other questions.

4 The court: Mr. McDougall.

5 MR. MCDUGALL: Thank you.

6 RECROSS-EXAMINATION

7 BY MR. MCDUGALL:

8 Q I guess I am struggling with the term, eyes of  
9 society. You already testified clearly that he  
10 misinterpreted the actions of his teachers who are members  
11 of society, right?

12 A They are members of society, yes.

13 Q And Alexander Youshock misinterpreted their  
14 actions, so he had a different viewpoint in the eyes of  
15 society as phrased and was thrown around, wouldn't you  
16 agree with me?

17 A He had a different interpretation of their  
18 intent towards him and he misinterpreted their intent,  
19 that's true.

20 Q Okay. And the link that you said was made, was  
21 made over a year later, when he's been treated with  
22 medications, has spoken to now six to eight different  
23 medical psychological experts in terms of these issues,  
24 correct?

25 A That is correct.

26 Q So certainly he would be expressing himself

1 different to you in terms of these issues than say after a  
2 month of minimum contact with his family leading up to  
3 August 24th, correct?

4 A Yes. That potential is always there, especially  
5 in the situation that you describe, where I was  
6 interviewing him a significant amount of time later.  
7 That's why it was important for me to see how consistent  
8 or inconsistent the information I was getting from him was  
9 with all the other information other people were  
10 providing.

11 Q And that information, other than what you saw in  
12 the journal that he provided or the other video, audio  
13 type information leading up to, all occurred after  
14 August 24, 2009, which in your opinion started that third  
15 stage of his, the change of his effects of the  
16 schizophrenia, correct?

17 A My understanding, if I understood correctly, was  
18 that the third stage was his treated stage of  
19 schizophrenia, and the symptoms getting better on  
20 medication, and that that occurred sometime after  
21 August 24th, 2009, after, significantly after he received  
22 treatment. I think it was late May of 2010 before he got  
23 treatment.

24 Q But certainly on August 24th and the immediate  
25 days thereafter, there was a certain calmness or  
26 recognition that there was a different person that had

1 occurred the week before, correct?

2 MS. GUIDOTTI: Objection. That's  
3 unintelligible.

4 MR. MCDUGALL: The question can be answered,  
5 if he understands.

6 THE COURT: Well, I am not sure he understands,  
7 why don't you just rephrase it?

8 BY MR. MCDUGALL:

9 Q There was a difference in his expression to  
10 the police on that day that he was arrested from the  
11 videos you saw, in terms of a calmness and recognition  
12 of what had occurred just earlier that morning, correct?

13 A So, differentiating the videos he made earlier  
14 from the police interview?

15 Q Yes. Certainly differentiating from the day of  
16 his arrest forward, he presented much different than in  
17 the months leading up to August 24, 2009?

18 A I guess I have to get a little more  
19 clarification as to how he manifested differently. I am  
20 familiar with quite a bit of similarity, he did get  
21 increasing psychotic symptoms later on, but the fear of  
22 his food being poisoned was consistent before and after,  
23 there's some others too.

24 Q Once he started taking medications you had an  
25 opportunity to talk to him, started the third stage in  
26 sort of my language of stages, is that fair?

1           A       Yes, that's correct.

2           MR. MCDOUGALL: Thank you. That's all I have.

3           THE COURT: Anything else?

4           MS. GUIDOTTI: Yes, I do.

5                               FURTHER DIRECT EXAMINATION

6           BY MS. GUIDOTTI:

7           Q       Dr. Gould, I want to talk about the difference  
8 between the defendant's misunderstanding of his  
9 teacher's intentions to him from his understanding of  
10 his teacher's reactions to his actions on August 24th.  
11 Okay. You have already testified numerous times that  
12 because of his condition he misinterpreted their  
13 intentions toward him, correct?

14          A       Correct.

15          Q       Does that in any way mean to you that he thought  
16 they were just okay with him throwing bombs at the school  
17 and trying to cut them up with chain saws?

18          A       No. He expressed clearly that not just to me,  
19 but numerous other documentations that he actually wanted  
20 in particular Mr. Gilbert to suffer emotionally from these  
21 acts and so, no, there was a difference.

22          Q       In fact, in your interviews with him he told you  
23 that he saw Ms. Spalding close and lock the door, correct?

24          A       Yes.

25          Q       So there was an awareness that she was trying to  
26 prevent an attack on her, correct?

1           A       Most likely, yes.

2           Q       And the idea that he wanted Mr. Gilbert to live  
3 with the guilt of the death of the other teachers, does  
4 that indicate to you that he knew that Mr. Gilbert would  
5 deem his actions wrong?

6           A       Yes.

7           MS. GUIDOTTI: Thank you. I have no other  
8 questions.

9           THE COURT: Anything else?

10          MR. MCDOUGALL: No, thank you.

11          THE COURT: Thank you. May this witness be  
12 excused?

13          MR. MCDOUGALL: Yes.

14          MS. GUIDOTTI: Yes.

15          THE COURT: Thank you, you are excused with the  
16 Court's thanks.

17          THE WITNESS: Thank you.

18          THE COURT: And folks, we are going to take our  
19 noon recess. We will start up at 1:30 this afternoon.  
20 So please wear your juror badges, leave your notebooks  
21 and pens here, keep in mind the admonition, that it's  
22 your duty not to converse amongst yourselves or anyone  
23 else on any subject connected with the trial nor form or  
24 express opinions at this stage of the proceeding until  
25 it's submitted to you by the Court. See everybody back  
26 here at 1:30. Thank you.

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SAN MATEO

3

4 THE PEOPLE OF THE STATE OF CALIFORNIA, )

5 Plaintiff, )

6 vs. ) No. SC070984

7 ALEXANDER ROBERT YOUSHOCK, )

8 Defendant. )

9

10

11 REPORTER'S TRANSCRIPT OF PROCEEDINGS

12 BEFORE THE HONORABLE STEPHEN M. HALL, JUDGE

13 DEPARTMENT 24

14 April 5, 2011

15

16

17

18

19 A P P E A R A N C E S:

20 For the Plaintiff: STEPHEN M. WAGSTAFFE,

21 DISTRICT ATTORNEY

22 BY: KAREN GUIDOTTI, D.D.A.

23 For the Defendant: JONATHAN MCDOUGALL, ESQUIRE

24

25 Reported by: SONIA KOLOKOURIS RISTING, #6678

26 LORNA TRAUBE, #6206

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I N D E X

<u>WITNESSES FOR THE PEOPLE</u>	<u>PAGE</u>	<u>VOL</u>
<u>JEFFREY GOULD, M.D.</u>		
Direct Examination by Ms. Guidotti	188	II
Cross Examination by Mr. McDougall	230	II
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STATE OF CALIFORNIA     )  
COUNTY OF SAN MATEO    )     ss.

I, SONIA KOLOKOURIS RISTING, Official  
Reporter of the Superior Court, in and for the County of  
San Mateo, State of California, do hereby certify:

That the foregoing contains a true, full  
and correct transcript of the proceedings given and had in  
the within-entitled matter that were reported by me at the  
time and place mentioned and thereafter transcribed under  
my direction into longhand typewriting, and that the same  
is a correct transcript of the proceedings.

DATED: \_\_\_\_\_

\_\_\_\_\_  
SONIA KOLOKOURIS RISTING, CSR 6678

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 IN AND FOR THE COUNTY OF SAN MATEO  
3 BEFORE THE HONORABLE STEPHEN M. HALL, JUDGE  
4 DEPARTMENT NO. 24

5 ---000---

6 PEOPLE OF THE STATE )  
7 OF CALIFORNIA, )  
8 )  
9 ) PLAINTIFF, ) NO. SC 070984A  
10 )  
11 ) VS. )  
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14 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
15 HELD ON APRIL 5, 2011

17 A P P E A R A N C E S :

18 FOR THE PEOPLE : KAREN GUIDOTTI  
19 DEPUTY DISTRICT ATTORNEY

20 FOR THE DEFENDANT : JONATHAN MC DOUGALL, ESQ.

21 REPORTED BY : LORNA TRAUBE, CSR 6206  
22 OFFICIAL COURT REPORTER

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INDEX OF EXAMINATION:

FOR THE PEOPLE

PAGE:

DR. JAMES MISSETT

DIRECT EXAMINATION BY MS. GUIDOTTI 261

CROSS EXAMINATION BY MR. MC DOUGALL 306

REDIRECT EXAMINATION BY MS. GUIDOTTI 340

RECROSS EXAMINATION BY MR. MC DOUGALL 344

INDEX OF EXHIBITS:

(NO EXHIBITS WERE MARKED OR RECEIVED THIS DATE)

1 APRIL 5, 2011

REDWOOD CITY, CALIFORNIA

2 DEPARTMENT NO. 24

HON. STEPHEN M. HALL, JUDGE

3

4

PROCEEDINGS:

5

6

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8

THE COURT: BACK ON THE RECORD. MEMBERS OF  
THE JURY ARE PRESENT, PARTIES AND COUNSEL ARE PRESENT,  
EXCEPT FOR NUMBER EIGHT. HERE THEY ARE.

9

10

AT THIS TIME YOU MAY CALL YOUR NEXT WITNESS,  
MRS. GUIDOTTI.

11

12

MS. GUIDOTTI: OUR LAST WITNESS IS DOCTOR  
JAMES MISSETT.

13

14

15

16

DOCTOR JAMES MISSETT,  
BEING CALLED AS A WITNESS ON BEHALF OF THE PEOPLE,  
HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND  
TESTIFIED AS FOLLOWS:

17

18

THE CLERK: STATE YOUR FULL NAME, AND SPELL  
YOUR FIRST AND LAST, FOR THE RECORD.

19

20

THE WITNESS: JAMES MISSETT. J-A-M-E-S,  
M-I-S-S-E-T-T.

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26

THE COURT: ALL RIGHT. SIR, IN THIS MATTER  
YOU MAY BE ASKED SOME QUESTIONS BY THE LAWYERS.  
OBVIOUSLY, LISTEN TO THE QUESTIONS, ANSWER THEM TO THE  
BEST OF YOUR ABILITY. IF YOU DON'T UNDERSTAND A  
QUESTION THE WAY THAT THE LAWYER PHRASED IT, LET THEM  
KNOW AND THE ATTORNEY CAN REPHRASE OR RESTATE THE

1 QUESTION.

2 IT IS IMPORTANT THAT WE HAVE A CLEAR RECORD,  
3 MEANING ONLY ONE PERSON CAN TALK AT THE SAME TIME, SO  
4 PLEASE MAKE SURE THAT YOU ALLOW THE LAWYER TO COMPLETE  
5 THEIR QUESTION BEFORE YOU BEGIN YOUR ANSWER.

6 IF YOU NEED TO REFER TO ANY MATERIALS AT ANY  
7 TIME TO REFRESH YOUR RECOLLECTION, LET THE ATTORNEY KNOW  
8 THAT AND WHAT IT IS THAT YOU ARE LOOKING AT.

9 AND FINALLY, IF WHILE YOU ARE BEING ASKED A  
10 QUESTION BY ONE LAWYER, THE OTHER LAWYER BEGINS TO OBJECT  
11 TO THAT QUESTION BEING ASKED, PLEASE WAIT UNTIL I TELL YOU  
12 IT IS OKAY TO DO SO.

13 LADIES AND GENTLEMEN, SO YOU KNOW, I WANT TO  
14 TELL YOU THAT DOCTOR MISSETT WAS PERMITTED TO CONDUCT HIS  
15 EXAMINATION OF ALEXANDER YOUSHOCK BY WAY OF AN ORDER OF  
16 THIS COURT THAT I ISSUED ON MARCH 16TH OF THIS YEAR,  
17 MARCH 16, 2011. YOU ARE NOT TO SPECULATE AS TO WHY THAT  
18 WAS THE DATE CHOSEN FOR THIS PURPOSE.

19 YOU MAY PROCEED, MISS GUIDOTTI.

20 MS. GUIDOTTI: THANK YOU, YOUR HONOR.

21 DIRECT EXAMINATION:

22 BY MS. GUIDOTTI:

23 Q. AFTERNOON, DOCTOR MISSETT.

24 A. AFTERNOON.

25 Q. WHAT IS YOUR OCCUPATION?

26 A. PSYCHIATRIST.

1 Q. CAN YOU TELL US HOW LONG YOU HAVE BEEN A  
2 PRACTICING PSYCHIATRIST?

3 A. SINCE 1974.

4 Q. LET'S START WITH YOUR EDUCATION. WHEN AND  
5 WHERE DID YOU EARN YOUR BACHELOR'S DEGREE?

6 A. THE CATHOLIC UNIVERSITY OF AMERICA IN  
7 WASHINGTON, D.C. IN 1963, AND THEN A MASTER'S DEGREE IN  
8 1964.

9 Q. FROM THE SAME INSTITUTION?

10 A. YES.

11 Q. YOUR BACHELOR'S AND MASTER'S WERE BOTH IN  
12 PHILOSOPHY?

13 A. YES.

14 Q. AND AFTER THAT DID YOU THEN GO ON TO EARN  
15 ANOTHER DEGREE?

16 A. YES.

17 Q. AND WHAT WAS THE NEXT DEGREE YOU EARNED?

18 A. NEXT ONE I EARNED WAS WHEN I GRADUATED FROM  
19 MEDICAL SCHOOL IN 1970.

20 Q. AND FROM WHERE DID YOU GRADUATE FROM MEDICAL  
21 SCHOOL?

22 A. YALE UNIVERSITY.

23 Q. AT THE SAME TIME WERE YOU WORKING ON A PH.D.?

24 A. AFTER I LEFT CATHOLIC UNIVERSITY I WENT TO  
25 SAINT JOHNS UNIVERSITY, PHILOSOPHY OF SCIENCE INSTITUTE,  
26 IN NEW YORK CITY, AND I WAS THERE FOR TWO YEARS AS A

1 TEACHING FELLOW, AND THAT'S WHEN I STARTED MEDICAL SCHOOL.  
2 SO I WROTE THE DOCTORAL DISSERTATION DURING MEDICAL SCHOOL  
3 AND WHEN I WAS IN THE SERVICE.

4 Q. AND WHERE -- WHEN AND WHERE DID YOU SERVE IN  
5 THE SERVICE?

6 A. INITIALLY, IT WAS IN NEW HAVEN. I WAS  
7 COMMISSIONED AS A FIRST YEAR MEDICAL STUDENT IN THE  
8 UNITED STATES PUBLIC HEALTH SERVICE, SO ALL MY VACATIONS  
9 AND ALL MY FREE TIME I WENT ON ACTIVE DUTY, BUT THEN I HAD  
10 A THREE-YEAR ACTIVE DUTY REQUIREMENT WHEN I FINISHED  
11 EVERYTHING, AND SO FROM 1971 THROUGH 1974 I WAS FULL TIME.

12 Q. THEN, DID YOU ALSO THEN EARN A MASTER'S IN  
13 PUBLIC HEALTH, AN M.PH?

14 A. IT IS A MASTER'S IN PUBLIC HEALTH. THE PUBLIC  
15 HEALTH SERVICE SENT ME TO RUN A RESEARCH PROJECT AT JOHNS  
16 HOPKINS FROM 1973 THROUGH 1974, AND DURING THE COURSE OF  
17 RUNNING THAT PROJECT I WENT TO THE CLASSES THAT QUALIFIED  
18 ME FOR A MASTER'S IN PUBLIC HEALTH.

19 Q. WHERE DID YOU DO YOUR INTERNSHIP FOR YOUR  
20 MEDICAL DEGREE?

21 A. AT STANFORD UNIVERSITY HOSPITAL, DEPARTMENT OF  
22 MEDICINE.

23 Q. WAS THAT IN GENERALIZED MEDICINE AT THAT TIME?

24 A. YES.

25 Q. THEN, YOU DID A RESIDENCY WHERE?

26 A. AT STANFORD. AGAIN, FROM 1974 THROUGH 1978.

1 Q. DURING YOUR RESIDENCY DID YOU SPECIALIZE IN  
2 PSYCHIATRY?

3 A. YES.

4 Q. WERE YOU CHIEF RESIDENT FOR THE DEPARTMENT OF  
5 PSYCHIATRY AT STANFORD UNIVERSITY IN 1976 TO 1978?

6 A. YES.

7 Q. YOU HAVE RECEIVED A NUMBER OF HONORS AND  
8 AWARDS, HAVE YOU NOT, WHICH I WILL SPARE THE JURY FROM  
9 GOING INTO THE DETAILS?

10 A. YES.

11 Q. AND YOU HAVE PUBLISHED ARTICLES AS WELL; IS  
12 THAT CORRECT?

13 A. YES, THAT'S TRUE.

14 Q. AND IS IT FAIR TO SAY THAT FROM 19 -- FROM  
15 ABOUT -- FROM THE BEGINNING OF YOUR CAREER UP UNTIL  
16 APPROXIMATELY 1975 YOU WORKED IN A NUMBER OF DIFFERENT  
17 MEDICAL AREAS; IS THAT TRUE?

18 A. YES.

19 Q. AND THEN, BEGINNING IN 1975, DID YOU BEGIN TO  
20 CONCENTRATE YOUR PRACTICE ON PSYCHIATRY?

21 A. I WAS A RESIDENT, YES.

22 Q. AND CAN YOU TELL US, STARTING AT THAT POINT,  
23 WHERE YOU WERE STARTING TO FOCUS ON PSYCHIATRY, TELL US  
24 WHAT YOU STARTED OUT DOING WITH A JOB FROM 1975 TO 1978?

25 A. I HAD A JOB WITH THE ADULT PROBATION  
26 DEPARTMENT IN SANTA CLARA COUNTY TO DO PSYCHIATRIC

1 EVALUATIONS OF PEOPLE THAT HAD ALREADY BEEN THROUGH THE  
2 COURTS AND WHERE THEY WERE TRYING TO DETERMINE EITHER A  
3 SENTENCE OR A HOSPITALIZATION, WHATEVER IT WAS THEY WERE  
4 GOING TO DO WITH THAT PERSON, AND THAT WENT FOR THREE  
5 YEARS.

6 Q. OKAY.

7 A. THEN AT NIGHT FOR SIX YEARS I WAS INITIALLY  
8 THE ADMITTING OFFICER, AND THEN THE SUPERVISING DOCTOR AT  
9 SANTA CLARA VALLEY MEDICAL CENTER'S EMERGENCY TREATMENT  
10 SERVICE, WHICH FOR THAT COUNTY, SANTA CLARA, WAS THE ONLY  
11 24-HOUR PSYCHIATRIC EMERGENCY ROOM THEY HAD.

12 Q. STARTING IN ABOUT 1978, DID YOU OPEN A PRIVATE  
13 PRACTICE IN MENLO PARK?

14 A. YES.

15 Q. HAVE YOU MAINTAINED THAT PRIVATE PRACTICE TO  
16 THE PRESENT TIME?

17 A. YES, IN THE SAME BUILDING.

18 Q. WHAT KIND -- IN YOUR PRIVATE PRACTICE, WHAT IS  
19 IT THAT YOU FOCUS ON. DO YOU HAVE PATIENTS THAT COME TO  
20 YOU FOR SERVICES?

21 A. YES. NORMAL -- EVERYDAY PEOPLE WHO HAVE  
22 NORMAL, EVERYDAY MENTAL OR EMOTIONAL PROBLEMS THAT MAY  
23 BECOME, EITHER FOR A LONGER PERIOD OF TIME OR SHORTER  
24 PERIOD OF TIME, SOMETHING THAT THEY ARE HAVING TROUBLE  
25 HANDLING.

26 Q. SO THAT'S A PRACTICE THAT IS SEPARATE AND APART

1 FROM FORENSIC PSYCHIATRY; IS THAT CORRECT?

2 A. YES.

3 Q. AND LET ME GO THROUGH SOME OF THE REST OF THE  
4 ITEMS ON YOUR RESUME. IT INDICATES THAT FROM 1978 TO THE  
5 PRESENT YOU HAVE BEEN A MEDICAL DIRECTOR CONSULTANT WITH  
6 THE U.S. DISTRICT COURTS, SUPERIOR COURTS, AND  
7 18 CALIFORNIA COUNTIES AND SEVERAL ADJOINING STATES.

8 CAN YOU TELL US ABOUT THAT, PLEASE?

9 A. WHEN I WENT INTO PRIVATE PRACTICE I WENT ON  
10 WHAT IS CALLED A PANEL, PANEL OF PSYCHIATRISTS IN  
11 SANTA CLARA COUNTY, AND THAT JUST MEANT THAT THREE OR FOUR  
12 TIMES A WEEK I WOULD GET AN ORDER FROM A COURT TO GO SEE  
13 SOME INDIVIDUAL AND DO SOMETHING, AND THAT WENT ON FOR  
14 ALMOST 20 YEARS IN THAT COUNTY.

15 AND IN THE MEANTIME I WOULD HAVE -- SOMETIMES  
16 ORDERS FROM OTHER COURTS AND OTHER COUNTIES, AND SOMETIMES  
17 REQUESTS FROM EITHER DEFENSE OR PROSECUTORS IN OTHER  
18 COUNTIES TO CONSULT ON CASES, THAT WAS ALL.

19 Q. ARE YOU FAMILIAR WITH DOCTOR GOULD AND DOCTOR  
20 KLINE, DO YOU KNOW THEM?

21 A. YES, VERY MUCH SO.

22 Q. ARE YOU AWARE THEY ARE ON THE SAN MATEO COUNTY  
23 FORENSIC EVALUATORS PANEL, FROM WHICH THE COURT APPOINTS  
24 PEOPLE?

25 A. I AM.

26 Q. AND WERE YOU ON THE EQUIVALENT OF THAT PANEL IN

1 SANTA CLARA COUNTY SINCE 1978?

2 A. FOR ABOUT 20 YEARS, YES.

3 Q. DO YOU STILL, ON OCCASION, GET COURT APPOINTED  
4 CASES?

5 A. YES. ABOUT A THIRD OF THE CASES THAT I  
6 EVALUATE ARE EVALUATED BECAUSE COURTS APPOINT ME TO  
7 EVALUATE THE INDIVIDUAL.

8 THE OTHER THIRD -- NEXT THIRD IS REALLY THE  
9 PROSECUTION, AND THE LAST THIRD IS THE DEFENSE.

10 Q. AND SO A THIRD OF THE TIME OF YOUR FORENSIC  
11 WORK IS APPOINTMENT BY THE COURT; IS THAT CORRECT?

12 A. IN CRIMINAL CASES, YES.

13 Q. AND A THIRD OF THE TIME IN FORENSIC PSYCHIATRY  
14 WOULD BE WHEN YOU ARE HIRED BY THE DEFENSE TO DO AN  
15 EVALUATION AND POSSIBLY TESTIFY?

16 A. YES.

17 Q. AND THEN THAT FINAL THIRD, WHEN YOU ARE ASKED  
18 BY THE PROSECUTION TO EVALUATE AND THEN POTENTIALLY  
19 TESTIFY; IS THAT RIGHT?

20 A. THAT'S CORRECT.

21 Q. HAVE YOU BEEN A CONSULTANT ALSO FOR THE STATE  
22 OF CALIFORNIA, THE OFFICE OF THE ATTORNEY GENERAL?

23 A. YES.

24 Q. IS THAT IN THE SAME GENERAL -- SAME GENERAL  
25 RESPECT, FORENSIC EVALUATIONS IN CRIMINAL MATTERS?

26 A. NOT MANY CRIMINAL MATTERS. THE MAJORITY -- IF

1 YOU HAVE A LICENSE FROM THE STATE WITH REGARD TO -- FOR  
2 EVERYTHING EXCEPT DRIVING; IT COULD BE A NURSING LICENSE,  
3 ACCOUNTANT LICENSE, PHYSICAL THERAPIST LICENSE, MEDICAL  
4 LICENSE, SOMETIMES YOU GET INTO TROUBLE.

5 AND IF YOU GET INTO TROUBLE AND THE BOARD  
6 THAT'S RESPONSIBLE FOR EVALUATING YOU OR MONITORING YOU  
7 GETS CONCERNED, THEN THEY ASK, IF THEY THINK IT IS A  
8 PSYCHIATRIC OR EMOTIONAL PROBLEM, THAT YOU SEE A  
9 PSYCHIATRIST OR PSYCHOLOGIST, AND THAT'S WHAT THAT WAS,  
10 FOR THE MOST PART.

11 THEN, THERE WERE SOME OTHER CASES WHERE THE  
12 ATTORNEY GENERAL WOULD PROSECUTE, CRIMINALLY, A CASE,  
13 INSTEAD OF A COUNTY PROSECUTOR, AND SO I WOULD DO SOME OF  
14 THAT.

15 Q. CAN YOU TELL US ABOUT YOUR WORK AS CO-DIRECTOR  
16 FOR THE CENTER FOR PSYCHIATRY AND THE LAW, IN THE  
17 DEPARTMENT OF PSYCHIATRY AND BEHAVIORAL SERVICES, AT  
18 STANFORD UNIVERSITY?

19 A. THAT WAS A PROGRAM WE SET UP IN ABOUT 2002,  
20 THE IDEA BEING PRINCIPALLY TO TRAIN THE FACULTY AND  
21 RESIDENTS IN HOW TO DO AN EVALUATION IN A FORENSIC  
22 SETTING; WHAT KINDS OF THINGS DO YOU LOOK FOR, HOW DO YOU  
23 APPROACH IT, WHAT KIND OF RULES ARE THERE, THAT SORT OF  
24 THING. IT WAS PRINCIPALLY TO GET THE FACULTY INVOLVED SO  
25 THAT THEY THEN COULD TEACH THE RESIDENTS, AND THE  
26 RESIDENTS COULD TEACH THE MEDICAL STUDENTS, AND BASICALLY

1 IT BECAME A PART OF THE TEACHING ENTERPRISE.

2 Q. ARE YOU STILL CO-DIRECTOR OF THAT CENTER?

3 A. NO. IN 2007 THEY DECIDED -- BASICALLY, THE  
4 MEDICAL SCHOOL DECIDED THAT IT WANTED TO FOCUS -- IT  
5 WANTED TO STAY AS A SMALL MEDICAL SCHOOL; AND SECONDLY IT  
6 WANTED TO FOCUS SOLELY ON BASIC SCIENCE AND BASIC SCIENCE  
7 APPLICATION, AND WE DID NOT FIT INTO THAT SORT OF GENRE,  
8 SO, FORTUNATELY I HAD NOT GIVEN UP MY DAY JOB.

9 Q. NOW, YOU HAVE BEEN TEACHING AT STANFORD  
10 UNIVERSITY SCHOOL OF MEDICINE FOR A NUMBER OF YEARS; IS  
11 THAT RIGHT?

12 A. YES. I STILL DO.

13 Q. CAN YOU TELL US WHAT COURSES YOU TEACH AT  
14 STANFORD UNIVERSITY?

15 A. MOST OF THE TIME I HAVE TAUGHT THE COURSE IN  
16 LEGAL MEDICINE AS IT APPLIES TO THE PSYCHIATRIC  
17 CONDITIONS; NAMELY, HOW DO YOU GO ABOUT MAKING AN  
18 ASSESSMENT FOR SOMEBODY THAT MIGHT OR MIGHT NOT BE AT RISK  
19 FOR BEING PLACED IN A HOSPITAL AGAINST HIS OR HER WILL,  
20 THAT IS WHAT IS CALLED A 72-HOUR HOLD, AND WHY DO THEY  
21 HAVE THAT THERE, WHAT DOES IT INDICATE ABOUT SOCIETY'S  
22 ATTITUDES TOWARDS PATIENTS AND DOCTORS, BECAUSE BASICALLY  
23 IT WAS PUT IN BY THE STATE OF CALIFORNIA BECAUSE THE STATE  
24 SAID, WE DON'T TRUST THE DOCTORS, AND THERE IS A MESSAGE  
25 IN THAT.

26 THEN IT WAS ASSOCIATED WITH, HOW DO YOU GO

1 ABOUT, IF YOU HAVE A PRACTICE, WHETHER IT IS STANFORD OR  
2 OUTSIDE IT, PROTECTING PATIENT RECORDS. WHERE DOES  
3 CONFIDENTIALITY COME IN, WHAT ARE THE EXCEPTIONS TO  
4 CONFIDENTIALITY? WHEN IT DOES SHOW UP, HOW DO YOU DEAL  
5 WITH IT IN A PRACTICAL MANNER, SO IT IS BASICALLY HOW DO  
6 YOU GO ABOUT DOING WHAT YOU ARE SUPPOSED TO DO IN A WAY  
7 THAT TAKES OKAY CARE OF YOUR PATIENTS AND KEEPS YOU OUT OF  
8 TROUBLE. AND THAT STILL GOES ON, I STILL DO THAT.

9 Q. PRESENTLY YOU ARE ALSO A CONSULTANT FOR THE  
10 CALIFORNIA COMMISSION ON JUDICIAL PERFORMANCE; IS THAT  
11 RIGHT?

12 A. I AM.

13 Q. AND CAN YOU TELL US ABOUT WHAT YOU DO IN THAT  
14 CAPACITY?

15 A. I EITHER -- SOMETIMES I SEE JUDGES WHO HAVE  
16 MENTAL OR EMOTIONAL PROBLEMS THEMSELVES, AND AT OTHER  
17 TIMES I GET OTHER PSYCHIATRISTS TO SEE JUDGES WHO MAY OR  
18 MAY NOT BE THOUGHT TO HAVE MENTAL OR EMOTIONAL PROBLEMS.

19 Q. THAT IS A COMMISSION IN THE STATE OF  
20 CALIFORNIA, FOR CALIFORNIA JUDGES?

21 A. RIGHT. IT IS THE SAME KIND OF THING FOR THE  
22 JUDGES THAT EVERYBODY ELSE DOES FOR THE OTHER PEOPLE'S  
23 LICENSES.

24 Q. NOW, SINCE -- FOR ABOUT THE PAST DECADE, TELL  
25 ME IF IT WAS MORE OR LESS THAN THAT, HAVE YOU WORKED AS A  
26 CONSULTANT FOR THE UNITED STATES SECRET SERVICE?

1           A.        I HAVE BEEN A WEST COAST CONSULTANT SINCE  
2 1985 -- 1984.

3           Q.        WHAT IS IT THAT YOU DO FOR THE U.S. SECRET  
4 SERVICE?

5           A.        DEPENDS ON WHEN YOU ARE ASKING IT.  I WOULD  
6 TEACH AGENTS CLASSES.

7           Q.        WHAT?

8           A.        I WOULD TEACH THEM CLASSES IN PSYCHIATRIC  
9 EVALUATIONS OF PEOPLE THAT THEY BECOME ANXIOUS ABOUT.

10          Q.        SUCH AS?

11          A.        THE CLASS WOULD BE ON -- INITIALLY IT WAS FOR  
12 THE MOST ADVANCED AGENT, THEY WERE THE ONES WHO WERE IN  
13 THEIR 40'S AND 50'S, AND THAT WAS ALWAYS IN WASHINGTON.

14                    THEN, IT GRADUALLY SHIFTED TO THE TRAINING  
15 FACILITY THERE, WHERE YOU HAD AGENTS WHO WERE NOT AGENTS  
16 YET, THEY WERE TRAINING TO BE AGENTS, AND THAT WENT ON FOR  
17 20 YEARS.  AND IT WAS, ESSENTIALLY, HOW DO YOU INTERVIEW  
18 INDIVIDUALS, WHAT ARE YOU LOOKING FOR, HOW DO YOU TELL THE  
19 DIFFERENCE BETWEEN -- WHAT IS THE DIFFERENCE BETWEEN WORDS  
20 AND BEHAVIOR; NAMELY, PEOPLE SAY THEY WANT ONE THING BUT  
21 THEY DON'T NECESSARILY DO IT.

22                    WHAT IS THE DIFFERENCE BETWEEN MAKING A THREAT  
23 AND POSING A THREAT.  HOW DO YOU TAKE THE PERSON'S HISTORY  
24 AND PUT IT INTO A SITUATION WHERE YOU CAN MAKE,  
25 ESSENTIALLY, SOME SENSE OUT OF IT IN A WAY THAT MAKES  
26 SENSE FOR YOU, THAT YOU FEEL LIKE YOU SORT OF KNOW THIS

1 PERSON AND YOU HAVE A GENERAL SENSE AS TO WHERE THEY HAVE  
2 COME FROM AND WHERE THEY ARE GOING AND SUCH.

3 Q. DID THIS PRIMARILY HAVE TO DO WITH THE THREAT  
4 ASSESSMENT, TEACHING AGENTS THREAT ASSESSMENT?

5 A. FROM A PSYCHIATRIC POINT OF VIEW. IT IS  
6 DIFFERENT FOR PSYCHIATRISTS BECAUSE PSYCHIATRISTS, FOR  
7 INSTANCE, WE WOULD PUT A LOT OF EMPHASIS ON A HEAD INJURY,  
8 FOR INSTANCE, AND THEY WOULD RARELY HAVE ANYTHING TO DO  
9 WITH THE ISSUE OF A HEAD INJURY.

10 WE PUT A LOT OF EMPHASIS ON MEDICAL RECORDS,  
11 AND TALKING ABOUT THE DOCTOR PART OF IT. THEY WOULD  
12 HARDLY PUT ANY EMPHASIS, EVEN THOUGH IF YOU HAVE A BAD  
13 HEAD INJURY YOU COULD HAVE PROBLEMS WITH IMPULSE CONTROL,  
14 AND IF YOU HAVE PROBLEMS WITH IMPULSE CONTROL YOU COULD  
15 GET YOURSELF INTO A SPACE WHERE YOU POSE A THREAT TO  
16 SOMEBODY THEY ARE PROTECTING.

17 Q. THIS HAS TO DO WITH TEACHING AGENTS HOW TO DEAL  
18 WITH PEOPLE WHO MADE THREATS AGAINST THE PRESIDENT, OR  
19 OTHER PEOPLE IN HIGH LEVEL RESPONSIBILITY IN THE  
20 GOVERNMENT?

21 A. OR THEY FELT POSE A THREAT. THEY NEVER SAID  
22 ANYTHING, BUT THEY LIKE SHOWED UP WHEN A PROTECTEE CAME TO  
23 TOWN AND THEY HAD A WEAPON, THAT'S POSING A THREAT.

24 MAKING A THREAT IS WHAT THEY MIGHT HAVE SAID  
25 IN A BAR SOME DAY OFFHANCEDLY, AND THEN THERE IS A  
26 QUESTION OF HOW MUCH DO THEY MEAN IT.

1 Q. WERE YOU INVOLVED WITH THE U.S. SECRET SERVICE  
2 IN THE THREAT ASSESSMENT OR EVALUATION OF PRESIDENT  
3 REAGAN'S SHOOTING?

4 A. YES.

5 Q. GO AHEAD.

6 A. JUST -- BASICALLY IT WAS JUST -- THE -- AFTER  
7 THE SHOOTING TAKES PLACE, IT IS THE FBI THAT TAKES OVER.  
8 SECRET SERVICE SPENDS ITS TIME LOOKING AT WHERE THE THINGS  
9 WHICH COULD HAVE GONE WRONG WHICH ALLOWED AN OPENING WHERE  
10 SHOTS COULD HAVE TAKEN PLACE.

11 Q. WHAT WAS YOUR PARTICIPATION IN THAT?

12 A. THAT WAS OUR -- VERY EARLY ON, IT WAS  
13 BASICALLY TO KEEP QUIET, SERIOUSLY. I HAVE NEVER BEEN  
14 THERE BEFORE, SO I HAD TO SIT TO SEE WHAT ELSE WAS  
15 HAPPENING.

16 Q. OKAY. SO HAVE YOU ALSO, OVER THE PAST MANY  
17 YEARS, DEVELOPED AN EXPERTISE IN BOTH WORKPLACE VIOLENCE  
18 AND SCHOOL VIOLENCE?

19 A. DONE A LOT OF EVALUATIONS OF BOTH.

20 Q. AND WHEN YOU SAY THAT YOU HAVE DONE A LOT OF  
21 EVALUATIONS, ARE THESE MATTERS WHERE YOU ARE APPOINTED BY  
22 THE COURT, OR HIRED BY ONE PARTY OR ANOTHER?

23 A. IF IT IS BEFORE SOMETHING TAKES PLACE, IT CAN  
24 BE BY -- I CAN BE ASKED TO DO IT BY THE POLICE, I CAN BE  
25 ASKED TO DO IT BY AN EMPLOYER, I CAN BE ASKED TO DO IT  
26 WITH RESPECT TO SOMEBODY THAT'S IN A HOSPITAL FOR SOME

1 OTHER REASON, BUT THIS WAS WHAT WAS GOING ON AND THE  
2 DOCTOR ASKED ME TO DO IT.

3 AND IF IT IS AFTERWARDS, IF SOMETHING HAS  
4 ALREADY HAPPENED, IT IS USUALLY THE PERSON IS IN CUSTODY  
5 BY THAT TIME, UNLESS THEY MADE A THREAT AT WORK, AND THEN  
6 THERE IS A QUESTION AS TO WHETHER OR NOT THEY ARE GOING TO  
7 BE FIRED, IF IT WAS AN ACTUAL THREAT, AND THEY ARE  
8 STANDING BY IT, AND SAYING I MEAN IT, THAT SORT OF THING,  
9 THEN THAT'S DIFFERENT.

10 Q. HAVE YOU GIVEN PRESENTATIONS, TRAININGS, IN THE  
11 AREA OF WORKPLACE VIOLENCE?

12 A. OFTEN.

13 Q. AND FOR WHOM DO YOU DO THOSE -- DO YOU GIVE  
14 THOSE TRAININGS?

15 A. IT DEPENDS. THE MAJORITY OF THEM HAVE BEEN  
16 DONE WITH THE SECRET SERVICE AND THEY HAVE BEEN DONE IN  
17 SITUATIONS WHERE THEY WERE TRYING TO GET PEOPLE IN CERTAIN  
18 AREAS; HOSPITALS WOULD BE ONE, PRISONS WOULD BE ANOTHER,  
19 JAILS WOULD BE ANOTHER, WHERE WE WOULD GO AND PUT ON A DOG  
20 AND PONY SHOW FOR HALF A DAY OR A DAY, WHERE THE IDEA WAS  
21 TO SENSITIZE THEM TO THINGS THAT THEY COULD LOOK FOR IN  
22 MAKING ASSESSMENTS OF INDIVIDUALS; PATIENTS, IF IT WAS A  
23 HOSPITAL, OR INMATES IF IT WERE PRISON, INDIVIDUALS IN  
24 JAIL, BECAUSE THE SECRET SERVICE AT THAT TIME WAS  
25 INTERESTED IN THEIR OWN PROTECTEES, FIRST, THEN THEY HAVE  
26 GOT THE SCHOOL GROUP NEXT, AND THEN, AFTER THAT, OTHER

1 PEOPLE THAT MAY BE AT RISK.

2 Q. AND THE PRESENTATIONS THAT YOU HAVE -- HAVE YOU  
3 GIVEN PRESENTATIONS ON SCHOOL VIOLENCE?

4 A. YES.

5 Q. TO WHOM HAVE YOU GIVEN PRESENTATIONS REGARDING  
6 SCHOOL VIOLENCE?

7 A. AGAIN WITH THE SECRET SERVICE, TWO OR THREE  
8 SHERIFF'S DEPARTMENTS IN CENTRAL CALIFORNIA, AND THERE  
9 WERE TWO OR THREE PRESENTATIONS AT DE ANZA COLLEGE,  
10 CUPERTINO. THESE WERE -- THE LATTER ONES WERE PUT ON  
11 SPECIFICALLY BY THE PEOPLE FROM WASHINGTON WHO CAME, AND I  
12 WAS THEIR MODERATOR, I SUPPOSE.

13 THE ONES IN SACRAMENTO I DID MYSELF.  
14 BASICALLY, IT WAS, WHAT IS DIFFERENT ABOUT YOUNGSTERS,  
15 WHAT IS DIFFERENT ABOUT ADOLESCENTS THAN ADULTS, AND HOW  
16 DO YOU, AS AN ADULT, ASK THEM QUESTIONS; HOW DO YOU DEAL  
17 WITH THE ISSUE OF PARENTS AND FRIENDS AND -- OR LACK  
18 THEREOF. HOW DO YOU HANDLE THE POSSIBILITY THAT ONE MAY  
19 HURT ANOTHER, ONE STUDENT MAY HURT ANOTHER, THAT KIND OF  
20 THING.

21 Q. ARE YOU FAMILIAR WITH -- WITHIN YOUR WORK IN  
22 SCHOOL VIOLENCE ARE YOU FAMILIAR WITH THE FBI DOCUMENT,  
23 THE SCHOOL SHOOTER THREAT ASSESSMENT PERSPECTIVE?

24 A. YES.

25 Q. CAN YOU TELL US WHAT THAT DOCUMENT IS, PLEASE?

26 A. AGAIN, THE GENERAL THEME HERE IS PRETTY MUCH

1 THE SAME, IT IS -- THE SECRET SERVICE DEALS PRINCIPALLY  
2 WITH PREVENTION, TO THE EXTENT THEY CAN. THE FBI DEALS  
3 PRINCIPALLY WITH COMING TO AN EVENT THAT HAS OCCURRED AND  
4 THEN RESPONDING TO IT IN TERMS OF INVESTIGATING IT AND  
5 DOING WHATEVER THEY DO AFTER THAT.

6 IN THIS PARTICULAR WORKBOOK THEY PUT TOGETHER,  
7 ONE OF THE THINGS THEY DID WAS GO THROUGH AND TALK ABOUT  
8 THE KINDS OF INDIVIDUAL CHARACTERISTICS THAT YOU MIGHT,  
9 PER CHANCE, COME ACROSS, IF YOU ARE DEALING WITH SOMEBODY  
10 WHO HAS EITHER COMMITTED OR MIGHT BE AT RISK FOR BECOMING  
11 INVOLVED IN VIOLENCE IN A SCHOOL SETTING.

12 Q. AND DOCTOR MISSETT, HOW MANY EVALUATIONS, HOW  
13 MANY PSYCHIATRIC EVALUATIONS OF PERSONS HAVE YOU CONDUCTED  
14 IN YOUR CAREER?

15 A. OVER 15,000.

16 Q. AND HOW MANY FORENSIC -- HOW MANY EVALUATIONS  
17 HAVE YOU DONE IN YOUR CAREER IN THE FORENSIC CONTEST?

18 A. CLOSE TO 8,000.

19 Q. WITHIN THOSE, DO YOU HAVE AN IDEA OF WHAT  
20 PERCENTAGE OF THOSE HAVE BEEN EVALUATIONS FOR PURPOSES OF  
21 MAKING A RECOMMENDATION OR RENDERING AN OPINION ON SANITY?

22 A. YES. OVER A THOUSAND.

23 MS. GUIDOTTI: AT THIS TIME WOULD I OFFER  
24 DOCTOR MISSETT AS AN EXPERT IN PSYCHIATRY AND FORENSIC  
25 PSYCHIATRY.

26 THE COURT: ANY INQUIRY?

1 MR. MC DOUGALL: NO, THANK YOU.

2 THE COURT: HE WILL BE DEEMED AN EXPERT IN  
3 THOSE FIELDS. YOU MAY PROCEED.

4 MS. GUIDOTTI: THANK YOU.

5 Q. DOCTOR MISSETT, WERE YOU CONTACTED BY MY  
6 OFFICE, IN FACT BY ME PERSONALLY, ON AUGUST 31, 2009?

7 A. I KNOW IT WAS SEPTEMBER OR FALL OF 2009.

8 Q. AND WITH REGARD TO THE BOMBING THAT TOOK PLACE  
9 AT HILLSDALE HIGH SCHOOL; IS THAT CORRECT?

10 A. YES.

11 Q. IT WAS A SHORT TIME AFTER THAT HAD OCCURRED; IS  
12 THAT RIGHT?

13 A. YES.

14 Q. DID YOU AGREE AT THAT TIME TO BE AVAILABLE TO  
15 MY OFFICE FOR ANY KIND OF EVALUATIONS THAT MIGHT BECOME  
16 NECESSARY IN THIS CASE?

17 A. I THINK IT WAS MORE GENERAL, TO SORT OF  
18 CONSULT WITH YOU OR TALK TO YOU AND SEE WHERE THINGS GO.

19 Q. AND AT THAT TIME OR SHORTLY THEREAFTER, WERE  
20 YOU SUPPLIED WITH A NUMBER OF DOCUMENTS IN THIS CASE?

21 A. YES.

22 Q. AND FROM TIME TO TIME AFTER THAT, DID YOU THEN  
23 RECEIVE FOLLOW-UP DOCUMENTS; DVD'S, TRANSCRIPTS, ET  
24 CETERA?

25 A. YES.

26 Q. IS IT FAIR TO SAY YOU REVIEWED OVER A THOUSAND

1 PAGES OF DOCUMENTS IN THIS CASE, POLICE REPORTS, ET  
2 CETERA?

3 A. YES.

4 Q. AND HAVE YOU ALSO REVIEWED A NUMBER OF DOCTORS'  
5 REPORTS?

6 A. YES.

7 Q. AND DOCTORS WILKENSON AND PATTERSON AND BERKE,  
8 AND FRICKE AND GREGORY AND STEWART, AND GOULD AND KLINE,  
9 FOR EXAMPLE?

10 A. I THINK THAT'S THE UNIVERSE OF THE REPORTS I  
11 REVIEWED.

12 Q. AS HIS HONOR WAS TELLING THE JURY A FEW MOMENTS  
13 AGO WHEN YOU WERE HERE IN THE COURTROOM, YOU WERE GIVEN  
14 PERMISSION A FEW WEEKS AGO TO INTERVIEW THE DEFENDANT; IS  
15 THAT CORRECT?

16 A. YES.

17 Q. FOLLOWING THE COURT'S ORDERS THAT YOU BE  
18 ALLOWED TO DO THAT, DID YOU INTERVIEW THE DEFENDANT IN  
19 THIS CASE FOR APPROXIMATELY SIX HOURS?

20 A. THREE HOURS ON THE FIRST NIGHT, AND THEN THREE  
21 HOURS ABOUT FIVE DAYS LATER.

22 Q. DO YOU HAVE THOSE DATES HANDY THAT YOU  
23 INTERVIEWED HIM?

24 A. THE 16TH, I BELIEVE WAS -- IT WAS WEDNESDAY, I  
25 KNOW IT WAS WEDNESDAY, AND THAT WAS THE FIRST ONE, FOR  
26 THREE HOURS. AND I BELIEVE THAT THE NEXT ONE WAS, I THINK

1 THE FOLLOWING MONDAY, THE 21ST.

2 Q. SO YOU INTERVIEWED THE DEFENDANT THE VERY SAME  
3 NIGHT THAT YOU GOT THE COURT ORDER; IS THAT RIGHT?

4 A. YES.

5 Q. NOW, CAN YOU TELL US, PLEASE, WHERE IT WAS THAT  
6 YOU INTERVIEWED THE DEFENDANT?

7 A. IN AN INTERVIEW ROOM ON THE THIRD FLOOR IN  
8 THIS BUILDING.

9 Q. WHEN YOU INTERVIEWED THE DEFENDANT, WERE YOU  
10 ALONE WITH HIM IN THAT INTERVIEW ROOM?

11 A. IN A MANNER OF SPEAKING, YES. THE -- I  
12 UNDERSTOOD AND HE UNDERSTOOD THAT WE WERE BEING RECORDED,  
13 SO THERE WAS AN AUDIO AND VIDEO TAPE, OR DISK, MADE OF OUR  
14 TIME TOGETHER.

15 Q. IS IT ALSO YOUR RECOLLECTION THAT I WAS PRESENT  
16 WITH INSPECTOR RAFFAELLI AND MR. MC DOUGALL AND A DOCTOR  
17 FOR THE DEFENSE, WATCHING THE INTERVIEW FROM AN ADJACENT  
18 ROOM WHEN YOU WERE DOING THAT INTERVIEW, THOSE INTERVIEWS?

19 A. THAT'S WHAT I WAS TOLD, AND I THINK, SEEING  
20 PEOPLE IN THE HALLWAY WAS CONSISTENT WITH THAT.

21 Q. AFTER REVIEWING ALL THE DOCUMENTS AND AFTER  
22 INTERVIEWING THE DEFENDANT FOR THOSE SIX HOURS, WERE YOU  
23 ASKED TO RENDER AN OPINION, BASED ON YOUR EXPERIENCE AND  
24 THE DOCUMENTS AND INFORMATION THAT YOU HAD, WITH REGARD TO  
25 THE DEFENDANT'S SANITY, ON AUGUST 24, 2009?

26 A. YES.

1 Q. AND LET ME START BY ASKING YOU WHETHER OR NOT  
2 YOU BELIEVED THAT THE DEFENDANT HAD -- WAS ENGAGING IN  
3 SOME BEHAVIOR THAT YOU WOULD REGARD AS PSYCHOTIC OR  
4 PARANOID, IN THE MONTHS LEADING UP TO AUGUST 24, 2009?

5 A. I DO BELIEVE THAT HE WAS ENGAGING IN BEHAVIOR  
6 THAT COULD BE CHARACTERIZED AS PSYCHOTIC OR PARANOID.  
7 WHERE I HAD THE PROBLEM IS SAYING THAT I REGARD IT AS  
8 PSYCHOTIC OR PARANOID, I DON'T THINK THERE IS ENOUGH  
9 EVIDENCE FOR THAT, BUT CLEARLY THERE HAVE BEEN FIVE OR SIX  
10 OTHER DOCTORS THAT SAID THEY ARE OF THE BELIEF IT WAS.  
11 AND EVEN THOUGH I AM OF THE OPINION THAT THERE IS NOT  
12 ENOUGH EVIDENCE FOR THAT, IT DOES NOT MEAN THAT I CAN SAY  
13 THEY ARE WRONG, IT IS SOMEWHERE IN BETWEEN.

14 IT WAS WEIRD BEHAVIOR, THERE WAS SOMETHING  
15 WRONG, I DON'T HAVE ANY PROBLEM WITH THAT, SAYING THAT  
16 THERE DOES APPEAR TO BE SOMETHING MENTALLY AND EMOTIONALLY  
17 WRONG WITH MR. YOUSHOCK.

18 Q. YOU HAVE READ A NUMBER OF DOCTORS' REPORTS,  
19 HAVE YOU NOT, THAT HAVE OPINED THAT HE SUFFERS FROM  
20 SCHIZOPHRENIA, PARANOID TYPE?

21 A. YES.

22 Q. DO YOU DISPUTE THOSE FINDINGS, DOCTOR MISSETT?

23 A. I DON'T DISPUTE THEM, BUT I DON'T HOLD THEM.  
24 THE REASON -- WHEN I SAY I DON'T DISPUTE THEM, THERE  
25 DOES APPEAR, REPEATEDLY IN HIS HISTORY OVER THE LAST YEAR  
26 OR TWO PRIOR TO HIS INCIDENT ON AUGUST 24TH, THAT THERE

1 WERE INDICATIONS THAT WOULD BE CONSISTENT WITH AT LEAST  
2 SOME OF THE OPINIONS THESE DOCTORS OFFERED, AND THEY WERE  
3 CLEAR ABOUT WHAT THEY WERE BASING IT ON.

4 I DID NOT SEE THE SAME EVIDENCE THAT THEY SAY  
5 THEY SAW, AND THAT -- THAT POSED A PROBLEM FOR ME.

6 Q. WHAT WERE THE THINGS THAT YOU AGREE WITH SOME  
7 OF THE DOCTORS THAT RENDERED THE OPINION OF SCHIZOPHRENIA,  
8 WHAT WERE SOME OF THE THINGS YOU SAW THAT YOU WOULD AGREE  
9 WITH THEIR -- WITH THEIR OPINIONS?

10 A. THAT MR. YOUSHOCK SEEMED, DURING A  
11 CONSIDERABLE PERIOD OF TIME, PARTICULARLY AT HILLSDALE  
12 HIGH SCHOOL, AND ALSO LATER, TO SPEND TIME PRETTY MUCH BY  
13 HIMSELF, TO SUCH AN EXTENT THAT HE COULD BE CHARACTERIZED  
14 AS A LONER, OR ISOLATED FROM OTHER INDIVIDUALS. THAT'S  
15 NOT INCONSISTENT WITH BEING A SCHIZOPHRENIC, BUT IT DOES  
16 NOT MEAN THAT YOU ARE.

17 ANOTHER WAS THAT THERE WERE INDICATIONS THAT  
18 HE WAS DEPRESSED DURING THIS PERIOD OF TIME, DURING A  
19 SUBSTANTIAL PERIOD OF THIS TIME, BOTH WHEN HE WAS AT  
20 HILLSDALE, AND WHEN HE WAS AT WEST BAY.

21 ON THE OTHER HAND, HE APPEARED TO HAVE OTHER  
22 REASONS FOR THE DEPRESSION, PRINCIPALLY THE SCHOOL  
23 PERFORMANCE ON HIS PART, WHERE HE CLEARLY WAS NOT DOING  
24 WELL, AND WHEN HE WAS AT HILLSDALE, AND THE PROBLEM IS  
25 THAT HE WAS -- THAT HE WAS BLAMING TEACHERS,  
26 ADMINISTRATORS, AND EVERYBODY ELSE FOR ALL THE TROUBLE HE

1 WAS HAVING, RATHER THAN LOOKING AT WHAT HE WAS SAYING HE  
2 WAS NOT GOING TO DO, HE WAS NOT GOING TO WORK WITH GROUPS,  
3 HE WAS NOT GOING TO DO HIS HOMEWORK, HE WAS ESSENTIALLY  
4 GOING TO BLAME THE TEACHER FOR PUTTING THE SCREWS TO HIM  
5 TO GET IT DONE.

6 Q. HOW -- CAN YOU EXPLAIN TO US HOW, IN YOUR  
7 OPINION, THAT THAT IS INCONSISTENT WITH SCHIZOPHRENIA?

8 A. THE SCHIZOPHRENIA IS A BIOLOGICALLY BASED  
9 DISORDER, AND IT DOES HAVE AT ITS OUTSET, IN WHAT IS  
10 CALLED A PRODROMAL STAGE, JUST STARTING IN, IT DOES HAVE A  
11 WAY OF SHOWING ITSELF IN A -- THE PERSON HAVING A DECLINE  
12 IN HIS OR HER ABILITY TO CARRY OUT VARIOUS DAILY  
13 ACTIVITIES, AND IT IS ONE OF THE MOST COMMONLY ENCOUNTERED  
14 SIGNS THAT A PERSON MIGHT BE BECOMING SCHIZOPHRENIC.

15 THE PROBLEM IS, IF IT IS BIOLOGICALLY BASED,  
16 THAT FALLING OFF IN PERFORMANCE OCCURS ALMOST UNIVERSALLY,  
17 ALL THE TIME, AND THAT WAS NOT THE CASE WITH MR. YOUSHOCK.  
18 MR. YOUSHOCK, DURING THE YEAR PRIOR TO AUGUST 24, 2009,  
19 WAS PERFORMING WITH GRADES THAT WERE RANGING FROM 90 TO A  
20 HUNDRED, REALLY, IN THE AVERAGE, BEING ABOUT 95, WHEN HE  
21 WAS AT WEST BAY.

22 THAT IS NOT CONSISTENT WITH ATTRIBUTING THE  
23 PROBLEMS THAT HE WAS HAVING IN CONCENTRATING AND PAYING  
24 ATTENTION TO SOME KIND OF MENTAL OR EMOTIONAL DISORDER,  
25 SCHIZOPHRENIA OR ANYTHING ELSE, HE WAS FUNCTIONING AND HE  
26 WAS PERFORMING.

1                   THE OTHER ISSUE WAS, DURING THAT PERIOD OF  
2 TIME, FOR AT LEAST FIVE MONTHS PRIOR TO AUGUST 24TH,  
3 INSTEAD OF SHOWING A GRADUAL DISORGANIZATION IN HIS  
4 THINKING AND HIS BEHAVIOR, SO THINGS WERE NOT KIND OF  
5 GETTING DONE THE WAY THEY SHOULD BE GETTING DONE, HE WAS  
6 SHOWING A MARKED ABILITY TO INVOLVE HIMSELF IN THE  
7 COLLECTION OF VARIOUS KIND OF CHEMICALS, THE MAKING OF  
8 VARIOUS KINDS OF VIDEOS, THE COMBINING OF THE CHEMICALS  
9 INTO MIXTURES THAT HE HIMSELF WOULD MIX, WHERE HE WOULD  
10 PHOTOGRAPH HIMSELF DOING IT, AND THEN HE WOULD THEN POUR  
11 THEM INTO PIECES OF PIPE, WHICH HAD SOMETHING TO PUT ON  
12 THE END, THAT HE PURCHASED AT VARIOUS POINTS IN TIME, OVER  
13 A PERIOD OF TIME, ESSENTIALLY TO AVOID DETECTION.

14                   THIS IS HIGHLY ORGANIZED ACTIVITY, THIS IS NOT  
15 THE KIND OF DISORGANIZATION THAT YOU GET WITH A SORT OF A  
16 DEVELOPING SCHIZOPHRENIC. IT INDICATES ABILITY TO FOCUS,  
17 CONCENTRATE ON SOMETHING, ACTUALLY GET IT DONE, AND THEN  
18 IF YOU TAKE IT, AND AT THE SAME TIME AS HIS SCHOOL GRADES  
19 ARE IMPROVING MARKEDLY, THERE IS SOMETHING GOING RIGHT FOR  
20 HIM DURING THAT PERIOD OF TIME.

21           Q.       IS THAT SOMEWHAT INCONSISTENT FROM WHAT PEOPLE  
22 GENERALLY EXPERIENCE WITH SCHIZOPHRENIA, IN YOUR  
23 PREPONDERANCE?

24           A.       UNBELIEVABLY SO. INSTEAD OF IT BEING A  
25 FALLING OFF IN PERFORMANCE, WHICH IS QUITE COMMON, AND  
26 INSTEAD OF IT INDICATING A DIFFICULTY IN CONCENTRATING AND

1 PAYING ATTENTION, WHICH IS ALSO QUITE COMMON, AND INSTEAD  
2 OF INDICATING A DISTRACTABILITY, WHERE YOU CAN'T FOCUS ON  
3 SOMETHING FOR A LONG PERIOD OF TIME, IT INDICATES A MARKED  
4 ABILITY TO STAY FOCUSED AND, AS IT WERE, HAVING A GOAL IN  
5 MIND.

6 Q. YOU INDICATED THAT THERE WAS SOME EVIDENCE OF  
7 PSYCHOSIS AND PARANOIA; IS THAT CORRECT?

8 A. THERE WERE DESCRIPTIONS OF HIM THAT WERE  
9 CONSISTENT WITH PARANOIA, SO IF SOMEONE WANTED TO SAY THAT  
10 HE IS PARANOID AND HE DESCRIBED HIMSELF AS BEING THAT WAY,  
11 WELL, HE HAS THAT COMPLAINT, YOU CAN'T REALLY SAY IT IS  
12 THERE, CAN'T REALLY SAY IT IS NOT. HE SAYS THAT IT IS.

13 AND THEN HE GAVE SOME INDICATIONS IN HIS  
14 WRITING THAT WOULD BE CONSISTENT WITH HIS FEELING THAT  
15 OTHER PEOPLE WERE OUT TO GET HIM, HIS TEACHERS.

16 YOU CAN'T DO AWAY WITH WHAT THE FACTS ARE.  
17 THE PROBLEM IS THAT JUST BECAUSE YOU ARE PARANOID DOES NOT  
18 MEAN YOU ARE A PARANOID SCHIZOPHRENIC. IT MAY MEAN THAT  
19 YOU HAVE A FIRM, FIXED, FALSE BELIEF THAT COULD BE AS MUCH  
20 AN INDICATION THAT YOU HAVE A HARD TIME HAVING SOMEBODY  
21 TELL YOU SOMETHING THAT YOU DON'T LIKE TO HEAR, WHICH IS,  
22 YOU ARE NOT PERFORMING, GET UP AND GET IT DONE AND GIVE IT  
23 TO ME. YOU ARE SMART ENOUGH TO DO IT AND YOU ARE IN HIGH  
24 SCHOOL, NO LONGER JUNIOR HIGH SCHOOL.

25 AND WHEN YOU GO TO HIGH SCHOOL EVERY PARENT  
26 KNOWS, WHEN YOU GO FROM ELEMENTARY SCHOOL TO MIDDLE

1 SCHOOL, THERE IS TROUBLE, IT IS HARD, THINGS ARE HARDER AT  
2 THE SECOND LEVEL. WHEN YOU GO FROM MIDDLE SCHOOL TO HIGH  
3 SCHOOL, EVERYBODY HAS MORE TROUBLE, BECAUSE THE DEMANDS  
4 PUT ON YOU ARE GREATER, AND JUST BECAUSE YOU DON'T PERFORM  
5 DOES NOT MEAN THAT YOU ARE NOT WORTH IT, BUT SOME PEOPLE  
6 BELIEVE THAT THEY ARE WORTH IT AND IT IS BASICALLY THEIR  
7 FAULT, NOT MINE.

8 Q. AND YOU SAID THERE WAS ALSO SOME BEHAVIOR THAT  
9 COULD BE REGARDED AS PSYCHOTIC, AM I STATING YOUR OPINION  
10 CORRECTLY?

11 A. I THINK SO.

12 Q. AND WHAT IS THAT BEHAVIOR THAT YOU ARE  
13 REFERRING TO THAT COULD BE REGARDED AS PSYCHOTIC?

14 A. THE BLAMING OF THE TEACHER FOR EVERYTHING. IF  
15 YOU ARE REALLY PARANOID, THAT WOULD BE CONSISTENT WITH  
16 BEING PSYCHOTIC. ALL THE WORD PSYCHOTIC MEANS IS THAT THE  
17 PERSON HAS TROUBLE TELLING WHAT IS REAL IN THE WORLD FROM  
18 WHAT IS NOT REAL IN THE WORLD, VERY SIMPLE.

19 TO SAY THAT THE PERSON IS PSYCHOTIC AND  
20 PARANOID MEANS, ONE OF THE WAYS IT SHOWS UP, THIS  
21 INABILITY TO TELL WHAT IS REAL FROM NOT REAL IN THE WORLD  
22 WE ALL LIVE IN IS TO SAY, THEY ARE TRYING TO GET ME,  
23 WHOEVER THEY ARE; PARENTS, TEACHERS, NEIGHBORHOOD PEOPLE,  
24 PEOPLE OF DIFFERENT BACKGROUNDS, THAT SORT OF THING.

25 SO IT IS NOT TERRIBLY COMPLICATED, IT IS JUST,  
26 IF YOU ARE REALLY PARANOID AND PSYCHOTIC, PARANOIA IS ONE

1 OF THE WAYS TO DESCRIBE YOURSELF AS BEING PSYCHOTIC.

2 Q. IN YOUR REPORT, DOCTOR MISSETT, YOU INDICATE  
3 THAT, REGARDLESS OF WHETHER HE WAS SUFFERING FROM A  
4 PSYCHOSIS OR EARLY SIGNS OF SCHIZOPHRENIA IN 2009, THEN  
5 YOU GO ON AND FINISH THE SENTENCE, WHICH WE WILL GET TO.

6 AS YOU SIT HERE NOW, DO YOU FEEL THAT YOU  
7 DISPUTE THE FINDINGS OF THE OTHER DOCTORS, OR HOW WOULD  
8 YOU DESCRIBE YOUR OPINIONS ABOUT THEIR FINDINGS?

9 A. I AM NOT GOING TO DISPUTE THE CONCLUSIONS THEY  
10 CAME TO. I DID NOT SEE WHAT THEY SAID THEY SAW. I DO  
11 BELIEVE THAT THE THINGS THEY CITE AS BEING SIGNS OF A  
12 PSYCHOSIS, AND, OF COURSE, THE PSYCHOSIS RENDERING HIM  
13 UNABLE TO DO THIS OR THAT IN TERMS OF KNOWING WHAT HE WAS  
14 DOING AND KNOWING THE DIFFERENCE BETWEEN THE RIGHT AND  
15 WRONG, I SAID THAT EVEN IF HE WERE TO TAKE WHAT THEY SAID  
16 ABOUT THE PSYCHOSIS AND ABOUT THE PARANOIA, WHICH I DON'T,  
17 BUT EVEN IF I WERE, I WOULD STILL COME TO THE SAME  
18 CONCLUSION THAT I CAME TO.

19 Q. ON THE ISSUE OF THE SANITY?

20 A. YES, ON THE ISSUE OF SANITY.

21 Q. AND BEFORE WE GO ON TO THAT, I WOULD LIKE TO  
22 TALK TO YOU ABOUT SOME OF THE ITEMS THAT YOU REVIEWED FOR  
23 PURPOSES OF YOUR REPORT.

24 YOU REVIEWED HIS JOURNAL; IS THAT CORRECT?

25 A. YES.

26 Q. CAN YOU TELL US HOW IMPORTANT THAT JOURNAL WAS

1 IN YOUR EVALUATION OF THE DEFENDANT?

2 A. IT WAS UNBELIEVABLY IMPORTANT; IT WAS AND IT  
3 IS. THE REASON FOR THAT STARTS WITH THE DATE THAT THE  
4 JOURNAL STARTS IN THAT IT WAS -- STARTS MARCH 30, 2009,  
5 AND IN THE INTERVIEW THAT MR. YOUSHOCK HAD WITH THE  
6 POLICE, WITHIN A SHORT TIME, COUPLE HOURS AFTER HIS  
7 ARREST, HE IS TALKING ABOUT HOW THIS IDEA OF DOING THIS  
8 SORT OF THING HAD BEEN AROUND FOR A COUPLE YEARS, BUT THE  
9 PLANNING FOR IT STARTED AFTER ANOTHER 17 YEAR-OLD HAD  
10 KILLED 15 STUDENTS AND FACULTY AT A HIGH SCHOOL IN GERMANY  
11 ON MARCH 11, 2009, SO YOU ARE JUST A LITTLE EARLIER.

12 Q. SO, WHY IS THAT SIGNIFICANT, DOCTOR MISSETT,  
13 THAT THE PLANNING STARTED AFTER THAT SCHOOL VIOLENCE IN  
14 GERMANY?

15 A. FIRST REASON IT IS IMPORTANT, GOES TO THE  
16 WHOLE ISSUE OF PSYCHOTIC AND PARANOID PSYCHOTIC AND  
17 PARANOID SCHIZOPHRENIC. IF YOU ARE SCHIZOPHRENIC, THE  
18 WHOLE PRINCIPAL PART OF YOUR FOCUS IS ON WHAT IS GOING ON  
19 IN YOUR HEAD; VOICES YOU MAY HEAR, BELIEFS YOU MAY HAVE.  
20 IN OTHER WORDS, YOU ARE RESPONDING TO THINGS IN YOUR HEAD.

21 WHEN YOU SEE SOMETHING OUTSIDE OF YOU, IN THIS  
22 CASE THE NEWSPAPER AND TELEVISION MATERIAL ABOUT WHAT WENT  
23 ON IN GERMANY, AND YOU SET OFF ON A COURSE OF CONDUCT  
24 WHICH HAS YOU GOING DOWN THE SAME ROAD THAT PERSON WAS  
25 GOING DOWN, THAT'S BEING A COPY CAT, THAT IS NOT  
26 RESPONDING TO, MY GOD, I AM BEING THREATENED BY THESE

1 PEOPLE, OR I WAS -- I DID FEEL THREATENED BY THEM.

2 THIS IS RESPONDING TO GEE, LOOK AT ALL THE  
3 PUBLICITY THIS PERSON GOT, LOOK AT THE WORLD-WIDE  
4 ATTENTION THIS PERSON GOT, LOOK HOW THAT PERSON APPEARS TO  
5 HAVE FELT ABOUT THE WORLD THE SAME WAY THAT I DID, NAMELY,  
6 UNSUPPORTED, OVER DEMANDING, PEOPLE OUT TO GET HIM, IN A  
7 WAY, A KINDRED SOLE. HE IS CLEAR THAT THE PLANNING FOR  
8 AUGUST 24 STARTED WITHIN A WEEK OF THE KILLING IN --  
9 KILLINGS, REALLY, IN GERMANY, AND BY SOMEBODY WHO MAY HAVE  
10 BEEN AS DEPRESSED AS MR. YOUSHOCK MAY HAVE BEEN, ALTHOUGH  
11 MR. YOUSHOCK AT THAT TIME WAS PERFORMING A LOT BETTER THAN  
12 HE WAS A YEAR BEFORE, EVEN THOUGH HE STILL HELD  
13 RESENTMENTS.

14 Q. LET ME ASK YOU ABOUT GRUDGES. IS IT COMMON IN  
15 SCHOOL VIOLENCE CASES THAT GRUDGES ARE THE PRIMARY SOURCE  
16 OF VIOLENCE?

17 A. IT IS COMMON.

18 Q. AND DOES A PERSON HAVE TO BE PSYCHOTIC TO  
19 DEVELOP A GRUDGE?

20 A. MOST OF US WHO HARBOR GRUDGES ARE NOT  
21 PSYCHOTIC.

22 Q. WHAT ABOUT GRUDGES THAT GET OUT OF HAND, THAT  
23 TAKE YOU FROM A PLACE WHERE YOU ARE NOT COMMITTING CRIMES,  
24 TO A PLACE WHERE YOU ACTUALLY TRY TO KILL PEOPLE, OR YOU  
25 DO KILL PEOPLE. IS THAT NECESSARILY AN OFFSHOOT OF A  
26 MENTAL ILLNESS?

1           A.       IT IS AN OFFSHOOT OF A GRUDGE.  IN FACT, THE  
2 FACT THAT YOU HAVE SOMEBODY SAYING THAT, I AM HOLDING A  
3 GRUDGE ABOUT WHAT SOMEBODY DID TO ME IN THE PAST, IMPLIES  
4 THAT PERSON IS NOT AT THAT TIME PARANOID, BECAUSE PARANOID  
5 MEANS, AS I AM SITTING HERE, IF I WERE PARANOID IT WOULD  
6 BE, SOMEBODY IS TRYING TO HURT ME, UNDERCUT ME, DAMAGE ME,  
7 WHATEVER, THERE IS SOMETHING OUT THERE NOW, THAT'S WHY I  
8 AM PARANOID, BECAUSE I AM AWARE OF THAT PERSON OUT THERE.  
9 THAT'S PARANOIA, PRESENT TENSE.

10                   MR. YOUSHOCK'S GRUDGE HAD TO DO WITH PAST  
11 TENSE, IT HAD TO DO WITH SOMETHING THAT HAD OCCURRED IN  
12 THE PAST, AND HE WAS GOING TO MAKE THEM PAY FOR IT.  
13 THAT'S REVENGE, NOT PARANOIA.  PARANOIA IS, IT IS GOING ON  
14 NOW, I HAVE TO DO SOMETHING ABOUT IT.

15                   REVENGE IS THAT THEY DID IT AND THEY WILL PAY,  
16 AND THAT'S CLOSER TO THE WAY THAT MR. YOUSHOCK WAS.

17           Q.       WITHIN THE FBI TREATISE ON THREAT ASSESSMENT  
18 AND SCHOOL VIOLENCE THERE IS A REFERENCE TO SOMETHING  
19 CALLED AN "INJUSTICE COLLECTOR," ISN'T THERE?

20           A.       YES.

21           Q.       CAN YOU TELL US WHAT THE INJUSTICE COLLECTOR  
22 IS, AND IF YOU NEED THE TREATISE, I CAN SHOW YOU.

23           A.       NO.  IT BASICALLY HAS TO DO WITH THE FACT THAT  
24 SOME OF US, OR MAYBE ALL OF US AT SOME POINT IN TIME IN  
25 OUR LIFE, WE HAVE THINGS GO WRONG FOR US, AND RIGHTLY OR  
26 WRONGLY WE BLAME SOMEBODY ELSE FOR HAVING PUT US IN THAT

1 POSITION; DID NOT GET THE JOB, DID NOT GET THE PROMOTION  
2 WE HOPED FOR, COULD NOT BUY THE HOUSE WE WANT, A WHOLE  
3 SERIES OF THINGS, NORMAL, EVERY DAY, SOMETIMES VERY  
4 PAINFUL EXPERIENCE IN A PERSON'S LIFE, AND WE PLAY BLAME  
5 IT ON THE TEACHER, CORNER GROCER, POLICE OFFICER; WE BLAME  
6 IT ON SOMEBODY ELSE. WHAT WE DO IS WE SORT OF COLLECT  
7 THEM OVER TIME. IT CAN BE THE SAME PERSON HAS DONE THIS  
8 FOR A DOZEN TIMES AND THEY WILL PAY FOR IT, OR THIS GROUP  
9 HAS DONE IT AND THEY WILL PAY FOR IT, THAT SORT OF THING.  
10 BUT WE COLLECT THEM, AND RATHER THAN GOING ON TO OTHER  
11 THINGS AND TAKING CARE OF OURSELVES WE JUST SAY OKAY, WE  
12 WILL GET THEM, AS IT WERE, BUT IT IS FOR -- WE ARE DOING  
13 SOMETHING NOW THAT IS A PAYBACK FOR SOMETHING IN THE PAST.

14 THAT'S WHAT MAKES IT A GRUDGE, RATHER THAN THE  
15 SITUATION WITH PARANOIA, WHICH IS THAT SOMEBODY IS OUT TO  
16 GET ME OR HARM ME NOW AND I NEED TO DO SOMETHING TO  
17 PROTECT MYSELF NOW, THAT'S THE PSYCHOTIC PART.

18 Q. WE HEARD FROM DOCTOR KLINE, WHO TESTIFIED  
19 YESTERDAY AFTERNOON, TALKED ABOUT USUALLY PEOPLE THAT ARE  
20 REACTING UNDER PARANOIA, IT IS A FAIRLY TERROR BASED  
21 REACTION. DO YOU AGREE?

22 A. YES.

23 Q. WITH RESPECT TO THE INJUSTICE COLLECTOR THAT'S  
24 DISCUSSED IN THIS FBI DOCUMENT, IS IT COMMON FOR INJUSTICE  
25 COLLECTORS TO KEEP LISTS?

26 A. YES.

1 Q. LISTS OF WHAT?

2 A. REAL OR IMAGINED INSULTS, CAUSES FOR THE ANGER  
3 THAT THEY FEEL, JUSTIFICATION FOR WHATEVER IT IS THEY  
4 MIGHT HAVE FANTASIES ABOUT DOING, THINGS TO REMIND THEM OF  
5 WHY IT IS THAT THEY ARE SO ANGRY OR UPSET, OR THEY FEEL SO  
6 MUCH ANIMOSITY TOWARDS THIS PERSON OR GROUP OF PEOPLE.

7 Q. LISTS OF INTENDED VICTIMS; IS THAT A COMMON  
8 SOURCE OF LISTS?

9 A. IT IS COMMON WITH LISTS. DOES NOT MEAN THAT  
10 IF YOU DON'T HAVE A LIST, YOU ARE NOT A GRUDGE CARRIER.  
11 MOST OF US DON'T MAKE LISTS, BUT WE CARRY GRUDGES, SO IF  
12 YOU HAVE A LIST IT BECOMES VERY SIGNIFICANT, BECAUSE WHAT  
13 IT DOES IS THAT IT IS A WAY TO MEMORIALIZE WHAT BEFORE WE  
14 HAD JUST IN OUR THINKING, AND SO THE -- IT IS LIKE THIS.

15 THERE IS A GRADATION HERE. ONE WOULD BE THAT  
16 WE HAVE A THOUGHT, BUT IT STOPS AT A THOUGHT, IT IS A  
17 FANTASY, SO, WE MAY PLAY WITH THE THOUGHT FOR A WHILE.

18 SO, INSTEAD OF HAVING A THOUGHT THAT COMES AND  
19 GOES, WE HAVE A THOUGHT THAT WHEN YOU KIND OF LIKE  
20 THINKING ABOUT IT, SO WE THINK ABOUT IT, INCLUDING DOING  
21 THINGS, BUT WE DON'T DO ANYTHING ELSE ABOUT IT.

22 THEN WE SAY SOMETHING, COULD BE TO ANYBODY,  
23 COULD BE TO OURSELF, SOMEBODY ELSE, BUT WE SAY IT.

24 THEN WE MAKE WHAT WE SAID, WHICH IS EPHEMERAL  
25 BECAUSE IT TRAILS OFF INTO THE ETHER, SO WE WRITE IT OUT  
26 AND MAKE IT PERMANENT, AND WHAT WE HAVE DONE IS TAKEN THE

1 ORIGINAL THOUGHT IS GOING DOWN, AND NOW WE HAVE IT  
2 PERMANENT, BECAUSE WE HAVE IT DOWN ON PAPER.

3 THAT'S INDEPENDENT OF GOING TO THE NEXT STEP,  
4 WHICH IS IMPLEMENTING IT. WHATEVER IT IS WE PUT ON PAPER,  
5 LIKE MAYBE IF YOU HAVE A NAME OF SOMEBODY THAT WE ARE  
6 INTERESTED IN GETTING, THAT WE ARE STARTING OUT AND DO  
7 THINGS THAT MAKE LIFE MORE DIFFICULT FOR THAT INDIVIDUAL,  
8 BECAUSE THEN WE HAVE GONE TO BEHAVIOR THAT'S PRIVATE,  
9 WRITTEN IT FOR OURSELVES, OR MAYBE SOMETHING TO BE SEEN BY  
10 SOMEBODY ELSE, AND NOW WE HAVE ACTED ON IT IN ORDER TO  
11 IMPLEMENT THAT WHICH WE PUT ON A PIECE OF PAPER.

12 Q. THE DVD THAT YOU OBSERVED, THE ANIMATIONS THAT  
13 HE CREATED, ARE THE EXPERIMENTS OF MAKING AND BURNING OF  
14 BLACK POWDER. THOSE VARIOUS DVD AND CD YOU OBSERVED, HOW  
15 IMPORTANT WERE THOSE IN YOUR EVALUATION?

16 A. VERY IMPORTANT.

17 Q. WHY?

18 A. BECAUSE -- FIRST, BECAUSE IT WAS THE ACT OF  
19 MAKING THE VIDEO, BECAUSE HE IS CLEAR, HE DID NOT KNOW  
20 WHETHER HE WOULD SURVIVE WHATEVER IT WAS HE WAS GOING TO  
21 DO. HE MIGHT HAVE HAD A HIGH RISK OF DYING OR SLOW RISK,  
22 BUT IT WAS A RISK THAT WAS SOMEWHAT INTENSIFIED GREATER  
23 THAN WHAT HE WOULD EXPERIENCE DAY-BY-DAY.

24 ESSENTIALLY, THIS, THE MAKING OF THE VIDEO AND  
25 THE WRITING OF THE JOURNAL, HE GAVE US SOMETHING TO  
26 REMEMBER HIM BY, WE WILL NOT FORGET HIM. EVEN IF HE HAS

1 DIED, WE WILL NOT FORGET HIM, BECAUSE HE HAS GIVEN US  
2 THIS, AND IN THIS HE HAS REITERATED HIS HATRED OF THE  
3 INDIVIDUALS THAT HE IDENTIFIED AT HILLSDALE AS BEING  
4 RESPONSIBLE FOR HIS SUFFERING.

5 HE INDICATED THAT HE WANTED THEM TO SUFFER THE  
6 WAY THAT HE HAD, THAT HE HOPED THEY REGRETTED IT FOREVER,  
7 THAT BASICALLY HE HATED A LOT OF DIFFERENT PEOPLE THAT  
8 WENT BEYOND THAT, AND AT THE SAME TIME HE WAS ANGRY AT  
9 SOME PEOPLE BECAUSE THEY ACTED IN A HATEFUL WAY TOWARDS  
10 OTHERS, SOME OF THE GENOCIDE REFERENCES.

11 BUT IN THE END WE HAD A VIDEO OF HIM, AND TO  
12 A CERTAIN EXTENT THAT IS NOT UNLIKE WHAT OTHER PEOPLE WHO  
13 BECAME INVOLVED IN SIMILAR KINDS OF SCHOOL --

14 MR. MC DOUGALL: OBJECTION AT THIS TIME, HE  
15 IS GOING BEYOND THE SCOPE.

16 THE COURT: NO. OVERRULED.

17 MS. GUIDOTTI:

18 Q. YOU WERE SAYING?

19 A. IT IS NOT UNLIKE WHAT OTHER PEOPLE INVOLVED IN  
20 SCHOOL RELATED THINGS DID; THEY MEMORIALIZED WHAT IT DID,  
21 SO ALTHOUGH WHAT HE WAS DOING WAS CLEARLY HIS DOING, HE  
22 MENTIONED THAT HE HAD TWO GROUPS, OR AT LEAST THREE,  
23 VIRGINIA TECH, COLUMBINE AND GERMANY, AND WITH AT LEAST A  
24 COUPLE OF THOSE, TWO OF THEM, THERE WERE VIDEOS.

25 SO, THIS COPY CAT PHENOMENON AND WANNA BE  
26 PHENOMENON, AND THE MEMORIALIZATION OF WHAT HE WAS DOING,

1 IS PART OF IT.

2 Q. IT SOUNDS LIKE YOU ARE SAYING THAT SOME OF THIS  
3 WAS NARCICISSTIC; IS THAT CORRECT?

4 A. TO A CERTAIN EXTENT.

5 Q. EXPLAIN THAT FOR US?

6 A. I THINK THAT THE WORD NARCICISSTIC MEANS,  
7 SELF-CENTERED. IF I AM ACTING IN A NARCICISSTIC MANNER,  
8 IT IS WHERE MY FOCUS IS CLEARLY ON ME, AND TO THE EXTENT  
9 ANYBODY GETS THAT THROUGH TO ME, GOOD LUCK TO THEM. THE  
10 REASON FOR THAT IS THAT ALL OF US ARE A LITTLE SELF  
11 CENTERED, WE ARE ALL FOCUSED ON HOW WE FEEL AT THE MOMENT;  
12 IF WE ARE TIRED OR HAPPY, WHETHER WE LIKE OR DISLIKE  
13 SOMETHING, THAT'S THE WAY THAT LIFE GOES.

14 SOME POINTS IN TIME OUR DEGREE OF SELF  
15 CENTEREDNESS CAN REACH THE POINT WHERE WE DON'T HAVE  
16 EMPATHY FOR OR ABILITY TO PUT OURSELVES IN THE PLACE OF  
17 SOMEBODY ELSE. THAT IS WHEN THIS PHENOMENON OF WHAT WE  
18 CALL NARCISM TAKES OVER, AND WE FEEL THAT WE ARE ENTITLED  
19 TO THINGS, WE FEEL THAT WE DESERVE SPECIAL CONSIDERATION,  
20 AND IF WE ARE NOT GETTING IT, IT IS BECAUSE SOMEBODY ELSE  
21 IS INTENTIONALLY -- THEY INTENTIONALLY HAVE IT IN FOR US.

22 SO, IT IS NOT QUITE PARANOIA, BUT IT IS THAT,  
23 I KNOW WHAT I CAN DO, I KNOW HOW IMPORTANT I AM, I KNOW  
24 HOW BRIGHT I AM, I KNOW ALL THESE THINGS, AND THESE PEOPLE  
25 ARE DENYING ME THE KINDS OF SATISFACTION THAT I OUGHT TO  
26 HAVE BECAUSE OF THAT, THAT'S NARCISM. AND THEN, WHEN

1       SOMEBODY DOES IT, THE TOOLS, WE ARE REGARDING AS HAVING A  
2       NARCICISSTIC INJURY.

3                       WE REALLY THOUGHT IT WAS WHAT HAPPENS EVERY  
4       YEAR WHEN YOU APPLY TO A COLLEGE, AND I DON'T CARE HOW  
5       GOOD YOU ARE, YOU ALWAYS GET 13 REJECTIONS FOR EVERY 15  
6       APPLICATIONS YOU SEND OUT, AND EVERY ONE OF THE 13 IS A  
7       NARCICISSTIC REJECTION, I DON'T CARE WHAT SCHOOL, BUT  
8       THESE SCHOOLS DID NOT TAKE ME.

9                       SO, PART OF IT IS NATURAL, UNTIL IT FLOWS OVER  
10      INTO SOMETHING ELSE THAT WE PROBABLY SHOULD NOT BE DOING.

11              Q.       WHAT IS THE PURPOSE OF A MANIFESTO IN  
12      SITUATIONS LIKE THIS?

13              A.       IT IS BASICALLY TO LET OTHER PEOPLE KNOW WHY  
14      IT WAS WE WENT AHEAD AND DID THIS THING THEY MIGHT  
15      OTHERWISE BE CRITICAL OF US FOR. IT IS A WAY OF SAYING,  
16      THIS IS WHY I DID IT, AND DOING IT IN A QUASI PUBLIC WAY,  
17      AND YOU CAN HAVE OTHER THINGS THAT GO ALONG WITH IT,  
18      MAKING PEOPLE FEEL SAD, GUILTY, UPSET, WHATEVER.

19              Q.       HOW IMPORTANT WERE THE INTERVIEWS DONE BY THE  
20      SAN MATEO POLICE DEPARTMENT?

21              A.       VERY MUCH SO.

22              Q.       TELL US WHY?

23              A.       FOR ONE THING, IF I TAKE MR. YOUSHOCK AT HIS  
24      WORD, HE SAYS IN THOSE INTERVIEWS, WITHIN A FEW HOURS OF  
25      HIS ARREST, THAT HE KNOWS RIGHT AND WRONG. HE ALSO SAID,  
26      I AM NOT CRAZY.

1 HE ALSO IS ARTICULATE IN TERMS OF WHAT IT IS  
2 THAT HE SAYS. HE DOES ANSWER THE QUESTIONS THAT ARE  
3 ASKED, AND THEY ARE APPROPRIATE ANSWERS. AND, TO THE  
4 EXTENT THAT I CAN TELL, HE WAS COOPERATIVE IN ANSWERING  
5 THE QUESTIONS THAT HE WAS ASKED.

6 AND THERE WERE NO INDICATIONS, AT LEAST IN THE  
7 DISKS, OF HIS BEING DISTRACTED BY INNER THOUGHT PROCESSES,  
8 LIKE VOICES THAT MIGHT BE SAYING SOMETHING TO HIM AT A  
9 GIVEN POINT IN TIME. IT WAS -- THERE WAS NO CLEAR  
10 EVIDENCE OF A DELUSION; THE DELUSION IS FIRM, FIXED, AND  
11 FALSE, IT DOES NOT COME AND GO, IT WAS THERE. THERE WAS  
12 NO INDICATION OF THAT.

13 HE DID SAY THAT HE FELT THAT THE PEOPLE AT  
14 SCHOOL HAD -- THE ADMINISTRATORS AND SOME OF THE TEACHERS,  
15 HE WAS CONVINCED HAD BEEN OUT TO GET HIM, AND THAT WAS, I  
16 THINK, ONE OF THE THINGS THAT THE OTHER DOCTORS THAT SAW  
17 HIM FELT IT WAS REALLY IMPORTANT.

18 I FELT IT WAS LESS IMPORTANT BECAUSE OF THE  
19 OTHER THINGS THAT I MENTIONED IN TERMS OF TAKING IT OVER,  
20 BUT IT IS ALWAYS POSSIBLE TO BE WRONG AND PUT THE EMPHASIS  
21 IN THE WRONG PLACE.

22 Q. OF WHAT SIGNIFICANCE WAS HIS COMMENT TO THE  
23 OFFICER THAT HE THOUGHT, I THOUGHT THAT YOU WERE GOING TO  
24 SHOOT ME. DO YOU REMEMBER THAT COMMENT?

25 A. YES, I DO. I THOUGHT IT WAS QUITE REALISTIC.  
26 AT THE TIME THAT MR. YOUSHOCK WAS REFERRING TO, I THOUGHT

1 YOU WERE GOING TO SHOOT ME, MR. YOUSHOCK, AT LEAST FROM  
2 THE REPORTS, WAS ON HIS STOMACH, AND HE HAD A FACULTY  
3 MEMBER FROM THE SCHOOL ON HIS BACK, AND HE HAD ONE ARM  
4 FREE AND THE OTHER ARM UNDERNEATH HIM WHEN THE OFFICER  
5 ARRIVED.

6 SO IT IS NOT AS IF, GIVEN THE CIRCUMSTANCES, A  
7 PERSON WOULD NOT HAVE -- IT WOULD NOT BE OUT OF PLACE FOR  
8 A PERSON TO FEAR FOR THEIR PERSONAL SAFETY AT THAT TIME.

9 Q. WHAT ABOUT IF THE INTERPRETATION OF THAT WAS, I  
10 AM AFRAID THAT YOU ARE GOING TO SHOOT ME HERE IN THE  
11 POLICE STATION?

12 A. THAT WOULD BE CLOSER TO BEING PARANOID IN THE  
13 SITUATION. THEN YOU HAVE TO DECIDE, IS THIS PARANOIA,  
14 SOMETHING THAT IS DELUSIONAL, FIRM, FIXED AND FALSE, WHICH  
15 WOULD BE HARD TO SAY IT IS FIRM; FIRM MEANS IT IS THERE  
16 FOR MONTHS OR YEARS, NOT FOR AN HOUR OR MINUTES. FIXED,  
17 SAME WAY.

18 FALSE, IT IS POSSIBLE, IT IS POSSIBLE THAT --  
19 I COULD SEE, THEORETICALLY, HOW SOMEBODY WHO WAS BEING  
20 ARRESTED FOR THE FIRST TIME IN THEIR LIFE MIGHT FEAR FOR  
21 THEIR SAFETY, FIRST IN A POLICE STATION, THEN IN THE SQUAD  
22 CAR, AND GET OUT AND GO INTO A BUILDING.

23 Q. WOULD A PERSON WHO WAS TRULY AFRAID OF BEING  
24 KILLED BY THE OFFICERS, ACCEPT A GLASS OF WATER FROM THEM?

25 A. THEY MIGHT, UNLESS THEY HAD WHAT WAS DESCRIBED  
26 AS A DELUSION, THAT SOMEBODY WAS TRYING TO POISON HIS

1 FOOD. AND THAT WAS THE CASE WITH MR. YOUSHOCK, IT WAS  
2 THE -- IF INDEED HE WAS DELUSIONAL IN A PARANOID WAY ABOUT  
3 SOMEBODY TRYING TO POISON HIM, THE LAST THING WAS FOR  
4 SOMEBODY TO ACCEPT, THE EAGER ACCEPTANCE OF A GLASS OF  
5 WATER JUST BECAUSE HE WAS THIRSTY, IT DOES NOT FIT IN,  
6 THAT HE WAS PARANOID ABOUT SOMEBODY TRYING TO POISON HIM.

7 WHAT IT IMPLIES IS THAT, WHATEVER IT WAS THAT  
8 MIGHT HAVE BEEN GOING ON WITH HIS CONCERNS ABOUT FOOD IT  
9 WAS NOT, AT LEAST AT THE MOMENT WHEN HIS GUARD WAS DOWN  
10 AND HE WANTED THE WATER, WOULD NOT KEEP HIM FROM TAKING A  
11 DRINK, SO IT WAS NOT VERY MUCH OF A DELUSION.

12 Q. WHAT IS THE SIGNIFICANCE OF THE SUICIDE NOTE,  
13 TO YOU?

14 A. THAT HE EXPECTED HE WOULD DIE THAT DAY, AND  
15 BASICALLY HE WAS INDICATING THAT HE WAS AWARE OF THIS AND  
16 THAT IT WAS SOMETHING THAT HE WAS NOT TRYING TO PUT OFF,  
17 AND HE ACCEPTED IT. NOTHING IN THAT IS NECESSARILY  
18 PSYCHOTIC, THE FACT IS THAT HE WAS GOING INTO A SITUATION  
19 WHERE, WITH A CHANGE OF A FEW EVENTS, OR THE CHANGE OF A  
20 LITTLE BIT OF BEHAVIOR BY ONE OR TWO PEOPLE, HE COULD HAVE  
21 WELL BEEN DEAD. THAT WAS NOT FAR OFF THE MARK OF WHAT  
22 COULD HAVE HAPPENED.

23 AND WITH THE PEOPLE HE SAID THAT HE HAD  
24 RESEARCHED, EVERY ONE OF THEM ENDED UP DEAD, SO, IT IS NOT  
25 AS IF HE WAS NOT AWARE THAT OTHER PEOPLE WHO HAD ENGAGED  
26 IN POTENTIALLY THAT ACTIVITY ON A CAMPUS, COULD END UP

1 BEING SHOT.

2 Q. CAN YOU EXPLAIN TO US, DOCTOR MISSETT, WHY THE  
3 DEFENDANT WOULD HAVE BEEN HAPPY, OR HAPPIER THAN HE HAD  
4 BEEN IN A LONG TIME, IN THE SHORT TIME PERIOD BEFORE HE  
5 TRIED TO KILL THE TEACHERS AT HILLSDALE?

6 A. YOU MEAN, DURING THE YEAR?

7 Q. ACTUALLY, ASSUMING TESTIMONY FROM HIS MOTHER  
8 AND SISTERS, THAT HE HAD BEEN HAPPY IN THE FEW DAYS BEFORE  
9 AUGUST 24TH, THAT HE HAD BEEN MORE TALKATIVE, MORE  
10 FRIENDLY, MORE HELPFUL AROUND THE HOUSE, IS THAT A  
11 PHENOMENON THAT YOU HAVE SEEN BEFORE IN INSTANCES OF  
12 WORKPLACE OR SCHOOL VIOLENCE?

13 A. YES.

14 Q. CAN YOU EXPLAIN THAT, THE SIGNIFICANCE OF THAT?

15 A. IT MEANS THAT WHATEVER ELSE IS GOING ON WITH  
16 HIM IS NOT BIOLOGICAL. THAT ABSOLUTELY MEANS THAT,  
17 BECAUSE WHAT IT MEANS IS THAT IT IS ENVIRONMENTAL, AND HE  
18 HAS DONE THE WORK, HE HAS GOT EVERYTHING READY, IT IS ALL  
19 READY TO GO, AND HE DID IT. HE PUT TOGETHER VIDEOS, HE  
20 PUT THE BOMBS TOGETHER, HE HAS GOT HIS WEAPONS. HE WAS  
21 ABLE TO SECURE THE GUITAR CASE, HE WAS ABLE TO MAKE  
22 CERTAIN THAT THE CHAIN SAW WORKED, HE WAS ABLE TO MAKE  
23 CERTAIN IT FIT INTO THE GUITAR CASE.

24 HE HAD DONE A LOT, AND HE HAD DONE IT IN A  
25 RELATIVELY SHORT PERIOD OF TIME, WHERE HE WAS CONCERNED  
26 THAT OTHERS MIGHT GET ON TO HIM OR BE ON TO HIM DURING THE

1 PERIOD OF TIME THAT HE WAS ENGAGED IN THIS, AND NOW HE IS  
2 THERE. SO IT IS REALLY HE HAS COME TO THE END OF THE  
3 ROAD, AND THE ONLY THING LEFT IS TO WAIT UNTIL MONDAY AND  
4 GO TO SCHOOL. WHEN HE SAID HE FEELS BETTER --

5 MR. MC DOUGALL: OBJECTION, NARRATIVE AT THIS  
6 TIME.

7 THE COURT: ALL RIGHT. NEXT QUESTION.

8 MS. GUIDOTTI: RIGHT.

9 Q. SO, DOCTOR MISSETT, IN TERMS OF DOING THE  
10 SANITY EVALUATION, WE HAVE ALREADY DISCUSSED THE ISSUE OF  
11 MENTAL ILLNESS, YOU DON'T SUBSCRIBE COMPLETELY TO  
12 SCHIZOPHRENIA, BUT DO YOU BELIEVE HE HAS A MENTAL ILLNESS?

13 A. YES.

14 Q. WHAT DO YOU BELIEVE HIS MENTAL ILLNESS TO BE?

15 A. I THINK MOST LIKELY IT IS DEPRESSIVE DISORDER,  
16 OF AT LEAST MODERATE SEVERITY, WHICH MEANS THAT IT  
17 INTERFERES WITH YOUR DAILY FUNCTIONING, BUT YOU CAN STILL  
18 GET OUT OF BED IN THE MORNING AND DO WHAT YOU ARE SUPPOSED  
19 TO DO. BUT HE HAS PSYCHOTIC FEATURES, NAMELY THAT HE CAN  
20 HAVE THOUGHTS WHERE HE IS UNREALISTICALLY BLAMING OTHER  
21 PEOPLE FOR WHATEVER, AND I THINK THAT IS THE CLOSEST,  
22 BECAUSE IT SORT OF TAKES EVERYTHING THAT HE SAYS HIMSELF,  
23 AND I THINK IT ALLOWS FOR INCLUDING WHAT THE OTHER DOCTORS  
24 SAY, AND IT DOES MEAN THAT HE HAS A MENTAL OR EMOTIONAL  
25 DISORDER, AND COMBINED DISORDER, AND HE WAS DEPRESSED.

26 Q. GOING ON TO THE NEXT PRONG, KNOWING THE NATURE

1 AND QUALITY OF HIS ACTIONS, CAN YOU TELL US WHAT, IN YOUR  
2 OPINION, IT MEANS TO KNOW THE NATURE AND QUALITY OF YOUR  
3 ACTIONS?

4 A. IT MEANS YOU KNOW WHAT IT IS THAT YOU ARE  
5 DOING IN TERMS OF WHAT YOU ARE DOING PERSONALLY, WHAT KIND  
6 OF OBJECTS YOU ARE USING, IF ANY, TO EFFECT WHAT YOU WANT  
7 TO DO; WHAT IT IS THAT YOU EXPECT TO BE DOING IN CARRYING  
8 THIS OUT, GOING TO A BANK AND HAND THEM A NOTE, THE CLERK  
9 MAY SAY, MY ACCOUNT NUMBER IS SUCH-AND-SUCH, OR IT MAY  
10 SAY, GIVE ME MONEY, BUT WHAT ARE YOU DOING. WHAT DO YOU  
11 EXPECT THE RESULT TO BE.

12 IN DOING SO, IS WHAT YOU ARE DOING AND THE  
13 RESULTS THAT MIGHT COME FROM THAT SUCH THAT IT INVOLVES  
14 DAMAGE OF ONE SORT OR ANOTHER TO SOMEBODY, NAMELY TAKING  
15 THEIR MONEY OR PHYSICALLY HITTING THEM, JUST PUSH THEM  
16 HARDER, OR PUSH THEM HARD AND HAVE SOMETHING IN YOUR HAND  
17 THAT WOULD GO THROUGH THE SKIN, THAT KIND OF THING. THE  
18 WHOLE RECOGNIZE THING, THAT YOU KNOW WHAT YOU ARE DOING,  
19 THAT YOU ARE DEALING WITH A HUMAN BEING, IN THE BROAD  
20 SENSE, AND THAT YOU KNOW WHAT IT IS THAT THE POSSIBLE  
21 EFFECTS OF YOUR BEHAVIOR MAY BE ON THAT PERSON, NO MORE  
22 THAN THAT.

23 Q. IN THIS CASE, WHAT IS YOUR OPINION ABOUT  
24 WHETHER OR NOT THE DEFENDANT KNEW THE NATURE AND QUALITY  
25 OF HIS ACTIONS ON AUGUST 24, 2009?

26 A. I DON'T THINK THERE IS ANY QUESTION BUT HE

1 KNEW IT, AND HE KNEW IT IN DETAIL. THAT HAD BEEN THE  
2 SUBJECT OF HIS FANTASIES OVER THE PREVIOUS TWO AND A HALF  
3 YEARS, AND WHAT HE WROTE ABOUT BETWEEN MARCH AND AUGUST OF  
4 2009.

5 Q. GOING ON TO THE ISSUE OF WRONGFULNESS. DO YOU  
6 HAVE AN OPINION AS TO WHETHER THE DEFENDANT KNEW THAT HIS  
7 CONDUCT WAS UNLAWFUL, OR WAS WRONG IN THE LAWFUL SENSE, ON  
8 AUGUST 24, 2009?

9 A. I DO.

10 Q. AND WHAT IS YOUR OPINION ON THAT?

11 A. THAT HE DID.

12 Q. AND --

13 A. -- THAT HE KNEW WHAT HE WAS DOING WAS  
14 UNLAWFUL.

15 Q. WHAT DO YOU BASE THAT OPINION ON, DOCTOR?

16 A. I THINK IT IS ON A NUMBER OF THINGS. AGAIN,  
17 IT GOES BACK TO START WITH THE JOURNAL, AND THAT IN THE  
18 JOURNAL HE DESCRIBES HIMSELF AS BEING ANXIOUS ABOUT THE  
19 POLICE FINDING OUT ABOUT HIS COLLECTING OF THIS MATERIAL.  
20 IN THE JOURNAL HE TALKS ABOUT THE POLICE OFFICER WHO  
21 STOPPED HIM EARLY IN THE MORNING AS HE WAS WALKING DOWN TO  
22 HILLSDALE HIGH SCHOOL, AND HE NEVER WENT BACK DOWN THAT  
23 WAY AGAIN.

24 HOW HE MENTIONED THE POSSIBILITY OF DYING IN  
25 THE PROCESS, WHATEVER HE WAS GOING TO DO AT THE SCHOOL,  
26 AND I THINK THOSE WOULD BE THE CHIEF ONES.

1 THE CONCERNS THAT HE HAD ABOUT HOW HIS VERY  
2 COLLECTING OF THE VARIOUS CHEMICALS THAT HE WAS USING  
3 MIGHT PROVOKE SOMEBODY TO TAKE AN INCREASED INTEREST IN  
4 HIM, POLICE OR SOMEBODY ELSE, IN TERMS OF WHAT HE WAS  
5 DOING, AND DOING WITH THESE VARIOUS ITEMS.

6 IT WAS IN CONTRAST TO A MORE PERSONAL KIND OF  
7 MORALITY, DOES NOT INVOLVE SOCIETY OR THE LAW, AND THAT  
8 WAS THE HESITATION OR THE DISCOMFORT HE EXPRESSED IN TERMS  
9 OF STEALING THE GUITAR CASE FROM HIS FATHER.

10 THE DISCOVERY HE EXPRESSED IN LYING REPEATEDLY  
11 TO HIS MOTHER ABOUT THE PURPOSE HE WAS DOING WITH THE  
12 CHEMICALS, FOR WHAT HE WAS GOING TO DO ON ANY GIVEN DAY  
13 ABOUT WHAT THE -- I DID A VIDEO THAT HE WAS MAKING ABOUT  
14 WHERE SHE WOULD TAKE HIM ON THE MORNING OF THE 24TH.

15 HE MENTIONED, WITH RESPECT TO ALL OF THESE IN  
16 HIS JOURNAL, THAT HE FELT UNCOMFORTABLE, LIKE TO HER,  
17 WHICH IMPLIES THAT HE WAS AWARE, THERE IS SOMETHING THAT  
18 GOES ON BETWEEN INDIVIDUALS, WE DON'T LIE TO ONE ANOTHER,  
19 PARTICULARLY FAMILY, IF IT IS NOT THE KIND OF THING YOU DO  
20 YOU. SO, IT IS IMMORAL AND WRONG.

21 Q. ARE YOU REFERRING TO AN INDIVIDUAL SENSE OF  
22 MORAL WRONGNESS?

23 A. AN INDIVIDUAL SENSE OF WRONGFULNESS, THAT'S  
24 DISTINCT FROM A LEGAL, AND SOMETHING THAT IS ILLEGAL OR A  
25 LEGAL SENSE, SO BEING AWARE THAT WHAT YOU ARE DOING IS  
26 BREAKING A LAW.

1 Q. DO YOU HAVE AN OPINION AS TO WHETHER OR NOT HE  
2 KNEW THAT HIS CONDUCT WAS MORALLY WRONG, ACCORDING TO THE  
3 GENERALLY ACCEPTED STANDARDS OF SOCIETY, THAT IS THAT  
4 SOCIETY WOULD BELIEVE WHAT HE WAS DOING IS WRONG?

5 A. YES, THAT HIS BEHAVIOR WAS ENTIRELY CONSISTENT  
6 WITH THAT. AND AFTER HIS ARREST HE SAID, I KNOW RIGHT AND  
7 WRONG. IT IS MY BELIEF THAT HIS CONDUCT IS CONSISTENT  
8 WITH THAT DESCRIPTION HE GAVE OF HIMSELF, SO THAT WAS JUST  
9 AS I WOULD BE WILLING TO ACCEPT HE REALLY DID BELIEVE  
10 THAT, RIGHTLY OR WRONGLY, THAT THESE PEOPLE HAD DONE HIM  
11 WRONG, THAT WHEN HE SAID THAT HE UNDERSTOOD RIGHT AND  
12 WRONG HE MEANT THAT, TOO, BECAUSE IT WAS CONSISTENT WITH  
13 WHAT HE HAD PUT IN THE JOURNAL, AND IN THE OUTRAGE THAT HE  
14 PROFESSED AT VARIOUS TIMES ABOUT THE WRONGFULNESS OF SOME  
15 CONDUCT WHERE WE DON'T PROTECT SOME PEOPLE, SOME WE DO,  
16 THAT SORT OF THING.

17 Q. TALKING ABOUT THE WRITTEN INFORMATION ABOUT  
18 GENOCIDE IN CERTAIN PARTS OF THE WORLD, AND IRAQ SOLDIERS  
19 KILLING CHILDREN, AND TAXI DRIVING?

20 A. YES. THERE WAS SOMETHING WRONG WITH THAT  
21 PERIOD, IT WAS OFFENSIVE TO YOUR IDEA OF HUMANITY.

22 Q. WITH REGARD TO ALL THE CONDUCT, SECRECY, THE  
23 HIDING OF THINGS AND THE ENTERING THE SCHOOL IN AN AREA  
24 WHERE HE DID NOT THINK THAT HE WOULD BE SURVEILLED,  
25 WEARING CLOTHES WHERE HE WOULD NOT STAND OUT, OR THOSE  
26 CASES THAT HE KNEW HIS CONDUCT WAS MORALLY WRONG, AS

1 VIEWED BY SOCIETY?

2 A. YES, AND HE HAD TO TAKE SPECIAL STEPS TO AVOID  
3 DETECTION AND/OR APPREHENSION, OR TO BE PREVENTED, THAT  
4 MAINLY OFFICIALS, SECURITY OFFICIALS AT THE SCHOOL, WHERE  
5 HE OBSERVED, THAT HE RAN A HIGH RISK OF BEING INTERCEPTED,  
6 AND AS HE PUT IN HIS JOURNAL, HAVING IT FOILED FOR HIM,  
7 THAT IN THE END IT WAS NOT GOING TO WORK OUT, AND IN THE  
8 END, IT DID NOT.

9 Q. WHAT IS THE SIGNIFICANCE, DOCTOR, OF THE  
10 WEAPONS HE CHOSE, OF THE CHAIN SAW, PIPE BOMB, AND THE  
11 KNIFE?

12 A. THING WITH THE BOMBS IS THAT THE PIPE BOMBS  
13 WERE THE ONES CLOSEST TO THE ISSUE, AND KIND OF ANOTHER  
14 SCALE OF COMMON LAW, AND HE SAID THAT WAS ONE OF THE  
15 PLACES HE LOOKED.

16 THE OTHER HAD TO DO WITH THE CHAIN SAW AND THE  
17 AMOUNT OF VIOLENCE THAT YOU CAN COMMIT WITH IT, BUT ALSO,  
18 IT WAS USEFUL TO GET THROUGH THE DOORS.

19 WHETHER OR NOT IT WAS USED TO GET THROUGH THE  
20 DOORS, I DON'T KNOW, BUT THAT'S WHAT HE TOLD ME, IT WAS  
21 ONE OF THE USES FOR IT, AND THAT WOULD BE A SECOND THING.

22 AND HE SAID, IF COLLIE FAILED HE WOULD THEN BE  
23 ABLE TO USE THE KNIFE, BUT IT WAS ALSO SOMETHING THAT HE  
24 WAS AVAILABLE TO HIM TO KILL HIMSELF, IF EVERYTHING ELSE  
25 SORT OF WENT DOWN THE DRAIN.

26

1 Q. DOCTOR MISSETT, AFTER REVIEWING AND CONSIDERING  
2 ALL THE EVIDENCE THE OTHER DOCTORS REPORTED, YOUR  
3 INTERVIEW WITH THE DEFENDANT, WHAT IS YOUR OPINION AS TO  
4 WHETHER OR NOT THE DEFENDANT WAS SANE ON AUGUST 24, 2009?

5 A. MY OPINION IS THAT HE WAS SANE.

6 MS. GUIDOTTI: THANK YOU. NO FURTHER  
7 QUESTIONS.

8 THE COURT: OKAY. LADIES AND GENTLEMEN, WE  
9 WILL TAKE OUR AFTERNOON RECESS. PLEASE, LEAVE YOUR  
10 NOTEBOOKS AND PENS HERE, AND KEEP IN MIND THE  
11 ADMONITION THAT YOU ARE NOT TO EXPRESS ANY SUBJECT, OR  
12 FORM OR EXPRESS ANY OPINIONS ON THE CASE UNTIL IT IS  
13 SUBMITTED TO YOU. START UP AT 3:15.

14 (RECESS)

15

16 THE COURT: WE ARE BACK ON THE RECORD,  
17 EVERYBODY IS PRESENT, WITNESS IS ON THE STAND, AND YOU  
18 MAY CONDUCT YOUR CROSS-EXAMINATION.

19 CROSS-EXAMINATION:

20 BY MR. MC DOUGALL:

21 Q. AFTERNOON.

22 A. AFTERNOON.

23 Q. DOCTOR, AS PART OF YOUR EDUCATIONAL ROLE, ARE  
24 THE PATHS YOU TAKE TO EDUCATE THOSE THAT ARE LEARNING TO  
25 DO WHAT YOU DO, DO YOU TEACH THEM IN TERMS OF REPORT  
26 PREPARATION?

1           A.       SOMETIMES, DEPENDING ON HOW FAR ALONG THEY  
2 ARE.

3           Q.       SO, THOSE THAT ARE EITHER BEGINNING OR MORE  
4 ADVANCED, DO THEY GET SOME INSTRUCTIONS OR SOME GUIDANCE  
5 ON HOW TO PREPARE A REPORT?

6           A.       YES.

7           Q.       AND INCLUDED WITHIN THAT INSTRUCTION IS THE  
8 FACT THAT IT IS IMPORTANT TO BE ACCURATE AND DETAILED IN  
9 YOUR REPORT?

10          A.       TO THE EXTENT THAT YOU CAN BE, YES.

11          Q.       AND THAT'S FOR A COUPLE REASONS. ONE,  
12 OBVIOUSLY, IF YOU GENERATE A REPORT AND THEN THE TRIAL OR  
13 THE TASK FOR WHICH YOU HAVE BEEN HIRED COMES UP A YEAR OR  
14 YEAR AND A HALF LATER, YOU HAVE A GROUNDWORK, A BASIS TO  
15 TAKE A LOOK AT IT SO THAT YOU CAN TESTIFY WITH SOME  
16 AUTHORITY AND CONFIDENCE, IS THAT FAIR?

17          A.       IF YOU ARE TALKING ABOUT THAT LENGTH OF TIME,  
18 YES.

19          Q.       AND IT IS ALSO, IN YOUR FIELD, SOMETIMES THE  
20 CREATION OF A REPORT SO THAT IT IS SUBJECT TO PEER REVIEW;  
21 IS THAT RIGHT?

22          A.       SOMETIMES.

23          Q.       SO, YOU WOULD GENERATE A DIAGNOSIS, OR AN  
24 OPINION, TALK ABOUT YOUR FINDINGS WITHIN A REPORT, SO THAT  
25 OTHERS, OTHER EXPERTS IN YOUR FIELD COULD REVIEW IT AND  
26 MAKE COMMENTS, OR BE ABLE TO ADDRESS YOUR OPINIONS, WOULD

1 THAT BE FAIR?

2 A. COULD BE. IT DEPENDS ON WHAT THE  
3 CIRCUMSTANCES UNDER WHICH THE REPORT BEING WRITTEN  
4 ACTUALLY ARE.

5 Q. ANOTHER REASON THAT A REPORT, IT IS IMPORTANT  
6 TO HAVE DETAIL AND TO HAVE CLARITY IN YOUR THINGS IS  
7 BECAUSE THE PERSON THAT HIRES YOU, YOU ARE GIVING THEM  
8 INFORMATION WHICH THEY MAY RELY UPON, EITHER IN A COURT OF  
9 LAW OR SOME OTHER REQUEST THAT THEY HIRED YOU FOR; IS THAT  
10 RIGHT?

11 A. THAT'S RIGHT, ONCE YOU HAVE THE INFORMATION  
12 TOGETHER.

13 Q. SO IF YOU GENERATE A REPORT YOU WANT TO BE  
14 CLEAR AND DETAILED, SO THAT THE PERSON WHO HIRED YOU IS  
15 NOT GIVEN INCORRECT INFORMATION?

16 A. HOPEFULLY.

17 Q. IN THIS PARTICULAR CASE, SIR, HOW MUCH TIME DID  
18 YOU SPEND ON YOUR REPORT?

19 A. I COULD NOT START IT UNTIL TUESDAY AND I WAS  
20 TOLD THAT I HAD TWO DAYS TO DO IT, SO PROBABLY 12 HOURS ON  
21 IT, TOTAL.

22 Q. AND OF THOSE 12 HOURS, HOW MUCH OF THAT WAS  
23 SPENT SIMPLY REWRITING EXCERPTS FROM THE REPORTS OF DOCTOR  
24 PABLO STEWART, DOCTOR MANDY GREGORY, AND DOCTOR ALBERT  
25 FRICKE?

26 A. I SPENT A LOT OF TIME READING WHAT THEY HAD,

1 AND I JUST PUT IN WHAT THEY HAD.

2 Q. SO, YOUR REPORT, I HAVE -- THE COPY THAT I HAVE  
3 IS 62 PAGES. WOULD YOU AGREE WITH ME THAT 58 PAGES OF  
4 YOUR 62 ARE SIMPLY RETYPED EXCERPTS FROM THOSE OTHER  
5 EXPERTS?

6 A. YOU MEAN REVIEWING THE MATERIALS THAT WAS IN  
7 THE THOUSAND PAGES? GETTING A THOUSAND DOWN TO 52 IS NOT  
8 BAD.

9 Q. SO, OF THE 62 PAGES OF YOUR REPORT, 58 OF THEM  
10 ARE SIMPLY RETYPED EXCERPTS FROM THE OTHER REPORTS?

11 A. THEY ARE SUMMARIES OF WHAT IS IN THE OTHER  
12 REPORTS. REPEATING THE JOURNAL, I THINK WE REPEATED THE  
13 JOURNAL, IN DETAIL.

14 Q. I GUESS MAYBE MY QUESTIONS ARE A LITTLE  
15 UNCLEAR. IF YOU WANT TO LOOK AT YOUR REPORT, 58 PAGES, AS  
16 I HAVE IT, APPEAR TO HAVE DIFFERENT HEADINGS, REMARKS AND  
17 PSYCHOLOGICAL EVALUATIONS REGARDING FORMAL FINDINGS,  
18 REMARKS BY PABLO STEWART AND DIFFERENT EXCERPTS THAT  
19 APPEAR TO BE SIMPLY RETYPED FROM THOSE REPORTS?

20 A. COULD HAVE BEEN.

21 Q. DO YOU KNOW FOR CERTAIN?

22 A. I COULD NOT TELL YOU WHETHER THEY ARE OR NOT.  
23 IF THEY ARE EXACTLY THE SAME AS WHAT ANY OF THE DOCTORS  
24 HAD, THEN OBVIOUSLY THEY ARE COPIED FROM THE DOCTOR.

25 Q. YOU JUST WROTE THIS REPORT ON APRIL 1ST, WHICH  
26 IS FOUR DAYS AGO?

1           A.       I THINK IT WAS DELIVERED, BUT I WAS TOLD THAT  
2 I WAS SUPPOSED TO HAVE IT DONE BY FRIDAY, TO HAVE IT  
3 AVAILABLE.

4           Q.       I APOLOGIZE, I AM JUST GOING OFF THE DATE ON  
5 YOUR REPORT, WHICH TO ME SAYS APRIL 1, 2011, IS THAT THE  
6 SAME REPORT THAT YOU HAVE?

7           A.       I HOPE SO.

8           Q.       I DON'T MEAN TO PLAY GAMES, BUT WE ARE IN FRONT  
9 OF THE JURY. IS THAT THE SAME REPORT THAT YOU HAVE?

10          A.       I DON'T KNOW WHAT YOUR NEXT QUESTION IS, BUT I  
11 HAVE A REPORT THAT SAYS ON APRIL 1, 2011, AND IT IS  
12 62 PAGES IN LENGTH.

13          Q.       STARTING ON PAGE THREE, STARTS WITH, HEADING,  
14 REMARKS AND PSYCHOLOGICAL EVALUATIONS REGARDING PERSONAL  
15 HISTORY OF ALEXANDER ROBERT YOUSHOCK, AGREED?

16          A.       RIGHT.

17          Q.       UNDER THAT, REMARKS BY PABLO STEWART, M.D.; IS  
18 THAT CORRECT?

19          A.       THAT'S CORRECT.

20          Q.       WHEN YOU WROTE THAT, DID YOU SIMPLY RETYPE  
21 SOMETHING FROM DOCTOR STEWART'S REPORT INTO THIS SECTION  
22 WHERE IT SAYS, IN HIS 1- 7- 11 REPORT?

23          A.       THERE ARE TWO PARAGRAPHS. THE FIRST IS A  
24 SUMMARY, AND THE SECOND ONE IS PROBABLY MOSTLY IN QUOTES  
25 FROM DOCTOR STEWART.

26          Q.       YOU THEN DO THAT REPETITIVELY FROM DOCTOR

1 STEWART, DOCTOR FRICKE AND DOCTOR AMANDA GREGORY'S  
2 REPORTS FOR THE BETTER PART OF THE NEXT 58 PAGES, WOULD  
3 YOU AGREE WITH THAT?

4 A. NO.

5 Q. OKAY. TELL US WHAT PAGE YOU STOPPED PROVIDING  
6 REMARKS BY THE DIFFERENT DEFENSE EXPERTS, DOCTOR?

7 A. WE ARE COVERING A LOT OF AREAS. PERSONAL  
8 HISTORY GOES FOR TWO PAGES, DEFENSE EXPERTS, VARIOUS  
9 PSYCHOLOGICAL EVALUATIONS OF HIS FATHER, GOES FOR --

10 Q. WHAT PAGE?

11 A. THREE PAGES, 3 THROUGH 6. REMARKS ON THE  
12 PSYCHOLOGICAL EVALUATIONS REGARDING MR. YOUSHOCK'S  
13 MOTHER GOES FOR LITTLE OVER THREE PAGES.

14 Q. LET ME INTERRUPT YOU FOR A MOMENT. THESE  
15 REMARKS ARE FROM THE OTHER REPORT EXPERTS; IS THAT  
16 CORRECT?

17 A. THAT'S CORRECT. THEY JUST COVER A WIDE RANGE  
18 OF VARIOUS TOPICS, THEY ARE NOT JUST ONE TOPIC.

19 Q. BUT THE MATERIALS ARE COMING FROM THE OTHER  
20 EXPERT'S REPORTS; IS THAT CORRECT?

21 A. YES, THAT ON WHICH THEY BASE THEIR OPINIONS.

22 Q. SO MY QUESTION IS, YOU ARE TAKING MATERIALS  
23 FOUND ON THE OTHER REPORTS AND RETYPING THEM INTO YOUR  
24 REPORT?

25 A. NO, I AM SUMMARIZING THEM IN MY REPORT.  
26 RETYPING IT WOULD MEAN THAT BASICALLY THE WHOLE THING IS

1 IN QUOTES, AND THAT'S NOT -- AND THAT GOES ON FOR  
2 24 PAGES. THEN MR. YOUSHOCK HIMSELF TAKES OVER FOR --  
3 WHERE I BASICALLY JUST TYPED INTO THE REPORT WHAT WAS IN  
4 HIS JOURNAL, FOR 15 PAGES.

5 Q. SO, FOR 15 PAGES YOU TYPED HIS JOURNAL, DID YOU  
6 RETYPE IT WORD-FOR-WORD INTO YOUR REPORT?

7 A. PRETTY MUCH. I THINK THAT THE ONLY EXCEPTION  
8 WOULD BE THAT THE -- WHEN I DICTATED IT, I HAD THE WORD  
9 INDECIPHERABLE IN THIS A LOT, AND THE TYPIST TOOK IT OUT.  
10 SO, ASIDE FROM INDECIPHERABLE, YES.

11 Q. SO, FOR APPROXIMATELY 15 PAGES YOU DICTATE THE  
12 JOURNAL, AND THEN SOMEONE TRANSCRIBED IT INTO THE REPORT  
13 VERSION FOR YOU?

14 A. THAT'S RIGHT.

15 Q. ULTIMATELY, DOES THAT END ON OR ABOUT PAGE 61?

16 A. 42.

17 Q. AND THEN, FROM 42 TO 60?

18 A. WE ARE BACK TO THE OTHER THINGS ABOUT THE  
19 DESCRIPTION OF THE EVENTS LEADING UP TO HILLSDALE HIGH  
20 SCHOOL.

21 Q. AGAIN, TAKEN FROM THE OTHER REPORTS?

22 A. MOST OF THEM ARE IN THIS REPORT. IT IS FROM  
23 THE REPORTS OF THE DEFENSE EXPERTS, YES.

24 Q. AND THEN, ULTIMATELY YOU GET TO THE INTERVIEWS  
25 THAT YOU ENTITLE ON PAGE 60; IS THAT CORRECT?

26 A. YES.

1 Q. AND THEN, UNDER THAT YOU SAY, MEMORY, THERE  
2 WERE NO DEFECTS IN HIS MEMORY FOR IMMEDIATE OR RECENT OR  
3 REMOTE EVENTS. DO YOU SEE THAT?

4 A. YES.

5 Q. AS YOU SIT HERE TODAY, HAVING PREPARED FOR  
6 TESTIMONY, IS THAT 100 PERCENT ACCURATE, DOCTOR?

7 A. WELL, I THOUGHT SO THEN AND I THINK SO NOW AND  
8 MAYBE I WILL BE DISABUSED.

9 Q. DO YOU RECALL ASKING ALEXANDER YOUSHOCK THE  
10 NAME OF HIS OLDER BROTHER?

11 A. NO, I DON'T, BUT OBVIOUSLY IF IT IS IN THE  
12 TRANSCRIPT, IT IS IN THE TRANSCRIPT.

13 Q. YOU DON'T RECALL WHEN OU ASKED HIM THE NAME OF  
14 YOUR OLDER BROTHER, HE SAID MATT, AND YOU ASKED HIM HIS  
15 LAST NAME AND HE SAID, I DON'T KNOW. YOU DON'T RECALL  
16 THAT?

17 A. NO.

18 Q. DO YOU RECALL ALEXANDER YOUSHOCK NOT KNOWING OR  
19 REMEMBERING WHAT HIS DAD DID FOR A LIVING?

20 A. I THINK THAT'S TRUE. I DO REMEMBER THAT, I  
21 THINK.

22 Q. THAT WOULD CERTAINLY BE A MEMORY DEFICIT IF HE  
23 DOES NOT REMEMBER WHAT HIS DAD DID. MAY HAVE BEEN HE JUST  
24 DID NOT KNOW WHAT HIS DAD DID?

25 A. HE DID NOT SAY HE DID NOT KNOW.

26 Q. I DON'T THINK HE TOLD YOU THAT HE DID NOT

1 REMEMBER.

2 A. WELL, IF HE SAID, I DON'T REMEMBER, THAT WOULD  
3 HAVE BEEN DEFECTIVE MEMORY.

4 Q. AND HOW ABOUT ASKING HIM WHAT HIS OLDER SISTER,  
5 ONLY OLDER SISTER, AMBER YOUSHOCK, DID FOR WORK? DO YOU  
6 RECALL ASKING HIM THAT, WHAT HIS ANSWER WAS?

7 A. YES. AND NO, I DON'T.

8 Q. WOULD IT SURPRISE YOU IF HE SAID, I DID NOT  
9 REMEMBER?

10 A. PROBABLY NOT, NO.

11 Q. AGAIN, IF YOU SAID THAT, THAT WOULD OBVIOUSLY  
12 BE ANOTHER LAPSE OF MEMORY?

13 A. IT WOULD BE, IF IT WAS.

14 Q. DO YOU RECALL, DURING THE SECOND INTERVIEW,  
15 WHICH I UNDERSTAND WAS ON MARCH 21ST, WHERE YOU WERE GOING  
16 THROUGH, EXTENSIVELY, THE JOURNAL ENTRIES YOU MADE AT THAT  
17 POINT AT THAT PARTICULAR INTERVIEW, TO GO THROUGH THE  
18 JOURNAL ENTRIES. DO YOU RECALL THAT?

19 A. I DO.

20 Q. YOU ASKED HIM ON SEVERAL OCCASIONS IF HE  
21 RECALLED WRITING CERTAIN ENTRIES, AND HE TOLD YOU HE DID  
22 NOT REMEMBER WRITING SOME OF THEM; IS THAT RIGHT?

23 A. AGAIN, I DON'T REMEMBER.

24 Q. DID YOU LOOK AT YOUR NOTES OF THE INTERVIEWS  
25 WITH MR. YOUSHOCK IN PREPARATION FOR TRIAL?

26 A. MY NOTES WERE TAKEN FROM ME, I UNDERSTAND AT

1 THE REQUEST OF THE DEFENSE AND THE PROSECUTION, WITHIN  
2 MINUTES OF MY COMPLETING THEM, SO I AM OPERATING  
3 COMPLETELY ON MEMORY, BUT SOMEBODY ELSE HAS THEM, AND I  
4 PRESUME THAT IF THEY ARE TRANSCRIBED, THERE IS A  
5 TRANSCRIPTION SOMEWHERE.

6 Q. DID YOU LOOK AT ANYTHING IN YOUR REPORT THAT  
7 YOU WOULD LIKE TO TEACH YOUR STUDENTS, IN TERMS OF MEMORY,  
8 FOR MR. YOUSHOCK?

9 A. THE ONLY MATERIALS THAT I HAD FROM THE OTHER  
10 SOURCES, INCLUDING THE POLICE REPORTS.

11 Q. I'M SORRY. THIS PART OF YOUR REPORT IS  
12 ENTITLED, INTERVIEWS, WHICH I ASSUMED WAS YOUR INTERVIEWS  
13 WITH MY CLIENT?

14 A. THAT'S TRUE.

15 Q. SO WHEN YOU SAY MEMORY IN THE INTERVIEWS, YOU  
16 ARE TALKING ABOUT WHETHER OR NOT, AS PART OF YOUR CLINICAL  
17 EXPERTISE, WHETHER OR NOT THE PERSON THAT YOU ARE  
18 INTERVIEWING WAS SHOWING ANY DEFICITS IN MEMORY; IS THAT  
19 FAIR?

20 A. RIGHT.

21 Q. HE WAS, BUT IN YOUR REPORT YOU SAID THAT HE WAS  
22 NOT FAIR.

23 A. NO.

24 Q. HE DID NOT REMEMBER HIS BROTHER'S LAST NAME?

25 A. THAT'S NOT TRUE. HE SAID HE DID NOT REMEMBER  
26 IT. IF I REMEMBERED IT, I WOULD HAVE PUT IT IN. HE SAID

1 THAT HE DID NOT REMEMBER HIS BROTHER'S LAST NAME. THAT  
2 DOES NOT MEAN HE DOES NOT REMEMBER IT, IT MEANS HE SAID HE  
3 DID NOT. IT MIGHT BE A DEFECT, BUT WOULD DEPEND ON WHAT I  
4 WAS ASKING HIM ABOUT.

5 Q. ON PAGE TWO OF YOUR REPORT YOU GO THROUGH,  
6 EXCUSE MY HOARSE VOICE, I APOLOGIZE. IN PAGE TWO, YOU GO  
7 THROUGH THE MATERIALS THAT YOU REVIEWED, AND AGAIN, I  
8 WOULD ANTICIPATE SOMEONE OF YOUR EXPERTISE WOULD WANT TO  
9 MAKE SURE THAT YOU ARE VERY CLEAR AND DETAILED AS TO WHAT  
10 YOU REVIEWED TO GENERATE YOUR OPINIONS IN SUCH AN  
11 IMPORTANT CASE; IS THAT CORRECT?

12 A. IN GENERAL, THAT'S TRUE.

13 Q. HOW ABOUT IN CLARITY IN THIS CASE, WHEN YOU  
14 WROTE THE REPORT FOUR DAYS AGO. THANK YOU.

15 WHEN YOU WROTE THIS REPORT FOUR DAYS AGO, DID  
16 YOU ATTEMPT TO BE ABSOLUTELY CLEAR AND CERTAIN AS TO WHAT  
17 YOU REVIEWED, SO THAT MISS GUIDOTTI AND MYSELF AND  
18 EVERYBODY ELSE COULD RELY UPON IT?

19 A. WELL, I WOULD HAVE LIKED TO HAVE BEEN. I AM  
20 NOT AWARE THAT I WAS NOT, BUT I MAY BE FINDING OUT THAT I  
21 WAS.

22 Q. THE REASON I AM ASKING, DOCTOR, IS THAT THERE  
23 ARE SEVERAL THINGS THAT YOU DO NOT LIST IN YOUR REPORT AS  
24 MATERIALS YOU REVIEWED. WOULD THAT BE BECAUSE YOU DID NOT  
25 REVIEW THEM, OR BECAUSE YOU FELT THAT IT WAS NOT NECESSARY  
26 TO LIST THEM IN YOUR REPORT?

1 A. IT WOULD DEPEND ON WHAT YOU ARE TALKING ABOUT.

2 Q. LET'S BEGIN WITH THE REVIEW OF THE EXPERT  
3 REPORTS OF DOCTOR BERKE. DID YOU REVIEW THOSE REPORTS?

4 A. I DID REVIEW THEM.

5 Q. BUT YOU DID NOT LIST THOSE IN MATERIALS  
6 REVIEWED IN YOUR REPORT; IS THAT CORRECT?

7 A. I UNDERSTAND THAT IT WOULD BE IMPROPER FOR ME,  
8 IN THE POSITION THAT I HAD, WITH RESPECT TO MAKING AN  
9 ASSESSMENT OF MR. YOUSHOCK WITH RESPECT TO SANITY, FOR ME  
10 TO RELY ON A REPORT THAT WAS PREPARED BY COURT ORDER AS TO  
11 COMPETENCE TO STAND TRIAL. SO, THAT'S WHY IT IS NOT  
12 LISTED THERE.

13 AND THAT'S THE SAME WITH PATTERSON, AND ALSO  
14 THE SAME WITH WILKERSON. THOSE WERE THE THREE COMPETENCY  
15 DOCTORS. I HOPE THERE WAS NO MENTION OF ANY OF THE THREE  
16 IN THAT.

17 Q. WAS SOMEONE -- DID SOMEONE TELL YOU NOT TO LIST  
18 THOSE IN THE MATERIALS YOU REVIEWED ON YOUR REPORT?

19 A. MY MEMORY AND MY CONSCIENCE.

20 Q. TOLD YOU NOT TO LIST THINGS IN YOUR REPORT THAT  
21 YOU HAVE REVIEWED AND RELIED UPON IN YOUR DIAGNOSIS?

22 A. IN TERMS OF RELYING ON THE REPORTS, A  
23 COMPETENCY REPORT, MY UNDERSTANDING IS THAT I AM NOT TO  
24 RELY ON IT IN ANY CIRCUMSTANCE WITH RESPECT TO A TRIAL,  
25 UNLESS I AM INSTRUCTED TO RELY ON IT BY THE COURT, AND I  
26 WAS NOT INSTRUCTED, SO, I LET IT GO.

1 Q. THE PROSECUTOR ASKED YOU IN HER DIRECT WHETHER  
2 OR NOT YOU REVIEWED THOSE ITEMS AND CONSIDERED THEM WHEN  
3 YOU WERE DOING YOUR ANALYSIS OF THIS CASE; IS THAT  
4 CORRECT?

5 A. I DID REVIEW THEM, AND I DID CONSIDER THEM AND  
6 THEY ARE -- I AM HOPING, THEY INFLUENCED NOTHING THAT'S IN  
7 THAT REPORT.

8 Q. SO, THEIR DIAGNOSIS OF SCHIZOPHRENIA, YOU DID  
9 NOT INCLUDE THAT WHATSOEVER IN YOUR ANALYSIS?

10 A. I DID NOT DISREGARD IT, BUT I DID NOT INCLUDE  
11 IT. PEOPLE THAT GOT INCLUDED ARE THE PEOPLE WHO ARE PART  
12 OF THE CASE IN CHIEF IN THE SANITY PHASE OF THE TRIAL.

13 Q. DOCTOR, I DON'T MEAN TO BE DIFFICULT, BUT  
14 SOMETIMES I LOSE YOU WHEN YOU ANSWER A QUESTION. YOU DID  
15 NOT DISREGARD IT, BUT YOU DID NOT INCLUDE IT. THAT  
16 APPEARS TO BE A VERY BROAD SPECTRUM.

17 WHERE IN YOUR BRAIN DID THOSE REPORTS  
18 CONTRIBUTE TO WHAT YOU ARE TELLING THE JURY TODAY? EITHER  
19 YOU DID OR YOU DIDN'T CONSIDER THEM, CORRECT?

20 A. I KNEW WHAT THEY HAD TO SAY AND I DID NOT RELY  
21 ON THEM IN PREPARING MY OWN REPORT OR ANY OF THE OPINIONS  
22 I EXPRESSED TODAY. I DON'T DISCARD THEM, BUT I DON'T RELY  
23 ON THEM.

24 Q. EVERYTHING YOU TESTIFIED TO IS PURELY YOUR  
25 OPINION OF THE CASE?

26 A. NO. I THINK I HAVE BEEN CLEAR THAT I THOUGHT

1 THAT THERE WERE A NUMBER OF OPINIONS THAT WERE EXPRESSED,  
2 PRINCIPALLY BY THE DEFENSE EXPERTS, WITH REGARDS TO THE --  
3 AT THE ACTUAL TRIAL OR THE SANITY PHASE, AND I LOOKED AT  
4 THOSE AND THEY WERE NOT THAT MUCH DIFFERENT, I DID NOT  
5 THINK, THAN WHAT I HAD SEEN WITH DOCTOR BERKE AND  
6 WILKERSON AND THE OTHER. IT WAS NOT AS IF I WAS GOING OUT  
7 ON A LIMB IN DOING WHAT I THOUGHT I SHOULD BE DOING,  
8 ANYWAY.

9 Q. YOU LIST AS NUMBER ONE IN YOUR MATERIALS  
10 REVIEWED, THE VARIOUS REPORTS OF THE CITY OF SAN MATEO  
11 POLICE DEPARTMENT WITH RESPECT TO ALEXANDER ROBERT  
12 YOUSHOCK AND THE EVENTS OF AUGUST 24, 2009.

13 DOES THAT INCLUDE, OBVIOUSLY, ANY RECORDINGS,  
14 DVD'S, CD'S AND THE LIKE?

15 A. THE DVD CAME AFTER THE REPORTS, BUT THEY ARE  
16 ASSOCIATED WITH THE REPORTS AND THEY ARE, ESSENTIALLY --  
17 THE INTERVIEWS ARE CERTAINLY WHAT WENT WITH THE ACTUAL  
18 MATERIAL THAT'S IN THE REPORT, EXCEPT YOU ARE ACTUALLY  
19 LISTENING TO IT, AND WHAT ELSE WAS THERE?

20 Q. SO, WHEN YOU WRITE THE VARIOUS REPORTS YOU ARE  
21 INCLUDING THE AUDIO, VIDEO TYPE DOCUMENTATION?

22 A. EVERYTHING THAT CAME WITH THE POLICE REPORTS,  
23 YES.

24 Q. AND HOW ABOUT THE MEDICAL OR MENTAL HEALTH  
25 RECORDS FROM JUVENILE HALL, YOU DON'T LIST THOSE. DID YOU  
26 CONSIDER THEM?

1 A. MINIMALLY.

2 Q. THOSE WOULD INCLUDE THE RECORDS IMMEDIATELY  
3 AFTER HIS ARREST ON AUGUST 24TH, OF THE TREATING  
4 PSYCHIATRIC EXPERTS OF MR. YOUSHOCK; IS THAT CORRECT?

5 A. RIGHT, BUT I THINK THE REASON THEY WERE NOT  
6 INCLUDED WAS I WAS NOT CERTAIN HOW COMPREHENSIVE THEY  
7 WERE. THAT'S ALL, NOTHING MORE THAN THAT.

8 Q. YOU DID NOT CONSIDER THEM, BECAUSE YOU WERE NOT  
9 SURE HOW THOROUGH THEY WERE?

10 A. RIGHT.

11 Q. HOW DID YOU KNOW, DID YOU ASK MISS GUIDOTTI?

12 A. NO.

13 Q. YOU LOOKED AT THEM?

14 A. I BASICALLY DON'T ASK THE ATTORNEYS WHICH  
15 SHOULD GO IN AND NOT GO IN, BECAUSE I AM THE ONE  
16 RESPONSIBLE FOR IT.

17 Q. OKAY. HOW DID YOU KNOW HOW THOROUGH THE  
18 JUVENILE HALL RECORDS WERE, IF YOU DID NOT CONSIDER THEM?

19 A. I WAS AWARE OF WHAT WAS IN THERE.

20 Q. FROM WHOM?

21 A. WHAT DO YOU MEAN, FROM WHOM?

22 Q. YOU WERE AWARE OF WHAT WAS IN THE JUVENILE HALL  
23 MENTAL HEALTH RECORDS FROM WHOM, IF YOU DID NOT REVIEW  
24 THEM?

25 A. I DID REVIEW THEM.

26 Q. SO YOU REVIEWED THEM, BUT YOU DID NOT WRITE

1 THEM IN, MATERIALS REVIEWED IN YOUR REPORT?

2 A. THAT'S RIGHT.

3 Q. WHY WOULD YOU NOT LIST MATERIALS REVIEWED, IF  
4 YOU ACTUALLY REVIEWED THEM?

5 A. I ONLY HAD FOUR DAYS TO GET A 60 PAGE REPORT  
6 OUT, AND I WAS TOLD, IT HAS TO BE HERE BY FRIDAY. I PUT  
7 THE EMPHASIS ON THE TIME. I DID NOT SET THE TIME AND THE  
8 PARAMETERS, I DID NOT ASK TO GO IN TO SEE HIM ON THE SPOT  
9 WHEN I CAME HERE ON THE 16TH, BUT I HAD TO GET IT DONE, SO  
10 I DID IT.

11 Q. SORRY, DID YOU NOT GET RETAINED IN SEPTEMBER OF  
12 2009?

13 A. YES.

14 Q. AND DID ANYTHING PREVENT YOU FROM GETTING THOSE  
15 MATERIALS IN SEPTEMBER 2009, OCTOBER 2009, ALL THE WAY UP  
16 TO FOUR DAYS AGO?

17 A. NO. THE ONLY THING THAT PREVENTED ME WAS THE  
18 AMOUNT OF TIME AVAILABLE BETWEEN THE DATES THAT I WAS  
19 FIRST ALLOWED TO SEE YOUR CLIENT AND THE REPORT THAT I WAS  
20 TOLD TO PRODUCE FOUR DAYS AFTERWARDS. I THOUGHT 60 PAGES  
21 IN THAT FOUR DAYS, THAT'S NOT TOO BAD.

22 Q. VERY RUSHED, YOU DID A GREAT JOB OF 60 PAGES IN  
23 FOUR DAYS, BUT MY POINT IS, DOCTOR, YOU RECEIVED REPORTS,  
24 INCLUDING DOCTOR GREGORY'S, DOCTOR FRICKE'S AND DOCTOR  
25 STEWART'S AND DOCTOR PATTERSON AND DOCTOR WILKERSON,  
26 MONTHS BEFORE YOU HAD TO GENERATE A REPORT, BUT FOR SOME

1 REASON YOU THOUGHT IT WAS NOT NECESSARY TO INCLUDE  
2 JUVENILE HALL RECORDS IMMEDIATELY AFTER HIS ARREST?

3 MS. GUIDOTTI: OBJECTION, ARGUMENTATIVE.  
4 MOVE TO STRIKE MR. MC DOUGALL'S COMMENTS. COMPLEX.

5 THE COURT: THE OBJECTION IS SUSTAINED AS TO  
6 THE TONE. YOU CAN RESTATE THE QUESTION.

7 MR. MC DOUGALL:

8 Q. DOCTOR, MY QUESTION WAS, NOTHING PREVENTED YOU  
9 FROM INCLUDING AN ANALYSIS OF THE PSYCHIATRIC RECORDS OF  
10 MR. YOUSHOCK IMMEDIATELY AFTER HIS ARREST, PRIOR TO FOUR  
11 DAYS AGO WHEN YOU HAD TO GENERATE THE REPORT? YOU COULD  
12 HAVE INCLUDED ALL THAT PRIOR TO WHEN YOU WERE ASKED TO DO  
13 A REPORT; IS THAT CORRECT?

14 A. I WAS NOT ASKED TO DO A REPORT UNTIL AFTER I  
15 WAS ASKED TO SEE MR. YOUSHOCK. THAT OCCURRED ON  
16 MARCH 16TH. I CAN ONLY DICTATE SO FAST, AND MY TYPIST CAN  
17 ONLY TYPE SO FAST. YOU GOT THE FASTEST TURNAROUND, I  
18 THINK, ANYBODY HAS IN A LONG TIME.

19 SOME OF THE THINGS THAT ARE OTHERWISE INCLUDED  
20 IN THIS FOUR OR FIVE INCHES OF PAPER ARE NOT INCLUDED IN  
21 THE QUARTER-INCH OF PAPER.

22 Q. I AM NOT ASKING WHAT IT TOOK YOU TO WRITE THE  
23 REPORT, SIR, I AM ASKING THAT YOU HAD AN OPPORTUNITY TO  
24 EVALUATE AND LOOK AT MEDICAL RECORDS AND PSYCHIATRIC  
25 RECORDS IMMEDIATELY AFTER HE WAS ACCUSED OF DOING  
26 SOMETHING, TRYING TO DETERMINE HIS MENTAL STATE ON THIS

1 DAY, AND YOU SIMPLY LOOKED AT THEM, BUT DID NOT INCLUDE  
2 THEM. IS THAT YOUR OPINION?

3 A. IN THE REPORT I OFFERED?

4 Q. IN YOUR ANALYSIS AND YOUR REVIEW OF MATERIALS,  
5 YES.

6 A. I CONSIDERED THEM. I DID NOT INCLUDE THEM IN  
7 THE REPORT.

8 Q. AND IF THEY DID NOT MAKE THE GRADE TO YOUR  
9 REPORT, THAT MEANS IT DID NOT CARRY ENOUGH SIGNIFICANCE,  
10 IN YOUR ANALYSIS, TO ACTUALLY MAKE THE GRADE ON YOUR  
11 REPORT?

12 A. THE ANALYSIS WAS REALLY COMING DOWN TO WHAT  
13 ARE THE INDICATIONS AS TO MR. YOUSHOCK'S STATE OF MIND ON  
14 THE MORNING OF AUGUST 24TH. WHAT WERE THE INDICATIONS,  
15 PRINCIPALLY BEFOREHAND; SECONDARILY, AFTERWARDS. I FELT  
16 THAT OF ALL THE MATERIALS AFTERWARDS, THE AUDIO TAPES AND  
17 THE POLICE DEPARTMENT, WERE THE MOST PERSUASIVE.

18 DOES NOT MEAN OTHER PEOPLE SEEING HIM WERE  
19 INACCURATE IN WHAT THEY SAY. AS LONG AS I WAS CLEAR ABOUT  
20 WHAT I FOUND PERSUASIVE, THAT WAS THE MOST IMPORTANT THING  
21 TO ME.

22 Q. WE HEARD FROM SEVERAL EXPERTS, INCLUDING  
23 DOCTOR KLINE AND DOCTOR GOULD, IN THE LAST FEW DAYS, THAT  
24 FELT IT WAS VERY IMPORTANT TO LOOK AT THE PERIOD LEADING  
25 UP TO AUGUST 24TH AND THE PERIOD IMMEDIATELY AFTER  
26 AUGUST 24TH, AS SOMETHING OF IMPORTANCE TO DETERMINE THE

1       EVENTS OF AUGUST 24TH.

2                       DOES THAT APPEAR TO BE A FAIR ANALYSIS BY  
3       THOSE TWO EXPERTS?

4           A.        THAT'S TRUE.

5           Q.        THEY WOULD LOOK AT THE MENTAL HEALTH RECORDS  
6       IMMEDIATELY AFTERWARDS FOR SIGNS SUCH AS PARANOID  
7       DELUSIONS OR HALLUCINATIONS, TO SEE EVIDENCE OF WHETHER OR  
8       NOT HE WAS SUFFERING FROM A DIAGNOSABLE DISORDER, IS THAT  
9       A FAIR ANALYSIS?

10          A.        THAT'S FAIR.

11          Q.        IN THOSE RECORDS IT WAS CONCLUDED THAT HE  
12       REFUSED TO EAT AND HE LOST UPWARDS OF 16 POUNDS, BECAUSE  
13       HE WAS PARANOID THAT THE STAFF WAS PUTTING MEDICATIONS IN  
14       HIS FOOD.   DO YOU RECALL THAT?

15                    MS. GUIDOTTI:  OBJECTION, MISSTATES THE  
16       EVIDENCE.

17                    THE COURT:  SUSTAINED, AS PHRASED.

18                    MR. MC DOUGALL:

19          Q.        DO YOU RECALL THAT THERE WAS A CONCERN, AN  
20       ACTUAL PSYCHIATRIC EXPERT ANALYSIS DONE BY JUVENILE HALL  
21       STAFF, ON THE CAUSE OF WHY MR. YOUSHOCK WAS NOT EATING?

22          A.        THE CAUSE OF WHAT, I DID NOT HEAR YOU.

23          Q.        CAUSE OF WHY MR. YOUSHOCK WAS NOT EATING.

24          A.        NOT EATING, YES.  I KNOW THERE WAS CONCERN  
25       EXPRESSED THAT IT MIGHT BE SUGGESTIVE OF A PSYCHOTIC  
26       DISORDER OR THOUGHT DISORDER OR DEPRESSION, BUT SOMETHING

1 MENTALLY OR EMOTIONALLY WRONG WITH HIM.

2 Q. HIS TREATING CLINICIAN THAT WE HEARD DURING THE  
3 GUILT PHASE SAID THAT, IN HIS OPINION, IT WAS AN EXAMPLE  
4 OF DISORGANIZED THOUGHT, BECAUSE HE REFUSED TO ACCEPT THE  
5 FACT THAT STAFF WOULD NOT PUT FORCIBLE MEDICATIONS IN HIS  
6 FOOD, BUT MR. YOUSHOCK WOULD NOT ACCEPT THAT.

7 DO YOU RECALL SEEING THAT IN THE JUVENILE HALL  
8 PSYCHIATRIC RECORDS?

9 A. SOMETHING LIKE THAT.

10 Q. THAT CERTAINLY WOULD BE SOMETHING OF IMPORTANCE  
11 IN TRYING TO RENDER A DIAGNOSIS IMMEDIATELY AFTER  
12 AUGUST 24TH, ISN'T IT?

13 A. I -- THAT WOULD BE.

14 Q. BUT YOU DID NOT INCLUDE THAT?

15 A. IN WHAT, MY REPORT?

16 Q. IN YOUR ANALYSIS.

17 A. I DID NOT REGARD IT AS IMPORTANT AS WHAT TOOK  
18 PLACE BEFOREHAND, BECAUSE AFTERWARDS HE WAS IN CUSTODY,  
19 YOU WOULD EXPECT THAT HE WOULD BE DEPRESSED, AND IF HE WAS  
20 DEPRESSED, HE IS LESS LIKELY TO EAT AS MUCH, AND THERE WAS  
21 A QUESTION OF WHETHER OR NOT HE WAS LIKING THE FOOD OR NOT  
22 IN JUVENILE HALL.

23 I AM NOT IN A POSITION TO SAY WHICH IT WAS, I  
24 THINK IT WAS FAIRLY CLEAR HE LOST 14 POUNDS.

25 Q. WOULD IT BE SOMETHING OF SIGNIFICANCE WHEN YOU  
26 ARE TRYING TO DETERMINE WHETHER MR. YOUSHOCK TOLD THE

1 POLICE OFFICER HE THOUGHT THAT, AS HE WALKED OUT OF THE  
2 SECOND FLOOR INTERVIEW ROOM, THAT THE OFFICER WAS GOING TO  
3 SHOOT HIM, WHEN YOU HAVE TO MAKE AN ANALYSIS OF WHETHER OR  
4 NOT THAT IS SIMPLY A REASONABLE CONCERN, OR ACTUAL  
5 EVIDENCE OF PARANOID DELUSIONS? WOULDNT'T YOU ALSO WANT TO  
6 LOOK TO SEE IF THERE WAS ANY SIMILAR PARANOID DELUSIONS ON  
7 THE HEELS OF THAT, WHILE AT JUVENILE HALL?

8 A. I WOULD PAY ATTENTION TO IT.

9 Q. OBVIOUSLY, THOSE TWO FACTORS WOULD CONTRIBUTE  
10 TO THE DECISION THAT IT WAS A PARANOID DELUSION HE WAS  
11 HAVING, IN TERMS OF THE OFFICER WANTING TO SHOOT HIM?

12 A. NO, NOT TO THE WORDS SUSPICION, THAT IT WAS,  
13 BUT RATHER A CONSIDERATION OF WHAT IT MIGHT MEAN.

14 Q. SIR, YOU DO NOT LIST THE MEDICAL OR MENTAL  
15 HEALTH RECORDS FROM MAGUIRE JAIL IN YOUR REPORT; IS THAT  
16 CORRECT?

17 A. NO.

18 Q. DID YOU REVIEW THEM AND IT DIDN'T MAKE THE  
19 GRADE FOR YOUR REPORT, OR DID YOU NOT REVIEW THEM?

20 A. I DID NOT REVIEW THOSE.

21 Q. DID YOU REVIEW WHAT MEDICATIONS HE WAS BEING  
22 PRESCRIBED?

23 A. I KNEW HE WAS GETTING ABILIFY, BUT I DID NOT  
24 HAVE ANY MATERIAL FROM THE JAIL.

25 Q. YOU DID NOT FEEL THAT WAS NECESSARY IN TERMS OF  
26 MAKING A DIAGNOSIS OF WHAT HE WAS BEING TREATED FOR WHILE

1 AT MAGUIRE JAIL?

2 A. I DON'T KNOW THAT I WOULD HAVE GONE THAT FAR.  
3 I THINK IF I HAD SEEN REFERENCE TO HIS -- ESPECIALLY THE  
4 ISSUE OF COMPETENCY IN THOSE REPORTS, I PROBABLY WOULD  
5 HAVE PAID MORE ATTENTION.

6 Q. THE DIAGNOSIS OF A TREATING PSYCHIATRIST, IN  
7 TERMS OF GIVING HIM AN ANTIPSYCHOTIC MEDICATION SUCH AS  
8 ABILIFY, THAT WOULD NOT BE SOMETHING OF IMPORTANCE TO YOU  
9 IN MAKING A DIAGNOSIS?

10 A. IT WOULD IMPLY THAT THAT INDIVIDUAL THOUGHT  
11 MR. YOUSHOCK WAS ACTIVELY THEN PSYCHOTIC. WHETHER IT WAS  
12 FROM SOMETHING BEFORE THE 24TH OR AFTERWARDS IS NOT AS  
13 CLEAR, BUT CERTAINLY I WOULD AGREE THAT ORDINARILY PEOPLE  
14 MAKE A DIAGNOSIS BEFORE THEY GIVE MEDICATION.

15 Q. IS PART OF THE REASON YOU DID NOT INCLUDE THAT  
16 WAS BECAUSE YOU WERE RUSHED TO GET THIS REPORT DONE IN  
17 SUCH A SHORT AMOUNT OF TIME?

18 A. YOU MEAN, IN THE REPORT?

19 Q. YES.

20 A. THE REPORT IS WHAT THE REPORT IS, SOLELY  
21 BECAUSE OF THE AMOUNT OF TIME THAT WAS BASICALLY GIVEN TO  
22 ME. WE WERE IN THIS COURT ON THE AFTERNOON OF THE 16TH,  
23 WE WERE IN THE INTERVIEW ROOM TWO HOURS LATER, SO NOTHING  
24 WAS GOING TO START UNTIL THE 17TH. THAT MEANS THREE DAYS  
25 FOR THE TYPIST TO PUT IT TOGETHER, SHE WAS DOING 20 PAGES  
26 A DAY, AND I THOUGHT THAT WAS GOOD. I STILL DO.

1 Q. SIR, I GUESS THE QUESTION THAT YOU AND I ARE  
2 NOT CONNECTING ON IS THAT YOU HAD A YEAR AND A HALF TO  
3 CONSIDER ALL THE MATERIALS BEFORE YOU ACTUALLY HAD TO  
4 WRITE THE REPORT, FAIR?

5 A. FAIR.

6 Q. SO, WHEN YOU CHOSE NOT TO CONSIDER JUVENILE  
7 HALL RECORDS THAT SIGNIFICANTLY, OR YOU CHOSE NOT TO  
8 CONSIDER MAGUIRE JAIL RECORDS, THAT WAS NOT BECAUSE YOU  
9 WERE RUSHED, IT WAS BECAUSE YOU CHOSE THAT THAT MATERIAL  
10 WAS NOT IMPORTANT TO YOU?

11 A. NO, THAT'S NOT TRUE. IT JUST MEANT I DID NOT  
12 ASK FOR THEM, I WAS NOT GIVEN THEM, THAT'S THE MAGUIRE  
13 STUFF. THE OTHER STUFF, I DID NOT SEE THINGS IN THERE  
14 THAT CHANGED MY MIND.

15 Q. WHAT ABOUT FAMILY RECORDS, DID YOU CONSIDER ANY  
16 FAMILY RECORDS?

17 A. I DON'T THINK ANYTHING THAT WOULD BE ON THE  
18 INTERVIEW WITH THE MOTHER, NO.

19 Q. YOU SAID THAT SCHIZOPHRENIA IS A BIOLOGICALLY  
20 BASED DISEASE?

21 A. IT IS.

22 Q. CERTAINLY, THEN, FAMILY AND HEREDITARY GENES  
23 WOULD BE SOMETHING THAT YOU WOULD WANT TO CONSIDER; ISN'T  
24 THAT CORRECT?

25 A. THE -- POSSIBLY IT SUGGESTS, IF IT IS THE SAME  
26 KIND OF THING AND IT RESULTED IN THE SAME KIND OF

1 ACTIVITY, YES.

2 IF IT WAS A DIFFERENT KIND OF THING AND DID  
3 RESULT IN DIFFERENT ACTIVITIES, LESS SO. SO, DEPENDS ON  
4 WHAT IT WAS.

5 Q. ONLY WAY THAT YOU WOULD KNOW THAT WOULD BE,  
6 NECESSARILY, TO CONDUCT INTERVIEWS OR TAKE A LOOK AT THE  
7 MEDICAL OR PSYCHOLOGICAL RECORDS OF FAMILY MEMBERS; IS  
8 THAT CORRECT?

9 A. NO, THAT'S NOT TRUE. THAT'S WHY I READ ALL  
10 THE REPORTS FROM ALL THE DOCTORS THAT I READ. THEY WERE  
11 EXTRAORDINARILY COMPLETE REPORTS, THE KIND OF THING YOU  
12 WOULD EXPECT TO RESULT FROM ABOUT TWO YEARS' ABILITY TO BE  
13 ABLE TO WRITE THEM.

14 Q. BASED ON THOSE TWO YEARS, THEY RENDERED  
15 DIAGNOSES THAT YOU DISAGREED WITH?

16 A. THAT'S TRUE.

17 Q. SO, THESE OTHER EXPERTS THAT HAD TWO YEARS AND  
18 A LOT MORE TIME AND MATERIALS TO REVIEW THAN YOU RELIED  
19 UPON, THEY COME UP A WITH A DIFFERENT DIAGNOSIS THAN WHAT  
20 YOU ARE TELLING THESE PEOPLE HERE TODAY?

21 MS. GUIDOTTI: OBJECTION. ARGUMENTATIVE.

22 THE COURT: SUSTAINED, AS STATED.

23 MR. MC DOUGALL:

24 Q. YOU STATED THAT YOU DON'T NECESSARILY REFUTE  
25 THEM, BUT IT IS NOT THE DIAGNOSIS THAT YOU HAVE,  
26 NECESSARILY; IS THAT CORRECT?

1           A.       NO, I GO FURTHER THAN THAT, THAT THEIR  
2       DIAGNOSES DON'T FIT -- IF THEY FIT THE DSM 4, THEY DON'T  
3       FIT HIS BEHAVIOR. IF THEY FIT HIS BEHAVIOR, THEY DON'T  
4       FIT THE DSM 4.

5           I AM NOT IN A POSITION OF BEING ABLE TO  
6       DETERMINE, THEN, WHAT IS GOING TO BE CONSISTENT WITH HIS  
7       BEHAVIOR AND FIT DSM 4. I DID NOT HAVE THAT INDICATION.  
8       SO, IN THE END I FELT, HAVING SEEN HIM FOR SIX HOURS, I  
9       WAS IN A POSITION TO SAY THAT IT IS JUST NOT THERE.

10          Q.       DOCTOR GOULD, WHO TESTIFIED EARLIER THIS  
11       MORNING, TESTIFIED ABOUT WANTING TO FILL IN WHAT HE CALLED  
12       SOME "GAPS" IN ANY INFORMATION, SO HE CONDUCTED COROLLARY  
13       INTERVIEWS WITH FAMILY, FORMER FRIENDS, TEACHERS, OTHER  
14       EXPERTS. DID YOU DO THAT?

15          A.       NO, I DID NOT DO THAT.

16          Q.       DOCTOR GOULD TESTIFIED THAT, IN HIS EXPERT  
17       OPINION, ALEXANDER YOUSHOCK WAS SUFFERING FROM A BELIEF  
18       SYSTEM NOT BASED IN REALITY.

19                 SHALL I ASSUME YOU DISAGREE WITH THAT?

20          A.       NO, I DON'T DISAGREE WITH THAT, BUT I THINK  
21       THAT THE INDICATIONS AND THE RECORDS ARE THAT IT WAS BASED  
22       IN REALITY, AND THAT HE DID ACT ON WHAT WAS MORE OF A  
23       GRUDGE THAN IT WAS A FIRM, FIXED, FALSE BELIEF OR  
24       DELUSION.

25          Q.       YOU SAID THAT YOU DON'T DISAGREE, BUT THEN YOUR  
26       NEXT SENTENCE YOU ELABORATE HOW YOU HAVE A DIFFERENT

1 OPINION. AM I MISSING SOMETHING, THAT BY ELABORATING ON  
2 YOUR OPINION, THAT IS DIFFERENT THAN WHAT DOCTOR GOULD  
3 TESTIFIED ABOUT BEING A BELIEF SYSTEM NOT BEING BASED IN  
4 REALITY, THAT YOU ARE DISAGREEING WITH IT?

5 A. I BELIEVE THAT HE IS IMPLYING, AS HE DID IN  
6 HIS REPORT, THAT HE THOUGHT HE WAS PSYCHOTIC. I DON'T  
7 DISAGREE HE HAS A MENTAL AND EMOTIONAL ILLNESS, AND THAT  
8 IT IS AT LEAST OF MODERATE SEVERITY.

9 Q. WHEN YOU APPROACHED MR. YOUSHOCK TO CONDUCT  
10 YOUR CLINICAL INTERVIEW ON THE VERY FIRST DAY, MARCH 16TH,  
11 DO YOU RECALL, WHAT WAS THE FIRST THING YOU SAID TO HIM?

12 A. I THINK THAT THE FIRST THING I DID WAS READ  
13 HIM HIS MIRANDA RIGHTS.

14 Q. DO YOU HAVE YOUR MIRANDA CARD?

15 A. I HAD ASKED SOMEBODY FOR IT. I AM NOT SURE  
16 WHETHER IT WAS MR. RAFAELLI OR WHO ELSE WAS THERE. THERE  
17 WERE ENOUGH OFFICERS AROUND, I GOT IT FROM SOMEBODY.

18 Q. THERE WERE A LOT OF OFFICERS OUTSIDE OF THE  
19 ACTUAL INTERVIEW ROOM; IS THAT CORRECT?

20 A. THAT'S RIGHT.

21 Q. AND YOU INITIALLY BEGAN WITH WHAT YOU CALLED A  
22 MIRANDA ADVICE, OR ADMONITION?

23 A. YES.

24 Q. IS THAT WHAT YOU DO IN EVERY CLINICAL  
25 INTERVIEW?

26 A. NO, OF COURSE NOT.

1 Q. YOU WOULD AGREE WITH ME, HAVING DONE THOUSANDS  
2 OF CLINICAL INTERVIEWS, THAT YOU ARE SENDING A MESSAGE TO  
3 THE PERSON THAT YOU ARE INTERVIEWING WHEN THE VERY FIRST  
4 THING YOU DO IS TELL THEM THAT THEY MAY BE INCRIMINATING  
5 THEMSELVES; IS THAT CORRECT?

6 A. WHEN I AM RETAINED BY THE PROSECUTION, ALWAYS.  
7 WHEN I AM RETAINED BY DEFENSE, NEVER. WHEN I AM APPOINTED  
8 BY THE COURT, NEVER. SO, SOMETIMES I DO.

9 Q. SO, YOU FELT A NEED TO ASK THE DEPUTY DISTRICT  
10 ATTORNEY OR THE INVESTIGATOR FOR A MIRANDA CARD SO YOU  
11 COULD ADVISE HIM, FIRST THING, OF HIS LEGAL RIGHTS NOT TO  
12 INCRIMINATE HIMSELF?

13 A. THAT HE SHOULD BE CAUTIOUS ABOUT WHAT HE SAID,  
14 YES.

15 Q. THEN, SHORTLY THEREAFTER, DO YOU RECALL AN  
16 INCIDENT WHILE YOU WERE SPEAKING WITH MR. YOUSHOCK, THAT  
17 YOU WERE CALLING THE SCHOOL HE WENT TO, BAYSIDE, AND  
18 INSPECTOR FORELLI JUMPED IN AND CORRECTED YOU, AND  
19 ACTUALLY STARTLED YOU A LITTLE BIT, AND SAID IT WAS  
20 WESTBAY. DO YOU REMEMBER THAT?

21 A. YES, I AM STILL HAVING THAT DIFFICULTY.

22 Q. THAT IS A LITTLE ABNORMAL, IN TERMS OF A  
23 CLINICAL INTERVIEW, THAT ALL OF A SUDDEN, IN THE MIDDLE OF  
24 THE INTERVIEW, THE LEAD INVESTIGATOR WOULD POP IN AND SAY,  
25 YOU GOT IT WRONG, HERE IS THE RIGHT NAME; CORRECT?

26 MS. GUIDOTTI: OBJECTION. RELEVANCE OF THIS?

1 THE COURT: SUSTAINED.

2 MR. MC DOUGALL:

3 Q. THAT'S ABNORMAL IN TERMS OF A CLINICAL  
4 INTERVIEW; IS IT NOT?

5 MS. GUIDOTTI: OBJECTION, IRRELEVANT.

6 THE COURT: OVERRULED.

7 MR. MC DOUGALL:

8 Q. IT IS ABNORMAL, IN TERMS OF A CLINICAL  
9 INTERVIEW, TO HAVE A LEAD DETECTIVE INTERRUPT AND CORRECT  
10 YOU, ISN'T IT?

11 A. WELL, THIS WAS NOT A CLINICAL INTERVIEW, THIS  
12 WAS A FORENSIC INTERVIEW. IN OTHER WORDS, CLINICAL IS  
13 WHEN YOU ARE TRYING TO BE OF SOME HELP TO THE PERSON.  
14 FORENSIC IS WHERE YOU ARE TRYING TO DO AN EVALUATION, AND  
15 IT MAY OR MAY NOT HELP THE PERSON.

16 Q. I APOLOGIZE. IT CERTAINLY IS ABNORMAL FOR A  
17 FORENSIC INTERVIEW, TO HAVE A LEAD DETECTIVE INTERRUPT YOU  
18 AND CORRECT YOU, ISN'T IT?

19 A. IT MADE A DIFFERENCE TO SOMEBODY, THAT WAS ALL  
20 I KNEW. SO, TO THE EXTENT I COULD, I TRIED TO REMEMBER  
21 WEST BAY AFTER THAT, BUT I STILL HAVE DIFFICULTY.

22 Q. DID YOU ADDRESS HOW THAT IMPRESSION WOULD MAKE  
23 MR. YOUSHOCK, WHEN YOU WERE TRYING TO QUESTION HIM ABOUT  
24 THE CASE?

25 A. I DON'T THINK THAT THAT WAS WHERE THE FOCUS  
26 WAS. I THINK RIGHT BEFORE THAT I HAD TOLD HIM THAT HIS

1 ATTORNEY AND THE PROSECUTOR AND SOME OTHERS WERE WAITING  
2 IN THE NEXT ROOM AND WATCHING. SO, BASICALLY WE JUST KEPT  
3 GOING.

4 Q. BUT IN YOUR FORENSIC ANALYSIS OF MR. YOUSHOCK,  
5 IN THOSE INTERVIEWS, DID YOU COMPENSATE FOR THE FACT THAT  
6 YOU HAD READ HIM THE MIRANDA WARNING, AND THEN SHORTLY  
7 THEREAFTER YOU HAD AN INVESTIGATOR COMING IN TO CORRECT  
8 YOU. CERTAINLY THAT WOULD MAKE AN IMPRESSION ON SOMEONE  
9 WHO ALL DAY HAD BEEN IN COURT; ISN'T THAT CORRECT?

10 A. PROBABLY MADE AN IMPRESSION ON BOTH OF US,  
11 ALONG THAT LINE, I DON'T KNOW. I JUST PAID ATTENTION TO  
12 HOW HE WAS FROM MOMENT TO MOMENT, AS WE WENT THROUGH IT.  
13 AND SINCE THE VIDEOTAPE, SOMEWHERE, OR DISK SOMEWHERE  
14 EXISTS WITH RESPECT TO THAT, YOU COULD, I THINK, TAKE A  
15 LOOK, TO THE EXTENT THAT I LOOKED.

16 I DID NOT SEE ANY CHANGE IN HIS Demeanor, I  
17 THOUGHT THAT HE WAS ESSENTIALLY RESPONSIVE THROUGHOUT THE  
18 ENTIRETY OF THE THREE HOURS THAT I WAS WITH HIM THAT  
19 NIGHT.

20 Q. UNTIL THE END, WHEN HE ACTUALLY THOUGHT THAT  
21 YOU WERE INTERROGATING HIM; IS THAT RIGHT?

22 A. I THOUGHT HE PUT IT SOMEWHAT DIFFERENTLY. I  
23 THOUGHT WHAT HE SAID WAS THAT HE DETECTED SOME HOSTILITY,  
24 IF I AM CORRECT ABOUT THAT.

25 Q. YOU DO RECALL, AT THE END OF THE FIRST  
26 INTERVIEW, THAT HE HAD FELT THAT YOU WERE BEING

1 ACCUSATORY?

2 A. IN SOME FASHION, WHERE IT WAS INTERROGATING;  
3 IS THAT CORRECT.

4 A. NO, I THINK THAT'S WHAT HE SAID. WHETHER  
5 THAT'S THE WAY HE FELT OR NOT IS A DIFFERENT ISSUE. YOU  
6 HAVE TO REALIZE, HE KNOWS AS WELL AS I DO, THERE IS A  
7 RECORD BEING MADE OF THAT. HE KNOWS, AS WELL AS I DO,  
8 THAT THAT'S THE KIND OF THING THAT MIGHT SUGGEST, MAYBE HE  
9 IS PARANOID.

10 ON THE OTHER HAND, MAYBE I WAS, MAYBE I WAS  
11 HARSHER WITH HIM THAN I SHOULD HAVE BEEN, MAYBE I WAS MORE  
12 ACCUSATORY THAN I COULD HAVE, OR SHOULD HAVE BEEN, IN  
13 TERMS OF THIS INTERCHANGE WITH HIM.

14 SO, I AM NOT REALLY IN A POSITION -- HE WAS IN  
15 THE COURT ALL DAY LONG, AND I HAVE HIM THERE AT 9:00 AT  
16 NIGHT, AND HE KNOWS THAT HE HAS TO GO BACK THE NEXT DAY.  
17 I KNOW IT WAS NOT AN EASY TIME FOR HIM.

18 SO, IS THIS A SETUP ON HIS PART, IS THIS A  
19 PLAN, OR IS IT JUST SPONTANEOUS, OR HAVE I DONE SOMETHING  
20 TO BRING IT ON. I HAVE ABSOLUTELY NO IDEA.

21 Q. ALL THESE THINGS THAT YOU ARE TALKING ABOUT HAS  
22 TO BE CONSIDERED BY YOU, THE EXPERT, IN EVALUATING WHAT HE  
23 IS TELLING YOU?

24 A. YES. FORTUNATELY, YOU HAVE A DVD OF THE  
25 INTERVIEW THAT I HAD WITH HIM, WHICH I THINK IS IN  
26 CONTRAST TO EVERY OTHER EVALUATOR. I DON'T THINK WE HAVE

1 ANY OF THE OTHER EVALUATORS, BUT YOU HAVE ME, SO YOU CAN  
2 LOOK AT IT AND SAY, THIS GUY DOES NOT KNOW WHAT THE HELL  
3 HE IS DOING, AND THAT'S POSSIBLE.

4 Q. WHICH IS A GREAT POINT. ON MARCH 21ST YOU  
5 ACTUALLY DISCUSSED WITH MR. YOUSHOCK BRINGING THE GUITAR  
6 CASE IN TO PUT SOMETHING IN NAMED, COLLIE, AND YOU  
7 ACTUALLY QUESTIONED HIM, HOW WOULD THAT LITTLE DOG FEEL  
8 ABOUT YOUR ACTIONS. DO YOU RECALL THAT LITTLE BACK AND  
9 FORTH, DOCTOR?

10 A. I DON'T, BUT I CAN SEE HOW I MAY HAVE -- MIGHT  
11 HAVE SAID THAT.

12 Q. WAS THAT A PRODUCT OF YOUR OWN FATIGUE, HAVING  
13 TESTIFIED ALL THAT DAY, AND NOT REALLY BEING AWARE OF THE  
14 CASE?

15 A. NO. PERHAPS NOT BEING AWARE OF THE REFERENCE  
16 BETWEEN -- OR THE RELATIONSHIP BETWEEN COLLIE, AND  
17 COLUMBINE.

18 Q. YOU THOUGHT IT WAS A DOG THAT HE WAS  
19 REFERENCING; IS THAT CORRECT?

20 A. IF THAT'S WHAT I SAID. I DON'T REMEMBER  
21 ASKING HIM. I WOULD NOT BE SURPRISED IF I DID.

22 MS. GUIDOTTI: MAY I OFFER THE DOCTOR HIS  
23 NOTES?

24 THE COURT: SURE.

25 MR. MC DOUGALL: I HAVE SOMETHING TO REFRESH  
26 HIS MEMORY ON CROSS-EXAMINING. I CAN ASK HIM IF IT IS

1 GOING TO REFRESH HIS MEMORY.

2 Q. SHOWING YOU A TRANSCRIPT OF THE SECTION, I  
3 HIGHLIGHTED IT. RAISE YOUR EYES WHEN YOU HAVE LOOKED AT  
4 IT, AND SEE IF THAT REFRESHES YOUR MEMORY.

5 A. I DON'T REMEMBER SAYING IT, BUT THIS IS THE  
6 CLEAREST RECORDATION I HAVE SEEN OF THAT.

7 Q. YOU WERE NOT REALLY SURE WHAT YOU WERE TALKING  
8 ABOUT WITH COLLIE, WHEN YOU WERE TALKING TO HIM?

9 A. NO, I WAS NOT.

10 Q. HOW ABOUT THE SECTION OF THE INTERVIEW WHEN YOU  
11 ARE ASKING HIM ABOUT THE SCHOOL SAFETY ADVOCATE REFERRAL,  
12 AND YOU THOUGHT HE WAS BEING REFERRED TO SOME SORT OF  
13 LITTLE LEAGUE.

14 DO YOU RECALL THAT?

15 A. NO.

16 Q. SEE IF THIS REFRESHES YOUR MEMORY AS YOUR  
17 ABILITY TO KNOW THE FACTS OF THE CASE WHEN YOU INTERVIEWED  
18 MR. YOUSHOCK?

19 A. I DON'T KNOW HOW TO EXPLAIN WHAT IS UP ABOVE  
20 BY WHAT IS DOWN BELOW. I DON'T HAVE THE DOCUMENT THAT YOU  
21 WERE REFERRING TO HERE.

22 Q. DO YOU RECALL TALKING TO HIM ABOUT THE SCHOOL  
23 ADVOCATE REFERRAL FORM?

24 A. I DO, AND I KNOW IT WAS OFF OF A SHEET OF  
25 PAPER, AND I HAD IT IN FRONT OF ME.

26 Q. DID YOU THINK IT WAS FOR LITTLE LEAGUE THAT HE

1 WAS BEING REFERRED?

2 A. I WAS JUST READING HIM WHAT WAS ON THE PIECE  
3 OF PAPER. AND I DON'T KNOW THAT, WHAT IT WAS, BUT YOU  
4 MIGHT HAVE IT.

5 Q. DOCTOR, YOU HAVE SEEN POLICE INTERVIEWS WHERE  
6 THE POLICE WILL SOMETIMES EITHER LIE, OR WHAT THEY CALL A  
7 ROUSE, TO A SUSPECT, TO TRY TO GET THEM TO TALK, WHERE  
8 THEY ARE LYING OR PRETENDING NOT TO KNOW SOMETHING.

9 EVER SEEN SOMETHING LIKE THAT?

10 A. YES.

11 Q. WERE YOU DOING THAT WITH MR. YOUSHOCK DURING  
12 ANY OF YOUR INTERVIEWS?

13 A. NO. WHAT IS PROPER FOR THEM, IS NOT PROPER  
14 FOR ME.

15 Q. SO, WHEN YOU EXPRESSED TO HIM THAT YOU DID NOT  
16 KNOW WHO MR. GILBERT WAS, THAT WAS AN ACCURATE MISTAKE ON  
17 YOUR PART, NOT KNOWING WHO MR. GILBERT WAS?

18 A. WHEN I ASKED HIM WHO MR. GILBERT WAS?

19 Q. YES.

20 A. IF YOU WERE TO SHOW ME THE PIECE, I COULD TELL  
21 YOU WHETHER OR NOT IT WAS ACCURATE.

22 Q. BUT IF YOU ASKED MR. YOUSHOCK, WHO IS  
23 MR. GILBERT, THAT WOULD HAVE BEEN A SIGN THAT YOU DID NOT  
24 KNOW WHO HE WAS, NOT NECESSARILY THAT YOU WERE LYING TO  
25 HIM TO GET SOME KIND OF INFORMATION; IS THAT CORRECT?

26 A. NO, NOT NECESSARILY. IF I SAID, I DON'T KNOW

1 WHO MR. GILBERT IS, AND I DID KNOW, THAT WOULD HAVE BEEN  
2 LYING TO HIM TO GET INFORMATION.

3 Q. LOOKING AT THE BOTTOM OF PAGE 22 THERE, AND SEE  
4 IF THAT REFRESHES YOUR MEMORY AS TO ASKING HIM, WHO IS  
5 MR. GILBERT?

6 A. OKAY.

7 Q. YOU DID NOT KNOW WHO HE WAS, DID YOU?

8 A. I ASKED, AND WHAT OR WHERE IS JEFF GILBERT.

9 Q. HIS RESPONSE?

10 A. WHAT IS IT, OR WHO IS IT.

11 Q. THAT WAS A SIGN THAT HE DID NOT KNOW WHO THAT  
12 WAS, NECESSARILY?

13 A. DEPENDING ON WHAT THE SOURCE WAS FOR ME.

14 Q. YOU WOULD AGREE WITH ME THAT AS THE PRIMARY  
15 TARGET IN THIS CASE, THAT'S PROBABLY SOMETHING YOU SHOULD  
16 HAVE KNOWN BEFORE YOU SPOKE TO MR. YOUSHOCK?

17 A. I THINK THAT I HAD A PRETTY GOOD IDEA OF THE  
18 CASE BEFORE I SPOKE TO HIM.

19 Q. DID YOU KNOW THAT THE THREE TEACHERS HE WAS  
20 LISTING AND TARGETING WERE NOT ALL WOMEN?

21 A. YES.

22 Q. BUT YOU ASKED HIM ABOUT THREE WOMEN THAT HE WAS  
23 TARGETING; IS THAT CORRECT?

24 A. YES.

25 Q. BECAUSE YOU DID NOT KNOW THAT MR. HARTIS WAS A  
26 MAN?

1           A.       I DON'T KNOW IF I KNEW THAT OR NOT, I AM NOT  
2 EVEN SURE IF I KNOW THAT NOW.

3           MR. MC DOUGALL:  NO FURTHER QUESTIONS.  THANK  
4 YOU.

5           THE COURT:  OKAY.  ANY REDIRECT?

6           MS. GUIDOTTI:  JUST A FEW QUESTIONS.

7                       REDIRECT EXAMINATION:

8           BY MS. GUIDOTTI:

9           Q.       WHEN YOU WERE READING FROM THE SCHOOL SAFETY  
10 ADVOCATE FORM, WERE YOU HAVING TROUBLE READING THE  
11 HANDWRITING ON IT?

12          A.       I DON'T REMEMBER.  IF IT WAS IN HANDWRITING,  
13 ABSOLUTELY, I HAD TROUBLE WITH THE HANDWRITING ALL THE WAY  
14 THROUGH.  BUT I DON'T REMEMBER THE FORM, SO I CAN'T TELL  
15 YOU THAT.

16          Q.       DID YOU -- SORRY, I HAVE NOT SEEN THE  
17 TRANSCRIPT, BUT WAS THERE SOMETHING ABOUT, JUST FROM  
18 MEMORY, THAT YOU SAID SOMETHING ABOUT, WHAT IS L-L, IS  
19 THAT LITTLE LEAGUE?

20          A.       YES, BUT THERE WAS SOMETHING THERE ABOUT L-L,  
21 I REMEMBER ASKING THAT.  PRESUMING THAT'S WHAT HE WAS  
22 TALKING ABOUT, BUT I DON'T KNOW IF THAT WAS THE EXACT  
23 REFERENCE OR NOT.

24          Q.       SO, IT WAS NOT LIKE YOU WERE LOOKING AT THIS  
25 AND THINKING IT WAS ABOUT LITTLE LEAGUE, YOU WERE TRYING  
26 TO INTERPRET TWO LETTERS, L-L; IS THAT RIGHT?

1           A.        IN HIS JOURNAL, I THOUGHT IT WAS IN HIS  
2 JOURNAL, THE L-L PART.  MAYBE I AM WRONG ABOUT THAT.

3           Q.        NOW, THE DAY THAT YOU INTERVIEWED THE DEFENDANT  
4 ON MARCH 21ST, DO YOU RECALL THAT WAS MONDAY?

5           A.        YES.

6           Q.        AND DO YOU RECALL THAT YOU HAD SPENT THE ENTIRE  
7 DAY TESTIFYING IN SANTA CLARA COUNTY?

8           A.        YES.

9           Q.        AND YOU -- DO YOU RECALL THAT YOU LEFT COURT  
10 THERE SOMEWHERE AROUND 5:0'CLOCK P.M. THAT DAY TO COME  
11 JOIN US?

12          A.        YES.

13          Q.        AND YOU GOT THERE ABOUT SIX O'CLOCK; IS THAT  
14 CORRECT?

15          A.        YES.

16          Q.        AND YOU WENT IMMEDIATELY INTO THREE HOURS OF  
17 INTERVIEWING THE DEFENDANT; IS THAT RIGHT?

18          A.        YES.

19          Q.        AND LET ME SHOW YOU YOUR NOTES FROM BOTH THOSE  
20 EVENINGS.  IS THAT YOUR HANDWRITING?

21          A.        IT IS.

22          Q.        TAKE A LOOK AT THAT AND TELL US, DID THE  
23 DEFENDANT TELL YOU WHAT HIS FATHER DID FOR A LIVING?

24          A.        HE TOLD ME THAT HE WAS INVOLVED IN SOME KIND  
25 OF SHIPPING COMPANY THAT MANUFACTURED LACES.

26          Q.        SO, HE WAS ABLE TO TELL YOU WHAT HIS FATHER DID

1 FOR A LIVING?

2 A. HE TOLD ME THAT. AGAIN, I DON'T KNOW THAT'S  
3 WHAT HIS FATHER DOES, BUT THAT'S WHAT HE TOLD ME.

4 Q. WHAT ABOUT HIS SISTER, DID HE TELL YOU WHAT HIS  
5 SISTER DOES FOR A LIVING?

6 A. WORKING IN AN ANIMAL SHELTER, BUT HE DID NOT  
7 KNOW WHAT JOB SHE HAD THERE.

8 Q. NOW, KNOWING -- SINCE THE DEFENDANT WAS  
9 UNAVAILABLE TO YOU FOR INTERVIEWING UNTIL MARCH 16, 2011,  
10 DID YOU THEN NEED TO RELY ON OTHER PEOPLE WHO HAD DONE  
11 INTERVIEWS WITH HIM, AND THEIR REPORTS?

12 A. THAT'S WHAT I DID.

13 Q. AND DID YOU RELY ON OTHER PERSONS WHO HAD DONE  
14 PSYCHOLOGICAL TESTING ON HIM?

15 A. YES.

16 Q. AND WAS THAT SOME OF THE INFORMATION THAT YOU  
17 INCLUDED IN YOUR REPORT?

18 A. YES.

19 Q. IN YOUR REPORT, DID YOU ALSO INCLUDE EXCERPTS  
20 FROM DOCTOR GOULD'S REPORT?

21 A. YES.

22 Q. AND DID YOU, IN DOCTOR GOULD'S REPORT, DID YOU  
23 READ ABOUT THE OTHER PEOPLE THAT HE HAD INTERVIEWED?

24 A. 15 OR 20 OF THEM. A GOOD NUMBER.

25 Q. NOW, DOCTOR MISSETT, UNTIL -- WAS THERE ANY  
26 REASON FOR YOU TO WRITE A REPORT, IF YOU WERE NOT GOING TO

1 BE ABLE TO INTERVIEW THE DEFENDANT?

2 A. NOT UNLESS YOU ASKED ME TO, AND YOU DID NOT  
3 ASK. SO, NO.

4 Q. IS IT TRUE THAT YOU DID NOT EVEN KNOW THAT YOU  
5 WERE GOING TO BE ABLE TO INTERVIEW THE DEFENDANT UNTIL  
6 MARCH 16, 2011?

7 A. I FOUND OUT AT ABOUT 3:00 P.M.

8 Q. AND YOU BEGAN INTERVIEWS OF HIM AT WHAT TIME?

9 A. FIVE AFTER 6:00 P.M.

10 Q. SO, DID YOU HAVE -- YOU DIDN'T COMPLETE YOUR  
11 INTERVIEW ON THE 16TH; IS THAT CORRECT?

12 A. THAT'S RIGHT.

13 Q. YOU GOT THROUGH THREE HOURS IN, AND THEN  
14 DECIDED TO FINISH ANOTHER TIME?

15 A. NO. I THINK THAT -- MY MEMORY IS THAT BEFORE  
16 WE LEFT THE COURT, I ASKED THE COURT ABOUT THE POSSIBILITY  
17 OF TWO DAYS, AND GIVEN THE GRACIOUS RESPONSE OF THE COURT,  
18 I DECIDED TO TAKE ADVANTAGE OF IT. IT WAS 9:00 P.M.

19 Q. YOU WERE PERMITTED TO BREAK UP THE INTERVIEWS  
20 INTO TWO SEPARATE INTERVIEWS?

21 A. THAT'S CORRECT.

22 Q. DID YOU HAVE ANY REASON TO WRITE A REPORT  
23 BEFORE YOU COMPLETED YOUR INTERVIEW OF THE DEFENDANT?

24 A. NO.

25 Q. THE INTERVIEW OF THE DEFENDANT WAS NOT  
26 COMPLETED UNTIL MARCH 21ST; IS THAT RIGHT?

1           A.        THAT'S RIGHT.  IF MY OPINION WERE THE SAME AS  
2 ALL THE OTHER -- OF ALL THE DEFENSE WITNESSES, I EXPECT  
3 THERE MAY HAVE BEEN NO NEED FOR, OR DESIRE, FOR A REPORT  
4 AT THAT TIME.

5           Q.        AND IT WAS NOT YOUR CHOICE TO DELAY THE SECOND  
6 INTERVIEW UNTIL THE 21ST OF MARCH, WAS IT?

7           A.        I THINK I PREFERRED SUNDAY, BUT I RAN INTO  
8 RESISTANCE.

9           Q.        YOU HAD TO WAIT UNTIL EVERYBODY ELSE WAS  
10 AVAILABLE TO BE THERE; IS THAT RIGHT?

11          A.        I DON'T KNOW THE REASON, I WAS JUST TOLD THAT  
12 WOULD NOT WORK.

13                    MS. GUIDOTTI:  THANK YOU.  NO FURTHER  
14 QUESTIONS.

15                    THE COURT:  ANYTHING ELSE?

16

17                                RE CROSS-EXAMINATION:

18                                BY MR. MC DOUGALL:

19          Q.        YOU BECAME AWARE IN DECEMBER 2010 THAT THERE  
20 WAS GOING TO BE ISSUES WITH SANITY IN THIS CASE; ISN'T  
21 THAT CORRECT?

22          A.        THAT THERE WAS A SANITY ISSUE, TRUE.

23          Q.        NOTHING PREVENTED YOU FROM LOOKING AT JUVENILE  
24 HALL RECORDS; LOOKING AT MAGUIRE JAIL RECORDS; CONDUCTING  
25 INTERVIEWS WITH FAMILY MEMBERS, LOOKING AT MEDICAL RECORDS  
26 OF HIS OLDER SISTER FROM DECEMBER 2010, UNTIL YOU HAD THE

1 OPPORTUNITY TO FORENSICALLY MEET AND INTERVIEW  
2 MR. YOUSHOCK; IS THAT CORRECT?

3 A. YOU MEAN TO WRITE IT OUT, ALL SORT OF IN  
4 ADVANCE?

5 Q. NO. TO REVIEW DOCUMENTS IN PREPARATION SO THAT  
6 WHEN YOU DID HAVE THE OPPORTUNITY, IF YOU DID, YOU WOULD  
7 BE THOROUGHLY PREPARED?

8 A. I DID REVIEW ALL THE MATERIALS BEFOREHAND.

9 Q. YOU DID NOT REVIEW MEDICAL RECORDS FROM  
10 MAGUIRE JAIL; IS THAT CORRECT?

11 A. NO, I DID NOT.

12 Q. THOSE WERE THE ONES, IMMEDIATELY BEFORE YOU  
13 MET HIM, RIGHT, THOSE WERE THE ONES THAT WERE GOING TO BE  
14 JUST DAYS, IF YOU WANTED THEM, BEFORE YOU HAD ACTUALLY  
15 SPOKEN TO THIS PERSON?

16 MS. GUIDOTTI: OBJECTION, ARGUMENTATIVE.

17 THE COURT: SUSTAINED AS TO THE TONE.

18 MR. MC DOUGALL:

19 Q. THOSE MEDICAL RECORDS WOULD GO ALL THE WAY UP  
20 TO THE DAY THAT YOU MET HIM?

21 A. I HAD A SUMMARY OF THOSE RECORDS IN THE TWO OR  
22 THREE OTHER REPORTS I READ. I DON'T THINK I COULD TELL  
23 YOU WHICH THEY WERE, BUT THEY ARE IN THE REPORTS, THEY ARE  
24 REFERENCED.

25 Q. I'M SORRY. THE SUMMARIES FROM THE OTHER  
26 EXPERTS, OR DID YOU ACTUALLY LOOK AT THE RECORDS

1 THEMSELVES?

2 A. NO, THE SUMMARIES OF THE OTHER EXPERTS.

3 Q. AND SIR, HOW MUCH DID ACTUALLY SPEND, TOTAL  
4 TIME, FROM SEPTEMBER 2009, UNTIL YOU TESTIFIED TODAY?

5 A. MEANING, IN TERMS OF THE CASE?

6 MS. GUIDOTTI: OBJECTION, VAGUE.

7 MR. MC DOUGALL:

8 Q. NUMBERS OF HOURS YOU SPENT IN THIS CASE, IN  
9 PREPARATION TO COME HERE AND LOOK AT THE JURORS AND TELL  
10 THEM YOUR THEORIES OF THIS CASE?

11 A. I KNOW IT IS OVER A HUNDRED HOURS, BUT I DON'T  
12 KNOW IF I COULD BE MORE SPECIFIC THAN THAT.

13 Q. AND HOW MANY HOURS DID YOU SPEND ON THE ACTUAL  
14 REPORT WRITING?

15 A. TEN OR 12, AT LEAST.

16 Q. HOW MUCH DO YOU MAKE PER HOUR?

17 MS. GUIDOTTI: OBJECTION, VAGUE.

18 THE COURT: SUSTAINED.

19 MR. MC DOUGALL:

20 Q. HOW MUCH ARE YOU BEING PAID BY THE DISTRICT  
21 ATTORNEY'S OFFICE FOR APPROXIMATELY 100 HOURS OF WORK IN  
22 THIS CASE?

23 A. WHAT I WOULD BILL THEIR OFFICE IS \$300 AN  
24 HOUR.

25 Q. AND THAT'S LOW, HIGH, AVERAGE, FOR PEOPLE IN  
26 YOUR FIELD?

1           A.        I THINK IT IS HIGH.  THERE ARE FEW CASES THAT  
2 HAVE THIS MUCH DETAIL IN THEM.

3           MR. MC DOUGALL:  THAT'S ALL.

4           MS. GUIDOTTI:  NOTHING ELSE.  THANK YOU.

5           THE COURT:  THANK YOU.  DOCTOR MISSETT MAY BE  
6 EXCUSED?

7           MR. MC DOUGALL:  YES.

8           MS. GUIDOTTI:  YES.

9           THE COURT:  THANK YOU, YOU ARE EXCUSED.  
10 APPROACH FOR A MOMENT, COUNSEL.

11                   (A RECESS WAS TAKEN, AFTER WHICH THE FOLLOWING  
12 PROCEEDINGS WERE HELD)

13

14           THE COURT:  THANK YOU.  AT THIS TIME DO THE  
15 PEOPLE HAVE ANY ADDITIONAL WITNESSES?

16           MS. GUIDOTTI:  NONE, YOUR HONOR.  PEOPLE  
17 REST.

18           THE COURT:  ALL RIGHT.  ANY REBUTTAL ON  
19 BEHALF OF THE DEFENSE?

20           MR. MC DOUGALL:  NONE, YOUR HONOR.

21           THE COURT:  ALL RIGHT, THE DEFENSE RESTS.

22 LADIES AND GENTLEMEN, WHAT THAT MEANS IS THAT YOU HAVE  
23 NOW HEARD ALL THE EVIDENTIARY PORTION OF THIS PHASE OF  
24 THE TRIAL.

25                   THIS EVENING I WILL BE GOING OVER, WITH THE  
26 ATTORNEYS, THE INSTRUCTIONS THAT RELATE TO THIS CASE, AND

1 TOMORROW MORNING WE WILL HAVE INSTRUCTION AND ARGUMENT.  
2 WE WILL START TOMORROW MORNING AT 9:30. SO PLEASE, LEAVE  
3 YOUR BADGES HERE WITH YOUR NOTEBOOKS AND PENS, WE WILL  
4 KEEP THEM FOR YOU.

5 AND KEEP IN MIND THE ADMONITIONS; IT IS YOUR  
6 DUTY NOT TO CONVERSE AMONG YOURSELVES OR WITH ANYONE ELSE  
7 ANY SUBJECT CONNECTED WITH THE TRIAL, NOR FORM OR EXPRESS  
8 ANY OPINIONS ON THE CAUSE UNTIL IT IS SUBMITTED TO YOU.  
9 SEE YOU AT 9:30 TOMORROW MORNING. THANK YOU.

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11 (JURY LEAVES THE COURTROOM.)

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1 APRIL 5, 2011

REDWOOD CITY, CALIFORNIA

2

PROCEEDINGS:

3

THE COURT: ON THE RECORD OUTSIDE OF THE  
4 PRESENCE OF THE JURY.

5

MR. MC DOUGALL, YOU HAVE WAIVED YOUR CLIENT'S  
6 PRESENCE FOR THIS PHASE OF THE PROCEEDING.

7

WHAT I WAS PROVIDED WITH IS THE UPDATED JURY  
8 VERDICT FORM HERE FOR SANE, OR NOT GUILTY BY REASON OF  
9 INSANITY. HAVE YOU YOU LOOKED AT THOSE, MR. MC DOUGALL?

10

MR. MC DOUGALL: YES, YOUR HONOR.

11

THE COURT: THAT MEETS WITH YOUR APPROVAL?

12

MR. MC DOUGALL: YES.

13

THE COURT: AS RELATES TO THE INSTRUCTIONS, I  
14 HAVE GIVEN COUNSEL A ROUGH SET OF THE INSTRUCTIONS  
15 COUPLE DAYS AGO, WE HAVE GONE OVER THOSE HERE.

16

MR. MC DOUGALL FILED WITH THE COURT A REQUEST  
17 FOR SPECIAL INSTRUCTION REGARDING PREPONDERANCE OF THE  
18 EVIDENCE. THE PROBLEM IS THAT, COUPLE: ONE, IT REFERS TO  
19 PREPONDERANCE OF THE EVIDENCE, WHICH IS NO LONGER  
20 CONTAINED IN THE CALCRIM INSTRUCTIONS. CALCRIM 3450 DOES  
21 NOT USE THE WORD PREPONDERANCE, IT USES THE TERM, MORE  
22 LIKELY THAN NOT.

23

I LOOKED UP THE CASE WHICH WAS CITED FROM  
24 MR. MC DOUGALL'S REQUEST, WHICH WAS THAT OF GLAGE, VERSUS  
25 HAUS FIREARMS, 1990 CASE, AT 226 CAL.APP.3D 314. THE  
26 QUOTE, AS SET FORTH IN HIS REQUEST, IS NOT A DIRECT QUOTE

1 FROM THE CASE, THERE WAS ACTUALLY MORE VERBIAGE IN THE  
2 CASE THAT IS NOT CONTAINED IN THE SENTENCE WHICH HE HAS  
3 REQUESTED.

4 IT IS CLEAR IN THAT CASE THAT THE COURT WAS  
5 WRESTLING OVER THE HISTORICAL DEFINITION OF WHAT  
6 CONSTITUTES PREPONDERANCE OF THE EVIDENCE, BUT AGAIN, IT  
7 IS A DIFFERENT CONCEPT HERE.

8 MISS GUIDOTTI HAS OBJECTED TO THE ADDITION OF  
9 THAT SENTENCE IN THE CALCRIM INSTRUCTION, SAYING THAT 222  
10 MEANS WHAT IT SAYS IN TERMS OF -- EXCUSE ME, 3450 MEANS  
11 WHAT IT SAYS IN TERMS OF THE DEFENDANT MUST PROVE IT IS  
12 MORE LIKELY THAN NOT THAT HE WAS LEGALLY INSANE WHEN HE  
13 COMMITTED THE CRIMES.

14 I HAVE -- ANYTHING ELSE YOU WANT TO ADD,  
15 COUNSEL?

16 MS. GUIDOTTI: NO, NOT FOR THE PEOPLE, YOUR  
17 HONOR. THANK YOU.

18 MR. MC DOUGALL: JUST THAT I PROVIDED THAT AS  
19 A DEFINITION OF MORE LIKELY THAN NOT. THE COURT PLACED  
20 IT IMMEDIATELY AFTER THE SENTENCE IN 3450 WHICH PUT  
21 THE -- EXPRESSES THAT THE BURDEN IS ON THE DEFENDANT.  
22 I THINK THAT IT IS THE CORRECT STATEMENT IF THE COURT  
23 EXCLUDED THE EXTRA VERBIAGE FROM THE CASE, THAT'S  
24 ACCEPTABLE, BUT IT IS CERTAINLY A CORRECT STATEMENT OF  
25 LAW.

26 AND I THINK THAT THE LAW ON SPECIFIC, PINPOINT

1 INSTRUCTIONS SAYS THAT IF IT IS A CORRECT STATEMENT OF THE  
2 LAW AND IT EXPLAINS WITHIN THE DEFINITIONS PROVIDED IN THE  
3 CALCRIMS, THAT IT SHOULD BE GIVEN.

4 SO, I WOULD AGAIN JUST ASK THAT IT DOES  
5 CORRECTLY STATE THE LAW FOR MORE LIKELY THAN NOT, AND I  
6 THINK IT WOULD BE APPROPRIATE TO INCLUDE IT.

7 THE COURT: OKAY, I UNDERSTAND YOUR ARGUMENTS  
8 HERE, BUT AGAIN, THE PROBLEM IS THAT WE ARE DEALING  
9 WITH CALCRIM VERSUS CAL.JIC, AND THE STANDARD OF THE  
10 PREPONDERANCE OF THE EVIDENCE IS NOT PROVIDED FOR IN  
11 THE NEW CALCRIM INSTRUCTIONS. AND IF THERE WERE  
12 REFERENCE TO PREPONDERANCE, THAT WOULD LIKELY BE  
13 CORRECT, NOT AS CITED IN YOUR REQUEST, BUT AS CITED IN  
14 THE FULL TEXT OF THE CASE OF GLAGE VERSUS HAUS  
15 FIREARMS.

16 THE STANDARD NOW, SIMPLY PUT, IS MORE LIKELY  
17 THAN NOT, WHICH, AS THE DISTRICT ATTORNEY ASSERTS HERE, IS  
18 MORE PLAIN LANGUAGE, IT MEANS WHAT IT SAYS.

19 AGAIN, WHAT I HAVE DECIDED TO DO IS ADD 302 OF  
20 THE CALCRIM INSTRUCTIONS REGARDING NOT COUNTING THE NUMBER  
21 OF WITNESSES WHO TESTIFIED ON EITHER SIDE, BUT FOR THE  
22 JURY TO THEN LOOK TO THE CONTEXT AND THE EFFECT, SO THAT  
23 ESSENTIALLY GIVES MR. MC DOUGALL THE OPPORTUNITY TO ARGUE  
24 HIS POINT, ALBEIT IT IS NOT CONTAINED WITHIN 3450.

25 ALSO, I DID INCLUDE THE BRACKETED PORTIONS OF  
26 3450 AS RELATES TO IF THE JURY WERE TO FIND THE DEFENDANT

1 LEGALLY INSANE, BUT HE IS NOT RELEASED FROM CUSTODY UNTIL  
2 THE COURT FINDS HE IS QUALIFIED FOR SUCH RELEASE. AND  
3 OTHERWISE, ANYTHING ELSE TO ADD, COUNSEL?

4 MR. MC DOUGALL: NOTHING.

5 MS. GUIDOTTI: NOTHING.

6 THE COURT: ALL RIGHT, THANK YOU. SEE YOU  
7 TOMORROW AT 9:30. THANK YOU.

8 (WHEREUPON, THE PROCEEDINGS WERE ADJOURNED.)

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1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN MATEO ) SS.  
3 )

4 I HEREBY CERTIFY: THAT I WAS THE DULY  
5 APPOINTED, QUALIFIED AND ACTING OFFICIAL SHORTHAND  
6 REPORTER OF SAID COURT IN THE ABOVE-ENTITLED ACTION TAKEN  
7 ON THE ABOVE-MENTIONED DATES; THAT I REPORTED THE SAME IN  
8 MACHINE SHORTHAND AND THEREAFTER HAD THE SAME TRANSCRIBED  
9 USING COMPUTER-AIDED TRANSCRIPTION AS HEREIN APPEARS; AND  
10 THAT THE FOREGOING PRINTED PAGES CONTAIN A FULL, TRUE AND  
11 CORRECT TRANSCRIPT OF ALL OF THE PROCEEDINGS HAD IN SAID  
12 MATTER AT SAID TIME AND PLACE, TO THE BEST OF MY ABILITY.

13 I FURTHER CERTIFY THAT I HAVE COMPLIED WITH  
14 CCP 237(A)(2) IN THAT ALL PERSONAL JUROR IDENTIFYING  
15 INFORMATION HAS BEEN REDACTED IF APPLICABLE.

16  
17 DATED: THIS 30TH DAY OF NOVEMBER, 2011

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LORNA TRAUBE, CSR