

1 VAN NUYS, CALIFORNIA; TUESDAY, APRIL 2, 1996

2 9:55 A.M.

3 DEPARTMENT NW "N" HON. STANLEY M. WEISBERG, JUDGE

4 (APPEARANCES AS HERETOFORE NOTED.)

5 (MARILYN A. FADALE, OFFICIAL REPORTER.)

6 (MARY LU MURPHY, OFFICIAL REPORTER.)

7

8 (THE FOLLOWING PROCEEDINGS WERE

9 HELD IN OPEN COURT, OUT OF THE

10 PRESENCE OF THE JURY:)

11

12 THE COURT: IN THE TRIAL, THE DEFENDANTS ARE

13 IN COURT WITH THEIR LAWYERS. THE PEOPLE ARE

14 PRESENT.

15 IS THERE SOMETHING YOU WANTED TO

16 DISCUSS?

17 MR. CONN: YES, YOUR HONOR.

18 I THINK THAT THERE'S A COUPLE OF ISSUES

19 WE NEED TO DISCUSS.

20 THE FIRST QUESTION THAT NEEDS TO BE

21 DISCUSSED IS IN REGARD TO THE TESTIMONY OF

22 DR. HART. THE COURT PREVIOUSLY RULED THAT HIS

23 TESTIMONY WAS INADMISSIBLE, AND I THINK AT THIS

24 PHASE OF THE PROCEEDINGS COUNSEL IS ASSUMING THAT IT

25 IS ADMISSIBLE IN THE PENALTY PHASE.

26 THAT IS AN ISSUE THAT HAS NOT BEEN

27 ADDRESSED BY THIS COURT. WE DON'T KNOW THE PURPOSE

28 FOR WHICH DR. HART IS BEING CALLED. THAT HAD NEVER

1 BEEN DISCLOSED TO US. WE COULD ONLY ASSUME HE'S
2 BEING CALLED TO TESTIFY IN REGARD TO THE SAME
3 MATTERS TO WHICH HE WAS CALLED TO TESTIFY IN THE
4 FIRST TRIAL.

5 WE FILED A MOTION WITH THIS COURT IN
6 WHICH WE ARGUED THAT THE TESTIMONY OF DR. HART IS
7 INADMISSIBLE UNDER EVIDENCE CODE SECTIONS 801(A) AND
8 801(B), PRIMARILY BECAUSE THE SUBJECT MATTER OF THE
9 TESTIMONY OF DR. HART IS NOT SOMETHING THAT IS
10 SUFFICIENTLY BEYOND THE COMMON EXPERIENCE OF THE
11 ORDINARY JUROR, SUCH THAT THE OPINION FROM THE
12 EXPERT WOULD BE ADMISSIBLE.

13 I THINK THAT THE EXPERT IS AN EXPERT ON
14 SO-CALLED PSYCHOLOGICAL MALTREATMENT. WHAT THAT
15 REALLY COMES DOWN TO IS SIMPLY NOTHING MORE THAN AN
16 EXPERT IN MISTREATMENT. HE'S GOING TO GIVE AN
17 EXPERT OPINION THAT THE DEFENDANTS WERE TREATED
18 POORLY.

19 COUNSEL HAS NOT CITED ANY CASE LAW
20 WHATSOEVER TO THIS COURT THAT IN EITHER THE GUILT
21 PHASE, OR THE PENALTY PHASE OF A CASE SUCH AS THIS,
22 THEY SHOULD BE PERMITTED TO CALL AN EXPERT TO GIVE
23 AN EXPERT OPINION THAT THE DEFENDANTS WERE, IN HIS

24 OPINION, TREATED POORLY BY THEIR PARENTS. THERE'S
25 NO CASE LAW WHICH PROVIDES FOR SUCH TESTIMONY.
26 AND WHILE PENAL CODE SECTION 190.3
27 ALLOWS EVIDENCE CONCERNING SYMPATHETIC ASPECTS OF
28 THE DEFENDANT'S CHARACTER OR RECORD, THE DEFENSE

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1 STILL HAS TO SATISFY THE REQUIREMENTS OF THE
2 EVIDENCE CODE, WHICH APPLIES TO THE PENALTY PHASE AS
3 MUCH AS IT APPLIES TO THE GUILT PHASE.

4 AND I SUBMIT THAT UNDER THE EVIDENCE
5 CODE 801 CANNOT BE SATISFIED. WHAT'S BEING OFFERED
6 HERE IS SIMPLY PSEUDO-PSYCHOLOGICAL EVIDENCE THAT
7 IT'S ONE MAN'S OPINION AS TO WHETHER SOMEONE WAS
8 TREATED POORLY OR NOT. THE JURY IS CAPABLE OF
9 MAKING THAT DETERMINATION BY THEMSELVES; AND, IN
10 FACT, IT WAS TO ASSIST THEM IN THAT DETERMINATION
11 THAT THE DEFENSE WAS ABLE TO PRESENT NUMEROUS
12 CIVILIAN WITNESSES, LAY WITNESSES, DURING THE
13 PRESENTATION OF THE PENALTY PHASE.

14 SO I WOULD SUBMIT THAT THE TESTIMONY --
15 THE EXPERT TESTIMONY IN THIS CASE IS INADMISSIBLE,
16 AND WE WOULD OBJECT TO IT.

17 THE COURT: WHAT WAS THE OTHER ASPECT? YOU
18 SAID THERE WERE TWO ISSUES.

19 MR. CONN: THE OTHER ISSUE IS IN REGARD TO
20 DISCOVERY. IF THE COURT WERE TO ALLOW THE TESTIMONY
21 TO COME IN, ONCE AGAIN, I THINK WE WOULD NEED TO
22 DEFINE WHAT IS THAT TESTIMONY? WHAT IS THE
23 PERMISSIBLE SCOPE OF THAT TESTIMONY? WE HAVE NO
24 IDEA WHAT THEY'RE SEEKING TO ACCOMPLISH THROUGH THAT
25 TESTIMONY.

26 THE OTHER ASPECT IS WE DON'T HAVE
27 DISCOVERY, AND MS. NAJERA HAS BEEN DISCUSSING THAT
28 WITH COUNSEL, AND PERHAPS SHE CAN ADDRESS THAT.

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1 MS. NAJERA: I CAN, IF YOU'D LIKE TO KNOW THE
2 SPECIFICS.

3 THE COURT: YES.

4 MS. NAJERA: APPARENTLY COUNSEL TOLD US THIS
5 MORNING, LESS THAN AN HOUR AGO, THEY ARE NOW IN
6 POSSESSION OF RECORDS FROM THE LEWIS SCHOOL, THAT
7 APPARENTLY WERE ANALYSES AND TESTS OF THE DEFENDANT,
8 ERIK MENENDEZ, WHEN HE WAS TAKEN THERE TO BE
9 ANALYZED FOR WHATEVER LEARNING DISABILITIES HE MAY
10 HAVE HAD. THESE RECORDS WE STILL DON'T HAVE, AND
11 THEY STILL HAVEN'T GIVEN THEM TO US.

12 THEY'VE INFORMED US THAT DR. HART WILL
13 BE RELYING ON THESE RECORDS IN SOME OF THE OPINIONS

14 HE WILL BE GIVING TODAY, IF ALLOWED TO TESTIFY, AND
15 IF THE COURT DEEMS IT TO BE ADMISSIBLE. BEFORE HE
16 COULD TESTIFY TO THAT, WE'D NEED A CHANCE TO LOOK AT
17 AND STUDY THEM. AND THAT'S GOING TO TAKE A LITTLE
18 BIT OF TIME.

19 AS IT IS, WE DON'T HAVE THEM NOW.

20 THE COURT: AS FAR AS THESE RECORDS, DOES THE
21 DEFENSE HAVE THEM?

22 MS. ABRAMSON: THEY'RE BEING COPIED FOR THE
23 PROSECUTION RIGHT NOW. THE LEWIS -- THE CUSTODIAN
24 OF RECORDS FROM THE LEWIS SCHOOL ARRIVED THIS
25 MORNING AND TURNED OVER THE FILE. AND ALTHOUGH WE
26 HAD BEEN ASSURED MANY TIMES BY THE OWNER OF THE
27 SCHOOL THAT WE HAVE BEEN GIVEN COPIES OF THE ENTIRE
28 CONTENTS OF THE FILE, I NOTED IN THE FILE THREE OR

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1 FOUR SEPARATE TEST ANALYSES THAT I DIDN'T HAVE
2 BEFORE.

3 AND AS THE COURT MAY RECALL, I TURNED
4 OVER ALL THE LEWIS SCHOOL RECORDS THAT WE DID HAVE
5 TO THE PROSECUTION -- I'M NOT SURE OF THE DATE --
6 OVER A WEEK AGO, AND I THOUGHT THAT WAS IT. WHEN I
7 LOOKED THROUGH THE RECORDS I SAW THESE NEW ONES.
8 AND DR. HART LOOKED THEM OVER, AND I SENT THEM OVER

9 TO THE PUBLIC DEFENDER'S OFFICE TO BE COPIED SO I
10 COULD GIVE THE PROSECUTION COPIES OF THOSE.

11 THE COURT: SO THE MATERIAL THAT WAS
12 CONSIDERED BY DR. HART PRIOR TO TODAY WAS ALREADY IN
13 THE POSSESSION OF THE PROSECUTION?

14 MS. ABRAMSON: YES.

15 THE COURT: AND THE ONLY MATERIAL THAT IS NEW
16 IS MATERIAL THAT DR. HART SAW FOR THE FIRST TIME
17 TODAY?

18 MS. ABRAMSON: YES. AND ALL HE'S SAYING IS
19 IT STRENGTHENS THE OPINION CONCERNING THE SEVERITY,
20 WHAT THE NEW RECORDS DO -- HERE THEY ARE -- MAKES IT
21 CLEAR WHAT THE SEVERITY OF THE LEARNING DISABILITIES
22 WERE.

23 I'M GIVING A SET TO THE PROSECUTION.

24 THE COURT: OKAY. AND IN GENERAL, WHAT IS IT
25 THAT YOU EXPECT TO ELICIT FROM DR. HART?

26 MS. ABRAMSON: IN GENERAL?

27 THE COURT: YES.

28 MS. ABRAMSON: IN GENERAL, WHAT I EXPECT TO

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1 ELICIT FROM DR. HART, BASED ON HIS EXPERTISE --

2 THE COURT: NOT A CONCLUSION, BUT JUST WHAT
3 IS IT -- THE GENERAL OUTLINE OF WHAT IT IS YOU

4 PROPOSE TO GO THROUGH IN HIS TESTIMONY.

5 MS. ABRAMSON: I WAS GOING TO GIVE YOU AN
6 OUTLINE.

7 HE'S GOING TO DESCRIBE HOW VARIOUS FORMS
8 OF PSYCHOLOGICAL MALTREATMENT -- WHICH IS NOT HIS
9 OPINION, BUT WHAT THE RESEARCH AGREES UPON IS
10 PSYCHOLOGICAL MALTREATMENT -- IMPACTED THE
11 DEVELOPMENT OF MY CLIENT; HOW IT SHAPED THE
12 INTERACTION WITH HIS PARENTS. HOW THE BEHAVIOR OF
13 HIS PARENTS CAUSED SPECIFIC DEFICITS AND SUFFERING
14 IN HIS LIFE.

15 AND THESE ARE ALL BASED ON STANDARD
16 NOTIONS OF CHILD DEVELOPMENT AND WHAT HAPPENS WHEN
17 NORMAL CHILD DEVELOPMENT IS PREVENTED BECAUSE OF
18 MALTREATMENT.

19 AND HE'S GOING TO DESCRIBE THE TYPE OF
20 MALTREATMENT BASED ON THE EVIDENCE THAT THE JURY HAS
21 ALREADY HEARD, AND SIMILAR INFORMATION THAT HAS LONG
22 BEEN DISCLOSED TO THE PROSECUTION.

23 AND HE'S GOING TO DESCRIBE WHAT EFFECTS
24 THAT MALTREATMENT HAD ON MY CLIENT AND HOW IT SHAPED
25 HIS PERSONALITY, HIS CHARACTER, AND HIS MENTAL STATE
26 IN GENERAL. HE IS NOT GOING TO ADDRESS ISSUES
27 CONCERNING MENTAL STATE AT THE TIME OF THE CRIME.
28 BUT HE IS GOING TO DO WHAT IS COMMONLY DONE IN

1 PENALTY TRIALS BY WAY OF A, QUOTE, SOCIAL HISTORY,
2 WHICH IS TO EXPLAIN THE SIGNIFICANCE -- WHICH IS NOT
3 WITHIN THE KNOWLEDGE OF THE AVERAGE JUROR -- THE
4 SIGNIFICANCE, THE DETRIMENTAL IMPACT, THE SEVERITY
5 OF THE PSYCHOLOGICAL MALTREATMENT IN THIS FAMILY ON
6 MY CLIENT.

7 THE COURT: IS HE BEING CALLED ON BEHALF OF
8 BOTH DEFENDANTS, OR JUST AS TO YOUR CLIENT?

9 MS. ABRAMSON: HE'S ONLY GOING TO GIVE
10 SPECIFICS AS TO ERIK MENENDEZ, ALTHOUGH THE GENERAL
11 INFORMATION ABOUT CHILD DEVELOPMENT AND WHAT
12 CONSTITUTES PSYCHOLOGICAL MALTREATMENT WOULD BE
13 APPLICABLE TO BOTH DEFENDANTS.

14 THE COURT: BUT THE SPECIFICS ONLY RELATE TO
15 YOUR CLIENT?

16 MS. ABRAMSON: YES.

17 THE COURT: ALL RIGHT.

18 MR. CONN: WE ARE NOW LEARNING FOR THE FIRST
19 TIME THAT THIS WITNESS IS BEING CALLED BY ERIK
20 MENENDEZ. WE HAVE ABSOLUTELY NO DISCOVERY
21 CONCERNING ANY OPINIONS HE HAS EVER EXPRESSED IN
22 REGARD TO -- HE WAS CALLED IN THE FIRST TRIAL BY
23 LYLE MENENDEZ, AND TESTIFIED IN REGARD TO LYLE
24 MENENDEZ, AND THE IMPACT OF HIS EXPERIENCE UPON HIS
25 DEVELOPMENT. WE HAVE ABSOLUTELY NO DISCOVERY
26 WHATSOEVER THAT HE EVER FORMED AN OPINION CONCERNING
27 ERIK MENENDEZ.

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1 GOING TO TESTIFY TO TODAY IS GOING TO COME AS
2 TOTALLY NEWS TO US.

3 MS. ABRAMSON: I DOUBT IT'S GOING TO COME IN
4 AS TOTALLY NEWS TO THE PEOPLE, YOUR HONOR. THE
5 NATURE OF THE PSYCHOLOGICAL MALTREATMENT IN THIS
6 CASE HAS BEEN LONG UNDERSTOOD BY EVERYBODY. IT
7 WAS -- IT'S THE SAME I UNDERSTOOD --

8 THE COURT: ALL WE'RE TALKING ABOUT NOW IS
9 THE ISSUE OF DISCOVERY.

10 MS. ABRAMSON: THERE'S NOTHING TO GIVE THEM.
11 I MEAN, HE'S BEEN STUDYING THIS FAMILY FOR FOUR
12 YEARS.

13 THE COURT: IS HE AVAILABLE TO SPEAK WITH THE
14 PROSECUTOR?

15 MS. ABRAMSON: CERTAINLY. HE'S BEEN
16 AVAILABLE TO SPEAK TO THE PROSECUTOR FOR TWO DAYS.
17 THEY NEVER TRIED TO TALK TO HIM. HE'S SITTING
18 HERE. HE'D BE HAPPY TO TALK TO THEM.

19 THE COURT: OKAY. WELL, FIRST, AS TO THE
20 ISSUE OF THE PEOPLE'S OBJECTION UNDER 801(A) AND
21 (B), THE COURT'S RULING ON THE ADMISSIBILITY OF
22 DR. HART'S TESTIMONY IN THE GUILT PHASE, THOSE

23 RULINGS WERE BASED UPON THE OFFERS OF PROOF RELATED
24 TO ISSUES PRESENTED TO THE JURY IN THE GUILT PHASE.
25 THE COURT IS SATISFIED THAT THOSE RULINGS WERE
26 CORRECT AS TO THE GUILT PHASE.

27 WE'RE NOW IN THE SEPARATE PHASE OF THE
28 TRIAL, THE PENALTY PHASE. THE NATURE OF THE OFFER

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1 OF PROOF MADE BY THE DEFENSE IS SUCH THAT THE COURT
2 FINDS THAT THE EVIDENCE IS RELEVANT TO THE ISSUE OF
3 PENALTY, AND THE PENALTY DETERMINATION TO BE MADE BY
4 THE JURY, AND MEETS THE LEVEL OF ADMISSIBILITY FOR
5 THE PURPOSE OF THE PENALTY PHASE; AND THEREFORE, THE
6 PEOPLE'S OBJECTIONS ON THOSE GROUNDS ARE OVERRULED.

7 HOWEVER, I AM CONCERNED THAT THE
8 PROSECUTION SHOULD HAVE AN OPPORTUNITY TO SPEAK WITH
9 DR. HART RELATING TO THE SPECIFIC BUSINESS OF THIS
10 EVIDENCE THAT IS BEING PROFFERED BY ERIK MENENDEZ,
11 SINCE IT IS CORRECTLY STATED THAT THIS EVIDENCE OR
12 THE TESTIMONY OF DR. HART IN THE FIRST TRIAL WAS
13 PRESENTED ONLY AS TO LYLE MENENDEZ. AND DR. HART
14 DID NOT REFER TO ERIK MENENDEZ AT ALL, OTHER THAN
15 SAYING THAT HE HAD SPOKEN TO HIM.

16 MS. ABRAMSON: HE WASN'T HIS EXPERT. BUT YOU
17 SEE, YOUR HONOR --

18 THE COURT: I UNDERSTAND THAT.

19 MS. ABRAMSON: THE COURT UNDERSTANDS THERE
20 WAS A PSYCHOLOGICAL MALTREATMENT EXPERT FOR ERIK
21 MENENDEZ. THE PEOPLE ARE WELL AWARE OF WHAT THE
22 ISSUES ARE.

23 THE COURT: I UNDERSTAND THAT, AND I'M NOT
24 DISPUTING THAT HIS TESTIMONY MIGHT VERY WELL BE ON
25 THE SAME LINE AS THAT OF THE WITNESS WHO WAS CALLED
26 FOR ERIK MENENDEZ IN THE FIRST TRIAL ON THIS
27 SUBJECT. BUT I THINK THE PROSECUTION HAS A RIGHT TO
28 SPEAK WITH HIM BEFORE HE TESTIFIES, SO THEY HAVE

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1 SOME PREVIEW OF WHAT IT IS HE WILL SAY, AND THE
2 BASES OF HIS OPINION, SO THEY CAN THEN LOOK AT THIS
3 MATERIAL, WHATEVER IT IS THAT HE IS GOING TO
4 UTILIZE, THAT THEY HAVE NOT YET SEEN.

5 MS. ABRAMSON: I DON'T KNOW WHAT THAT MEANS.
6 THERE'S NOTHING TO LOOK AT. WE'RE NOT USING ANY
7 CHARTS OR GRAPHS.

8 THE COURT: OBVIOUSLY, THE SOURCE MATERIAL.

9 MS. ABRAMSON: EXACTLY.

10 THE COURT: THEY HAVE A RIGHT TO --

11 MS. ABRAMSON: HE'S RELYING ON THE SAME
12 SOURCE MATERIAL THAT WAS RELIED UPON BY DR. VICARY

13 AND DR. WILSON. THIS IS THE ACCEPTED FUNDAMENTAL
14 SOURCE MATERIAL IN THE CASE. AND HE'S RELYING ON
15 EXACTLY THE SAME THING, PLUS TODAY HE'S SEEN SOME
16 ADDITIONAL LETTERS FROM THE LEWIS SCHOOL, AND THAT'S
17 WHAT HE'S RELYING ON. HE'S NOT EVEN RELYING ON HIS
18 PERSONAL INTERVIEWS WITH MY CLIENT.

19 THE COURT: IT DOESN'T REQUIRE A DEBATE.
20 IT'S CLEAR THE PEOPLE HAVE A RIGHT TO SPEAK WITH
21 HIM.

22 MS. ABRAMSON: THEY CAN TALK TO HIM.

23 THE COURT: DO YOU HAVE ANY OTHER WITNESSES
24 WHO YOU ARE GOING TO CALL? IS THAT IT?

25 MS. ABRAMSON: NO. I DO HAVE ANOTHER WITNESS
26 I WAS GOING TO CALL, BUT HE'S NOT AVAILABLE TILL
27 TOMORROW. THERE'S TWO WITNESSES FOR TOMORROW, AND
28 THAT'S DR. VICARY AND FATHER DEASY.

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1 THE COURT: THAT'S IT?

2 MS. ABRAMSON: YEAH, THAT'S IT.

3 THE COURT: AND THEN ERIK MENENDEZ IS RESTING
4 IN THE PENALTY PHASE?

5 MS. ABRAMSON: I'M NOT RESTING -- JUST ONE
6 MINOR DISCOVERY ISSUE. THE PEOPLE HAVE BEEN
7 TAUNTING US WITH OH, "YES, WE HAVE REBUTTAL, BUT WE

8 WON'T TELL YOU WHAT IT IS." I THINK WE'RE ENTITLED
9 TO KNOW WHAT IT IS BEFORE WE REST OUR CASE.

10 SO I'M NOT GOING TO REST UNTIL I HEAR
11 WHAT IT IS THEY THINK THEY'RE GOING TO PUT ON IN
12 REBUTTAL. ASSUMING IT'S NOTHING THAT REQUIRES
13 ADDITIONAL WITNESSES BY US, YES, THEN WE'LL REST.

14 THE COURT: THAT'S A SEPARATE ISSUE.

15 MS. ABRAMSON: YES.

16 THE COURT: AS FAR AS LYLE MENENDEZ, ARE YOU
17 OFFERING ANYTHING ELSE?

18 MR. GESSLER: NO, YOUR HONOR.

19 THE COURT: OKAY. ALL RIGHT. I WILL THEN
20 GIVE THE PROSECUTION A CHANCE TO SPEAK WITH THE
21 WITNESS.

22 DID HE SUFFER SOME INJURY TODAY?

23 MS. ABRAMSON: YES, HE DID. WE'RE SORRY FOR
24 THE DELAY. HE SLAMMED HIS DOOR --

25 THE COURT: HIS DOOR?

26 MS. ABRAMSON: IT'S BEEN A LONG TIME, JUDGE.
27 BE TOLERANT.

28 HE SLAMMED HIS FINGER IN THE DOOR OF MY

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1 CAR AS WE WERE GETTING OUT IN THE PARKING LOT. AND
2 IT CAUSED BLEEDING AND SWELLING, AND HE'S BEEN

3 SOAKING IT IN ICE, AND NOW HE'S BANDAGED IT, AND

4 HE'S OKAY.

5 THE COURT: HOW LONG DO YOU THINK YOU'LL

6 NEED?

7 MS. ABRAMSON: TEN MINUTES.

8 MR. CONN: I DON'T KNOW. I DON'T KNOW WHAT

9 HE HAS TO SAY.

10 THE COURT: OKAY. ALL RIGHT. I WILL GIVE

11 YOU THE BALANCE OF THE MORNING.

12 MR. CONN: THANK YOU.

13 THE COURT: WE'LL EXCUSE THE JURY UNTIL 1:30.

14 MS. ABRAMSON: CAN WE HAVE IT ACROSS THE

15 STREET IN THE PUBLIC DEFENDER'S OFFICE? WE'LL MAKE

16 THE WITNESS AVAILABLE TO HIM THERE. THEY CAN BRING

17 A TAPE-RECORDER IF THEY WANT.

18 THE COURT: WHEREVER YOU WANT IT.

19 MS. ABRAMSON: IT'S MORE CONVENIENT FOR US.

20 THE COURT: WHATEVER IS EASIER.

21 MS. ABRAMSON: WHY DON'T YOU GIVE US ABOUT 15

22 MINUTES TO SET STUFF UP.

23 YOU GUYS WANT COFFEE? WE'LL MAKE

24 COFFEE.

25 WHAT HE'D LIKE TO DO, ALSO, SINCE WE'VE

26 GIVEN THE PEOPLE THESE RECORDS -- WE'D LIKE AT 1:30

27 TO DO THE CUSTODIAN OF RECORDS FROM THE LEWIS

28 SCHOOL. SHE HAS TO GO BACK.

1 THE COURT: PERHAPS YOU CAN DISCUSS THAT THIS
2 MORNING AND PERHAPS YOU CAN GET A STIPULATION.

3 MS. ABRAMSON: I KNOW WHAT THEY'RE OBJECTING
4 TO. THAT'S WHY I BROUGHT HER IN.

5 (PROCEEDINGS WERE ADJOURNED UNTIL
6 1:30 P.M. OF THE SAME DAY.)

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1 VAN NUYS, CALIFORNIA; TUESDAY, APRIL 2, 1995

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3 DEPARTMENT NW "N" HON. STANLEY M. WEISBERG, JUDGE

4 (APPEARANCES AS HERETOFORE NOTED.)

5 (MARILYN A. FADALE, OFFICIAL REPORTER.)

6 (MARY LU MURPHY, OFFICIAL REPORTER.)

7

8 (THE FOLLOWING PROCEEDINGS WERE

9 HELD IN OPEN COURT, OUT OF THE

10 PRESENCE OF THE JURY:)

11

12 THE COURT: THE DEFENDANTS ARE IN COURT WITH

13 THEIR LAWYERS. THE PEOPLE ARE HERE.

14 ARE WE READY TO PROCEED WITH THE JURY?

15 MS. ABRAMSON: JUDGE, HERE'S THE PROBLEM.

16 I HAVE BROUGHT IN THE CUSTODIAN OF

17 RECORDS FOR THE LEWIS SCHOOL. SHE NEEDS TO LEAVE AT

18 THE END OF TODAY'S SESSION. WE INTERRUPTED HER ON

19 HER VACATION, AND WE TURNED OVER THE RECORDS THIS

20 MORNING. AND I'M STILL WAITING TO HEAR WHETHER IT'S

21 NECESSARY TO CALL HER; AND IF SO, AS TO WHAT.

22 I SHOULD INDICATE TO THE COURT THAT

23 THESE LEWIS SCHOOL RECORDS HAVE A SUBSTANTIAL AMOUNT

24 OF NARRATIVE. AND I KNOW THE PEOPLE INDICATED THAT

25 THEY HAD AN OBJECTION.

26 AND THE REASON I BROUGHT HER OUT WAS
27 BECAUSE MS. NAJERA INDICATED THEY HAD AN OBJECTION
28 TO A TWO-PAGE PORTION OF THESE RECORDS WHICH WERE

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1 CALLED "INITIAL CONTACT," IN WHICH MARCIA LEWIS,
2 WHO'S THE HEAD OF THE SCHOOL, INDICATES STEP BY STEP
3 THE CONTACTS BETWEEN HERSELF AND ERIK MENENDEZ AND
4 MRS. MENENDEZ.

5 AND THERE'S SOME SIMILAR INFORMATION
6 CONTAINED ON THE TOP OF THE "EDUCATIONAL SCREENING
7 SUMMARY EVALUATION AND ANALYSIS" PAGE OF THESE
8 RECORDS.

9 IN ADDITION, THERE'S THE NEW MATERIAL
10 THAT WAS TURNED OVER TODAY, WHICH IS BASICALLY JUST
11 AN ANALYSIS OF THE VARIOUS LEARNING TESTS THAT WERE
12 GIVEN.

13 I HAD ASKED THE PEOPLE TO JUST LET ME
14 KNOW THIS AFTERNOON IF THEY'RE OBJECTING TO ANY OF
15 THAT NEW MATERIAL, OR WHETHER THEY'RE ONLY OBJECTING
16 TO THE INITIAL CONTACT MATERIAL. WHAT I'D LIKE TO
17 DO IS PUT THE WITNESS ON OUTSIDE OF THE JURY'S
18 PRESENCE TO INDICATE WHY THESE NARRATIVE PAGES ARE
19 IN FACT BUSINESS RECORDS, AND CAN AUTHENTICATE THEM

20 AS BUSINESS RECORDS OF THE LEWIS SCHOOL, IS
21 PRECISELY THE TYPE OF INFORMATION THEY GATHER AND
22 NOTE AND PUT IN THE FILE OF EVERY STUDENT, SO THAT
23 WE MIGHT GET THEM IN.

24 THE COURT: OKAY. WHAT IS THE PEOPLE'S
25 POSITION?

26 MS. NAJERA: YOUR HONOR, THERE'S SEVERAL
27 DOCUMENTS THAT WE ARE CONCERNED ABOUT.

28 ONE IS APPARENTLY A COVER LETTER TO

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1 MARCIA MORRISSEY FROM MARCIA LEWIS THAT IS A PART OF
2 THE RECORDS THAT WERE HANDED TO US.

3 MS. ABRAMSON: WE'RE NOT OFFERING IT.

4 THE COURT: THEY'RE NOT OFFERING IT.

5 MS. NAJERA: THEN, YOUR HONOR, THERE IS WHAT
6 APPEARS TO BE A TWO-PAGE INITIAL CONTACT DOCUMENT
7 THAT, WHEN YOU READ IT, IT APPEARS TO BE SOMETHING
8 THAT WAS GENERATED FOR THE DEFENSE FOR THIS TRIAL.
9 AND IT APPEARS TO BE WHAT MRS. LEWIS WOULD TESTIFY
10 TO HAD SHE BEEN CALLED TO THE WITNESS STAND.

11 AND I CAN UNDERSTAND IF THEY WERE GOING
12 TO CALL HER TO THE WITNESS STAND, THAT SOME OF THIS
13 WOULD BE ADMISSIBLE. BUT SINCE THEY DIDN'T DO IT,
14 THEY APPEAR TO WANT TO GET IT IN BY WAY OF A

15 DECLARATION OR AN AFFIDAVIT. AND THAT'S WHAT THE
16 FIRST TWO DOCUMENTS APPEAR TO BE.

17 THERE'S A THIRD DOCUMENT WHICH COUNSEL
18 HAS ALLUDED TO, WHICH IS THE EDUCATIONAL SCREENING,
19 WHICH HAS A PARAGRAPH IN THERE, THE SECOND
20 PARAGRAPH, IN WHICH SOME INDIVIDUAL -- AND WE HAVE
21 NO WAY OF KNOWING WHO -- DISCUSSES THAT MR. MENENDEZ
22 MADE CERTAIN ASSUMPTIONS ABOUT THE SCHOOL. AND THIS
23 PERSON, MARCIA LEWIS, FELT THAT HE MIGHT NOT HAVE
24 BEEN AWARE THAT HIS WIFE AGREED TO HAVE THEIR SON
25 EVALUATED.

26 THESE ARE NOT BUSINESS RECORDS. THESE
27 ARE WHAT WOULD BE THE TESTIMONY OF MARCIA LEWIS IF
28 SHE WERE CALLED IN. I'M NOT QUITE SURE WHEN SOME OF

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1 THESE DOCUMENTS WERE GENERATED.

2 MS. ABRAMSON: WELL, JUST FOR INFORMATIONAL
3 PURPOSES, ALL THE CONTACT INFORMATION WAS NOTED BY
4 MARCIA LEWIS AND MAINTAINED IN THE FILE, AS IT
5 ALWAYS IS, AND WHEN WE ASKED HER TO GENERATE THAT --
6 GENERATE THE CONTENTS OF THE FILE, THESE WERE THE
7 DOCUMENTS WE RECEIVED. AND THE ORIGINALS OF THESE
8 DOCUMENTS ARE IN THE FILE.

9 THE COURT: WHY DON'T YOU PUT ON YOUR WITNESS

10 THEN, AND WE'LL SEE WHAT IT IS SHE HAS TO SAY,

11 RATHER THAN AN OFFER OF PROOF.

12 MS. ABRAMSON: I WANT TO PUT HER ON. DO YOU
13 WANT HER TO BE IN FRONT OF THE JURY, OR NOT IN FRONT
14 OF THE JURY?

15 THE COURT: AT THIS POINT, ASSUMING THE COURT
16 MAKES A RULING THERE'S AUTHENTICATION OF THESE
17 DOCUMENTS, IS IT THE PEOPLE'S POSITION THAT YOU
18 WOULD DISPUTE THEIR AUTHENTICITY IN FRONT OF THE
19 JURY, OR IS THIS JUST A PRELIMINARY FACT THAT YOU
20 WANT THE COURT TO RESOLVE.

21 MS. NAJERA: IT'S A PRELIMINARY FACT.

22 MS. ABRAMSON: YOU'RE NOT DISPUTING THEIR
23 AUTHENTICITY?

24 THE COURT: AS TO CERTAIN DOCUMENTS, AS TO
25 WHETHER THEY ARE PART OF THE BUSINESS RECORDS AND
26 SHOULD BE INCLUDED?

27 MS. NAJERA: RIGHT.

28 MS. ABRAMSON: I TAKE IT THE PEOPLE ARE NOT

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1 OBJECTING TO THE REST OF THE RECORDS?

2 MS. NAJERA: THAT'S CORRECT.

3 MS. ABRAMSON: OKAY. GOOD. WE GOT THAT
4 FAR.

5 SHOULD I CALL THE WITNESS NOW, YOUR

6 HONOR?

7 THE COURT: YES.

8 MS. ABRAMSON: NANCY MEZEY, M-E-Z-E-Y.

9

10 NANCY MEZEY,
11 WAS CALLED AS A WITNESS UNDER EVIDENCE CODE SECTION
12 402, BY THE DEFENSE, WAS DULY SWORN, AND TESTIFIED
13 AS FOLLOWS:

14 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE
15 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING
16 BEFORE THIS COURT, SHALL BE THE TRUTH, THE WHOLE
17 TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOU GOD.

18 THE WITNESS: I DO.

19 THE CLERK: PLEASE TAKE THE STAND AND STATE
20 YOUR NAME FOR THE RECORD.

21 THE WITNESS: NANCY MEZEY, M-E-Z-E-Y.

22 MS. ABRAMSON: MS. MEZEY, YOU DON'T HAVE TO
23 FACE THE JUDGE, BECAUSE HE CAN ACTUALLY HEAR YOU IF
24 YOU JUST SPEAK INTO THE MICROPHONE.

25 THE COURT: I DON'T WANT HER TO USE THE
26 MICROPHONE.

27 MS. ABRAMSON: OH, WE'RE WHISPERING.

28 THE COURT: SO THAT THE PUBLIC ADDRESS SYSTEM

1 DOESN'T BROADCAST THINGS THAT MIGHT BE OVERHEARD BY
2 THE JURY IN THE JURY ROOM.

3 MS. ABRAMSON: I THINK IT WOULD MAKE SENSE
4 FOR ME TO STAY HERE, AND THEN I CAN TALK LOW. IS
5 THAT OKAY WITH THE COURT?

6 THE COURT: I THINK YOU CAN DO IT FROM
7 COUNSEL TABLE, UNLESS YOU HAVE TO SHOW HER
8 SOMETHING.

9

10 DIRECT EXAMINATION

11 BY MS. ABRAMSON:

12 Q DID YOU BRING FROM NEW JERSEY, WITH YOU
13 LAST NIGHT, A FOLDER ENTITLED "THE MENENDEZ, ERIK,"
14 WITH OTHER IDENTIFYING INFORMATION CONCERNING ERIK
15 MENENDEZ?

16 A YES, I DID.

17 Q AND IS THIS FOLDER THE FILE ON ERIK
18 MENENDEZ THAT'S BEEN MAINTAINED BY THE LEWIS SCHOOL
19 IN PRINCETON, NEW JERSEY?

20 A YES, IT IS.

21 Q AND DO YOU WORK FOR THE LEWIS SCHOOL OR
22 AFFILIATED WITH THE LEWIS SCHOOL?

23 A YES, I DO.

24 Q ARE YOU FAMILIAR WITH THE STUDENT FILES
25 THAT ARE MAINTAINED BY THE LEWIS SCHOOL?

26 A YES, I AM.

27 Q AND IS THE HEAD OF THAT SCHOOL MARCIA

53518

1 A YES, IT IS.

2 Q AND DOES MARCIA LEWIS AND THE SCHOOL, AS
3 A MATTER OF PROCEDURE, MAINTAIN FILES ON CURRENT AND
4 PAST STUDENTS FOR MANY YEARS?

5 A YES.

6 Q AND DO THEY HAVE A VERY EXTENSIVE
7 RECORD-KEEPING SYSTEM?

8 A YES.

9 Q AS A MATTER OF COURSE, DOES THE LEWIS
10 SCHOOL WRITE UP INFORMATION CONCERNING ALL CONTACTS
11 THAT IT HAS WITH PARENTS AND STUDENTS OF THE SCHOOL?

12 A YES.

13 Q AND DOES IT PURPOSELY -- IN PREPARING
14 THESE DOCUMENTS, DOES THE LEWIS SCHOOL ASK THE
15 PEOPLE WHO DO THE INTAKE TO SET OUT ALL THE
16 CONVERSATIONS WITH PARENTS, PARENTAL INTERACTION,
17 PARENTAL ATTITUDES TOWARDS THE CHILD, AND THE
18 CHILD'S DISABILITIES, AS WELL AS THE CHILD'S
19 STATEMENTS ABOUT IT?

20 A YES. YEP.

21 Q AND -- I WANT TO FIND -- LET'S SEE WHERE
22 THAT IS.

23 I'M GOING TO GET THE INITIAL CONTACT
24 SHEETS.
25 EXCUSE ME, YOUR HONOR.
26 LET ME SHOW YOU THESE TWO PAGES. DOES
27 MRS. LEWIS HAVE A SEAL THAT SHE AFFIXES TO
28 DOCUMENTS?

53519

1 A YES.

2 Q LET ME SHOW YOU THESE THREE PAGES, WHICH
3 SAYS "INITIAL CONTACT," AND THEN THERE'S NUMBERS,
4 ONE THROUGH SEVEN, ON PAGE 1; EIGHT THROUGH
5 FOURTEEN, ON PAGE 2. AND THEN THE THIRD PAGE, WHICH
6 IS "EDUCATIONAL SCREENING."

7 DO THESE ALL BEAR THE SEAL THAT
8 MS. LEWIS USES TO IDENTIFY DOCUMENTS COMING FROM THE
9 LEWIS SCHOOL?

10 A YES.

11 MS. ABRAMSON: I'M JUST TRYING TO FIND THE
12 ORIGINAL AT THE MOMENT, BECAUSE I NEED IT. I'M NOT
13 FINDING IT.

14 Q AND HAVE YOU EXAMINED THE CONTENTS OF
15 THOSE THREE PAGES?

16 A NO, I HAVE NOT.

17 Q WOULD YOU LOOK THEM -- OH, HERE IT IS.

18 SHOWING YOU FIRST THESE DOCUMENTS WHERE
19 THE COVER PAGE IS "EARLY HISTORY AND CIRCUMSTANCES
20 BY WHICH ERIK MENENDEZ CAME TO LEWIS CLINIC AND
21 SCHOOL."

22 DO THE ACTUAL TWO PAGES OF INFORMATION
23 APPEAR TO BE THE SAME AS THESE TWO PAGES, INITIAL
24 CONTACT, ONE THROUGH FOURTEEN?

25 A YES.

26 Q OKAY. WHY DON'T YOU LOOK THOSE OVER,
27 AND I'LL PULL OUT THE ORIGINAL OF THIS.

28 A (WITNESS COMPLIES.)

53520

1 Q ARE YOU DONE WITH THAT?

2 A YES.

3 Q IS THAT RECITATION OF PARENTAL CONTACT
4 AND STATEMENTS BY THE PARENT AND STATEMENTS BY THE
5 CHILD TYPICAL OF WHAT'S MAINTAINED IN THE RECORDS OF
6 STUDENTS OF LEWIS SCHOOL?

7 A YES.

8 Q AND WAS THIS FILE ITSELF IN THE CUSTODY
9 OF THE LEWIS SCHOOL UNTIL YOU BROUGHT IT HERE TO
10 CALIFORNIA?

11 A YES. IT WAS.

12 MS. ABRAMSON: ANYTHING ELSE, YOUR HONOR,

13 THAT THE COURT --

14 THE COURT: I'LL HEAR CROSS-EXAMINATION.

15 MS. ABRAMSON: OKAY. LET ME PUT THESE IN A

16 PLACE WHERE COUNSEL CAN FIND THEM.

17 THE COURT: OKAY. CROSS.

18 MS. NAJERA: THANK YOU, YOUR HONOR.

19

20 CROSS-EXAMINATION

21 BY MS. NAJERA:

22 Q MS. MEZEY, THE TWO DOCUMENTS --

23 ACTUALLY, THE THREE DOCUMENTS IN QUESTION, STARTING

24 FIRST WITH THE FIRST DOCUMENT THAT COUNSEL SHOWED

25 YOU, WHICH IS ENTITLED "EARLY HISTORY AND

26 CIRCUMSTANCES BY WHICH ERIK MENENDEZ CAME TO THE

27 LEWIS CLINIC AND SCHOOL," FOLLOWED BY THE TWO

28 DOCUMENTS. LET'S START WITH THIS FIRST PAGE HERE.

53521

1 DO YOU KNOW WHEN THIS FIRST PAGE WAS

2 GENERATED? WHEN WAS THIS DOCUMENT CREATED?

3 A I DON'T KNOW WHAT YEAR, BUT WHENEVER IT

4 WAS THAT THIS FOLDER WAS PUT TOGETHER, WHEN HE FIRST

5 INITIALLY -- CONTACT WAS MADE.

6 Q OKAY. NOW, THERE ARE TWO DOCUMENTS

7 BEHIND THERE, AND THEY'RE MARKED ONE THROUGH

8 FOURTEEN, AND THEY APPEAR TO BE TYPED UP CONCERNING
9 EVENTS THAT TOOK PLACE OVER A PERIOD OF TIME, A
10 COUPLE OF MEETINGS.

11 WITH REGARDS TO THIS DOCUMENT, THESE
12 TWO -- WE'LL CALL THESE TWO PAGES A SINGLE
13 DOCUMENT.

14 WHEN WAS THIS DOCUMENT PREPARED?

15 A THE DAY THAT THIS OCCURRED.

16 Q WHEN WAS THAT?

17 A WELL, JULY 7TH, 1986.

18 Q WITH REGARDS TO THESE -- THIS DOCUMENT,
19 IS THIS SOMETHING -- WELL, HOW DID -- HOW WOULD THIS
20 DOCUMENT -- SHOWING YOU PAGES TWO AND THREE, HOW
21 WOULD THIS COME TO BE PREPARED?

22 A THE PERSON WHO THE CONTACT WAS MADE
23 WITH, AND I ASSUME -- I'VE NEVER SEEN THIS BEFORE.
24 IT WAS JUST SHOWN TO ME.

25 Q YOU'VE NEVER SEEN THIS DOCUMENT BEFORE?

26 A THAT'S RIGHT. I'VE NEVER SEEN ANYTHING
27 IN THIS FOLDER BEFORE.

28 Q WHAT IS YOUR POSITION WITH THE LEWIS

53522

1 SCHOOL?

2 A I'M MARCIA LEWIS' ASSISTANT.

3 Q AND AS HER ASSISTANT, WHAT ARE YOUR
4 DUTIES?

5 A VERY WIDE RANGE. FROM FUND-RAISING TO
6 SCHEDULING APPOINTMENTS FOR HER, TO CUSTODIAN OF THE
7 RECORDS, TO FUND-RAISING EVENTS AT THE SCHOOL.

8 Q WERE YOU --

9 A PERSONNEL. I'M KIND OF A RIGHT-HAND MAN
10 FOR HER.

11 Q ARE YOU THE ONLY INDIVIDUAL AT THAT
12 SCHOOL WHO MAINTAINS THE RECORDS?

13 A NO. THERE ARE THREE.

14 Q WHO ELSE MAINTAINS THE RECORDS?

15 A MARIANNE MANNA, EDUCATION ADMINISTRATOR.

16 Q AND WHO ELSE?

17 A MARCIA LEWIS AND MYSELF.

18 Q WELL, WHAT DO YOU PERSONALLY DO WITH
19 REGARDS TO MAINTAINING THESE RECORDS?

20 A WE ARE THE ONLY THREE WHO HAVE ACCESS TO
21 THEM; EITHER PUT THEM BACK INTO THE FOLDER, OR TAKE
22 THEM OUT AS MARCIA NEEDS THEM.

23 Q NOW, WITH REGARDS TO THE DOCUMENTS THAT
24 I'VE BEEN SHOWING YOU, THE INITIAL CONTACT FORM, IT
25 DISCUSSES IN THERE TWO MEETINGS WITH -- WHAT APPEAR
26 TO BE THE FIRST INTERVIEW, AND THEN ARRANGEMENTS FOR
27 OTHER MEETINGS.

28 NOW, WITH REGARDS TO THAT, WHO WOULD

1 HAVE GENERATED THIS DOCUMENT?

2 A MRS. LEWIS.

3 Q WHEN?

4 A JULY -- I'M SORRY. REFERRING TO HERE.

5 JULY 7TH. THEN -- SHE WRITES HANDWRITTEN NOTES AND

6 THEN PUTS THEM ALL TOGETHER.

7 Q SHE WRITES HANDWRITTEN -- THAT'S WHAT I

8 WAS WONDERING ABOUT.

9 WHEN YOU SAY SHE WRITES HANDWRITTEN

10 NOTES, THIS DOCUMENT IS ALL BASED ON NOTES SHE TOOK;

11 IS THAT CORRECT?

12 A YES.

13 Q AND WHERE ARE THE NOTES THAT SHE TOOK?

14 A I THOUGHT THEY MAY BE EVEN IN HERE. I

15 DON'T KNOW.

16 Q SO RECORDS WERE NOT MAINTAINED AS TO THE

17 NOTES THAT SHE TOOK; IS THAT WHAT YOU'RE TELLING US?

18 MS. ABRAMSON: I'M GOING TO OBJECT TO THAT,

19 YOUR HONOR. WE DON'T KNOW --

20 THE COURT: LET ME UNDERSTAND SOMETHING.

21 THE RECORDS THAT ARE IN FRONT OF YOU,

22 DID YOU BRING THEM TO COURT?

23 THE WITNESS: YES, I DID.

24 THE COURT: BEFORE YOU CAME INTO THE

25 COURTROOM WITH THE DOCUMENTS, DID YOU LOOK AT THEM?

26 THE WITNESS: NO. I SPECIFICALLY DID NOT

27 WANT TO, BECAUSE I DIDN'T WANT TO BE INTERROGATED
28 ABOUT ANY OF THE PERSONAL PEOPLE INVOLVED IN THIS

53524

1 CASE. THAT'S NOT MY --

2 THE COURT: WHERE DID THESE DOCUMENTS COME
3 FROM?

4 THE WITNESS: THE LEWIS SCHOOL.

5 THE COURT: WHO OBTAINED THEM?

6 THE WITNESS: I OBTAINED THEM. THEY WERE
7 GIVEN TO ME FROM MARCIA TO BRING.

8 THE COURT: OKAY. SO SOMEONE GAVE THEM TO
9 YOU?

10 THE WITNESS: RIGHT.

11 THE COURT: AND WHO WAS THAT?

12 THE WITNESS: MARCIA LEWIS.

13 THE COURT: AND WHERE DID SHE GET THEM FROM?

14 THE WITNESS: SHE GOT THEM FROM WHERE WE KEEP
15 THE FILES, IN THE BASEMENT OF THE SCHOOL.

16 THE COURT: OKAY. AND ARE YOU IN A POSITION
17 TO SAY THAT ALL THE PIECES OF PAPER IN FRONT OF YOU
18 ARE PART OF THE OFFICIAL BUSINESS RECORDS OF THE
19 LEWIS SCHOOL, AND WERE PREPARED IN THE ORDINARY
20 COURSE OF BUSINESS, AT OR NEAR THE TIME THE EVENTS
21 OCCURRED?

22 THE WITNESS: YES.

23 THE COURT: HOW ARE YOU IN A POSITION TO DO
24 THAT?

25 THE WITNESS: WELL, I SAY YES BASED ON THE
26 FACT THAT MARCIA LEWIS IS A VERY, VERY BUSY, PERSON,
27 AND --

28 THE COURT: THAT'S NOT AN EXCEPTION TO THE

53525

1 EVIDENCE CODE. SO YOU HAVE TO BE A LITTLE MORE
2 SPECIFIC ABOUT IT THAN THAT.

3 THE WITNESS: THE TIME INVOLVED -- I MEAN,
4 I'VE SEEN HER HAND OTHER FOLDERS TO VARIOUS PEOPLE,
5 AND IT'S THE SAME PROCEDURE. WHEN THEY'RE REQUIRED
6 BY PSYCHIATRISTS, OTHER SCHOOL SYSTEMS, COLLEGES,
7 FOR VARIOUS REASONS, WE HAND OVER FOLDERS, AND THIS
8 WAS DONE NO DIFFERENTLY THAN ANY OTHER.

9 THE COURT: THE HANDING OVER OF A FOLDER WAS
10 DONE NO DIFFERENTLY. BUT THE QUESTION IS WITH
11 REGARDS TO THE PREPARATION OF THE PAPERWORK WITHIN
12 THE FOLDER, HOW'S THAT PREPARED? THAT'S THE ISSUE,
13 AS TO WHETHER EACH PIECE OF PAPER THAT'S THERE WAS
14 PREPARED IN THE ORDINARY COURSE OF BUSINESS AT OR
15 NEAR THE TIME THE EVENTS OCCURRED AND ARE ACCURATE.

16 THE WITNESS: TO THE BEST OF MY KNOWLEDGE,

17 THEY ARE.

18 THE COURT: WHAT IS YOUR KNOWLEDGE, THOUGH?

19 THAT'S THE QUESTION. WHAT KNOWLEDGE DO YOU HAVE

20 ABOUT THESE EVENTS, OR ABOUT THE PAPERWORK -- NOT

21 THE EVENTS THEMSELVES, BUT THE PAPERWORK?

22 THE WITNESS: JUST WATCHING THE BUSINESS OF

23 THE SCHOOL AND SEEING THIS WAS CONDUCTED NO

24 DIFFERENTLY THAN ANY OTHER.

25 THE COURT: WHAT WAS? THE PICKING UP OF THE

26 PIECES OF PAPER, OR THE PREPARATION OF THE PAPER?

27 THE WITNESS: I WOULD SAY BOTH.

28 MS. ABRAMSON: YOUR HONOR, COULD I ASK A FEW

53526

1 QUESTIONS BECAUSE -- WHICH I THINK WILL CUT THROUGH

2 THIS?

3 THE COURT: OKAY. SURE.

4 MS. ABRAMSON: OKAY.

5

6 DIRECT EXAMINATION (REOPENED)

7 BY MS. ABRAMSON:

8 Q IN YOUR OBSERVATIONS OF HOW MARCIA LEWIS

9 CONDUCTS THE INTERVIEWING CONTACTS WITH PARENTS, I

10 MEAN, DOES SHE MAKE HANDWRITTEN NOTES BASED ON HER

11 CONTACTS WITH THE PARENTS?

12 A SOMETIMES.

13 Q DOES SHE WRITE UP OR DICTATE, AS WE HAVE
14 IN THIS FORM, THE MATERIAL FROM THOSE NOTES?

15 A YES.

16 Q WITH RESPECT TO THESE INITIAL CONTACTS,
17 DO THEY COVER -- AND HAVE YOU SEEN HER, FOR EXAMPLE,
18 WRITE UP A SERIES OF NOTES AND GO BACK LATER AND ADD
19 ADDITIONAL ITEMS OVER TIME, AS OTHER THINGS HAPPEN
20 BETWEEN HER AND THE PARENTS?

21 A YES.

22 Q AND IS THAT WHAT THIS SERIES OF NOTES
23 REFLECT, THE INITIAL INTERVIEW WITH MRS. MENENDEZ, A
24 FOLLOW-UP, OR LACK OF FOLLOW-UP, AND ERIK'S
25 COMPLETION, OR LACK OF COMPLETION OF THE PROGRAM?

26 A YES.

27 MS. NAJERA: I'M GOING TO OBJECT. NO
28 PERSONAL KNOWLEDGE OF THIS WITNESS.

53527

1 THE COURT: THE DOCUMENTS SPEAK FOR
2 THEMSELVES.

3 BUT THAT REALLY ISN'T HER ROLE HERE.

4 MS. ABRAMSON: I WANT THE COURT TO KNOW
5 WHAT'S IN HERE. THE COURT HASN'T SEEN --

6 THE COURT: IT'S TRUE, I HAVE NOT SEEN THEM.

7 BUT LET'S GET TO HER KNOWLEDGE OF THE PREPARATION OF
8 DOCUMENTS SUCH AS THESE AND WHERE THE RECORDS CAME
9 FROM.

10 MS. ABRAMSON: OKAY.

11 Q DOES MS. LEWIS HERSELF TYPE UP THIS FORM
12 FROM HER --

13 A YES. IT'S ON A COMPUTER.

14 THE COURT: SHE PERSONALLY TYPES THEM UP?

15 THE WITNESS: YEAH. VERY OFTEN. WHETHER SHE
16 DID THIS --

17 THE COURT: IT DOESN'T MATTER IF SHE DOES IT
18 HERSELF OR GIVES THEM TO SOMEONE ELSE, BUT IT'S DONE
19 UNDER HER DIRECTION?

20 THE WITNESS: YES.

21 THE COURT: ROUGH NOTES TYPED UP IN THIS
22 FINAL VERSION?

23 THE WITNESS: YES.

24 THE COURT: AND THE FINAL VERSION IS A
25 RECORDATION OF THE EVENTS THAT OCCURRED
26 CONTEMPORANEOUS WITH THE DATES REFLECTED ON THE
27 DOCUMENTS?

28 THE WITNESS: YES, SIR.

53528

1 THE COURT: AND SOMETIMES SHE KEEPS THE NOTES

2 AND SOMETIMES SHE DOESN'T, THE HANDWRITTEN NOTES?

3 THE WITNESS: YES. YES.

4 Q BY MS. ABRAMSON: AND THEN SHE PUTS THE

5 WRITE-UP IN THE FILE OF THE STUDENT?

6 A YES. YEAH.

7 Q AND THAT'S WHY YOU'VE SEEN WRITE-UPS

8 LIKE THIS THAT TALK ABOUT INITIAL CONTACTS AND

9 FOLLOW-UPS IN OTHER STUDENT FILES?

10 A YES.

11 Q AND IT'S YOUR UNDERSTANDING MRS. LEWIS

12 HERSELF DOES ALL THE INTAKES?

13 A YES.

14 Q AND YOU DISCUSSED THIS PARTICULAR CASE

15 WITH HER, DID YOU NOT? I MEAN, SHE INDICATED SHE'S

16 THE ONE WHO DID THIS WRITE-UP?

17 A OH, ABSOLUTELY. ABSOLUTELY.

18 Q SHE'S THE ONE WHO WOULD WRITE IN THAT

19 TYPE OF INFORMATION?

20 A ABSOLUTELY.

21 MS. NAJERA: I'M GOING TO OBJECT. THIS CALLS

22 FOR HEARSAY.

23 THE COURT: THE QUESTION IS COMPOUND AND THE

24 ANSWER'S STRICKEN.

25 MS. ABRAMSON: ALL RIGHT.

26 ANYTHING ELSE, YOUR HONOR?

27 THE COURT: I JUST WANT TO LISTEN TO WHATEVER

28 ELSE YOU OR THE PROSECUTION HAS TO ASK. I WAS JUST

1 TRYING TO CLARIFY WHAT HER ROLE HAS BEEN.

2 ANYTHING ELSE FROM THE PROSECUTION?

3 MS. NAJERA: JUST A COUPLE OF QUESTIONS,

4 MA'AM.

5

6 CROSS-EXAMINATION (RESUMED)

7 BY MS. NAJERA:

8 Q THESE ARE MRS. LEWIS' RECORDS, I TAKE

9 IT; IS THAT CORRECT?

10 A YES.

11 Q AND MRS. LEWIS MAINTAINS THESE RECORDS;

12 IS THAT RIGHT?

13 A YES.

14 Q AND MRS. LEWIS IS THE INDIVIDUAL WHO

15 IS -- WHO PUT THIS FILE TOGETHER; IS THAT CORRECT?

16 A YES.

17 Q AND --

18 A WITH --

19 MS. ABRAMSON: IF THAT'S NOT ACCURATE, YOU

20 CAN EXPLAIN.

21 THE WITNESS: OTHER -- THE PEOPLE WHO CONDUCT

22 THE TESTS GIVE THE TEST TO -- OTHER PAPERS ARE GIVEN

23 TO HER TO PUT IN HERE. THESE AREN'T ALL HER --

24 OBVIOUSLY --

25 MS. NAJERA: RIGHT.

26 Q THE PEOPLE WHO CONDUCT THESE TESTS GIVE
27 HER THE RESULTS OF THE TEST?

28 A RIGHT. RIGHT.

53530

1 Q AND SHE MAINTAINS THE FILE ON IT?

2 A RIGHT. RIGHT.

3 Q AND YOUR INVOLVEMENT IN THIS IS THAT
4 MRS. LEWIS, WHO MAINTAINS THE FILES, HANDED YOU THIS
5 FILE TO BRING TO COURT TODAY?

6 A YES. BECAUSE SHE WAS UNABLE, YES.

7 Q AND JUST ONE LAST QUESTION.

8 IN THIS TWO-PAGE THING, DOCUMENT, THEY
9 TALK ABOUT A REPORT OF "A VERBAL PARENT CONFERENCE
10 WILL FOLLOW IN THIS REPORT."

11 WHERE IS THAT?

12 A THAT'S ON A DISK -- SHE TOLD ME -- ON A
13 DISK IN A COMPUTER. AND THE COMPUTER BROKE DOWN
14 WHEN THIS WAS DONE ORIGINALLY.

15 Q IN 1986?

16 A WHENEVER THE DATE IS. YES.

17 Q UH-HUH. SO WHERE'S THE DOCUMENT NOW?

18 A IT'S ON A DISK, AND THERE WAS A
19 BREAKDOWN -- THE MACHINE BROKE DOWN AND SHE WASN'T

20 ABLE TO RETRIEVE IT.

21 Q SO THESE DOCUMENTS ARE NOT COMPLETE?

22 A THE REASON SHE DIDN'T SEND THIS TOO WAS
23 BECAUSE -- I DON'T KNOW IF SHE TOLD MRS. ABRAMSON --
24 THERE MIGHT BE SOME OTHER INFORMATION OF OTHER
25 STUDENTS ON THERE WHICH IS CONFIDENTIAL, SO SHE
26 DIDN'T WANT TO SEND THE DISK.

27 THE COURT: SEND WHAT? SEND WHAT?

28 THE WITNESS: I THINK THIS IS REFERRING TO A

53531

1 DISK -- THIS IS THE FIRST TIME I'M SEEING IT. I
2 BELIEVE THAT'S WHAT IT REFERS TO.

3 THE COURT: WHAT?

4 THE WITNESS: I'M SORRY.

5 THE COURT: WHAT? WHAT IS IT?

6 THE WITNESS: THE DISK. I BELIEVE THAT'S
7 WHAT THIS MEANS.

8 MS. NAJERA: IF I MAY, I'M GOING TO READ INTO
9 THE RECORD.

10 ON THIS DOCUMENT --

11 A MRS. MEZEY.

12 Q I'M SORRY. WHAT MS. MEZEY IS ATTEMPTING
13 TO AUTHENTICATE, IS A LINE, A REPORT OF A VERBAL
14 PARENT CONFERENCE WITH MRS. MENENDEZ REGARDING

15 ERIK'S TEST RESULTS: "ANALYSIS AND RECOMMENDATIONS
16 WILL FOLLOW."
17 THE COURT: THAT IS HANDWRITTEN OR --
18 MS. NAJERA: IT IS A PART OF THE DOCUMENT.
19 THE COURT: OKAY. LET ME ASK YOU THIS: WAS
20 THIS PARTICULAR DOCUMENT THAT HAS BEEN REFERRED TO
21 HERE, THIS TYPEWRITTEN DOCUMENT THAT YOU'VE BEEN
22 LOOKING AT, JUST RECENTLY PRINTED OUT FROM A
23 COMPUTER, OR WAS IT IN THE FILE WHEN IT WAS OBTAINED
24 FROM THE SCHOOL RECORDS?
25 THE WITNESS: IT WAS IN THE FILE WHEN IT WAS
26 OBTAINED FROM THE SCHOOL RECORDS.
27 THE COURT: AND YOU'RE SAYING THIS WAS
28 PREPARED IN 1976 -- '86.

53532

1 THE WITNESS: '86.
2 THE COURT: AND HOW IS IT THAT SOMEONE HAS A
3 RECOLLECTION FROM 1986 TO NOW THAT THERE WAS A DISK
4 THAT HAD SOME INFORMATION ON IT?
5 THE WITNESS: MAYBE THAT'S NOT WHAT THAT
6 REFERS TO. I'M SORRY. I'M NOT --
7 THE COURT: SOMEONE TOLD YOU ABOUT A DISK?
8 THE WITNESS: YES.
9 THE COURT: WHEN YOU'RE TALKING ABOUT A DISK,

10 YOU'RE TALKING ABOUT A HARD DISK OR A FLOPPY DISK?
11 DO YOU KNOW?
12 THE WITNESS: I DON'T KNOW. I THOUGHT IT WAS
13 A HARD DISK. SHE MENTIONED OLIVETTI.
14 THE COURT: ON SOME SORT OF WORD PROCESSOR;
15 IS THAT RIGHT?
16 THE WITNESS: (NODDING HEAD.)
17 THE COURT: IS THAT RIGHT?
18 THE WITNESS: YES. A VERY OLD ONE.
19 THE COURT: SOMEHOW THERE MIGHT BE MORE
20 RECORDS CONTAINED ON THAT HARD DISK ABOUT THIS
21 MATTER; IS THAT RIGHT OR INFORMATION?
22 THE WITNESS: I BELIEVE SHE FEELS THERE MIGHT
23 BE SOMETHING ON THERE.
24 THE COURT: AND SHE CANNOT PRINT IT OUT?
25 THE WITNESS: RIGHT.
26 THE COURT: AND, THEREFORE, THERE WAS SOME
27 COMMUNICATION ABOUT WOULD SHE SEND THE ENTIRE HARD
28 DISK; IS THAT WHAT YOU'RE SAYING? SHE DECIDED NOT

53533

1 TO DO IT? DID SHE TELL YOU THIS?
2 MS. ABRAMSON: COULD I MAKE IT SIMPLER? LET
3 ME JUST MAKE A RECORD.
4 WE'VE HAD THIS DOCUMENT, THIS INITIAL

5 CONTACT, THESE THREE PAGES THAT ARE IN QUESTION,
6 SINCE A YEAR PRIOR TO THE FIRST TRIAL. SO WE
7 CERTAINLY KNOW THE DOCUMENT WAS PREPARED EARLIER
8 THAN 1992 BECAUSE WE'VE HAD IT. OKAY? NOW I WILL
9 JUST TELL THE COURT WHAT I KNOW.

10 I ASKED MS. LEWIS ABOUT THAT NOTATION--
11 WHICH IF WE WERE GOING TO OFFER THESE RECORDS I'D
12 TAKE THAT OFF -- THE REPORT OF A VERBAL PARENT
13 CONFERENCE, BECAUSE I DID THE SAME THING MS. NAJERA
14 DID. I ASKED MRS. LEWIS: "WHERE IS THAT REPORT?"

15 AND WHAT SHE TOLD ME WAS THERE WAS NO
16 FOLLOW-UP CONFERENCE, SO THERE IS NO REPORT. AT THE
17 TIME SHE WROTE THIS DOCUMENT, UNDER ITEM NO. 11 SHE
18 ANTICIPATED THERE WOULD BE A FOLLOW-UP CONFERENCE,
19 AND THERE NEVER WAS.

20 AND SO THAT IS WHY THE RECORDS IN THE
21 FILE DO NOT HAVE A FOLLOW-UP CONFERENCE. I DON'T
22 KNOW ANYTHING ABOUT DISKS OR DOCUMENTS ON DISKS.
23 I'VE NEVER REQUESTED A DISK. ALL I REQUESTED FROM
24 MARCIA LEWIS WAS THE CONTENTS OF THIS FILE. AND MY
25 UNDERSTANDING IS -- THIS INITIAL CONTACT INFORMATION
26 WE'VE HAD SINCE '92. THIS WAS NOT ONE OF THE NEWER
27 THINGS THAT WE NOTICED TODAY.

28 AND WHAT THIS WITNESS TOLD ME WAS MARCIA

1 LEWIS GAVE HER A SEALED ENVELOPE, BECAUSE SHE --
2 THIS WITNESS IS FAMILIAR WITH THE DOCUMENTS THAT ARE
3 MAINTAINED IN STUDENTS' FILES -- BUT SHE GAVE HER A
4 SEALED ENVELOPE, THINKING SOMEHOW THAT WOULD
5 PRESERVE THE CHAIN OF CUSTODY. AND THAT'S WHY THE
6 WITNESS DID NOT LOOK AT THE ACTUAL DOCUMENTS TILL
7 AFTER I OPENED THE SEALED ENVELOPE, WHEN SHE BROUGHT
8 IT TO COURT THIS MORNING.

9 BUT MY UNDERSTANDING IS THIS WITNESS WAS
10 SENT BECAUSE SHE IS FAMILIAR WITH THE CONTENTS OF
11 THESE FILES.

12 THE COURT: I'VE HEARD HER TESTIMONY. I
13 DON'T NEED YOUR UNDERSTANDING.

14 MS. ABRAMSON: I'VE HAD A COPY OF THIS
15 INITIAL CONTACT STUFF FOR YEARS. SO IT CERTAINLY
16 WASN'T GENERATED FOR THIS TRIAL. AND IT WAS MY
17 UNDERSTANDING THAT IT'S SOMETHING THAT WAS GENERATED
18 SHORTLY -- THAT THE NOTES WERE CONTEMPORANEOUS, AND
19 THE TYPED FORM WAS GENERATED SHORTLY AFTER ERIK
20 MENENDEZ COMPLETED THE COURSE OF STUDY THERE.

21 AND WHEN I ASKED HER ABOUT ANY FOLLOW-UP
22 REPORT, SHE SAID THERE WASN'T ANY, AND THAT'S ALL I
23 KNOW ABOUT IT.

24 THE COURT: ALL RIGHT. ANY FURTHER
25 QUESTIONS?

26 MS. NAJERA: I JUST -- I DON'T KNOW IF THIS
27 WITNESS CAN ANSWER THAT. THERE IS A PROBLEM WITH
28 SOMETHING COUNSEL JUST STATED.

1 YOUR HONOR, MAYBE I SHOULD MARK THESE SO
2 THE COURT CAN READ THEM.

3 THE COURT: OKAY. YOU CAN MARK THEM. SURE.

4 MS. NAJERA: IF I MAY, I'D LIKE TO MARK THEM
5 NEXT IN ORDER, THE THREE DOCUMENTS WHICH THE PEOPLE
6 ARE CONCERNED WITH. ONE IS MARKED PAGE 2, ONE IS
7 MARKED PAGE 3, AND ONE IS ENTITLED "EDUCATIONAL
8 SCREENING, SUMMARY EVALUATION ANALYSIS."

9 WOULD YOU LIKE THEM MARKED SEPARATELY OR
10 TOGETHER?

11 THE COURT: LET'S MARK IT 458.

12 MS. NAJERA: 458. THANK YOU, YOUR HONOR.

13 Q AND MA'AM, WITH REGARDS TO THAT PORTION
14 THAT COUNSEL NOW STATES IS A MISTAKE, THAT APPEARS --

15 MS. ABRAMSON: I DIDN'T SAY IT WAS A
16 MISTAKE.

17 MS. NAJERA: IT APPEARS TO REFER TO AN
18 ASTERISKED PARAGRAPH IN THIS DOCUMENT.

19 IN THAT ASTERISKED PARAGRAPH THEY TALK
20 ABOUT THE FIRST INTERVIEW, AND MRS. LEWIS EXPECTED
21 TO GET MORE DOCUMENTS, AND THEN SHE STATES THAT SHE
22 NEVER GOT THOSE DOCUMENTS.

23 Q DO YOU SEE THAT PARAGRAPH THERE?

24 A YES.

25 Q AND THEN SHE STATES THAT, IN FACT, THERE
26 IS, HOWEVER, A VERBAL REPORT OF A CONFERENCE,
27 INDICATING THAT THERE IS ALREADY IN EXISTENCE A
28 VERBAL REPORT.

53536

1 DO YOU KNOW ANYTHING ABOUT ANY DOCUMENTS
2 CONNECTED WITH THAT?

3 A NO, I DON'T.

4 Q AND DO YOU HAVE ANY PERSONAL KNOWLEDGE
5 OF WHEN THIS DOCUMENT WAS GENERATED OUT OF THE
6 COMPUTER?

7 A NO, I DON'T.

8 MS. NAJERA: YOUR HONOR, I HAVE NOTHING
9 FURTHER FROM THIS WITNESS.

10 THE COURT: OKAY. ANYTHING ELSE?

11 MS. ABRAMSON: NO, YOUR HONOR.

12 THE COURT: OKAY. THANK YOU. YOU MAY STEP
13 DOWN.

14 OKAY. WHAT IS IT THAT YOU WANT TO DO
15 WITH THIS NOW? YOU WANT TO INTRODUCE THE DOCUMENTS
16 OR JUST REFER TO THEM?

17 MS. ABRAMSON: I WANT DR. HART TO BE ABLE TO
18 REFER TO THEM AND TO THE CONTENTS OF THEM. I DON'T

19 NECESSARILY WANT TO INTRODUCE THEM OR HAVE THE JURY
20 READ THEM. I JUST WANT HIM TO BE ABLE TO REFER,
21 DURING THE COURSE OF HIS TESTIMONY, TO THE PARTS OF
22 THIS DOCUMENT THAT MAY BE RELEVANT. IT MAY TURN OUT
23 HE DOESN'T REFER TO ANYTHING IN HERE. BUT I'D
24 LIKE --

25 THE COURT: THAT WOULD BE A TREMENDOUS WASTE
26 OF OUR TIME THEN THAT WE'VE GONE THROUGH THIS.

27 MS. ABRAMSON: HE'S NOT LIKE A PARROT. I
28 DON'T TELL HIM EVERY WORD TO SAY.

53537

1 I KNOW THIS IS SIGNIFICANT TO HIM, AND
2 HE MAY SPECIFICALLY REFER TO IT, OR HE MAY REFER
3 GENERALLY TO THE LEWIS SCHOOL RECORDS, AND REFER TO
4 THEIR SPECIFIC CONTENTS. AND TO AVOID OBJECTION ON
5 HEARSAY GROUNDS, I WANTED TO HAVE THE RECORDS
6 ADMISSIBLE.

7 NOW, I TAKE IT THE PEOPLE ARE PREPARED
8 TO STIPULATE TO ALL THE OTHER RECORDS FROM THE LEWIS
9 SCHOOL THAT HAVE BEEN TURNED OVER TO THEM AND THAT
10 ARE IN THIS FILE, AND THE ONLY FIGHT IS OVER A
11 PORTION OF PAGE 3 OF FOUR PAGES, AND PAGES 1 AND 2.

12 BUT THAT'S THEIR PURPOSE. I MEAN, IF
13 THE COURT WANTS TO LOOK IT OVER AND DETERMINE IF

14 THERE'S ANY PARTS THAT SHOULD NOT BE REFERRED TO,
15 FINE.
16 THE RELEVANT THING ABOUT THIS IS,
17 BASICALLY, MRS. MENENDEZ, HOW SHE PRESENTED HERSELF
18 TO THE SCHOOL CONCERNING THIS ISSUE OF A CHILD OF
19 HERS HAVING LEARNING DISABILITIES, WHICH WAS KIND OF
20 CONSISTENT WITH WHAT WE HAVE HEARD FROM WITNESSES
21 SUCH AS FAITH GOLDSMITH; AND THE FACT THAT SHE
22 FAILED -- THAT SHE AND HER HUSBAND, BETWEEN THEM,
23 FAILED TO ALLOW ERIK TO BE FULLY TESTED, INCLUDING
24 PSYCHOLOGICAL TESTS, WHICH WOULD HAVE BEEN REQUIRED,
25 FAILED TO RETURN THE PARENT HISTORY FORM TO GIVE THE
26 SCHOOL ENOUGH INFORMATION TO DO A THOROUGH
27 EVALUATION, AND BASICALLY, DENIED HIM WHAT HE NEEDED
28 AT THAT TIME, WHICH WAS A THOROUGH EVALUATION.

53538

1 AND WE KNOW FROM HIS OWN TESTIMONY AND
2 FROM OTHER THINGS THAT THERE'S NO FOLLOW-UP AFTER
3 THIS. HE'S NEVER ACTUALLY GIVEN ANY KIND OF
4 REMEDIAL EDUCATION.
5 SO THAT'S SIGNIFICANT FROM A
6 PSYCHOLOGICAL MALTREATMENT STANDPOINT AS DENYING
7 EDUCATIONAL NEEDS. THAT'S THE PURPOSE OF IT.
8 THE COURT: OKAY. WHAT IS THE PEOPLE'S

9 POSITION?

10 MS. NAJERA: WELL, YOUR HONOR, FROM WHAT
11 COUNSEL JUST SAID, IT SOUNDS LIKE THIS IS
12 CUMULATIVE. ALL OF THIS HAS COME IN IN ONE FORM OR
13 ANOTHER BEFORE THIS JURY.

14 OUR CONCERN WITH THESE RECORDS IS THEY
15 PRESENT TWO PROBLEMS. IF YOU BELIEVE COUNSEL'S
16 VERSION OF THE EVENTS, THEY'RE INACCURATE.

17 IF THEY'RE INACCURATE, HOW CAN THE
18 CUSTODIAN OF RECORDS COME IN AND SAY THESE ARE AN
19 ACCURATE RENDITION OF WHAT TOOK PLACE, WHEN THEY
20 REFER TO A MEETING THAT APPARENTLY ALREADY TOOK
21 PLACE, WHICH MS. ABRAMSON NOW SAYS NEVER TOOK
22 PLACE? RIGHT THERE YOU HAVE A REAL PROBLEM WITH THE
23 AUTHENTICITY OF THESE AT THIS POINT.

24 SECONDLY, IF YOU DO VIEW THESE AS
25 ACCURATE, THEY ARE INCOMPLETE BECAUSE THEY ARE
26 TALKING ABOUT REPORTS THAT AREN'T IN THE FILE.

27 MY INITIAL CONCERN IS I DON'T BELIEVE WE
28 HAVE A TRUE CUSTODIAN OF RECORDS HERE. APPARENTLY

53539

1 THE PERSON WHO MAINTAINS THESE RECORDS IS
2 MRS. LEWIS. SHE IS THE ONLY PERSON THAT CAN TALK
3 ABOUT HOW THESE DOCUMENTS ARE MADE, WHETHER OR NOT

4 THESE PARTICULAR DOCUMENTS WERE CREATED IN THE
5 REGULAR COURSE OF BUSINESS AT OR NEAR THE TIME OF
6 THE ACT, CONDITION, OR EVENT. SHE APPARENTLY REALLY
7 DOESN'T HAVE MUCH CONTACT WITH THESE DOCUMENTS,
8 EXCEPT SHE IS HANDED THE FILES FROM MRS. LEWIS TO
9 MAINTAIN THE FILES. THERE'S A QUESTION OF
10 AUTHENTICITY AS TO THESE DOCUMENTS.

11 THERE'S A QUESTION AS TO WHETHER OR NOT
12 THEY ARE TRUE AND CORRECT. AND -- THERE'S A REAL
13 ISSUE THERE, I BELIEVE, YOUR HONOR. AND THAT'S WHY
14 WE FEEL THAT THESE DOCUMENTS SHOULD NOT BE ADMITTED
15 BEFORE A JURY.

16 THE COURT: OKAY. AS FAR AS THEIR
17 COMPLETENESS, THAT IS AN ISSUE OF SOME UNCERTAINTY
18 FROM WHAT HAS BEEN PRESENTED HERE.

19 IS THERE SOME REASON WHY MRS. LEWIS
20 COULDN'T --

21 MS. ABRAMSON: OH, YES.

22 THE COURT: -- FAX A CERTIFICATION OF
23 AUTHENTICATION AS TO THESE BEING THE RECORDS?

24 MS. ABRAMSON: SHE'S PUT A CERTIFIED SEAL ON
25 EACH AND EVERY PAGE OF THE RECORDS. I MAY,
26 SOMEWHERE IN MY FILE, HAVE A CERTIFICATION FROM WAY
27 BACK WHEN.

28 THE COURT: IS SHE STILL AROUND WHERE SHE CAN

1 STILL SEND SOMETHING SAYING: THESE ARE THE RECORDS
2 I PREPARED. THEY'RE COMPLETE?

3 MS. ABRAMSON: IF THAT'S ALL YOU NEED, I
4 WOULD BE HAPPY TO GET IT. I DIDN'T THINK THAT WOULD
5 SUFFICE.

6 THE COURT: IN CONJUNCTION WITH THIS
7 TESTIMONY FROM THIS LADY, I THINK THAT WILL BE
8 SUFFICIENT.

9 MS. ABRAMSON: SHE HAS HEALTH PROBLEMS.
10 THAT'S WHY SHE DIDN'T COME HERSELF.

11 THE COURT: I CAN YOU UNDERSTAND THAT, BUT
12 STILL, THERE HAS TO BE SOME AUTHENTICATION.

13 AS FAR AS THE ADMISSIBILITY OF
14 PARTICULAR EVIDENCE, THAT'S A SEPARATE ISSUE, AS FAR
15 AS WHAT CAN AND CANNOT BE SAID BY DR. HART.

16 OTHER THAN THIS ISSUE, IS THERE ANYTHING
17 WE HAVE TO DO BEFORE WE HAVE THE JURY COME OUT?

18 MS. ABRAMSON: NO.

19 MS. NAJERA: NO.

20 THE COURT: READY TO HAVE TESTIMONY FROM
21 DR. HART? AND PERHAPS YOU CAN HOLD OFF ON THIS AREA
22 OF INQUIRY UNTIL WE GET A LITTLE MORE INFORMATION.

23 MS. ABRAMSON: I'M HOPING TO FINISH DR. HART
24 TODAY.

25 THE COURT: SEE WHAT WE CAN DO. MAYBE THIS
26 LADY CAN MAKE A CALL AND GET A FAX NUMBER OR

27 SOMETHING WHERE YOU CAN --

28 ALL RIGHT. LET'S GET THE JURY OUT.

53541

1 (THE JURY ENTERED THE COURTROOM
2 AND THE FOLLOWING PROCEEDINGS
3 WERE HELD:)

4

5 THE COURT: THE JURY IS IN THE JURY BOX.

6 GOOD MORNING. GOOD AFTERNOON. WHATEVER
7 IT IS. SORRY FOR THE DELAY. SOME UNEXPECTED ISSUES
8 AROSE, AND IT REQUIRED SOME TIME TO DEAL WITH THEM.
9 IF I HAD KNOWN YESTERDAY, I CERTAINLY WOULD HAVE
10 TOLD YOU, BUT I DIDN'T KNOW UNTIL THIS MORNING. I
11 APOLOGIZE FOR THAT.

12 WE'RE READY NOW TO RESUME. AND THE
13 DEFENSE WILL CALL ITS NEXT WITNESS.

14 MS. ABRAMSON: THANK YOU, YOUR HONOR.

15 WE'D CALL STUART HART.

16

17 STUART HART,
18 WAS CALLED AS A WITNESS BY THE DEFENSE WAS DULY
19 SWORN, AND TESTIFIED AS FOLLOWS:

20 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE
21 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING

22 BEFORE THIS COURT, SHALL BE THE TRUTH, THE WHOLE
23 TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOU GOD.
24 THE WITNESS: I DO.
25 THE CLERK: PLEASE BE SEATED.
26 PLEASE TAKE THE STAND AND STATE YOUR
27 NAME FOR THE RECORD.
28 THE WITNESS: STUART HART, H-A-R-T.

53542

1
2 DIRECT EXAMINATION
3 BY MS. ABRAMSON:
4 Q PROFESSOR HART, WHAT DO YOU DO FOR A
5 LIVING?
6 A I'M A PROFESSOR AT INDIANA AND PURDUE
7 UNIVERSITY.
8 Q AND WHAT ARE YOU A PROFESSOR OF AT
9 INDIANA AND PURDUE?
10 A COUNSELING AND EDUCATIONAL PSYCHOLOGY.
11 Q DO YOU HAVE A PARTICULAR AREA OF
12 PSYCHOLOGY THAT YOU HAVE FOCUSED ON OVER THE COURSE
13 OF YOUR CAREER?
14 A THE MAJOR AREAS HAVE BEEN PSYCHOLOGY
15 APPLIED TO SCHOOLING AND TO CHILD DEVELOPMENT, AND
16 PSYCHOLOGICAL MALTREATMENT OF CHILDREN AND

17 CHILDREN'S RIGHTS.

18 Q AND BEFORE YOU WERE A PROFESSOR OF

19 COUNSELING AND EDUCATIONAL -- EDUCATIONAL PSYCHOLOGY

20 IS ALSO KNOWN AS SCHOOL PSYCHOLOGY?

21 A NO. IT'S A SPECIAL BRANCH WITHIN THAT.

22 Q WITHIN WHAT?

23 A WITHIN -- WELL, WITHIN PSYCHOLOGY AND

24 WITHIN EDUCATION. IT COMBINES THE TWO.

25 Q AND WHAT IS THE USE OF PSYCHOLOGY JOINED

26 TO EDUCATION? I MEAN --

27 A A VARIETY OF USES.

28 TO HELP THOSE WHO ARE WORKING WITH

53543

1 STUDENTS UNDERSTAND THEM, THEIR STRENGTHS,

2 WEAKNESSES AND NEEDS.

3 TO HELP THEM DEVELOP PROGRAMS TO FIT

4 THAT PARTICULAR PATTERN.

5 TO GUIDE PARENTS AND SCHOOL TEACHERS IN

6 DOING THE BEST THEY CAN TO REAR CHILDREN TOGETHER.

7 Q BEFORE YOU WERE A PROFESSOR, WERE YOU AN

8 ASSOCIATE IN THE SAME FIELD OF COUNSELING AND

9 EDUCATIONAL PSYCHOLOGY?

10 A YES.

11 Q AT THE SAME SCHOOL?

12 A YES.

13 Q BEFORE THAT YOU WERE AN ASSISTANT

14 PROFESSOR OF EDUCATIONAL PSYCHOLOGY AT THE SAME

15 UNIVERSITY?

16 A YES.

17 Q AND BEFORE THAT WERE YOU THE DIRECTOR OF

18 A UNIT AT A HOSPITAL?

19 A YES.

20 Q WHAT WERE YOU A DIRECTOR OF?

21 A I WAS DIRECTOR OF THE LEARNING

22 DISABILITIES UNIT OF THE STATE'S CHILDREN'S

23 HOSPITAL.

24 Q THAT'S THE INDIANA CHILDREN'S HOSPITAL?

25 A IT'S CALLED RILEY CHILDREN'S HOSPITAL.

26 IT IS THE STATE'S ONLY CHILDREN'S HOSPITAL.

27 Q THAT'S THE STATE OF INDIANA?

28 A YES. RIGHT.

53544

1 Q YOU ACTUALLY GREW UP IN CALIFORNIA?

2 A I GREW UP IN CALIFORNIA. I'M ONE OF

3 THOSE STRANGE ONES WHO MOVED THAT WAY.

4 Q YOU LEFT CALIFORNIA AND WENT TO THE

5 MIDWEST?

6 A RIGHT.

7 Q OKAY. AND BEFORE YOU WERE THE DIRECTOR
8 OF THE LEARNING DISABILITIES UNIT AT RILEY
9 CHILDREN'S HOSPITAL, WHAT DID YOU DO?

10 A I WAS STATE SUPERVISOR FOR THE SCHOOL OF
11 PSYCHOLOGY FOR INDIANA, AND OTHER THINGS BEFORE THAT.

12 Q SO YOU'VE BEEN INVOLVED IN PSYCHOLOGY,
13 EDUCATION, CHILDREN, CHILDREN'S LEARNING, CHILDREN'S
14 DEVELOPMENT, WOULD IT BE FAIR TO SAY, YOUR WHOLE
15 CAREER?

16 A YES. WHOLE PROFESSIONAL CAREER.

17 Q AND IN RECENT YEARS HAS YOUR FOCUS BEEN
18 ON TRYING TO BRING ABOUT A SYSTEMATIC WAY OF
19 DESCRIBING AND EVALUATING WHAT'S COME TO BE KNOWN AS
20 THE PSYCHOLOGICAL MALTREATMENT OF CHILDREN?

21 A YES. THAT'S TRUE.

22 Q WOULD YOU TELL US, BASICALLY -- I MEAN,
23 WE HEAR A LOT ABOUT CHILD ABUSE. WHAT'S THE
24 PSYCHOLOGICAL MALTREATMENT OF CHILDREN, AS COMPARED
25 TO JUST THE GENERAL LANGUAGE, CHILD ABUSE?

26 A WELL, IT FOCUSES PARTICULARLY ON
27 INTERPERSONAL RELATIONSHIPS, AND THE MESSAGES AND
28 TREATMENT OF CHILDREN TO THE PARENT, THEIR INTERACTIONS.

53545

1 IT'S BEEN RECOGNIZED FOR A LONG TIME AS

2 A MAJOR PROBLEM AREA, ISSUE AREA. IT USED TO BE
3 CALLED -- IN FACT, IN THE FEDERAL STATUTE IT'S
4 REFERRED TO AS "MENTAL INJURY," THAT POSSIBILITY OF
5 HARM.

6 ACROSS THE COUNTRY IT WAS REFERRED TO AS
7 "EMOTIONAL ABUSE"; AND YET, QUITE FREQUENTLY -- OR
8 EMOTIONAL MALTREATMENT. AND THAT AREA PRESENTED
9 QUITE A DILEMMA TO THE FIELD, BECAUSE MANY OF THE
10 SPECIALISTS -- I'M TALKING ABOUT IN THE LAST 20
11 YEARS OR SO -- REALIZED IT WAS AN AREA OF VERY --
12 WHERE VERY SERIOUS PROBLEMS DEVELOPED. BUT THEY
13 DIDN'T HAVE A WAY TO LOOK AT IT WHICH THEY AGREED ON
14 IN TERMS OF STANDARDS AND CRITERIA AND SO ON.

15 AND SO THAT BECAME A STRONGER INTEREST
16 FOR ME AND A NUMBER OF MY COLLEAGUES, TO TRY TO HELP
17 TO SYSTEMATIZE THAT SO THERE COULD BE COMMON GROUNDS
18 AND PEOPLE DOING RESEARCH AND PEOPLE WHO WERE
19 ATTEMPTING TO INTERVENE TO HELP, WERE TALKING ABOUT
20 THE SAME THINGS, AND WERE ABLE TO RELATE THE BODIES
21 OF KNOWLEDGE AND EXPERTISE.

22 Q IT'S NOT A NEW CONCEPT, IS IT, THAT YOU
23 CAN HARM A CHILD PSYCHOLOGICALLY WITHOUT EVER LAYING
24 A HAND ON THEM?

25 MR. CONN: OBJECTION. LEADING.

26 THE COURT: OVERRULED.

27 THE WITNESS: NO. NO. OF COURSE NOT.

28 IN FACT, MOST OF US REMEMBER THE OLD

1 RHYME: "STICKS AND STONES CAN BREAK MY BONES, BUT
2 WORDS CAN NEVER HURT ME." THAT'S PRETTY MUCH BEEN
3 TRANSLATED INTO: "BUT WORDS CAN HURT FOREVER."

4 SO PEOPLE HAVE REALIZED THAT FOR A LONG
5 TIME.

6 Q BY MS. ABRAMSON: PEOPLE REALIZE THAT
7 WORDS DO HURT CHILDREN?

8 A WORDS DO HURT CHILDREN, YES.

9 Q AND HAVE PEOPLE IN THE FIELD REALIZED
10 FOR A LONG TIME THAT BEHAVIOR SHORT OF PHYSICAL
11 ABUSE OR SEXUAL ABUSE CAN HURT A CHILD?

12 A YES. I THINK THEY HAVE.

13 Q AND HAS IT BEEN RECOGNIZED FOR A LONG
14 TIME THAT YOU CAN HURT A CHILD BY THE THINGS YOU
15 DON'T DO?

16 A OH. VERY DEFINITELY. PROBABLY THE AREA
17 FOR WHICH THERE'S BEEN THE MOST KNOWLEDGE AVAILABLE
18 HISTORICALLY IN THAT REGARD IS CONDITIONS IN WHICH
19 CHILDREN ARE NOT SHOWN AFFECTION, LOVE, SENSITIVE
20 CARE IN THE EARLY MONTHS AND YEARS OF THEIR LIVES,
21 WHICH HAS PRODUCED -- BEEN ASSOCIATED WITH ALL KINDS
22 OF RETARDATION IN DEVELOPMENT, AND EVEN HIGH LEVELS
23 OF DEATH FOR INFANTS AND CHILDREN. IT'S COMMONLY
24 CALLED "NON-ORGANIC FAILURE TO THRIVE."

25 Q AND THAT'S SITUATIONS WHERE CHILDREN ARE

26 FED AND CHILDREN ARE CLOTHED AND THEY'RE KEPT WARM
27 AND SHELTERED?
28 A YES.

53547

1 Q BUT THEY'RE JUST NOT GIVEN ATTENTION OR
2 LOVE OF A POSITIVE KIND?

3 A THAT'S RIGHT. THAT'S IT. THE PHYSICAL
4 NEEDS ARE TAKEN CARE OF, AND THAT'S NOT ENOUGH.

5 Q IS THAT SOMETHING THAT'S BEEN WRITTEN
6 ABOUT A LOT RECENTLY CONCERNING THESE CHILDREN IN
7 ROMANIA, ORPHANS WHO ARE ATTENDED TO, BUT THEY'RE
8 NOT DEVELOPING PROPERLY BECAUSE THEY'RE NOT GETTING
9 ANY ONE-ON-ONE INTERACTION?

10 A THAT'S AN AREA THAT HAS GOTTEN PUBLICITY
11 RECENTLY THAT SEEMS TO FIT THAT CONCEPT. AND IT
12 WOULD SEEM TO BE EXPLAINED BY THE KNOWLEDGE ABOUT
13 THEIR LACK OF LOVING AFFECTIONATE, SENSITIVE CARE.

14 Q AND HAVE THESE THINGS AND OTHER THINGS
15 COME UNDER, NOW, THE UMBRELLA LABELING OF
16 PSYCHOLOGICAL MALTREATMENT OF CHILDREN?

17 A YES.

18 Q AND HAVE THERE BEEN, BASED ON YOUR
19 EFFORTS AND THOSE OF SOME OF YOUR COLLEAGUES,
20 ACCEPTANCE NOW IN THE PSYCHOLOGICAL AND CHILD ABUSE

21 COMMUNITY OF STANDARDS FOR EVALUATING TREATMENT OF
22 CHILDREN, IN EVALUATING WHETHER TREATMENT OF
23 CHILDREN CONSTITUTES PSYCHOLOGICAL MALTREATMENT OR
24 NOT?

25 A YES. THERE HAVE BEEN -- THROUGH MANY
26 YEARS OF RESEARCH, AND THEN BRINGING TOGETHER
27 PROFESSIONAL EXPERTISE AND OPINION AND RIGOROUS
28 REVIEW PROCESSES, WE HAVE ESTABLISHED A BASE OF

53548

1 CONSENSUS OR STRONG SUPPORT. IT ISN'T --
2 PSYCHOLOGISTS NEVER TOTALLY AGREE ON ANYTHING -- BUT
3 STRONG SUPPORT, OFFICIALLY RECOGNIZED BY THE
4 AMERICAN PROFESSIONAL SOCIETY ON ABUSE OF CHILDREN.

5 Q AND THE AMERICAN PROFESSIONAL SOCIETY ON
6 THE ABUSE OF CHILDREN, IS THAT THE LEADING
7 PROFESSIONAL GROUP IN THE AREA OF CHILD ABUSE?

8 A WELL, I THINK SO. MANY OTHER PEOPLE
9 THINK SO IN TERMS OF THE BRINGING TOGETHER OF THE
10 HIGHEST LEVEL OF PROFESSIONALS TO DELIBERATE AND TO
11 WORK FOR IMPROVING CONDITIONS FOR CHILDREN.

12 Q AND IS THAT ORGANIZATION KNOWN AS APSAC,
13 A-P-S-A-C?

14 A THAT'S CORRECT.

15 Q AND HAS APSAC PUBLISHED GUIDELINES NOW

16 FOR -- PRACTICE GUIDELINES, IN FACT, TO HELP
17 PROFESSIONALS IN EVALUATING PSYCHOLOGICAL
18 MALTREATMENT?

19 A YES, IT HAS.

20 Q DO YOU KNOW WHO DR. JOHN WILSON IS?

21 A YES, I DO.

22 Q AND DID YOU CONSULT WITH DR. WILSON,
23 BEFORE HE TESTIFIED IN THIS CASE, ON THE ISSUES OF
24 PSYCHOLOGICAL MALTREATMENT, WITH YOUR OWN YEARS OF
25 RESEARCH AND WORK IN THIS FIELD, PARTICULAR
26 EXPERTISE THAT YOU HAVE DEVELOPED?

27 A YES.

28 Q YOU'RE NOT A PARTICULAR EXPERT AS HE IS

53549

1 IN POST-TRAUMATIC STRESS DISORDER?

2 A NO.

3 Q AND HE HASN'T DONE YOUR RESEARCH IN
4 PSYCHOLOGICAL MALTREATMENT?

5 A THAT'S RIGHT.

6 Q SO YOU'VE POOLED YOUR KNOWLEDGE?

7 A YES.

8 Q NOW, YOU HAVE A C.V., LIKE EVERYONE
9 ELSE, RIGHT?

10 A YES.

11 Q AND YOURS IS 24 PAGES LONG?

12 A APPROXIMATELY. WHATEVER IT IS THERE. I

13 HAVEN'T CHECKED THE LAST PAGE RECENTLY.

14 Q OKAY. AND THIS INDICATES YOUR ACADEMIC

15 POSITIONS AND BOOKS THAT YOU HAVE CONTRIBUTED TO AND

16 ARTICLES THAT YOU HAVE WRITTEN AND POSITIONS OF

17 PROMINENCE THAT YOU HAVE HELD IN YOUR FIELD,

18 CORRECT?

19 A YES.

20 MS. ABRAMSON: I'D LIKE TO MARK IT, YOUR

21 HONOR.

22 THE COURT: 459.

23 MS. ABRAMSON: 459?

24 THE COURT: YES.

25 MS. ABRAMSON: THANK YOU.

26 Q ARE YOU COMFORTABLE WITHOUT HAVING GOING

27 THROUGH THIS -- DR. HART, ARE YOU COMFORTABLE WITH

28 THE NOTION THAT YOU ARE ONE OF THE LEADING WRITERS

53550

1 AND RESEARCHERS IN THE AREA OF PSYCHOLOGICAL

2 MALTREATMENT IN THE UNITED STATES?

3 A YES.

4 Q AND HAVE YOU BEEN INVOLVED IN ASSISTING

5 ME IN THIS CASE FOR SEVERAL YEARS NOW?

6 A YES.

7 Q AND WERE YOU ASKED, BACK IN -- I DON'T
8 KNOW, LATE '91 OR '92 -- TO BE AVAILABLE TO EVALUATE
9 THE FAMILY MENENDEZ, IF YOU WILL, THE FOUR MEMBERS
10 OF THAT IMMEDIATE FAMILY, AND THE ENVIRONMENTS
11 SURROUNDING THAT FAMILY, TO DETERMINE BASICALLY THE
12 TYPE AND QUALITY OF PARENT-CHILD RELATIONSHIP THAT
13 WENT ON IN THAT FAMILY?

14 A YES.

15 Q AND WERE YOU GIVEN MATERIAL OVER THE
16 YEARS, AND HAVE YOU KEPT TRACK OF THE RECORD OF THE
17 TWO TRIALS, WITH A VIEW TO SEEING WHETHER OR NOT
18 WHAT WENT ON IN THAT FAMILY COULD BE CHARACTERIZED
19 AS A PSYCHOLOGICAL MALTREATMENT OR AN UNHEALTHY
20 ENVIRONMENT FOR THE CHILDREN?

21 A YES.

22 Q AND WITH RESPECT TO THAT, YOU'RE
23 FAMILIAR WITH -- IS MY UNDERSTANDING CORRECT, THAT
24 BASICALLY YOU READ ALL TESTIMONY IN THE FIRST TRIAL?

25 A I THINK I DID.

26 Q IT GOT SHIPPED TO YOU IN STAGES?

27 A GOT SHIPPED TO ME. AND I SPENT A LOT OF
28 TIME.

1 Q AND THERE'S A LIST THAT WAS COMPILED,
2 FIRST FOR USE -- FOR DR. WILSON WHEN HE TESTIFIED --

3 A UH-HUH.

4 Q -- THAT INDICATED THE MATERIALS HE HAD
5 READ.

6 AND HAVE YOU REVIEWED THE LIST THAT
7 DR. WILSON -- THAT WE COMPILED WITH DR. WILSON?

8 A YES.

9 Q AND WERE THE SAME MATERIALS BASICALLY
10 MADE AVAILABLE TO YOU?

11 A YES.

12 Q AND THOSE MATERIALS INCLUDED THE
13 TESTIMONY OF A WHOLE BUNCH OF WITNESSES FROM THE
14 FIRST TRIAL, MANY OF WHOM BY NOW HAVE TESTIFIED IN
15 THIS TRIAL AS WELL?

16 A UH-HUH.

17 Q TEACHERS, COACHES, FAMILY MEMBERS,
18 FRIENDS, NEIGHBORS, THAT KIND OF THING?

19 A RIGHT.

20 Q AND ALSO, DID YOU READ THE TESTIMONY,
21 FOR EXAMPLE, FROM THE FIRST TRIAL OF DR. VICARY, AND
22 OF ERIK?

23 A YES.

24 Q DID YOU ALSO REVIEW STATEMENTS OF
25 WITNESSES, MANY OF WHOM TESTIFIED IN THE FIRST
26 TRIAL, AND NOW IN THIS TRIAL, AND SOME OF WHOM DID
27 NOT TESTIFY?

28 A YES.

1 Q AND DID YOU ALSO, FOR EXAMPLE, YOURSELF,
2 INTERVIEW RECENTLY SANDRA SHARP, ONE OF THE TEACHERS
3 WHO TESTIFIED HERE?

4 A YES.

5 Q AND GENERATED A STATEMENT THAT WAS
6 TURNED OVER TO THE PROSECUTION?

7 A YES.

8 Q AND DID YOU READ THE TESTIMONY OF -- AT
9 LEAST WITH RESPECT TO THE INTERACTION WITH THE
10 PARENTS -- OF ERIK MENENDEZ IN THIS TRIAL?

11 A YES. PARTS OF IT. I'VE GONE OVER PARTS
12 OF IT.

13 Q AND DID YOU READ PARTS OF THE TESTIMONY
14 OF, FOR EXAMPLE -- WELL, STRIKE THAT.

15 DID YOU READ THE TESTIMONY OF ALAN
16 ANDERSEN FROM THE GUILT PHASE, AND DIANE VANDERMOLLEN
17 FROM THE GUILT PHASE, AND CARLOS BARALT FROM THE
18 GUILT PHASE --

19 A YES.

20 Q -- OF THIS TRIAL? AND ARE YOU AWARE OF
21 THE TESTIMONY THAT'S BEEN PRESENTED IN THE PENALTY
22 PHASE OF THIS TRIAL?

23 A A FAIR PART OF IT.

24 Q AND IS THE INFORMATION -- I MEAN, ARE YOU
25 FAMILIAR -- DO YOU BELIEVE YOU'RE COMFORTABLE AND
26 FAMILIAR WITH THE, BASICALLY, INFORMATION FROM THIRD
27 PARTIES WHO OBSERVED THE MENENDEZ FAMILY OVER THE
28 YEARS, WHO HAD INFORMATION ON THE PARENTING

53553

1 TECHNIQUES OF MR. AND MRS. MENENDEZ, THE REACTION TO
2 THAT PARENTING AND INTERACTION TO THAT PARENTING BY
3 ERIK MENENDEZ?

4 A I BELIEVE SO.

5 Q NOW, DR. HART, IS IT NECESSARY, OR AT
6 LEAST USEFUL -- NOT NECESSARY -- IN TRYING TO
7 DETERMINE WHETHER A PARTICULAR PARENTING STYLE OR
8 STYLES WERE HARMFUL OR PAINFUL OR CREATED SUFFERING
9 FOR CHILDREN, TO UNDERSTAND BASIC NOTIONS OF WHAT A
10 CHILD NEEDS, CHILD DEVELOPMENT NEEDS?

11 A I THINK SO, YES.

12 Q OKAY. THAT'S WHERE I'D LIKE TO START
13 NOW WITH YOU CONCERNING SOME BASIC CONCEPTS OF CHILD
14 DEVELOPMENT.

15 I KNOW IT WOULD HELP ME A LOT IF I COULD
16 FIND THE CHART THAT YOU PREPARED. AH-HAH.

17 FIRST OF ALL, WHAT IS -- IF YOU CAN
18 REDUCE IT TO ONE THING, WHAT IS THE GOAL FOR, SHALL

19 WE SAY, APPROPRIATE PARENTING --

20 MR. CONN: OBJECTION.

21 MS. ABRAMSON: -- FROM A CHILD DEVELOPMENT
22 STANDPOINT?

23 MR. CONN: OBJECTION. IRRELEVANT.

24 THE COURT: PERHAPS YOU CAN REPHRASE THE
25 QUESTION.

26 IT'S VAGUE AS YOU PHRASED IT.

27 MS. ABRAMSON: OKAY. THANK YOU. I NEEDED TO
28 KNOW IN WHICH DIRECTION.

53554

1 Q IS IT ACCEPTED IN THE PSYCHOLOGICAL
2 COMMUNITY DEALING WITH CHILD DEVELOPMENT THAT THERE
3 IS A PARTICULAR HEALTHY OUTCOME THAT ONE IS HOPING
4 FOR IN THE REARING OF CHILDREN?

5 DON'T STOP UNLESS THEY STOP US, OR WE'LL
6 BE HERE ALL DAY. THEY'LL DO IT A LOT.

7 THE COURT: YOU'LL GET A SORE NECK BY TURNING
8 AROUND TOO.

9 MS. ABRAMSON: RIGHT. EXACTLY.

10 THE WITNESS: THANK YOU.

11 WELL, AGAIN, THAT'S AN AREA IN WHICH YOU
12 WOULD HAVE DEBATE. BUT ONE OF THE LEADING
13 HISTORICAL FIGURES IN CHILD DEVELOPMENT IDENTIFIES

14 THE LONG-TERM, THE MAJOR GOAL OF EDUCATION,
15 DEVELOPMENT THROUGH EDUCATION -- AND I THINK YOU CAN
16 CONSIDER IT THAT WAY -- THROUGH EDUCATION IN THE
17 HOME, IN THE SCHOOL, AND SO ON, IS WHAT -- PIAGET
18 CALLS AUTONOMY.
19 AND WHAT IT REALLY MEANS TO PEOPLE IN
20 PSYCHOLOGY EDUCATION IS THAT FOR HUMAN BEINGS YOU'RE
21 TRYING TO HELP THEM DEVELOP TOWARD BEING INDEPENDENT
22 PEOPLE WHO CAN STAND ON THEIR OWN FEET, MAKE
23 RESPONSIBLE DECISIONS, BE CONTRIBUTORS IN THIS
24 WORLD; THE KIND OF PEOPLE YOU WOULD WANT TO HAVE
25 LIVING AROUND YOU.
26 THAT SORT OF AN IDEA.
27 Q AND ARE THERE SPECIFIC GOALS OR
28 DEVELOPMENTAL ISSUES -- STRIKE THAT.

53555

1 ARE THERE SPECIFIC DEVELOPMENTAL ISSUES
2 THAT NEED TO BE MET OR NEED TO BE DEALT WITH AT
3 VARIOUS AGES OF A CHILD'S DEVELOPMENT, WHERE IF YOU
4 MEET THEM PROPERLY, YOU'VE GOT A CHANCE OF WINDING
5 UP WITH THIS RESPONSIBLE, INDEPENDENT, AUTONOMOUS
6 CREATURE AT THE END?
7 A YES, YES. I THINK THERE'S REALLY A FAIR
8 AMOUNT OF AGREEMENT ON IT.

9 SO YOU COULD LOOK AT THE WRITINGS OF A
10 NUMBER OF THOSE PEOPLE WHO ARE HIGHLY RESPECTED, AND
11 YOU WOULD COME OUT WITH SOMETHING LIKE THIS:
12 THAT A CHILD NEEDS TO LEARN TRUST, TO
13 TRUST OTHER PEOPLE AROUND HIM, OR HER;
14 THAT A CHILD NEEDS TO DO SOME KIND OF
15 MEANINGFUL WORK, OR BE INVOLVED IN BEING PRODUCTIVE,
16 INVOLVED IN THINGS THAT GIVE THE CHILD A SENSE OF
17 ACCOMPLISHMENT THAT OTHER PEOPLE VALUE AND THAT THE
18 CHILD VALUES.
19 SEE YOU -- THE CHILD NEEDS TO END UP
20 WITH A SENSE OF SELF-WORTH AND A SENSE OF VALUES,
21 THAT THERE ARE THINGS TO STAND UP FOR, THINGS THAT
22 ARE IMPORTANT, STANDARDS TO STAND UP TO.
23 A CHILD SHOULD BE DEVELOPING SOME
24 CONFIDENCE IN HIMSELF OR HERSELF. CERTAINLY, IF
25 YOU'RE GOING TO END UP BEING SOMEBODY WHO CAN STAND
26 ON YOUR OWN FEET, THAT YOU NEED TO AS YOU GROW --
27 YOU NEED TO BE MAKING MORE AND MORE DECISIONS AT
28 HIGHER AND HIGHER LEVELS, THAT YOUR PARENTS ARE

53556

1 ENCOURAGING YOU TO MAKE DECISIONS THAT ARE
2 APPROPRIATE FOR YOUR AGE; AND THEN IT KIND OF --
3 LIKE IT GOES FULL CIRCLE.

4 YOU START OUT NEEDING TO LEARN TO TRUST
5 OTHER PEOPLE, AND YOU SHOULD END UP NOT ONLY
6 TRUSTING OTHER PEOPLE, BUT TRUSTING YOURSELF TO KNOW
7 THAT YOU'RE WORTH SOMETHING, THAT YOU CAN SOLVE
8 PROBLEMS, THAT YOU CAN DO SOMETHING THAT'S
9 WORTHWHILE, THAT YOU'RE SOMEBODY WHO CAN DIRECT HIS
10 OWN LIFE.

11 SO AGAIN, YOU'D FIND MOST OF THE FANCY
12 THEORIES AND RESEARCH IN CHILD DEVELOPMENT COMING
13 DOWN ON THOSE THINGS.

14 AND FUNDAMENTALLY, TO GET THERE YOU'VE
15 GOT TO HAVE LOVE, AND YOU'VE GOT TO HAVE PROTECTION,
16 AND YOU'VE GOT TO HAVE ENCOURAGEMENT FOR YOUR
17 DEVELOPMENT, AND YOU HAVE TO HAVE RESPECT AS AN
18 INDIVIDUAL, AS A REAL PERSON IN AND OF HIMSELF OR
19 HERSELF.

20 Q AND DO YOU ALSO NEED TO HAVE -- TO BE
21 TAUGHT IN A USEFUL WAY, VALUES?

22 A OH, YEAH. YOU NEED TO SEE -- NEED TO
23 SEE YOUR PARENTS LIVING THEM. YOU NEED TO SEE
24 IMPORTANT PEOPLE IN YOUR LIFE LIVING THEM, AS WELL
25 AS ENCOURAGING YOU. IT'S NOT ENOUGH JUST TO SAY THE
26 WORDS. YOU NEED TO SEE THEM LIVING THOSE, AND YOU
27 NEED TO BE HELD TO AND ENCOURAGED TO THOSE STANDARDS
28 OF INTEGRITY.

1 YES. THAT'S RIGHT.

2 Q I JUST WANT TO PICK UP ON SOMETHING YOU
3 JUST SAID ABOUT IT'S NOT ENOUGH TO BE TOLD THIS IS
4 THE WAY TO BE.

5 YOU HAVE TO SEE PARENTS LIVING IT?

6 A YEAH. YES. THEY'RE POWERFUL MODELS, IN
7 COMPETITION, OBVIOUSLY, WITH TELEVISION AND PEERS IN
8 THIS WORLD. BUT THEY'RE THE ONES THAT HAVE THE
9 FIRST AND BEST SHOT AT GETTING A CHILD ON THE RIGHT
10 ROAD.

11 Q WHAT HAPPENS TO A CHILD, OR WHAT CAN
12 HAPPEN TO A CHILD IF THE PARENT ESPOUSES OR SAYS
13 THEY BELIEVE IN A CERTAIN THING AND THEN ACTS
14 COMPLETELY DIFFERENTLY?

15 FOR EXAMPLE, IF A PARENT SAYS --

16 ARE YOU BLEEDING AGAIN?

17 A YEAH. I'LL JUST PUT ANOTHER BAND-AID
18 ON IT.

19 Q DO YOU WANT TO EXPLAIN TO THE JURY WHAT
20 YOU DID?

21 A I WAS MOVING A LITTLE TOO FAST THIS
22 MORNING, AND I CLOSED MY FINGER IN THE CAR DOOR, MY
23 THUMB, AND IT'S -- IT'S ALMOST LIKE IT REOPENED. I
24 DID THE VERY SAME THING WHEN I WAS FIVE YEARS OLD TO
25 THE VERY SAME THUMB. I GUESS YOU NEVER LEARN.

26 Q HAVEN'T LEARNED A THING SINCE YOU WERE
27 FIVE?

53558

1 Q I KNOW. MOTHERS KNOW HOW TO DO THIS
2 SORT OF THING.

3 OH, DEAR. DO YOU WANT TO CHANGE THE
4 WHOLE THING?

5 A LET'S JUST KEEPING COVERING IT.

6 Q DO YOU NEED MORE ASPIRIN?

7 A NO.

8 Q IS IT HURTING?

9 A FINE. A KLEENEX, THAT WOULD BE GREAT.
10 AND THEN I CAN JUST WIPE SOME OF THE BLOOD OFF.

11 Q I'VE HEARD OF WITNESSES SUFFERING ON THE
12 WITNESS STAND, BUT THIS IS GOING TOO FAR.

13 OKAY?

14 A SHOULD BE FINE.

15 Q OKAY. I WAS GOING TO GIVE YOU AN
16 EXAMPLE OF -- YOU KNOW, IF A PARENT SAYS IN FRONT OF
17 A TEACHER: "DON'T LIE, DON'T CHEAT," AND THEN YOU
18 SEE THAT SAME PARENT LYING AND CHEATING, WHAT DOES
19 THAT DO TO A CHILD WITH RESPECT TO DEVELOPING THE
20 RIGHT VALUES?

21 A OH, IT WOULD BE TERRIBLY CONFUSING. YOU
22 KNOW, THAT KIND OF HYPOCRISY CAN CERTAINLY REDUCE

23 YOUR TRUST. AND IT ALSO RAISES QUESTIONS ABOUT HOW
24 YOU'RE SUPPOSED TO BEHAVE IN DIFFERENT CONDITIONS,
25 AND WHAT IS IT THAT REALLY IS RIGHT? AND YOU'VE
26 GOT -- AND ARE YOUR PARENTS GOING TO BE UPSET WITH
27 YOU WHEN YOU DO THE SAME THING, OR IS THAT GOING TO
28 BE JUST FINE? YEAH.

53559

1 Q OKAY. NOW, AT VARIOUS AGES, ARE THERE
2 DIFFERENT DEVELOPMENTAL NEEDS?

3 A YES. BUT -- THEY REALLY SORT OF FIT THE
4 PATTERN I WAS GIVING EARLIER. IF YOU GO ACROSS
5 THEM, YOU KNOW, FIRST ONE -- THERE'S A LOT OF
6 AGREEMENT ON IT -- IS THE DEVELOPMENT OF TRUST.

7 THAT MEANS YOU GET THAT KIND OF
8 SENSITIVE CARE THAT THE KIDS IN ROMANIA ARE
9 OBVIOUSLY NOT GETTING, AND SOME OTHER KIDS DON'T
10 GET.

11 Q IS ANOTHER FUNDAMENTAL NEED IN THE EARLY
12 STAGES A SENSE OF PHYSICAL SAFETY?

13 A OH, YEAH. VERY DEFINITELY. AND EVEN AT
14 EARLY AGES. BEING ALLOWED TO KIND OF DO SOME THINGS
15 YOURSELF, TO TRY SOME THINGS OUT, AND THEN LATER TO
16 BE ENCOURAGED TO WORK HARD AT ACCOMPLISHING THINGS,
17 TO BE PRODUCTIVE; NOT NECESSARILY TO DO IT

18 PERFECTLY, NOT NECESSARILY TO REACH A PARTICULAR
19 GOAL ALL THE TIME, BUT FOR REALLY TRYING, FOR TRYING
20 TO DO MEANINGFUL THINGS, TRYING TO DO THINGS WELL,
21 AND BEING ALLOWED TO FAIL AT TIMES, AND ENCOURAGED
22 TO GET UP AND TRY AGAIN, OR TRY ANOTHER PATH.

23 Q OKAY. IS IT APPROPRIATE -- WELL, IS IT
24 APPROPRIATE TO ENCOURAGE CHILDREN TO DO WHAT THEY'RE
25 CAPABLE OF DOING AT THEIR OWN PACE, OR IS IT
26 APPROPRIATE, IF YOU THINK THEY'RE CAPABLE AND THEY
27 DON'T KNOW THEY'RE READY YET, TO PUSH 'EM?

28 A WELL, CERTAINLY IT'S GOOD FOR KIDS TO DO

53560

1 THINGS AT THEIR OWN PACE. NOTHING WRONG WITH GIVING
2 THEM A LITTLE EXTRA ENCOURAGEMENT, ENTICE HIM TO
3 STRETCH.

4 WHAT YOU WANT TO DO IS KEEP THAT
5 STRETCHING CLOSE ENOUGH SO THEY'VE GOT A REAL SHOT
6 AT IT, A REAL CHANCE, NOT SO DISTANT THAT THEY'RE
7 GOING TO FEEL THEY'RE DISAPPOINTING YOU AND
8 DISAPPOINTING THEMSELVES, AND WHAT'S THE USE OF
9 TRYING.

10 Q LET ME ASK YOU THIS: YOU'VE INDICATED
11 WHAT'S NEEDED TO ACCOMPLISH THESE GOALS IS TRUSTING,
12 OF FEELING SAFE, OF HAVING SELF-WORTH, OF HAVING A

13 SENSE OF ACCOMPLISHMENT, OF DEVELOPING VALUES,
14 HAVING CONFIDENCE IN THEMSELVES, AND COMING TO TRUST
15 THEMSELVES. YOU SAID WHAT'S NEEDED IS LOVE,
16 PROTECTION, AND WHAT ELSE?

17 A ENCOURAGEMENT IN YOUR DEVELOPMENT. JUST
18 THE KIND OF THINGS WE WERE TALKING ABOUT A FEW
19 MINUTES AGO.

20 Q WHEN --

21 A GO AHEAD.

22 Q OKAY. WHAT ROLE DOES A PARENT SPENDING
23 A LOT OF TIME WITH A CHILD HAVE? IS THAT NECESSARY?

24 A WELL, IN OUR PRESENT CULTURE IT COMES UP
25 ALL THE TIME, DOESN'T IT?

26 Q PRETTY MUCH IMPOSSIBLE.

27 A WHETHER WE'RE GIVING ENOUGH TIME TO OUR
28 KIDS OR NOT. YEAH. IT'S IMPORTANT.

53561

1 ONE OF THE MOST PEOPLE RESPECTED IN THE
2 COUNTRY, JIM GARBARINO, SAYS THAT'S JUST FUNDAMENTAL
3 TO THE HEALTHY DEVELOPMENT OF KIDS. GIVE CHILDREN
4 YOUR TIME. AND HE REALLY MEANS, AS I UNDERSTOOD IT,
5 GIVE THEM YOUR TIME FOR THEIR NEEDS, FOR THE
6 PROBLEMS THEY'RE DEALING WITH. SO DON'T APPLY YOUR
7 TIME SIMPLY TO SERVE YOUR OWN NEEDS.

8 Q SO, LET'S SAY, HYPOTHETICALLY, IF A
9 PARENT SPENDS -- TAKES A GREAT DEAL OF HIS OWN
10 TIME -- IN FACT, IF HE TAKES ALL OF HIS FREE TIME IN
11 ORDER TO FOCUS ON A CHILD'S ATHLETIC TRAINING,
12 OKAY? BUT THAT HIS BEING THERE MAKES THE CHILD'S
13 TRAINING HARDER FOR THE CHILD, IS THAT THE
14 APPROPRIATE USE OF PARENTAL TIME?

15 A NO, NOT UNDER CONDITIONS LIKE THAT.

16 Q IS JUST BEING AROUND BENEFICIAL, OR IS
17 IT THE WAY IN WHICH A PARENT IS AROUND THAT'S
18 BENEFICIAL?

19 A WELL, SURELY, BEING AROUND CAN BE
20 BENEFICIAL. JUST INCIDENTALLY EXPERIENCING THINGS
21 THAT JUST HAPPEN THAT MAKE YOU ENJOY TOGETHER, DO
22 TOGETHER, HAVE FUN WITH, WORK ON TOGETHER.

23 BUT BEING AROUND TO SUPPORT AND BE
24 SENSITIVE TO THE CHILD'S NEEDS AND TO BE A GOOD
25 MODEL AND TO HELP THE CHILD THINK THROUGH WHAT'S
26 HAPPENING AND HELP THE CHILD THINK ABOUT WHAT HE OR
27 SHE MIGHT LIKE TO DO WITH IT, SO YOU'RE ACTUALLY
28 HELPING THAT CHILD LEARN TO MAKE DECISIONS; NOT

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1 MAKING THEM FOR THE CHILD, BUT GETTING THEM TO THINK
2 ABOUT CHOICES AND MAKE THE CHOICES THAT AREN'T

3 DANGEROUS TO THEM, AND THAT AREN'T REALLY GOING TO
4 GET IN THE WAY OF ANYTHING IMPORTANT.

5 Q WHETHER THEY SHOULD DRINK FROM A RED
6 BOTTLE OR A BLUE BOTTLE?

7 A THAT'S RIGHT. I SAW THAT THIS MORNING.

8 Q OKAY. NOW, ALSO WE'VE HEARD ABOUT THE
9 NOTION THAT IT'S IMPORTANT TO TALK TO CHILDREN, TO
10 LISTEN TO CHILDREN?

11 A YES. ONE OF MY FAVORITES IS SCOTT
12 PECK,, A PSYCHOLOGIST -- PSYCHIATRIST, ACTUALLY,
13 THAT A LOT OF PEOPLE IN THIS COUNTRY LIKE VERY
14 MUCH. HIS WRITING IS VALUED AND SO ON.

15 HE SAID THAT IT'S JUST FUNDAMENTAL.
16 IF YOU LOVE SOMEONE, YOU LISTEN TO THEM. BUT HE
17 MEANS YOU TRULY LISTEN TO THEM. YOU LISTEN TO THE
18 EXPRESSIONS OF FEELINGS, THEIR CONCERNS, THEIR
19 PROBLEMS, THEIR OUTLOOK ON THE WORLD, THEIR DESIRES;
20 THAT YOU GIVE THEM THAT AS A GIFT OF LOVE.

21 Q AND IF YOU GIVE CHILDREN THESE THINGS
22 THAT YOU'VE BEEN DESCRIBING OF WHAT'S NEEDED FROM
23 OTHERS, AND THE KIND OF ATTENTION CHILDREN NEED,
24 THEN THERE'S AN EXPECTATION THAT THEY WILL TURN OUT
25 TO BE WHAT?

26 A THAT THEY'RE GOING TO DEVELOP WELL. I
27 MEAN, ALL THINGS BEING EQUAL, YOU CAN'T CONTROL
28 EVERYTHING IN LIFE. THAT CAR SPEEDING DOWN THE ROAD

1 WITH A DRUNK IN IT AND SO ON. BUT IF YOU WORK TO
2 GIVE THE CHILD THESE CONDITIONS, THEN YOU'VE GOT A
3 GOOD -- THERE'S A GOOD CHANCE THAT A CHILD IS GOING
4 TO GROW UP STRONG, STRAIGHT, HEALTHY, THE KIND OF
5 PERSON WHO WOULD BE PROUD OF HIMSELF, AND YOU'LL
6 JUST BE REAL GLAD TO BE AROUND THEM.

7 Q AND WHAT HAPPENS WHEN CHILDREN DON'T GET
8 THIS KIND OF SUPPORT, THIS KIND OF REACTION, THIS
9 KIND OF ATTENTION TO THEIR NEEDS?

10 A WELL, MINIMALLY, I SUPPOSE THEY COULD
11 HAVE A LIFE THAT'S NOT VERY SATISFACTORY. BUT IT
12 CAN RANGE FROM THAT TO A LIFE THAT'S TRULY A TRAGEDY
13 FOR THEMSELVES AND FOR THE PEOPLE AROUND THEM.

14 Q NOW, IS IT HARD, BASICALLY, TO BE AN
15 EXCEPTIONALLY GOOD PARENT?

16 A IT IS HARD WORK. IT IS HARD WORK. I
17 THINK MOST PEOPLE -- THE THINGS I'VE JUST BEEN GOING
18 OVER, MOST PEOPLE I THINK UNDERSTAND INTUITIVELY,
19 JUST KIND OF NATURALLY. DOESN'T MEAN THAT YOU DO IT
20 PERFECTLY BECAUSE YOU UNDERSTAND IT. BECAUSE IT
21 DOES TAKE HARD WORK TO BE A PARENT.

22 BUT MOST PARENTS, I THINK, AS THEY'RE
23 PARENTING, THEY LEARN THIS MORE AND MORE, IF THEY'RE
24 REALLY WATCHING, IF THEY REALLY CARE ABOUT THE KIND
25 OF DEVELOPMENT I'VE BEEN TALKING ABOUT.

26 SO PARENTING IN A WAY -- I DON'T KNOW
27 WHO SAID THIS, BUT I THINK IT'S JUST A TERRIFIC
28 QUOTE, TO THE DEGREE I'M ACCURATE ON THAT, THAT

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1 PARENTING REALLY AMOUNTS TO CORRECTING YOUR ERRORS,
2 A REGULAR PATTERN OF CORRECTING THE MISTAKES I
3 MADE.

4 OH, MY GOSH, I'VE PUSHED HIM TOO MUCH.
5 BETTER EASE UP THERE.

6 OH, MY GOSH, I GAVE HIM TOO MUCH MONEY.
7 I BETTER WATCH THAT. BETTER ONLY GIVE HIM MONEY
8 WHEN HE'S DOING HIS CHORES. THAT KIND OF THING.
9 KIND OF JUST KEEP ADJUSTING, BECAUSE WELL, I CAN DO
10 IT BETTER.

11 Q IF YOU SEE AS YOU'RE PARENTING THAT
12 YOU'RE CAUSING SOME HARM TO YOUR CHILD, A GOOD
13 PARENT, EXCEPTIONAL PARENT, STOPS, CHANGES, DOES
14 THINGS DIFFERENTLY?

15 A YEAH. THAT PARENT DOES; OR MAYBE IF
16 THAT PARENT DOESN'T DO IT ALL THE TIME, THE SPOUSE,
17 THE OTHER PARENT KIND OF NUDGES AND HELPS TO BALANCE
18 IT OUT. AND IF YOU'RE REALLY GETTING OFF THE TRACK,
19 THEN YOU LISTEN TO SOME OTHER PEOPLE, TALK TO SOME
20 PEOPLE WHO ARE DOING A GOOD JOB. MAYBE SOME PEOPLE

21 HAVE ADVICE.

22 Q DO YOU HAVE TO BE PERFECT? DO YOU HAVE
23 TO BE A PERFECT PARENT TO RAISE A HEALTHY KID?

24 A NO. THANK GOODNESS.

25 Q NOW, WHEN PARENTING ISN'T DONE RIGHT --
26 LET ME STRIKE THAT.

27 WHEN A CHILD -- LET'S PUT IT THIS WAY:

28 WHEN CHILD-REARING REALLY GOES WRONG, WHAT HAVE YOU

53565

1 GOT?

2 A WELL, YOU KNOW, IT CAN REALLY GO WRONG
3 WHEN SOMEBODY JUST GROSSLY NEGLECTS. A CHILD GOES
4 OUT IN THE STREET AND GETS HIT BY A CAR.

5 A LOT OF WHAT WE'RE TALKING ABOUT IN
6 THIS SOCIETY, AND AROUND THE WORLD, WHEN YOU'RE
7 TALKING ABOUT CHILD-REARING THAT REALLY GOES WRONG,
8 IS CHILD ABUSE AND NEGLECT OR CHILD MALTREATMENT.
9 IT CAN BE PHYSICAL, SEXUAL. CAN BE PSYCHOLOGICAL.
10 THOSE ARE REALLY THE THREE TYPES.

11 Q AND HAS PSYCHOLOGICAL MALTREATMENT COME
12 TO BE RECOGNIZED AS A PARTICULARLY DESTRUCTIVE FORM
13 OF CHILD ABUSE WITHIN THE THREE THAT YOU'VE JUST
14 DESCRIBED?

15 A YES. IT HAS. IT OCCURS -- USUALLY WHEN

16 YOU HAVE PHYSICAL ABUSE OR NEGLECT OR SEXUAL ABUSE,
17 YOU ALSO HAVE PSYCHOLOGICAL MALTREATMENT AROUND IT,
18 OR AS A PART OF IT. THE MESSAGES ARE THERE. AND
19 MAYBE THERE ARE OTHER MESSAGES BEING GIVEN.
20 BUT YOU ALSO HAVE IT WITHOUT THOSE TWO.
21 AND YES, IT HAS BEEN RECOGNIZED TO BE A PARTICULARLY
22 DESTRUCTIVE KIND.
23 IN FACT, THE RESEARCH EVIDENCE, AS IT'S
24 BEEN COMING IN THE LAST 10 YEARS OR SO, HAS MORE AND
25 MORE INDICATED THAT WHEN YOU'RE NOT TALKING ABOUT A
26 CHILD WHO'S BEEN KILLED OUTRIGHT, BUT THE
27 PSYCHOLOGICAL MALTREATMENT IS AS DESTRUCTIVE OR MORE
28 DESTRUCTIVE THAN THE OTHER FORMS.

53566

1 Q ONE OF THE REASONS WHY THAT'S BELIEVED
2 TO BE TRUE IS BECAUSE PATTERNS OF PSYCHOLOGICAL
3 MALTREATMENT SEEM TO -- STRIKE THAT.
4 BECAUSE OF THE TYPES OF BEHAVIORS THAT
5 ARE CHARACTERIZED AS PSYCHOLOGICAL MALTREATMENT,
6 THEY'RE THE KIND OF THINGS THAT HAPPEN ALL THE TIME.
7 MR. CONN: OBJECTION. LEADING.
8 THE COURT: REPHRASE THE QUESTION, PLEASE.
9 MS. ABRAMSON: OKAY.
10 Q IT'S UNDERSTAND -- WELL, TYPICALLY,

11 DOESN'T THE RESEARCH INDICATE THAT CHILDREN AREN'T
12 PHYSICALLY ABUSED EVERY SINGLE MINUTE OF THEIR LIVES
13 UNLESS THEY'RE KILLED?

14 A RIGHT. YES.

15 Q AND SIMILARLY, CHILDREN WHO HAVE BEEN
16 SEXUALLY MOLESTED, THEY'RE NOT USUALLY MOLESTED
17 EVERY HOUR ON THE HOUR?

18 A RIGHT.

19 Q WOULD THAT BE FAIR TO SAY?

20 A YES.

21 Q EVEN IN INCEST SITUATIONS WHERE THEY'RE
22 VERY AVAILABLE?

23 A YEAH.

24 Q IS IT, BY ITS VERY NATURE, PSYCHOLOGICAL
25 MALTREATMENT, HOWEVER, SOMETHING THAT HAPPENS WITH
26 MUCH GREATER FREQUENCY AND REPETITION THAN OTHER
27 FORMS OF CHILD ABUSE?

28 A I THINK THAT'S FAIR. I MEAN, EASILY YOU

53567

1 COULD REACH THAT CONCLUSION, AND AN AWFUL LOT OF THE
2 EXPERTS HAVE.

3 FIRST OF ALL, IT'S ASSOCIATED WITH ALL
4 THOSE OTHERS; AND THEN IT ALSO OCCURS ON ITS OWN.

5 SO YES, IT'S GOING TO OCCUR MORE

6 FREQUENTLY WHEN YOU TAKE THAT INTO CONSIDERATION.
7 PLUS YOU HAVE TO RECOGNIZE THAT -- OR YOU NEED TO
8 RECOGNIZE, I THINK -- THAT PHYSICAL BEATINGS THAT
9 OCCUR FROM TIME TO TIME ARE GOING TO CREATE A GREAT
10 DEAL OF ANXIETY, A GREAT DEAL OF SELF-DOUBT IN
11 REGARD TO WHY AM I BEING BEATEN LIKE THAT? AM I A
12 REALLY BAD PERSON? WHAT TERRIBLE THING IS GOING TO
13 HAPPEN TO ME NEXT TIME? YOU'RE QUESTIONING THOSE
14 DAY TO DAY, HOUR TO HOUR, WAITING FOR THAT NEXT
15 OCCURRENCE.

16 IN FACT, PROBABLY ONE OF THE REASONS WHY
17 THE RECENT RESEARCH HAS INDICATED THAT YOU CAN'T
18 PREDICT THE PROBLEMS OF BEHAVIORS AND FEELINGS AND
19 THINKING OF CHILDREN BASED ON HOW SEVERE THE
20 PHYSICAL ABUSE IS. YOU CAN'T MAKE THE PREDICTION.
21 YOU CAN MAKE THE PREDICTION BASED ON THE
22 PSYCHOLOGICAL MALTREATMENT THAT'S WITH IT, BECAUSE
23 IT'S THE MESSAGE. WHAT DOES IT MEAN? WHAT DO I
24 THINK ABOUT THIS?

25 Q IN OTHER WORDS, THE MERE BEATING OR THE
26 INFLECTION OF PAIN, THE CHILD GETS OVER. WHAT IT
27 MAKES THEM THINK AND FEEL STAYS WITH THEM A LONG
28 TIME?

1 A YEAH. THAT'S RIGHT. MANY PEOPLE HAVE
2 SAID THAT.

3 Q AND WHAT'S SIGNIFICANT ABOUT
4 PSYCHOLOGICAL MALTREATMENT IS THE WAY IT AFFECTS THE
5 WAY A CHILD FEELS AND THINKS FOR A LONG PERIOD OF
6 TIME, MAYBE FOREVER?

7 A THAT'S RIGHT. ABOUT WHO I AM, WHAT I'M
8 WORTH, WHAT OTHER PEOPLE ARE LIKE, HOW PEOPLE TREAT
9 EACH OTHER, HOW YOU SOLVE PROBLEMS. IT JUST STARTS
10 TO FILL UP ALL THOSE AREAS THAT ARE SO IMPORTANT IN
11 DETERMINING WHO YOU'RE GOING TO BE, HOW YOU'RE GOING
12 TO BEHAVE.

13 Q WHY DON'T WE THEN, DR. HART -- SINCE
14 WE'VE BEEN TALKING ABOUT THIS, WHY DON'T WE DEFINE
15 FOR THE MEMBERS OF THE JURY WHAT IS PSYCHOLOGICAL
16 MALTREATMENT, OR AT LEAST NOW THAT WE'VE
17 SYSTEMATIZED IT, WHAT ARE THE COMMON CATEGORIES OF
18 PSYCHOLOGICAL MALTREATMENT?

19 A YES. THERE ARE SIX CATEGORIES THAT HAVE
20 BEEN NOW GENERALLY RECOGNIZED.

21 Q WHY DON'T YOU SLOW DOWN ALSO. I SEE
22 SMOKE RISING FROM THE COURT REPORTER'S FINGERS.

23 OKAY. LET'S START WITH NO. 1?

24 A RIGHT.

25 THE FIRST ONE, WHICH IS CALLED SPURNING,
26 KIND OF AN OLD TERM. WHAT IT MEANS IS ACTIVE,
27 HOSTILE KIND OF REJECTION, AND THINGS --

28 Q ACTIVE?

1 A ACTIVE. THAT MEANS YOU'RE ACTUALLY
2 DOING IT. YOU'RE ACTING TOWARD THE CHILD. AND WHAT
3 MOST PEOPLE THINK OF WHEN THEY THINK OF THAT ONE IS
4 VERBAL ABUSE. HAVING SOMEBODY SPEAK TO YOU IN A
5 DEGRADING MANNER, IN A WAY THAT WOULD HUMILIATE YOU,
6 IN A WAY THAT MAKES YOU FEEL CHEAP OR WEAK OR BAD.

7 AND IT ALSO INCLUDES BEING SINGLED OUT
8 AS THE WORST ONE IN A GROUP, THE ONE IN THE FAMILY
9 THAT EVERYBODY IS GOING TO TALK DOWN TO.

10 THE SECOND ONE IS TERRORIZING, WHICH CAN
11 MEAN EITHER THE KIND OF THING I MENTIONED EARLIER,
12 IN WHICH YOU'RE BEING HURT OVER AND OVER AGAIN
13 PHYSICALLY, AND SO YOU'RE THINKING ABOUT THAT, AND
14 YOU'RE WORRYING ABOUT IT, AND IT'S SCARING THE HECK
15 OUT OF YOU. YOU'RE ANXIOUS ABOUT IT; OR IT CAN BE
16 THE THREAT OF THAT. AND THE THREAT OF BEING HURT
17 SEEMS TO CARRY QUITE A HEAVY WEIGHT FOR PEOPLE IF
18 THEY BELIEVE THAT PERSON CAN HURT THEM.

19 IT ALSO INCLUDES THREATS TOWARDS YOUR
20 LOVED ONES AND THINGS THAT YOU REALLY CARE ABOUT,
21 LIKE YOUR ANIMALS, AS WELL AS YOUR BROTHER AND
22 SISTER AND YOUR MOM, OR WHATEVER IT MIGHT BE.

23

24

25

26

27

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1 THE THIRD ONE IS ISOLATING.

2 Q. LET ME JUST STOP FOR A SECOND ON THE
3 TERRORIZING.

4 YOU'RE FAMILIAR WITH THE INFORMATION IN
5 THIS CASE FROM MRS. GOLDSMITH, IN FACT, CONCERNING
6 ERIK'S FATHER HAVING BASICALLY LURED HIM INTO A CEMETERY
7 WHEN HE WAS, YOU KNOW, AROUND SEVEN, AND THEN RUNNING
8 OUT WITH LYLE AND LAUGHING, AND ERIK CRYING IN FEAR AND
9 CALLING OUT AND BEING LEFT THERE.

10 IS THAT TERRORIZING?

11 A. IT WOULD BE A GOOD EXAMPLE. IT FALLS
12 EASILY UNDER THAT.

13 Q. EVEN THOUGH WE DON'T KNOW WHAT IT WAS THAT
14 ERIK WAS SPECIFICALLY --

15 THE COURT: LET'S REFER TO ERIK BY HIS PROPER
16 NAME. IT'S ALL RIGHT WHEN WE'RE TALKING TO FAMILY
17 MEMBERS, BUT THIS IS NOT A FAMILY MEMBER.

18 Q. BY MS. ABRAMSON: WE DON'T KNOW WHAT THE
19 CHILD AT THAT TIME IN THE CEMETERY WAS SPECIFICALLY
20 SCREAMING ABOUT, BUT COULD IT BE FEAR OF BEING HURT BY

21 THE PARENT, OR FEAR OF BEING HURT, PERIOD, THAT THE
22 PARENT IS CREATING IN THE CHILD?
23 A. IT CAN BE FEAR OF THINGS THAT DON'T HAVE A
24 CLEAR FORM. IT CAN BE FEAR OF BEING LEFT ALONE IN A
25 PLACE THAT SEEMS SCARY AND DANGEROUS. IT CAN BE FEAR
26 ASSOCIATED WITH BEING IN A CHAOTIC OR UNPREDICTABLE
27 SITUATION, WHERE "WHO KNOWS WHAT'S GOING TO HAPPEN TO ME
28 NEXT?"

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1 AND, OF COURSE, A CHILD HAS SO LITTLE TO
2 FALL BACK ON IN TERMS OF WHAT MIGHT HAPPEN THERE, AND IF
3 HE WATCHES TELEVISION, PLENTY OF SCARY STUFF.

4 Q. SO WE HAVE -- YOU'VE DISCUSSED SPURNING AND
5 TERRORIZING.

6 AND TERRORIZING, IS THAT NECESSARILY
7 PHYSICAL BEHAVIOR BY THE PARENTS, OR CAN IT ALSO BE
8 CAUSED BY WORDS?

9 A. IT CAN BE CAUSED BY WORDS, ESPECIALLY
10 THREATS.

11 Q. AND WHAT'S THE THIRD FORM OF PSYCHOLOGICAL
12 MALTREATMENT?

13 A. ISOLATING, WHICH BASICALLY MEANS THAT THE
14 CHILD IS KEPT FROM SOCIAL RELATIONSHIPS, SOCIAL
15 CONTACTS, THAT THE CHILD NEEDS TO GET SOME ADDITIONAL
16 AFFECTION, SOME ADDITIONAL CARING; TO GET THE POINT OF

17 VIEW OF OTHER PEOPLE; TO BE WITH PEERS AND GET TO LOOK
18 AT THE WORLD THE WAY PEERS -- OTHER PEOPLE HIS AGE DO,
19 OR GETS THE POINT OF VIEW AND THE GOOD FEELINGS OF OTHER
20 ADULTS.

21 MOST OF US CAN USE -- MANY OF US HAVE BEEN
22 LUCKY ENOUGH TO PROFIT FROM HAVING OTHER PEOPLE AROUND
23 WHO COMPLIMENTED, THEY ADDED TO OUR LIVES WITH OUR
24 PARENTS. KIDS NEED THAT.

25 Q. AND THE FOURTH ONE?

26 A. THE FOURTH ONE IS WHAT WE CALL CORRUPTING
27 AND EXPLOITING, BECAUSE THE RESEARCH WE'VE DONE
28 INDICATES YOU CAN'T SEPARATE THOSE TWO.

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1 AND WHAT THAT REALLY MEANS IS TEACHING
2 CHILDREN ANTISOCIAL AND WHAT MIGHT BE -- WELL, YEAH --
3 ANTISOCIAL THINKING AND BEHAVIOR, AND WHAT WOULD BE
4 INEFFECTIVE BEHAVIOR THAT WOULDN'T HELP THEM ACTUALLY
5 MEET THEIR NEEDS.

6 AND THAT CAN BE DONE BY SOMEBODY
7 DIRECTING -- TEACHING THEM THAT. YOU KNOW, ENCOURAGING
8 THEM.

9 Q. LIKE LIE, STEAL, CHEAT -- BUT WIN?

10 A. YEAH, THAT'S RIGHT. THAT WOULD FIT. OR
11 SOMEBODY WHO TEACHES HIS CHILD TO STEAL. SOMEBODY WHO
12 TEACHES HIS CHILD TO HATE PEOPLE OF ANOTHER RELIGION.

13 THAT KIND OF THING.

14 OR IT CAN BE -- THE INFLUENCE CAN BE THERE

15 JUST IN THE MODELING. IN OTHER WORDS, IF THE PARENTS

16 BEHAVE THAT WAY AND THEY'RE THESE POWERFUL FIGURES IN

17 THE LIVES OF MOST KIDS, THAT'S ENCOURAGEMENT IN AND OF

18 ITSELF, TO THINK AND FEEL AND ACT THAT WAY.

19 Q. AND, OF COURSE, WOULD ALSO HAVING SEXUAL

20 CONTACT WITH YOUR CHILD BE CORRUPTING AND EXPLOITING?

21 A. IT WOULD BE CORRUPTING AND EXPLOITING, ONE

22 OF THE WORST KINDS.

23 Q. AND WHAT ABOUT USING A CHILD -- FORCING A

24 CHILD UNDER GREAT PRESSURE TO PARTICIPATE IN ACTIVITIES

25 THAT BRING THE PARENT A GREAT DEAL OF STATUS, BUT THE

26 CHILD DOESN'T PARTICULARLY WANT TO DO IT?

27 IS THAT EXPLOITING?

28 A. WELL, IT WOULD BE EXPLOITING, BECAUSE THE

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1 CHILD IS BEING USED BY THE PARENTS TO GRATIFY HIS NEED,

2 TO LIVE OUT HIS LIFE OR HIS GOAL, AND IT'S CORRUPTING,

3 BECAUSE THAT MEANS THE CHILD IS BEING ROBBED OF THE TIME

4 AND -- OF USING HIS TIME AND ENERGY TO DO THINGS --

5 OTHER THINGS THAT HE MIGHT RATHER DO; TO PURSUE TALENTS

6 THAT MIGHT BE, IN THE LONG RUN, THE ONES THAT WOULD BE

7 MORE SATISFYING FOR HIM.

8 WE'LL JUST USE "HIM" FROM NOW ON, SO I

9 DON'T HAVE TO SAY "HIM" AND "HER" ALL THE TIME, OKAY?

10 Q. A MOTHER CAN BE AS PSYCHOLOGICALLY

11 MALTREATING AS A FATHER, I TAKE IT?

12 A. YES.

13 Q. AND WHAT'S THE FIFTH CATEGORY AFTER

14 CORRUPTING/EXPLOITING?

15 A. THE FIFTH ONE, WE HAVE A KIND OF AWKWARD

16 TITLE FOR IT. WE CALL IT "DENYING EMOTIONAL

17 RESPONSIVENESS." IT'S ALSO BEEN CALLED "IGNORING," BUT

18 THAT OUGHT TO BE IN BIG CAPITAL LETTERS, AND IT'S ALSO

19 THEN CALLED "PSYCHOLOGICAL UNAVAILABLE CARETAKING."

20 BUT WITH ALL THAT STUFF TOGETHER, IT REALLY

21 DOES REFER TO THE KIND OF THING WE WERE TALKING ABOUT IN

22 ROMANIA. PLUS WHEN CHILDREN -- WHEN THEY'RE INFANTS,

23 WHEN THEY'RE NOT GETTING ANY OF THAT SENSITIVE CARE,

24 THAT AFFECTION, THAT CUDDLING, THAT COOING.

25 A COLLEAGUE OF MINE, WHO IS ONE OF THE

26 WORLD'S MOST HIGHLY REGARDED EXPERTS IN THIS AREA, SAYS

27 THAT WHEN A CHILD IS AN INFANT, YOU NEED TO THINK OF THE

28 RELATIONSHIP -- AND WE ARE TALKING ABOUT RELATIONSHIPS

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1 BETWEEN PEOPLE. THAT'S THE CRITICAL PART OF THIS -- AS

2 BEING LIKE A DANCE BETWEEN THE INFANT AND THE ADULT, AND

3 THE INFANT SHOULD TAKE THE LEAD.

4 AND WHAT HAPPENS IS THAT IN THOSE EARLY

5 STAGES, AND LATER ON, THERE ARE PARENTS WHO SIMPLY DON'T
6 REACT TO -- DON'T RESPOND, DON'T SHOW ANY SUPPORT FOR
7 THE FEELINGS, THE CONCERNS, THE DESIRES, THE AREAS OF
8 SENSITIVITY OF THEIR CHILDREN, AND THAT'S VERY HARMFUL
9 TO THEM.

10 IN FACT -- AND THIS HAS JUST AMAZED A LOT
11 OF PEOPLE, IT'S THE RESEARCH -- IT'S THE AREA THAT HAS
12 SHOWN THE MOST DEVASTATING RESULTS IN TERMS OF NEGATIVE
13 EFFECTS ON THE DEVELOPMENT OF CHILDREN.

14 Q. BASICALLY DENYING SIGNS OF LOVE, ISN'T IT?

15 A. THAT'S A NICE, SIMPLE, BUT POWERFUL WAY TO
16 PUT IT, YEAH.

17 Q. YOU MIGHT FEEL IT INSIDE AS A PARENT, BUT
18 IF YOU'RE ONE OF THOSE PEOPLE WHO ABSOLUTELY CAN'T
19 COMMUNICATE IT, DOES IT MATTER TO THE CHILD THAT YOU MAY
20 FEEL IT?

21 A. THAT'S RIGHT. IT DOESN'T MATTER TO THE
22 CHILD. AND THOSE PARENTS TEND TO BE -- ARE CONSIDERED
23 TO USUALLY BE PEOPLE WHO JUST DON'T SEEM TO BE ABLE TO
24 EXPRESS THAT. WHATEVER HAS HAPPENED TO THEM IN THEIR
25 OWN LIVES, THEY JUST DON'T -- THEY DON'T GET IT.

26 Q. DOES IT MATTER FROM THE STANDPOINT OF
27 CAUSING HARM TO CHILDREN THROUGH PSYCHOLOGICAL
28 MALTREATMENT THAT THE PARENT INTENDS TO DO THIS?

1 DOES IT MATTER IF THEY'RE DOING IT
2 INTENTIONALLY, OR JUST DOING IT FROM IGNORANCE OR FROM
3 THEIR OWN MALADAPTION, OR THEIR OWN POOR PARENTING,
4 HAVING BEEN BADLY PARENTED THEMSELF?

5 A. IT'S GOING TO DO DAMAGE WHETHER THEY INTEND
6 IT OR NOT. WHEN I SAY "INTEND IT," IF THEY WERE TO
7 INTEND TO HARM THE CHILD.

8 Q. RIGHT.

9 A. WHICH IS DIFFERENT FROM INTENDING TO DO
10 SOMETHING. LIKE: "I'M GOING TO SPANK THE CHILD. I'M
11 GOING TO WHIP THIS CHILD EVERY DAY UNTIL HE STOPS
12 LYING," THINKING THAT THEY'RE GOING TO HELP THE CHILD
13 STOP LYING.

14 THEIR INTENTION WASN'T TO HURT THE CHILD IN
15 THAT CASE.

16 Q. BUT EVEN THOUGH THEIR INTENTION MAY NOT BE
17 TO HURT THE CHILD, DOES THAT MATTER? IS THE END RESULT
18 THE SAME?

19 A. IF THE CHILD FELT THE PARENT ACTUALLY
20 INTENDED TO HURT THEM, AND SOME CHILDREN WOULD THINK
21 THIS, TOO, IT COULD MAKE IT EVEN MORE POWERFUL.

22 BUT MY VIEW ON THIS IS MOST PEOPLE WHO
23 MISTREAT OR ABUSE THEIR CHILDREN DON'T SET OUT
24 INTENTIONALLY TO HURT THEM. THEY'RE MORE LIKE THE DRUNK
25 DRIVER WHO KILLS OR MAIMS SOMEBODY OUT ON THE HIGHWAY.
26 THAT DRUNK DRIVER DIDN'T SIT DOWN AND PUT A BOTTLE IN
27 FRONT OF HIMSELF, AND SAY: "I'M GOING TO DRINK THIS AND
28 GET IN MY CAR AND GO OUT AND KILL SOMEBODY." MOST OF

1 THE DRUNK DRIVERS DON'T DO THAT.

2 MOST OF THE PARENTS WHO HURT THEIR CHILDREN
3 DON'T PLAN TO HURT THEM, BUT THEY ARE PEOPLE WHO ARE NOT
4 DOING A GOOD JOB OF MEETING THEIR OWN NEEDS, OF DEALING
5 WITH LIFE'S ISSUES, OF DEALING WITH RELATIONSHIPS.

6 Q. TYPICALLY?

7 A. TYPICALLY.

8 Q. AND IS THERE A SIXTH CATEGORY AFTER DENYING
9 EMOTIONAL RESPONSIVENESS?

10 A. YES. IT'S BASICALLY A CATEGORY OF
11 NEGLECTING TO PROVIDE THE KIND OF HELP A CHILD NEEDS
12 WHEN A CHILD CLEARLY HAS A PROBLEM.

13 SO IT COULD BE WHAT WE CALL MEDICAL
14 NEGLECT, LIKE THE CHILD HAS AN ILLNESS AND THE CHILD
15 ISN'T TAKEN TO THE DOCTOR, AND MOST OTHER PEOPLE WOULD
16 TAKE HIM.

17 MENTAL HEALTH NEGLECT, WHEN THE CHILD IS
18 HAVING REAL PROBLEMS OF BEHAVIOR AND THINKING AND
19 FEELINGS, AND THE PARENT WON'T TAKE HIM TO GET HELP.

20 OR EDUCATIONAL NEGLECT, WHEN THE CHILD HAS
21 REAL PROBLEMS IN LEARNING AND PROGRESSING IN SCHOOL, AND
22 THE PARENTS EITHER WON'T GET THE HELP OR THEY REFUSE IT
23 WHEN IT'S OFFERED.

24 AND THAT IDEA GOES ACROSS THE THREE, EITHER
25 REFUSING IT OR NEGLECTING TO GET IT WHEN IT WOULD BE

26 APPARENT, YOU KNOW, TO 90 PERCENT OF THE PARENTS, OR

27 MORE, THAT THE CHILD NEEDS IT.

28 Q. NOW, WITH THE SIX CATEGORIES OF

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1 PSYCHOLOGICAL MALTREATMENT IN MIND, HAVE YOU SPENT A LOT

2 OF TIME, DR. HART, THINKING ABOUT AND EVALUATING THE

3 MENENDEZ FAMILY?

4 A. YES. YES, I HAVE.

5 Q. AND DID YOU FORM AN OPINION AS TO WHETHER

6 OR NOT THE STYLE OF PARENTING AND THE ACTS OF PARENTING

7 THAT OCCURRED IN THIS FAMILY CONSTITUTED PSYCHOLOGICAL

8 MALTREATMENT?

9 A. I HAVE AN OPINION. MY --

10 Q. WELL, BEFORE WE GET THERE, DID I ASK YOU

11 SPECIFICALLY IN DOING THIS EVALUATION, FOR THIS STAGE OF

12 THIS TRIAL, TO TAKE OUT OF THE MATRIX -- JUST FOR THE

13 MOMENT -- THE SEXUAL MOLESTATION THAT ERIK MENENDEZ

14 TESTIFIED TO; THAT HIS COUSIN ANDY TESTIFIED TO, IN THIS

15 TRIAL?

16 A. YES.

17 Q. I ASKED YOU, DID I NOT, TO EVALUATE HIS

18 LIFE IN TERMS OF EVERYTHING ELSE THAT WAS GOING ON,

19 PUTTING THAT ASIDE FOR THE MOMENT?

20 A. YOU DID.

21 Q. OKAY.

22 AND WITH RESPECT TO THIS FAMILY, WAS THERE

23 PSYCHOLOGICAL MALTREATMENT, TO ANY EXTENT?

24 A. YES, IN MY OPINION THERE WAS.

25 Q. AND TO WHAT EXTENT, IN YOUR OPINION, WAS IT

26 EXPERIENCED BY ERIK MENENDEZ?

27 A. WELL, I THINK IT WAS QUITE A SERIOUS AND

28 SEVERE EXTENT.

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1 Q. AND WHAT WAS IT -- FIRST OF ALL, ARE THERE

2 GUIDELINES NOW FOR ASSESSING THE SEVERITY -- LET ME FIND

3 IT.

4 IS THERE SOMETHING THAT -- COMMON

5 INDICATORS OF SEVERITY OF PSYCHOLOGICAL MALTREATMENT?

6 A. THERE ARE.

7 Q. AND DID YOU APPLY THOSE INDICATORS OF

8 SEVERITY TO ALL THE FACTS AND ALL THE HISTORY ABOUT THIS

9 FAMILY THAT YOU KNEW?

10 A. TO THE INFORMATION AVAILABLE TO ME.

11 Q. AND WHAT ARE THE INDICATORS OF SEVERITY

12 THAT APPLIED IN THIS SITUATION?

13 A. I DON'T HAVE THAT LIST IN FRONT OF ME, BUT

14 I KNOW THIS PRETTY WELL, I THINK. SO LET'S SEE IF WE

15 CAN GET IT.

16 Q. I'LL CHECK IT OFF.

17 A. CHECK IT OFF, AND LET'S SEE.

18 WELL, FIRST OF ALL, YOU CONSIDER WHETHER
19 YOU HAVE MORE THAN ONE FORM OF THE KIND I JUST
20 MENTIONED, AND YOU HAVE IN EVIDENCE IN THIS CASE ALL OF
21 THE FORMS.

22 Q. ALL SIX?

23 A. ALL SIX FORMS OCCURRING.

24 THEN THE NEXT QUESTION IS DO THESE -- DID
25 THESE THINGS OCCUR ACROSS A NARROW OR A BROAD RANGE OF
26 THE DEVELOPMENT -- THE YEARS OF LIFE OF THE CHILD, THE
27 DEVELOPMENTAL PERIOD?

28 AND IN THIS CASE, YES, THEY DID OCCUR

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1 ACROSS THE YEARS. YOU KNOW, DIFFERENT ONES WITH
2 DIFFERENT EMPHASIS AT DIFFERENT TIMES, BUT THEY OCCURRED
3 ACROSS THE YEARS.

4 Q. SO AT EVERY AGE THERE WERE COMPONENTS OF
5 PSYCHOLOGICAL MALTREATMENT IN THE PARENTING THAT ERIK
6 MENENDEZ RECEIVED?

7 A. YEAH. IN EVERY SORT OF AGE RANGE OF
8 DEVELOPMENT THAT PEOPLE GIVE PARTICULAR ATTENTION TO.

9 Q. LET'S STOP FOR ONE SECOND THERE, OKAY,
10 BECAUSE WE DIDN'T DO THAT.

11 WHAT ARE THE AGE RANGES? WHAT ARE THE
12 STAGES OF DEVELOPMENT?

13 A. LET'S DO IT THE SIMPLEST WAY.

14 YOU HAVE A LIST WHICH CAME FROM ERIK
15 ERIKSON, WHO IS HIGHLY REGARDED BY PSYCHOLOGISTS.
16 Q. ERIK ERIKSON IS A RESEARCHER IN CHILD
17 DEVELOPMENT?
18 A. AND A THEORIST, AND ONE OF THE MOST
19 RESPECTED OF THE CENTURY, NO QUESTION ABOUT IT.
20 AND THOSE ARE BROKEN DOWN EVEN MORE
21 NARROWLY IN TERMS OF YEARS, THE YEAR SPANS. BUT USUALLY
22 IT'S GOOD ENOUGH TO WORK WITH PRESCHOOL YEARS AND THE
23 EARLY ELEMENTARY SCHOOL YEARS, AND THEN THE SECONDARY
24 SCHOOL YEARS.
25 Q. SO, IT'S OKAY TO JUST BREAK IT INTO THREE?
26 A. YEAH. IT'S MUCH SIMPLER AND IT DOES A GOOD
27 ENOUGH JOB. AND MOST OF THE PEOPLE I WORK WITH AGREE ON
28 THAT. IN FACT, I THINK YOU'LL FIND THE GUIDELINES THAT

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1 HAVE DONE IT THAT WAY.
2 Q. JUST BROKEN IT DOWN TO THREE STAGES;
3 PRESCHOOL --
4 A. YEAH, THREE OR FOUR. I THINK THERE ARE
5 PROBABLY THREE -- THREE OR FOUR THERE. AND THAT'S GOOD
6 ENOUGH. OTHERWISE IT JUST -- YOU GET BOGGED DOWN IN
7 YEAR-BY-YEAR KIND OF STUFF, AND FOR A PARTICULAR KID,
8 DEVELOPMENT MAY BE ADVANCED OR BEHIND.
9 SO, GO RIGHT AHEAD.

10 Q. LET ME JUST CLARIFY ONE THING.
11 WHAT ERIKSON, THIS PARTICULAR THEORIST IN
12 CHILD DEVELOPMENT DID -- WELL, WHAT ERIKSON DID, JUST TO
13 MAKE IT A QUESTION -- IS TO SEPARATE OUT THE SPECIFIC
14 DEVELOPMENTAL NEEDS OF CHILDREN AT SPECIFIC AGES?
15 A. YES, DEVELOPMENTAL NEEDS OR ISSUES, RIGHT.
16 Q. AT LEAST WHAT HE'S DOING IS IDENTIFYING THE
17 EARLIEST PART OF A CHILD'S LIFE WHEN THESE NEEDS ARISE
18 AND NEED TO BE DEALT WITH?
19 A. THAT'S -- THAT'S SUCH AN IMPORTANT FACTOR,
20 BECAUSE YOU REMEMBER I MENTIONED TRUST EARLIER. YOU
21 NEVER STOP HAVING A NEED FOR TRUST, TO KEEP BUILDING IT.
22 MOST OF US KNOW WE'RE WORKING ON IT ALL THE TIME.
23 BUT IT STARTS -- IT'S THE FIRST ONE. IT'S
24 THE VERY EARLIEST ONE.
25 Q. WHAT YOU MEAN BY THAT IS FROM THE MINUTE A
26 CHILD IS BORN THEY HAVE A NEED TO LEARN TO TRUST THE BIG
27 FOLKS AROUND THEM?
28 A. YEAH, THAT WORLD AROUND THEM.

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1 Q. BUT THAT PARTICULAR NEED FOR A PERSON TO BE
2 COMFORTABLE OR HAPPY OR STABLE GOES ON THEIR WHOLE LIFE,
3 DOES IT NOT?
4 A. IT GOES ON, YEAH. IF IT'S MET PRETTY WELL
5 EARLY, THEN YOU HAVE A BASIS OF STRENGTH TO MOVE ON TO

6 THE NEXT LEVEL. AND IF IT ISN'T, YOU'VE GOT A BASE OF
7 ANXIETY. YOU'VE GOT A BASE OF UNEASINESS, A LITTLE
8 SHAKY.

9 Q. TRUST IS ALWAYS AN ISSUE, BECAUSE PEOPLE
10 ALWAYS SUFFER FROM BETRAYAL, EVEN WHEN THEY'RE GROWNUPS,
11 DON'T THEY?

12 A. IT'S ALWAYS IMPORTANT, THAT'S RIGHT.

13 Q. SO ERIKSON IDENTIFIED THAT TRUST ISSUES
14 ARISE FROM TIME ZERO AND ARE EXTREMELY CRUCIAL FROM ZERO
15 TO 18 MONTHS?

16 A. FROM THE VERY BEGINNING, THAT'S RIGHT.

17 THE COURT: LET'S TAKE OUR BREAK HERE, BECAUSE WE
18 HAVE BEEN GOING HERE SINCE ABOUT A QUARTER TO. AND
19 WE'LL RESUME AT 3:30.

20 DON'T DISCUSS THE MATTER WITH ANYONE.

21 DON'T FORM ANY FINAL OPINIONS ABOUT IT, AND WE WILL
22 RESUME AT 3:30.

23 (A RECESS WAS TAKEN FROM
24 3:15 P.M. TO 3:40 P.M.)

25

26 THE COURT: OKAY. WE HAVE EVERYBODY HERE. WE'LL
27 HAVE THE JURY COME OUT.

28

2 AND THE FOLLOWING PROCEEDINGS

3 WERE HELD:)

4

5 THE COURT: ALL RIGHT. THE JURY IS BACK.

6 YOU MAY CONTINUE YOUR DIRECT EXAMINATION.

7 MS. ABRAMSON: THANK YOU, YOUR HONOR.

8 Q. WE WERE TALKING, DR. HART -- YOU WERE

9 LISTING THE INDICATORS OF SEVERITY THAT YOU FOUND IN

10 YOUR EXAMINATION OF THE MENENDEZ FAMILY.

11 A. YES.

12 Q. AND I BELIEVE YOU HAD MENTIONED THAT THERE

13 WAS ALL SIX FORMS OF PSYCHOLOGICAL MALTREATMENT; THAT

14 THEY WERE INFLICTED ACROSS ALL OF THE AGE GROUPS,

15 DEVELOPMENTAL AGES THAT WE'VE TALKED ABOUT?

16 A. YES.

17 Q. WAS THERE A THIRD INDICATOR OF SEVERITY

18 HERE?

19 A. ANOTHER IS JUST WHAT IS A MASS OF THEM, OR

20 THERE ARE A LOT OF THEM. WHAT IS THE WEIGHT OF THESE?

21 AND THERE ARE A LOT.

22 Q. A LOT OF WHAT?

23 A. INCIDENTS WHICH WOULD BE CALLED

24 PSYCHOLOGICAL MALTREATMENT, OCCURRENCES, TIMES WHEN

25 THINGS LIKE THAT HAPPENED.

26 AND THAT SEEMED TO HAVE BEEN SEEN BY

27 PEOPLE, AND THAT'S KIND OF UNUSUAL IN A WAY, BECAUSE

28 MALTREATMENT IS -- MOST PEOPLE RECOGNIZE THAT USUALLY

1 YOU'RE GETTING THE TIP OF AN ICEBERG. I MEAN, IN SO
2 MANY FAMILIES, NOBODY REALLY GETS TO KNOW ABOUT IT. AND
3 IN SOME FAMILIES MAYBE A LITTLE BIT OF THAT SURFACES,
4 AND THEY KEEP IT SECRET.

5 SO THERE ARE REALLY QUITE A FEW INCIDENCES
6 THAT BECAME KNOWN TO PEOPLE.

7 Q. AND WHEN YOU TALK ABOUT MANY INSTANCES, DID
8 I ALSO ASK YOU TO FOCUS, IN FORMING A BASIS FOR YOUR
9 TESTIMONY HERE, ON EPISODES OF PSYCHOLOGICAL
10 MALTREATMENT THAT WERE OBSERVED AND REPORTED BY THIRD
11 PARTIES, NOT BY ERIK, NOT BY LYLE?

12 A. THAT'S RIGHT. THOSE ARE THE ONES THAT I'M
13 GIVING ATTENTION TO.

14 Q. AND FOR MOST OF THESE INCIDENTS, OR --
15 WELL, STRIKE THAT.

16 WERE THERE ALSO ENTIRE PATTERNS OF
17 BEHAVIOR --

18 A. YES.

19 Q. -- BY EACH PARENT THAT WERE MALTREATMENT
20 PATTERNS?

21 A. YES.

22 Q. I MEAN, JUST WAYS OF BEHAVING ALL THE TIME
23 THAT WERE UNFORTUNATELY WRONG FOR RAISING HEALTHY
24 CHILDREN?

25 A. YES. YES. WAYS OF BEHAVING THAT WERE
26 GENERALLY PRESENT. I GET -- PROBABLY THERE'S NO ONE

27 THAT WE KNOW OF WHO DOES SOMETHING ALL THE TIME, BUT IT
28 CERTAINLY SEEMED TO APPROACH THAT IN SOME AREAS.

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1 Q. AND FOR BOTH THE SPECIFIC INCIDENTS WHERE
2 THESE BEHAVIORS MANIFESTED THEMSELVES, AND WITH RESPECT
3 TO THE PHILOSOPHY OF CHILD-REARING THAT WAS ADOPTED IN
4 THAT FAMILY, DID YOU FIND A VERY LARGE NUMBER OF
5 INCIDENTS THAT A THIRD PARTY, EVEN A NONRELATIVE THIRD
6 PARTY, OBSERVED?

7 A. YES.

8 Q. AND THAT'S UNUSUAL, ISN'T IT?

9 A. YES.

10 Q. AND IS IT APPROPRIATE TO ASSUME THAT IF YOU
11 HEAR ABOUT FIVE EPISODES OF A PARTICULAR FORM OF
12 MALTREATMENT THAT PEOPLE DO SEE, THAT IT'S MORE THAN
13 LIKELY THERE ARE MANY, MANY MORE THAT PEOPLE DON'T SEE?

14 MR. CONN: OBJECTION. CALLS FOR SPECULATION.

15 THE COURT: SUSTAINED.

16 Q. BY MS. ABRAMSON: IS THAT -- WHAT DID YOU
17 MEAN BY "TIP OF THE ICEBERG"?

18 MR. CONN: OBJECTION. CALLS FOR SPECULATION.

19 THE COURT: WELL, SINCE IT'S A PHRASE HE USED, HE
20 CERTAINLY CAN EXPLAIN WHAT HE MEANT.

21 OVERRULED.

22 THE WITNESS: WELL, THE BASIC IDEA HERE IS THAT

23 YOU -- WHAT'S DONE PUBLICLY IS UNDER THE OBSERVATION OF
24 OTHER PEOPLE WHO MIGHT BE CRITICAL OF YOU, WHO HAVE SOME
25 SENSE OF STANDARDS OF THE WAY THAT YOU TREAT PEOPLE, IS
26 LIKELY TO BE LESS THAN WHAT OCCURS IN PRIVATE.

27 SO THAT'S THE IDEA OF THE TIP OF THE
28 ICEBERG, YOU KNOW. EVERYBODY KNOWS THAT.

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1 Q. BY MS. ABRAMSON: OKAY. BUT THAT'S WHAT
2 YOU'RE REFERRING TO, THE FACT IF YOU SEE IT IN PUBLIC,
3 THEN IT'S LIKELY IT'S GOING ON EVEN MORE IN PRIVATE?

4 A. YEAH, IT'S LIKELY. IT'S JUST LOGICAL.

5 Q. AND WAS THERE, IN FACT, INFORMATION IN THE
6 MATERIALS THAT YOU EVALUATED THAT SHOW THAT IN THIS
7 PARTICULAR FAMILY, SECRECY WAS A REAL ISSUE, A REAL
8 INTEREST OF THE PARENTS, TO KEEP THEIR FAMILY SECRET AND
9 AWAY FROM OTHER PEOPLE'S PRYING EYES?

10 A. YES, THERE WERE INDICATORS OF THAT.

11 Q. AND WAS THERE A FOURTH INDICATOR OF
12 SEVERITY OF THE PSYCHOLOGICAL MALTREATMENT IN THIS
13 FAMILY?

14 A. YES. THAT THERE WERE EXTREME INCIDENTS
15 RELATED.

16 Q. WHAT WOULD YOU CONSIDER AN EXTREME INCIDENT
17 OF PSYCHOLOGICAL MALTREATMENT?

18 A. OH, SUBJECTING A CHILD TO PUBLIC

19 HUMILIATION, RAISING THE CHILD UP IN FRONT OF OTHER
20 PEOPLE AS SOMEONE WHO HAS A FLAW, WHO'S DONE SOMETHING
21 WRONG, SO THAT EVERYONE -- TRYING TO GET EVERYONE TO
22 LOOK AT IT THAT WAY.

23 Q. AND WAS THAT SOMETHING THAT, IN YOUR
24 OPINION, OCCURRED TO ERIK MENENDEZ?

25 A. YES.

26 Q. AND DID IT OCCUR MORE THAN ONCE?

27 A. THAT'S MY UNDERSTANDING.

28 Q. WOULD YOU CONSIDER THE INCIDENT IN THE

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1 CEMETERY RELATIVELY EXTREME?

2 A. YES. IT'S -- IT IS.

3 Q. YOU'RE ALSO AWARE OF AN INCIDENT TESTIFIED
4 TO IN THE FIRST TRIAL BY CARLOS BARALT INVOLVING -- AND
5 TESTIFIED TO IN THIS TRIAL BY ERIK MENENDEZ -- INVOLVING
6 ERIK MENENDEZ' FATHER ENCOURAGING HIM TO LEAP INTO HIS
7 ARMS, AND THEN PURPOSELY LETTING THE CHILD FALL ON HIS
8 FACE?

9 A. I HAVE HEARD ABOUT IT. I'VE KNOWN OF THAT
10 INSTANCE BEING REPORTED.

11 AND IF YOU THINK ABOUT WHAT I WAS TALKING
12 ABOUT EARLIER, ABOUT THIS FUNDAMENTAL BUILDING BLOCK FOR
13 HEALTHY DEVELOPMENT OF TRUST, CLEARLY, THAT'S IN DIRECT
14 OPPOSITION TO IT; THAT YOU'RE TEACHING THE CHILD NOT TO

15 TRUST; THAT YOU CAN'T EVEN TRUST YOUR OWN PARENT.

16 Q. AND WERE YOU AWARE THAT, AS REPORTED IN
17 THAT INCIDENT, THAT'S EXACTLY WHAT JOSE MENENDEZ TOLD
18 ERIK MENENDEZ: "SEE, YOU CAN'T EVEN TRUST YOUR OWN
19 FATHER"?

20 A. THAT'S MY MEMORY OF IT, YES, THAT THAT'S
21 WHAT WAS SAID, THAT THAT WAS THE INTENTION.

22 Q. TO UNSETTLE THE CHILD?

23 A. AND TO TEACH THE CHILD NOT TO TRUST, NOT TO
24 TRUST ANYONE.

25 Q. IS THAT A HEALTHY MESSAGE FOR A CHILD?

26 A. NO, IT'S A VERY DESTRUCTIVE MESSAGE. IN
27 FACT, IT'S JUST ALMOST A -- IT'S A CARICATURE ALMOST OF
28 A BAD THING YOU COULD DO TO A CHILD. I MEAN, SO FEW

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1 PARENTS WOULD THINK THAT THAT'S SOMETHING THAT ANYONE
2 SHOULD DO. IT WOULD BE GENERAL OPINION, I WOULD
3 SUSPECT.

4 BUT OBVIOUSLY, IN THE TERMS I HAVE GIVEN
5 YOU, IT'S DESTRUCTIVE.

6 Q. NOW, IS THERE ANOTHER FACTOR OR INDICATOR
7 OF SEVERITY HERE HAVING TO DO WITH --

8 A. YES.

9 Q. ALL RIGHT. GO AHEAD.

10 A. WELL, ANOTHER ONE WOULD -- FOR ME WOULD BE

11 THE REACTIONS THAT OTHER PEOPLE MIGHT HAVE TO THAT
12 SAME -- TO THAT SAME KIND OF TREATMENT IN MUCH BRIEFER
13 PERIODS OF TIME.
14 SO IN OTHER WORDS, IF YOU HAVE A CHILD
15 WHO'S EXPERIENCING SOMETHING, POSSIBLY, DAY IN AND DAY
16 OUT, WEEK IN AND WEEK OUT, AND YOU HAVE SOMEONE VISIT
17 THE HOME WHO EXPERIENCES SOME OF THAT, AND FINDS THAT TO
18 BE TRAUMATIZING OR QUITE DISTURBING AND QUITE PAINFUL IN
19 THAT SHORT PERIOD OF TIME, IT'S STRONGLY SUGGESTIVE OF
20 WHAT IT MUST MEAN TO THE PERSON WHO IS EXPERIENCING IT
21 REPEATEDLY.

22 Q. AND TO CUT THROUGH THAT, ARE YOU TALKING
23 ABOUT, FOR EXAMPLE, THE EXPERIENCES OF SOMEONE LIKE
24 DIANE VANDERMOLLEN?

25 A. YES, THAT'S RIGHT.

26 Q. WHO STAYED WITH THE FAMILY FOR A PERIOD,
27 AND AFTER SIX MONTHS WAS SUICIDAL?

28 A. YES, IT'S THAT KIND OF THING. THAT'S

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1 RIGHT.

2 Q. SO YOU'RE EXTRAPOLATING THAT SOMEONE WHO'S
3 IN THAT HOME AS AN ADULT -- I THINK SHE WAS IN HER
4 TWENTIES -- WAS MADE TO FEEL THAT BADLY ABOUT HERSELF
5 THAT THE EFFECT ON THE CHILDREN THAT GREW UP THERE WOULD
6 BE EVEN WORSE?

7 A. THAT'S THE IDEA OF IT. IF A LITTLE BIT OF
8 THAT CAN DO THAT TO SOMEBODY, THEN IT'S STRONGLY
9 SUGGESTIVE THAT A LOT OF IT CAN DO MORE HARM.

10 Q. AND IS THERE ANY OTHER INDICATOR OF
11 SEVERITY WITH RESPECT TO THE PSYCHOLOGICAL MALTREATMENT
12 IN THIS FAMILY?

13 A. YEAH. A COUPLE, AT LEAST, THAT ARE WORTH
14 MENTIONING.

15 ONE WOULD BE WHETHER OR NOT THERE ARE ANY
16 KIND OF COUNTER-BALANCING OR BUFFERING KIND OF
17 CONDITIONS THAT WOULD SOFTEN WHAT'S HAPPENING.

18 IN OTHER WORDS, ARE THE PARENTS -- AND
19 PARTICULARLY THE ONES WHO ARE DOING IT -- ARE THEY
20 SHOWING VERY GOOD PARENTING AT OTHER TIMES, VERY
21 POSITIVE KINDS OF SUPPORTING, LOVING CARE, AND SO ON.

22 SO THAT IT -- IT REDUCES THE IMPACT OF THE
23 NEGATIVE.

24 AND AGAIN, THAT -- THE RESEARCH MORE AND
25 MORE IS SHOWING HOW IMPORTANT THAT IS. BUT IT'S ALSO, I
26 THINK, TO MOST PARENTS VERY -- THEY REALIZE THAT IT'S
27 HAPPENED IN THEIR OWN FAMILY, AND THEY REALIZE THAT WHEN
28 THEY WERE KIDS IT HELPED IF SOMEBODY SOFTENED IT, IF

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1 THERE WAS A POSITIVE THING THAT WOULD HAPPEN AFTERWARD,
2 OR POSITIVE THINGS HAPPENING IN THEIR LIVES, THEY COULD

3 TAKE SOME OF THE ROUGH PARTS.

4 Q. SO THEY COULD ENDURE SOME BAD THINGS IF

5 THERE WERE SOME GOOD THINGS?

6 A. YES. AND AS WE WERE SAYING EARLIER, THANK

7 GOODNESS THAT'S THE CASE, BECAUSE NONE OF US ARE PERFECT

8 PARENTS, AND WE NEED THAT TO BE THE CASE. WE NEED TO

9 HAVE THAT BALANCE.

10 Q. AND CAN THAT BALANCE ALSO COME FROM OTHER

11 PEOPLE WHO ARE CLOSE TO A CHILD, WHO CAN COUNTERACT SOME

12 OF THE BAD EFFECTS --

13 A. IT CAN.

14 Q. -- OF BAD PARENTING?

15 A. RIGHT. IT'S -- YOU KNOW, IT'S GOOD IF IT

16 COMES FROM THE SAME PERSON, ALTHOUGH IT COULD BE KIND OF

17 CONFUSING, AND IT COULD COME FROM THE OTHER SPOUSE. IT

18 COULD COME FROM CLOSE RELATIVES, FRIENDS, NEIGHBORS AND

19 SO ON; AND THAT COULD BE HELPFUL. THAT'S RIGHT.

20 IF YOU HAVE ACCESS TO THOSE PEOPLE AND THEY

21 CAN GIVE YOU ENOUGH SUPPORT, IT CAN DO AWAY WITH SOME OF

22 THE NEGATIVE EFFECTS.

23 Q. IS THAT ONE OF THE REASONS WHY NOT ALL

24 CHILDREN WHO WERE TREATED ABUSIVELY BY A PARENT OR

25 PARENTS DEVELOP TERRIBLE, LONG-LASTING EFFECTS?

26 A. THAT -- THAT'S RECOGNIZED AS ONE OF THE

27 REASONS, YEAH. IN FACT, THERE ARE CHILDREN WHO ARE

28 CALLED "STRESS RESISTANT CHILDREN," WHO ARE BEING

1 RESEARCHED -- HAVE BEEN FOR THE LAST 20 YEARS OR SO,
2 WHOSE LIVES SEEMED TO BE PRETTY MISERABLE IN MANY WAYS.
3 CHAOTIC, DANGEROUS AND SO ON, WHO WERE ABLE TO GET
4 THROUGH IN WHAT APPEARED TO BE A FAIRLY GOOD FASHION.

5 AND IT SEEMED TO BE BECAUSE THERE WERE SOME
6 PEOPLE IN THEIR LIVES WHO BALANCED THAT, WHO REALLY
7 CARED ABOUT THEM AND GAVE THEM THAT KIND OF LOVING
8 SUPPORT AND DEVELOPED THAT TRUST.

9 IN FACT, IS IT OKAY IF I GO ON ON THAT FOR
10 A MINUTE?

11 Q. SURE. IT'S ACTUALLY UP TO HIM. HE'S THE
12 ONE WHO CAN STOP YOU. I HAVEN'T STOPPED YOU.

13 A. THE RESEARCH ON HELPING KIDS WHO HAVE BEEN
14 HAVING PROBLEMS, AND THESE BEHAVIORS AND SO ON, OR
15 TROUBLESOME, INDICATES IF YOU GIVE THEM THREE THINGS YOU
16 CAN REALLY MAKE A DIFFERENCE.

17 ONE IS THAT TRUSTING, CARING, SENSITIVE
18 RELATIONSHIP, CLOSE RELATIONSHIP WITH SOMEBODY.

19 AND ADVOCACY, SOMEBODY WHO SAYS, YOU KNOW,
20 "I REALLY CARE ABOUT YOU. I'M GOING TO STAND UP FOR YOU
21 AND WHAT'S GOOD FOR YOU IN THE LONG RUN."

22 AND THEN A KIND OF A TEACHING OR MENTORING
23 OR GUIDING RELATIONSHIP, IN WHICH YOU HELP THE CHILD
24 FIND THE BEST WAYS TO MEET HIS NEEDS, TO REACH HIS
25 GOALS.

26 THAT LAST PART IS REAL IMPORTANT. THEY ARE
27 THE CHILD'S -- THE GOALS THE CHILD WOULD SET. AND THAT

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1 WHO ARE TROUBLED, AND THAT'S A POWERFUL COMBINATION TO
2 BALANCE THINGS.

3 Q. NOW, LET'S TALK ABOUT THIS FAMILY.

4 WERE THERE THESE BALANCING PEOPLE,
5 BEHAVIORS, PRESENT IN THE MENENDEZ FAMILY?

6 A. IF WE THINK ABOUT IN THE IMMEDIATE --
7 EXCUSE ME -- IMMEDIATE NUCLEAR FAMILY, MOM AND DAD AND
8 THE TWO BOYS, LYLE AND ERIK, WHERE WE WOULD FIND THAT,
9 IT WOULD BE MORE LIKELY BETWEEN THE TWO BOYS, TO THE
10 DEGREE THAT THERE WAS ANY. BUT THERE WASN'T VERY MUCH
11 THAT I COULD IDENTIFY.

12 OUTSIDE OF THAT FAMILY THERE WERE
13 POSSIBILITIES, AND I THINK SOME EPISODES FROM TIME TO
14 TIME IN TERMS OF SOME RELATIONSHIPS WITH RELATIVES, WITH
15 COACHES, GIRLFRIENDS, FAMILIES OF FRIENDS, AND SO ON.

16 SO SOME OF THAT THEY GOT. IT APPEARS TO ME
17 THAT WHERE THEY GOT THAT KIND OF THING, THEY WERE LIKELY
18 TO GET IT OUTSIDE OF THE IMMEDIATE FAMILY.

19 Q. AND DID THEY GET ENOUGH COUNTER-BALANCING
20 INFLUENCES TO AMELIORATE OR LESSON THE HARM OR THE
21 IMPACT OF THE PSYCHOLOGICAL MALTREATMENT THAT WAS GOING
22 ON CONSISTENTLY INSIDE?

23 A. OH, THEY DIDN'T GET ENOUGH TO DO AWAY WITH

24 THE FULL POWER OF IT, BUT THEY GOT ENOUGH TO CONTINUE TO

25 HAVE SOME GOOD QUALITIES.

26 Q. FOR THEM TO CONTINUE TO HAVE GOOD

27 QUALITIES?

28 A. FOR THEM TO CONTINUE TO HAVE GOOD

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1 QUALITIES.

2 Q. IF THERE HAD BEEN NONE?

3 A. OH, IF THERE HAD BEEN NONE, IT WOULD HAVE

4 BEEN WORSE, AND THE TRAGEDY THAT -- I MEAN, YOU KNOW,

5 HOW DO YOU JUDGE TRAGEDY; I MEAN, IN TERMS OF GIVING IT

6 A SCALE VALUE?

7 BUT MANY OTHER TERRIBLE THINGS COULD HAVE

8 HAPPENED TO THEM, TOO. THEY COULD HAVE BECOME -- I'LL

9 CALL IT DRUG USERS. THEY COULD HAVE BEEN TAKING OUT

10 THEIR AGGRESSION, AND SO ON, ON ALL KINDS OF PEOPLE, OR

11 THEMSELVES.

12 Q. AND THAT DIDN'T HAPPEN?

13 A. NO. THERE WAS JUST -- THAT KIND OF THING

14 DIDN'T SEEM TO HAPPEN. I DIDN'T FIND THAT KIND OF

15 EVIDENCE.

16 Q. WITHIN THE FAMILY, WAS THERE ANY

17 COUNTER-BALANCE THAT YOU COULD SEE WITHIN THE

18 FOUR-MEMBER FAMILY, APART FROM WHATEVER THE TWO BROTHERS

19 COULD HAVE DONE TO SUPPORT EACH OTHER?

20 DID THE PARENTAL BEHAVIOR CONTAIN THIS
21 POSITIVE/NEGATIVE, OR WAS IT MAINLY, SADLY NEGATIVE?
22 A. IT APPEARS TO HAVE BEEN MAINLY, SADLY
23 NEGATIVE.
24 Q. BY BOTH PARENTS?
25 A. YES. IT'S HARD TO GET A COMPLETELY CLEAR
26 PICTURE OF THE FIRST YEARS, AND HOW MUCH, IF ANY,
27 AFFECTION WAS SHOWN THERE.
28 BUT NO, THERE IS VERY LITTLE EVIDENCE OF

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1 THAT KIND OF SUPPORT.
2 Q. DID YOU TRY TO FACTOR IN -- OR IS IT EVEN
3 POSSIBLE TO FACTOR IN, DR. HART, WHAT -- TO WHAT EXTENT
4 THE GOOD QUALITIES THAT YOU HAVE FOUND PERSISTED IN ERIK
5 MENENDEZ WERE ATTRIBUTABLE TO THE FACT THAT JUST OUT OF
6 LUCK HE DID HAPPEN TO HAVE TALENTS?
7 A. WELL, I THINK THAT'S A BIG PART OF IT. AND
8 IN FACT, THE -- WHAT WE KNOW ABOUT CHILDREN WHO ARE --
9 WHO LIVE UNDER VERY DIFFICULT CONDITIONS; STRESS,
10 PUNISHING CONDITIONS AND SO ON, IS THAT IN ADDITION TO
11 WHAT I SAID EARLIER, YOU KNOW, ABOUT HAVING SOMEBODY
12 ELSE WHO MAKES A DIFFERENCE AND SO ON, THAT IF YOU'RE
13 BRIGHT -- IF YOU'RE BRIGHT AND YOU HAVE SOME TALENTS
14 THAT ALLOW YOU TO FEEL GOOD ABOUT YOURSELF IN SOME
15 AREAS, YOU KNOW THERE'S SOMETHING YOU CAN GET RESPECT

16 FOR AND YOU CAN RESPECT YOURSELF FOR, IT CAN MAKE A REAL
17 DIFFERENCE.

18 SO I THINK THAT'S -- THOSE THINGS WERE
19 PRESENT FOR ERIK.

20 Q. YOU'RE AWARE, ARE YOU NOT, THAT WITH
21 RESPECT TO -- FROM A DIAGNOSTIC STANDPOINT, NEITHER
22 DR. WILSON NOR DR. DIETZ FOUND THAT ERIK MENENDEZ WAS
23 WHAT'S KNOWN AS AN ANTISOCIAL PERSONALITY?

24 A. I AM AWARE OF THAT.

25 Q. AND IS BECOMING AN ANTISOCIAL PERSONALITY
26 SOMETHING THAT CAN HAPPEN TO CHILDREN WHO ARE
27 PERSISTENTLY AND CONSISTENTLY ABUSED?

28 A. YEAH, IT'S MY UNDERSTANDING THAT IT CAN.

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1 AND IN FACT, I'VE HAD CONVERSATIONS WITH -- WITH ONE OF
2 THE LEADING EXPERTS IN THE AREA OF DESTRUCTIVE TREATMENT
3 IN THE VERY EARLY YEARS, WHO INDICATES TO ME THAT THAT'S
4 ONE OF THE POSSIBLE RESULTS.

5 AND NO. I AM AWARE THAT NO ONE HAS FOUND
6 THAT CHARACTERISTIC.

7 Q. AND IS IT YOUR OPINION THAT PERHAPS THE
8 REASON WHY HE DIDN'T BECOME THAT KIND OF PERSON, THE
9 FACT THAT HE HAD SOME TALENT AND COULD DO SOMETHING
10 POSITIVE FOR HIMSELF IN HIS LIFE --

11 MR. CONN: OBJECTION. LEADING.

12 THE COURT: REPHRASE THE QUESTION.

13 MS. ABRAMSON: OKAY.

14 Q. DO YOU HAVE A -- ANY OPINION AS TO WHY IT
15 IS HE DIDN'T TURN INTO THAT KIND OF -- THAT PARTICULAR
16 KIND OF DAMAGED PERSON?

17 A. I THINK -- IT'S MY OPINION THAT HIS TALENTS
18 HELPED HIM IN THAT AREA, YES.

19 Q. IN YOUR OPINION, BY THE WAY, IS HE A
20 DAMAGED PERSON?

21 A. YES.

22 Q. AND IN YOUR OPINION, COULD THAT -- WELL,
23 STRIKE THAT.

24 IN YOUR OPINION, WAS THAT DAMAGE CAUSED BY
25 THE WAY HE WAS TREATED BY HIS PARENTS?

26 A. YES. IN MY OPINION THE DAMAGE WAS CAUSED
27 BY THOSE EXPERIENCES.

28 Q. AND IN YOUR OPINION WERE THOSE

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1 EXPERIENCES -- DID THOSE EXPERIENCES CAUSE HIM
2 SUFFERING?

3 A. YES.

4 Q. AND HOW SEVERE?

5 A. I THINK SEVERE.

6 Q. IS ERIK MENENDEZ SOMEONE ABOUT WHOM IT
7 COULD BE SAID THAT HE HAD A HAPPY CHILDHOOD?

8 A. NO.

9 Q. COULD IT BE SAID THAT HE HAD AN ENRICHED
10 CHILDHOOD?

11 A. THAT'S AN INTERESTING QUESTION. NOT IN THE
12 POSITIVE SENSE.

13 Q. I ONLY MEAN IT IN A POSITIVE SENSE.

14 DID HE HAVE -- ALSO MEANING IN THE POSITIVE
15 SENSE -- A PRIVILEGED CHILDHOOD?

16 A. NOT IN THE POSITIVE SENSE, NO. ON THE
17 SURFACE IT COULD APPEAR TO PEOPLE THAT HE HAD LOTS OF
18 ADVANTAGES AND SO ON, BUT THEY WEREN'T ADVANTAGES TUNED
19 TO OR DIRECTED TOWARD HIS HEALTHY DEVELOPMENT AND HIS
20 LONG-TERM BEST INTERESTS.

21 Q. OR HIS HAPPINESS?

22 A. OR HIS HAPPINESS, NO. THAT -- I DON'T KNOW
23 OF ANYTHING IN THE RECORD THAT INDICATES THAT THAT WAS
24 EVER A GOAL OF PARENTING.

25 Q. HIS HAPPINESS?

26 A. HIS HAPPINESS.

27 Q. DOES PSYCHOLOGICAL MALTREATMENT OF THE TYPE
28 THAT, IN YOUR OPINION, EXISTED WITHIN THIS FAMILY SEND

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1 CERTAIN REPEATED MESSAGES TO A CHILD ABOUT WHAT HE IS
2 AND WHO HE IS?

3 A. YES.

4 Q. AND IN STUDYING THIS PARTICULAR FAMILY,
5 WERE THERE PATTERNS AND THEMES OF TREATMENT BY THE
6 PARENTS, BELIEFS BY THE PARENTS, MESSAGES THAT THE
7 PARENTS WERE GIVING THEIR CHILDREN, THAT REPEATED
8 THEMSELVES OVER AND OVER AGAIN THROUGHOUT ERIK MENENDEZ'
9 LIFE?

10 A. I BELIEVE THERE WERE, YES.

11 Q. AND LET ME JUST ASK YOU ONE THING.

12 IS IT -- ARE THESE KINDS OF TREATMENT OF A
13 CHILD -- WELL, STRIKE THAT. LET'S TRY FOR ENGLISH.

14 I JUST WANT YOU TO ASSUME HYPOTHETICALLY
15 THAT A CHILD EXPERIENCES A TREMENDOUS AMOUNT OF
16 PSYCHOLOGICAL ABUSE DURING THEIR EARLIEST YEARS, OKAY?

17 A. YES.

18 Q. ARE THERE -- IS IT ACCEPTED THAT THERE ARE
19 LONG-TERM IMPACTS TO THAT?

20 A. YES.

21 Q. THAT THIS IS THE KIND OF THING THAT CAN
22 ACTUALLY SHAPE AND FORM THE CHILD?

23 A. YES.

24 Q. DOES IT CHANGE ANY HARM THAT'S BEEN
25 INFLICTED ON THE CHILD IF, WHEN THE CHILD IS AN
26 ADOLESCENT, HE'S TREATED MAYBE SLIGHTLY BETTER?

27 A. WOULD IT CHANGE THE HARM?

28 Q. YES.

1 A. IT COULD HAVE AN EFFECT ON THE HARM. THE
2 HARM MAY VERY WELL STILL BE THERE, AND IN RATHER
3 POWERFUL WAYS.

4 BUT, YOU KNOW, AN ATTEMPT TO BALANCE THINGS
5 IN ANY CHILD'S LIFE IS WORTH MAKING, BECAUSE A CHILD'S
6 DEVELOPMENT IS NOT SUCH A FULLY DEVELOPED SCIENCE AS TO
7 HAVE ESTABLISHED THAT AFTER A CERTAIN POINT THERE IS NO
8 WAY YOU CAN HELP.

9 SO THERE IS ALWAYS, AS A GENERAL RULE,
10 PEOPLE BELIEVE, AS THEY SAY, THERE'S ALWAYS HOPE.
11 THERE'S ALWAYS A REASON TO TRY TO HELP TO MAKE IT
12 BETTER.

13 Q. WHAT YOU'RE TELLING ME IS YOU THINK PEOPLE
14 CAN ALWAYS CHANGE?

15 A. SAY THAT AGAIN. I DIDN'T GET IT.

16 Q. WHAT YOU'RE SAYING IS PEOPLE CAN ALWAYS
17 CHANGE?

18 A. THAT'S MY HOPE. AND WE DON'T HAVE EVIDENCE
19 TO INDICATE THAT THEY ABSOLUTELY CANNOT CHANGE. SO
20 PEOPLE CAN CHANGE.

21 Q. THAT'S NOT WHAT I WAS ASKING, HOWEVER.

22 WHAT I WAS AIMING AT IS YOU HAVE TOLD ME --
23 AM I WRONG -- THAT WHAT HAPPENS IN THE EARLY YEARS
24 ABSOLUTELY DETERMINES, UNLESS THERE IS SOME MAJOR
25 INTERVENTION LATER, WHAT A PERSON IS GOING TO BE?

26 A. I THINK YOU FIND GENERAL AGREEMENT ON THIS,
27 THAT WHAT HAPPENS IN THE EARLIER YEARS, IT'S
28 FOUNDATIONAL. IT'S WHAT SETS THE CHILD OFF ON THE

1 PATTERNS FOR LIVING. YEAH.

2 AND YOU -- AND SO THAT'S THE MOST
3 POWERFUL -- THE MOST POWERFUL INFLUENCE ARE THE EARLY
4 YEARS, THAT'S RIGHT. AND YOU -- THERE MIGHT BE SOME
5 MODIFICATION OF THAT LATER ON. IT GETS HARDER AND
6 HARDER TO MODIFY IT THE LONGER IT GOES. SOME PEOPLE
7 THINK THAT AFTER A KID IS 11 OR 12, YOU'RE GOING TO HAVE
8 A VERY, VERY DIFFICULT TIME SHIFTING DIRECTION IF THERE
9 HAVE BEEN POWERFUL NEGATIVE FACTORS IN THAT CHILD'S LIFE
10 IN THOSE EARLY YEARS. YES.

11 Q. WELL, HERE IS THE SORT OF THING I WAS
12 ASKING ABOUT.

13 AS A HYPOTHETICAL, LET'S SAY YOU HAVE A
14 HYPOTHETICAL THAT INDICATES THAT A MOTHER, FOR MOST OF A
15 CHILD'S LIFE, HAS NEVER SHOWN ANY FORM OF AFFECTION
16 TOWARDS A PARTICULAR CHILD. NO HUGGING, NO KISSING, NO
17 TERMS OF ENDEARMENT, NO SOFTENING IN SPEECH, NO PLAYING
18 WITH THE CHILD, NO READING TO THE CHILD. NONE OF THAT.

19 BUT THEN THERE IS OTHER EVIDENCE THAT WHEN
20 THE CHILD IS A TEENAGER, SHE PECKS HIM ON THE CHEEK OR
21 GIVES HIM EXTRA MONEY FOR A DATE.

22 IS THAT THE KIND OF THING, THAT SORT OF
23 OKAY BEHAVIOR LATER ON, GOING TO UNDUE THE HARM DONE TO
24 THAT CHILD BY BEING DENIED THAT MOTHER'S AFFECTION FOR
25 ALL THE FORMATIVE YEARS?

26 A. NO, NO. ESPECIALLY IF IT DOESN'T HAVE ANY
27 REAL DEPTH OF MEANING IN THAT RELATIONSHIP.
28 Q. NOW, DR. HART, YOU HAVE SPOKEN TO ERIK

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1 MENENDEZ FROM TIME TO TIME, HAVE YOU NOT?

2 A. YES.

3 Q. AND YOU'VE -- YOU'VE MET WITH HIM AND
4 TALKED TO HIM, STARTING IN LATE '91, EARLY '92?

5 A. ONE OF THE TWO. I -- AT THE MOMENT I DON'T
6 REMEMBER THE BEGINNING. IT WAS ONE OF THOSE TWO, LATE
7 '91, EARLY '92.

8 Q. AND MOST RECENTLY YOU TALKED TO HIM OVER
9 THE TELEPHONE AFTER THE LAST SET OF VERDICTS, CORRECT?

10 A. YES.

11 Q. AND WITHOUT GETTING INTO IT IN ANY GREAT
12 DEPTH, HAS ERIK MENENDEZ CHANGED?

13 MR. CONN: OBJECTION. IRRELEVANT.

14 THE COURT: CHANGED SINCE HE FIRST MET HIM?

15 MS. ABRAMSON: YES, YOUR HONOR.

16 THE COURT: OVERRULED.

17 THE WITNESS: OH, YES. I THINK HE HAS.

18 Q. BY MS. ABRAMSON: IS HE ONE OF THOSE PEOPLE
19 WHO YOU WERE TALKING ABOUT BEFORE CAN CONTINUE TO CHANGE
20 AND GROW IN POSITIVE WAYS DESPITE OF THEIR BACKGROUND?

21 A. I BELIEVE HE CAN.

22 Q. NOW, WE WERE TALKING ABOUT THESE THEMES OR
23 PATTERNS THAT DEFINE BASICALLY THE WAY OF LIFE OF THE
24 MENENDEZ FAMILY.

25 DO YOU REMEMBER THAT?

26 A. YES.

27 Q. COULD YOU TELL US WHAT THESE THEMES WERE
28 THAT YOU'VE EXTRACTED WITHOUT -- RATHER THAN GOING

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1 THROUGH EVERY SINGLE INCIDENT?

2 A. CORRECT.

3 Q. COULD YOU TELL US WHAT THESE THEMES ARE
4 THAT THE CHILDREN OF THIS FAMILY LIVED UNDER OR LIVED
5 WITH?

6 A. YEAH. YES.

7 YEAH. THE ONES THAT I'VE FOUND, THROUGH
8 THE INFORMATION AVAILABLE TO ME THAT INDICATES THEY WERE
9 REPEATED OVER AND OVER AGAIN, ARE ALL OF THE FOLLOWING.
10 I WILL JUST GO THROUGH THEM.

11 Q. OKAY.

12 A. OKAY. WIN AT ALL COST. ALL ELSE IS
13 FAILURE.

14 I WAS IN HERE THE OTHER DAY WHEN KIRSTEN
15 SAID: "IT SUCKS. YOUR LOSS IS NOTHING. IT'S NOTHING
16 UNLESS YOU WIN."

17 END JUSTIFIES THE MEANS.

18 IMAGE IS TO BE GIVEN HIGH PRIORITY. THE
19 WAY IT LOOKS TO PEOPLE, THE WAY WE LOOK TO PEOPLE OUT
20 THERE.

21 Q. LET ME STOP YOU FOR ONE MINUTE JUST TO --
22 SO THAT THE JURY UNDERSTANDS WHAT WE'RE DOING.

23 THAT PHILOSOPHY AND THAT MESSAGE, WIN AT
24 ALL COSTS, EVERYTHING ELSE IS FAILURE, IS THAT A
25 DESTRUCTIVE THING TO RAISE YOUR CHILDREN WITH?

26 A. YES. THAT'S A DESTRUCTIVE THING TO RAISE
27 YOUR CHILDREN WITH.

28 Q. WHY?

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1 A. WHY? WELL, FOR A NUMBER OF REASONS.

2 WIN AT ALL COSTS MEANS -- TO MANY PEOPLE,
3 IT SEEMED TO MEAN IN THIS FAMILY -- THAT IF YOU HAVE TO
4 TAKE ADVANTAGE, IF YOU HAVE TO CHEAT, WHATEVER YOU HAVE
5 TO DO, YOU WANT TO WIN, OKAY.

6 SO THAT'S CORRUPTING IN AND OF ITSELF. IT
7 ALSO SETS A STANDARD FOR ACHIEVEMENT THAT IS NOT --
8 FOR MOST PEOPLE WOULD BE SO FAR BEYOND WHAT THEY
9 REALISTICALLY COULD REACH, THAT THEY -- THAT THEY'RE
10 GOING TO BE STRIVING FOR SOMETHING THAT THEY'RE JUST
11 GOING TO FAIL IN MEETING OVER AND OVER AGAIN.

12 AND IT'S GOING TO SAY TO THEM AND THEY'LL
13 SAY TO THEMSELVES: "GOSH, I'M JUST NO GOOD. I CAN'T DO

14 IT. I CAN'T BE THE PERSON THAT DAD OR MOM THINKS I
15 SHOULD BE."

16 IT ALSO SETS UP A WAY OF LOOKING AT LIFE
17 WHICH A LOT OF PEOPLE ARE FINDING TO BE TERRIBLY
18 DESTRUCTIVE. IT ENCOURAGES -- YOU KNOW, COMPETITION
19 ISN'T ALL BAD. WE RISE TO LEVELS OF EXCELLENCE AND
20 IMPROVEMENT WITH COMPETITION.

21 IT BECOMES UNHEALTHY, I BELIEVE, WHEN
22 THAT'S THE MAJOR FOCUS, BEATING OTHER PEOPLE. FOR ME TO
23 BE ALL RIGHT, I HAVE TO ALWAYS WIN. THEY HAVE TO LOSE.

24 LIFE IS THAT KIND OF A GAME IN WHICH THE
25 ONLY WAY I CAN WIN IS FOR YOU TO LOSE, AND SO I'VE GOT
26 TO STAY AN ARM'S LENGTH FROM YOU. YOU'RE LIKE AN ENEMY.
27 PEOPLE ARE LIKE MY ENEMIES. YEAH.

28 SO IT'S UNHEALTHY IN A WHOLE BUNCH OF WAYS.

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1 Q. AND IF YOU HAVE THAT ATTITUDE THAT YOU HAVE
2 TO STAY AN ARM'S LENGTH, THEN DO YOU HAVE SOME
3 DIFFICULTY GETTING WHAT YOU NEED; THE INTIMACY, THE
4 LOVE, THE FRIENDSHIP, THE COMPANIONSHIP FROM PEOPLE?

5 A. YEAH, I DO. MOST PEOPLE COME TO REALIZE
6 EARLY, OR LATE, THAT THE GOOD THINGS -- A LOT OF THE
7 BASIC GOOD THINGS THAT COME TO THEM COME THROUGH THEIR
8 RELATIONSHIPS WITH OTHER PEOPLE. AND SO THAT MEANS
9 CARING ABOUT RESPECT, COOPERATION.

10 Q. IS IT PART OF THIS MESSAGE ALSO THAT ONLY

11 NO. 1 MATTERS?

12 A. ONLY NO. 1 MATTERS. EVERYTHING ELSE IS THE

13 BOTTOM OF THE BARREL.

14 I MEAN, THERE'S NO DIFFERENCE.

15 Q. AND DOES THAT TELL A CHILD THAT UNLESS

16 YOU'RE NO. 1, YOU DON'T MATTER?

17 A. THAT'S RIGHT. YOU'RE NOT WORTH ANYTHING.

18 Q. AND "I DON'T LOVE YOU"?

19 A. YEAH. IT'S A PSYCHOLOGISTS' -- COUNSELORS

20 LIKE TO USE THE WORD -- TERM "UNCONDITIONAL POSITIVE

21 REGARD," OR "UNCONDITIONAL LOVE," AND --

22 Q. PSYCHOLOGISTS AREN'T THE ONLY ONES THAT USE

23 THAT TERM, BUT GO AHEAD.

24 A. AND IT'S REALLY A TERM -- MANY PEOPLE THINK

25 IT'S A TERM THEY DON'T UNDERSTAND UNTIL THEY BECOME

26 PARENTS, UNTIL THEY UNDERSTAND THAT: "I LOVE THIS SON

27 OR THIS DAUGHTER NO MATTER WHAT. THAT DOESN'T MEAN I

28 WON'T BE UNHAPPY IF THEY DO SOME THINGS WRONG, AND I'LL

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1 BE HAPPIER IF THEY DO SOME THINGS RIGHT, BUT I LOVE

2 THEM. I LOVE THEM NO MATTER WHAT."

3 AND WHAT HAPPENS IN THIS SITUATION, IT'S

4 JUST THE OPPOSITE.

5 Q. WHAT'S JUST THE OPPOSITE?

6 A. THIS SITUATION IN WHICH IF YOU DON'T WIN,
7 IF YOU'RE NOT FIRST, YOU'RE NOTHING. IT SAYS: "MY LOVE
8 FOR YOU IS CONDITIONAL. MY LOVE FOR YOU IS ONLY IF YOU
9 ACHIEVE THIS FIRST PLACE. OTHERWISE, YOU'RE NOT WORTH
10 ANYTHING. YOU'RE NOT WORTH LOVING."

11 THAT'S THE MESSAGE. IT MAY NOT BE SAID
12 JUST AS DIRECTLY AS I HAVE, BUT THAT WOULD BE THE
13 MESSAGE.

14 Q. DO CHILDREN UNDERSTAND THAT THAT'S THE
15 MESSAGE WHEN THEY'RE TOLD, "YOU MUST WIN," AND WHEN
16 THEY'RE SHOWN ANGER AND FRUSTRATION AND HOSTILITY WHEN
17 THEY DON'T WIN, DO THEY GET THE MESSAGE?

18 A. I THINK THEY GET THE MESSAGE.

19 Q. DOES IT HURT CHILDREN WHEN THEY KNOW OR
20 BELIEVE THAT THEIR PARENTS DON'T LOVE THEM FOR WHO THEY
21 ARE?

22 A. I BELIEVE IT DOES, YES.

23 Q. IS IT YOUR PERSONAL BELIEF?

24 A. IT'S MY PERSONAL BELIEF. IT'S MY
25 PROFESSIONAL BELIEF.

26 Q. ARE CHILDREN SENSITIVE TO THE NUANCES IN
27 ADULTS' BEHAVIOR.

28 A. YES. IT'S -- AGAIN, IT'S THAT DAMAGE I WAS

2 Q. ARE CHILDREN PARTICULARLY VULNERABLE TO
3 BEING REJECTED BY PEOPLE THEY LOOK UP TO, OR DEPEND ON,
4 OR LOVE?

5 A. YES. YES, THEY ARE. IN FACT, ONE OF
6 THE -- THE RESEARCH PROJECTS THAT'S REFERRED TO OVER AND
7 OVER AGAIN WAS ONE THAT WAS DONE ACROSS MANY NATIONS,
8 AND IT WAS -- THE FOCUS ON IT WAS REJECTION. THE KINDS
9 WE'VE BEEN TALKING ABOUT, BOTH WHEN YOU PUT A PERSON
10 DOWN AND YOU SAY "YOU'RE NOT ANY GOOD," AND IT'S LIKE
11 "YOU'RE DUMB," OR WHATEVER ELSE IT MAY BE.

12 Q. "DUMMY, SISSY," THAT KIND OF THING?

13 A. YOU GOT IT. AND WHEN YOU ALSO DON'T PAY
14 ATTENTION TO THEM WHEN THEY NEED ATTENTION FOR THEIR
15 NEEDS AND SO ON. IT TOOK BOTH OF THOSE KINDS INTO
16 CONSIDERATION.

17 AND IT WAS FOUND THAT ACROSS COUNTRIES IT
18 PRODUCES LOW SELF-ESTEEM, EMOTIONAL INSTABILITY AND A
19 SENSE OF A NEGATIVE FUTURE; THAT LIFE IS NOT GOING TO BE
20 GOOD.

21 AND IF YOU DON'T MIND ME TELLING A STORY
22 ABOUT THIS -- I WAS --

23 Q. ASK HIM.

24 A. IS IT OKAY?

25 THE COURT: WELL, LET'S NOT GO INTO THE STORY.

26 THE WITNESS: IT MAKES THAT POINT IN A DIFFERENT
27 WAY.

28 THE COURT: LET'S GO INTO IT IN A DIFFERENT WAY.

1 Q. BY MS. ABRAMSON: AN ILLUSTRATION TO MAKE
2 THAT POINT IN A WAY YOU WANT TO MAKE?

3 A. JUST TO ILLUSTRATE HOW IMPORTANT THAT
4 CONCEPT IS.

5 IT MUST HAVE BEEN 15 YEARS AGO, I WAS
6 GIVING A WORKSHOP FOR PSYCHOLOGISTS FROM ABOUT 14
7 DIFFERENT COUNTRIES, AND I ASKED THEM -- BECAUSE
8 PSYCHOLOGISTS LOVE TO ARGUE -- I SAID: "IS THERE
9 ANYTHING THAT YOU ALL CAN AGREE ON THAT IS OF CRITICAL
10 IMPORTANCE TO THE DEVELOPMENT OF CHILDREN?"

11 AND THEY SAID "YES. A CHILD SHOULD NEVER
12 BE REJECTED."

13 Q. OKAY. NOW WE WERE BACK TO BASICALLY THE
14 WAY OF LIFE OF THE MENENDEZ FAMILY, AND YOU TALKED ABOUT
15 THIS ONE CONSTANT THEME ABOUT WINNING AT ALL COSTS, AND
16 THEN YOU MENTIONED THAT IMAGE WAS A HIGH PRIORITY?

17 A. RIGHT, YES.

18 Q. WHY IS THAT AN UNHEALTHY MESSAGE FOR A
19 FAMILY?

20 A. WELL, WHILE WE ALL -- I THINK MOST OF US
21 LIKE TO LOOK GOOD IN THE EYES OF OTHER PEOPLE. WHAT IT
22 SAYS IS NO MATTER WHAT, WE WANT TO KEEP -- WE WANT
23 PEOPLE TO ONLY SEE THOSE THINGS THAT ARE HIGHLY POSITIVE
24 ABOUT US, AND NOT KNOW ANYTHING ELSE.

25 IT MEANS THAT YOU'RE BEING ENCOURAGED TO
26 ACTUALLY LIE TO PEOPLE, TO BE OVERLY CONSCIOUS AND

27 PREOCCUPIED WITH NOT BEING GENUINE AND OPEN WITH PEOPLE
28 IN YOUR RELATIONSHIPS, AND IT MEANS YOU'RE -- IT'S

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1 CORRUPTING IN THE SENSE THAT YOU'RE ENCOURAGING THE
2 CHILD TO LIVE A KIND OF PHONY LIFE.

3 Q. AND LIVING A PHONY LIFE IS ANOTHER THING
4 THAT KEEPS YOU FROM HAVING INTIMATE RELATIONSHIPS WITH
5 PEOPLE, BECAUSE YOU'VE GOT TO KEEP UP A FALSE FRONT?

6 A. YOU'RE NOT REAL. THAT'S RIGHT.

7 Q. IS THERE ANOTHER COMPONENT? FOR EXAMPLE,
8 IS IT DAMAGING TO A CHILD TO HEAR A PARENT, FOR EXAMPLE,
9 LYING ABOUT THE CHILD'S ACCOMPLISHMENTS, PRETENDING THE
10 CHILD IS PERFECT WHEN THE CHILD KNOWS THAT THEY'RE NOT
11 THAT ACCOMPLISHED?

12 DOES THAT GIVE A PARTICULAR MESSAGE TO THE
13 CHILD THAT'S HARMFUL?

14 A. WELL, YEAH. IT GIVES SEVERAL MESSAGES.
15 ONE COULD BE THAT: "I'M NOT -- I'M NOT SATISFACTORY TO
16 MY PARENT, AND SO MY PARENT MIGHT NOT -- MY PARENT
17 DOESN'T LOVE ME AND THINK WELL OF ME FOR WHAT I TRULY
18 AM, AND SO HAS TO LIE TO PEOPLE ABOUT WHAT HE OR SHE
19 WISHES I WERE." YEAH. THAT'S ONE.

20 THE OTHER IS THAT YOU'RE SEEING YOUR
21 PARENTS AS BEING A LIAR, AS A HYPOCRITE, AND SOMEBODY
22 WHO -- YOU KNOW, WILL LIE TO KEEP THAT IMAGE UP. WILL

23 LIE, AND MAYBE THAT MEANS, "WELL, MAYBE I AM SUPPOSED TO
24 LIE, TOO."

25 Q. CHILDREN WILL MODEL THAT KIND OF BEHAVIOR
26 VERY READILY, WILL THEY NOT?

27 A. YES, THEY WILL. PARENTS ARE POWERFUL
28 MODELS.

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1 Q. OKAY. NOW, ARE THERE ADDITIONAL -- I THINK
2 YOU HAVE A WHOLE LIST, IN FACT.

3 ARE THERE ADDITIONAL INDICIAS, IF YOU WILL,
4 INDICATORS OF THE WAY OF LIFE IN THE MENENDEZ FAMILY
5 THAT WERE SIGNIFICANT TO YOU?

6 A. YES. YES, THERE WERE.

7 THE PARENTS ARE IN CONTROL OF JUST ABOUT
8 EVERY IMPORTANT PART OF THE CHILD'S LIFE, MAKING THE
9 DECISIONS. IT'S LIKE CHILDREN ARE PROPERTY OF THE
10 PARENTS.

11 SHALL I GO FURTHER, OR ARE WE GOING TO STOP
12 ON EACH OF THESE?

13 Q. WELL, I ALWAYS LIKE TO ASK FOLLOW-UP
14 QUESTIONS. IT'S MY NATURE.

15 HOW DOES A CHILD WHO IS TREATED AS -- I
16 MEAN, DO CHILDREN PERCEIVE WHEN THEY'RE BEING TREATED
17 LIKE OBJECTS, RATHER THAN PEOPLE, WHEN THEY'RE BEING
18 TREATED LIKE PROPERTY? DOES CAUSE THEM EMOTIONAL

19 DISTRESS?

20 A. WELL, IT CAUSES THEM TO LOSE CONFIDENCE IN
21 THEMSELVES; THAT THEY -- THEY'RE NOT RESPECTED FOR OR
22 SUPPORTED IN CHOOSING SOME OF THEIR OWN WAYS OF BEING
23 ABLE TO MANAGE SOME OF THEIR OWN LIVES, AND THAT THEY --
24 THEY'RE MORE LIKE THINGS THAN THEY ARE LIKE PERSONS.

25 Q. AND ARE CHILDREN CAPABLE OF FIGURING THAT
26 OUT? YOU KNOW, I'M JUST -- I'M JUST A THING TO THEM.
27 THEY'RE JUST USING ME FOR WHAT THEY WANT.

28 I MEAN, APART FROM OBVIOUSLY SEXUALLY

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1 MOLESTED CHILDREN FEEL THAT WAY BECAUSE THEY'RE TREATED
2 LIKE THINGS DIRECTLY.

3 BUT CHILDREN WHO ARE BEING SORT OF MOVED BY
4 THEIR PARENTS INTO THESE DIRECTIONS?

5 A. SURE. THERE ARE CHILDREN WHO WILL SAY --
6 IT ISN'T ALWAYS THAT THEY'RE ABLE TO PUT IT INTO WORDS,
7 BUT THEY WILL BE UNCOMFORTABLE WITH IT.

8 BUT CERTAINLY THERE ARE CHILDREN AND YOUNG
9 PEOPLE WHO WILL SAY: "MY MOM OR MY DAD IS JUST SIMPLY
10 TRYING TO HAVE ME LIVE -- DO ALL THE THINGS THAT HE OR
11 SHE DIDN'T NEVER GET TO DO, WHETHER I AM INTERESTED IN
12 THEM OR NOT; TRYING TO FORCE ME TO GO TO BE THIS THING
13 THEY WANTED TO BE, OR TO BE JUST LIKE THEM."

14 AND, YOU KNOW, IT'S -- I THINK THAT GOOD

15 PARENTS GENERALLY WANT THEIR CHILDREN TO BECOME THEIR
16 OWN PERSONS, AND THEY WANT THEM TO EXCEED THEM, NOT JUST
17 BE THEM.

18 Q. THEY WANT THEM TO DO BETTER?

19 A. YEAH, I THINK SO. IN THEIR WHOLE LIVES;
20 THEIR HAPPINESS, THEIR RELATIONSHIPS WITH PEOPLE.

21 Q. IN EXAMINING THIS FAMILY, DID YOU SEE ANY
22 EVIDENCE WHATSOEVER THAT PARTICULARLY JOSE MENENDEZ
23 WANTED HIS SONS TO BE BETTER THAN HIM?

24 A. NO. WHEN HE -- WELL, YOU KNOW, THAT ONE
25 REALLY -- WE COULD PROBABLY TALK ABOUT IT A LONG TIME.

26 IT WASN'T -- I CERTAINLY DIDN'T SEE SIGNS
27 THAT HE WANTED THEM TO BE BETTER THAN HE WAS IN WAYS
28 THAT THEY WOULD HAVE CHOSEN THEMSELVES. BUT CERTAINLY

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1 THERE WERE INDICATIONS HE WANTED THEM TO BE; FOR
2 EXAMPLE, NO. 1 IN TENNIS, AND THERE IS NOTHING TO
3 INDICATE HE WAS NO. 1 IN TENNIS.

4 Q. WOULD A PARENT WHO WANTED A CHILD TO DO
5 BETTER THAN HIM INSIST ON DIRECTING EVERY STEP OF THAT
6 CHILD'S LIFE IN PERPETUITY? GO INTO BUSINESS WITH THEM,
7 LIVE WITH THEM, DECIDE THE COURSE OF THEIR LIFE, PICK
8 THEIR GIRLFRIEND, PICK THEIR WIVES, ALL OF THAT?

9 A. THAT MIGHT INDICATE THAT THAT PERSON WANTED
10 THAT CHILD TO BE ABLE TO DO SOME THINGS HE COULDN'T DO

11 THAT HE WOULD HAVE LIKED TO HAVE BEEN ABLE TO DO, SO --
12 SORT OF LIVE THAT LIFE THAT PARENT WOULD HAVE WANTED.
13 BUT IT CERTAINLY WOULDN'T INDICATE THAT
14 THAT PARENT WANTED THAT CHILD TO BE BETTER THAN HE WAS
15 IN TERMS OF WHAT I TALKED ABOUT EARLIER AS KIND OF THE
16 GOAL OF DEVELOPMENT.

17 Q. INDEPENDENCE, SELF-RELIANCE?

18 A. YEAH, INDEPENDENCE. DIRECTING THE PERSON'S
19 OWN LIFE. LIVING UP TO THAT PERSON'S SPECIAL TALENTS.

20 NO, IT WOULD NOT FIT THAT.

21 Q. OKAY. NOW YOU'VE TALKED ABOUT ONE OF THE
22 THEMES BEING "CHILDREN ARE PROPERTY."

23 WHAT WERE SOME OF THE OTHERS?

24 A. THAT THERE REALLY IS NO TIME FOR CHILDHOOD;
25 THAT CHILDHOOD IS WORK; THAT THERE ISN'T TIME FOR JUST
26 PLAYFULNESS, TO JUST ENJOY THE WAY A CHILD LOOKS AT
27 LIFE. THE DISCOVERIES OF A CHILD. THE FUN OF A CHILD.

28 BUT INSTEAD, YOU'RE TO BE A MAN AND YOU'RE

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1 TO WORK AT BECOMING THIS THING THAT A MAN IS. TOUGH AND
2 SKILLED AND SO ON.

3 IT ISN'T THAT WE DON'T ALL WANT OUR
4 CHILDREN TO GROW UP TO BE ADULTS, BUT WHEN WE WANT THEM
5 TO BE THAT WHEN THEY'RE FIVE OR EIGHT OR TEN, IT'S AGAIN
6 SETTING AN UNREALISTIC STANDARD, AND IT'S -- AND IT

7 ISN'T GIVING TIME FOR THE NATURAL KIND OF DEVELOPMENT

8 THAT OUGHT TO OCCUR.

9 Q. AND DO CHILDREN NEED TO PLAY AND NEED

10 FREEDOM TO BE HAPPY?

11 A. YES, THAT'S MY OPINION. AND IT'S THE

12 OPINION OF LOTS OF PSYCHOLOGISTS.

13 Q. WAS THERE ANY EVIDENCE THAT YOU COULD FIND

14 FROM THE MATERIALS THAT YOU LOOKED OVER, DR. HART, THAT

15 EITHER OF THE PARENTS HERE ACTUALLY PLAYED IN A

16 PLAYFUL -- I DON'T MEAN PLAYED TENNIS, I KNOW THERE WAS

17 A LOT OF TENNIS AND A LOT OF SWIMMING -- BUT EVER PLAYED

18 WITH THEIR CHILDREN AS LITTLE KIDS?

19 A. THE KIND OF LIGHT-HEARTED PLAYFULNESS AND

20 SO ON, WHICH AGAIN IS THE DANCE WITH THE CHILD, DOESN'T

21 MEAN YOU DON'T BRING SOMETHING TO IT.

22 NO. I DON'T FIND MUCH TO SUPPORT THAT

23 IDEA, THAT THERE WAS THAT KIND OF EXPERIENCE.

24 Q. ANYTHING ABOUT THEM HAVING TO READ THOSE

25 CHILDREN'S BOOKS THAT MOST OF US HAVE TO READ OVER AND

26 OVER AND OVER AGAIN?

27 A. I DIDN'T HAVE ANY INFORMATION ABOUT THAT,

28 NO.

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1 Q. THERE WAS NO INFORMATION?

2 A. THERE WAS NOTHING THAT INDICATED TO ME THAT

3 THAT KIND OF THING HAPPENED.

4 Q. OKAY. WHAT WERE SOME OF THE OTHER MESSAGES
5 AND THEMES IN THE WAY OF LIFE OF THIS FAMILY?

6 A. OH, OKAY.

7 Q. YOU STOPPED AT -- WAS THERE SOMETHING I WAS
8 SUPPOSED TO ASK YOU?

9 A. IT REALLY GOES ALONG WITH THAT IMAGE IN A
10 SENSE, BUT IT IS THAT OTHERS ARE INFERIOR AND YOU
11 SHOULDN'T GET TOO CLOSE TO THEM, THEY MAY CONTAMINATE
12 YOU, MIGHT WEAKEN YOU.

13 Q. AND WAS THAT A MESSAGE -- DID THIS HAVE TO
14 DO WITH A MESSAGE THAT YOU SHOULDN'T HAVE FRIENDS,
15 BECAUSE ALL YOU'RE GOING TO DO IS BE COMPETING, AND YOU
16 SHOULDN'T HAVE PEOPLE YOU'RE GOING TO BE COMPETING WITH
17 BE YOUR FRIENDS?

18 A. YEAH. THAT WAS A MESSAGE THAT WAS GIVEN IN
19 THAT FAMILY, AS I UNDERSTAND IT, FROM THE INFORMATION
20 I'VE HAD, AND IT'S JUST -- IT'S SUCH AN UNUSUAL MESSAGE
21 TO COME ACROSS, BECAUSE MOST PEOPLE KNOW THAT KIDS NEED
22 FRIENDS. THEY NEED THAT TIME TO BE WITH PEOPLE THEIR
23 OWN AGE, AND THEY NEED THAT KIND OF SOCIAL SUPPORT,
24 AND -- YEAH. THAT'S THE MESSAGE I UNDERSTAND THAT WAS
25 DELIVERED, THAT HAVING FRIENDS WAS NOT AN IMPORTANT
26 THING, AND THERE WASN'T TIME FOR IT, AND THEY'ED GET IN
27 THE WAY.

28 Q. AND ARE THERE CERTAIN SKILLS THAT CHILDREN

1 DEVELOP WHEN THEY'RE INTERACTING WITH PEOPLE THEIR OWN
2 AGE THAT THEY CAN'T DEVELOP IF THEY'RE ALWAYS UNDER THE
3 CONTROL OF GROWNUPS?

4 A. YOU WILL SEE KIDS DOING THINGS THAT YOU
5 WANT TO TRY OUT AND SEE WHAT THE REACTIONS OF YOUR
6 FRIENDS ARE.

7 AND YES, YOU LEARN FROM YOUR FRIENDS AS
8 WELL AS YOUR PARENTS.

9 Q. IS THERE ALSO STUFF ABOUT INTERPERSONAL
10 RELATIONSHIPS? YOU LEARN TO NEGOTIATE, YOU LEARN TO
11 COMPROMISE, YOU LEARN TO SHARE, GIVE UP THE BEAR TO THE
12 LITTLE GIRL WHO COMES IN FROM NEXT DOOR?

13 A. YOU GO THROUGH THOSE STAGES WITH
14 INTERACTING WITH PEOPLE YOUR OWN AGE.

15 Q. AND IS IT NECESSARY TO LEARN TO DO THOSE
16 THINGS, TO HAVE SOCIAL SKILLS, SO THAT WHEN YOU'RE A
17 GROWNUP YOU CAN MAKE FRIENDS?

18 A. YES. IN FACT, A PRETTY STRONGLY-HELD POINT
19 OF VIEW AMONG MANY PSYCHOLOGISTS IS THAT SOCIAL
20 COMPETENCE, DEVELOPING THESE SKILLS, IS ONE OF THE BEST
21 PREDICTORS OF HOW WELL A CHILD IS GOING TO DEVELOP, HOW
22 SATISFYING A CHILD'S LIFE IS GOING TO BE.

23 OBVIOUSLY YOU CAN'T DEVELOP THAT SOCIAL
24 COMPETENCE SUFFICIENTLY WELL WITHOUT INTERACTING WITH
25 PEOPLE YOUR OWN AGE, THE PEOPLE YOU'RE GOING TO HAVE TO
26 BE CONFIDENT WITH IN THE PLAYGROUND, IN THE CLASSROOM,
27 ON YOUR BLOCK.

28 Q. ALL RIGHT. WHAT WERE SOME OF THE OTHER

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1 THEMES OR MESSAGES OF THE FAMILY?

2 A. LET'S SEE. ONE THAT I THINK WE ALREADY
3 MENTIONED WAS FAMILY MATTERS ARE TO BE KEPT SECRET.
4 DIDN'T WE -- WE ALREADY TALKED ABOUT THAT,
5 DIDN'T WE?

6 Q. YES, WE DID.

7 AND WHEN THERE IS A VERY STRONG IMPULSE IN
8 A FAMILY FOR SECRECY, IS THAT SOMETHING THAT BUTTRESSES
9 ISOLATING CHILDREN?

10 A. YES, IT DOES.

11 Q. OKAY. GO ON.

12 A. AND ANOTHER WAS -- AND THIS ONE REALLY KIND
13 OF GOES FROM THE EARLIER PART ABOUT CHILDREN BEING
14 PROPERTY -- MANAGING EVERY ASPECT, OR MOST ASPECTS OF A
15 CHILD'S LIFE; THAT KIND OF MICRO-MANAGING NITPICKY
16 DETAIL ABOUT EACH OF THE THINGS THAT A PERSON DOES
17 DURING THE DAY THAT SAYS "I DON'T HAVE ANY CONFIDENCE IN
18 YOU. I'M THE ONE WHO DIRECTS YOU. THE ONLY WAY THAT
19 YOU'RE GOING TO GET THROUGH THE DAY IS WITH ME GIVING
20 YOU THE INSTRUCTIONS AND THE ORDERS."

21 IT'S CORRUPTING, AND IT'S ALSO REJECTING.
22 IT'S SPURNING. IT'S SAYING YOU DON'T HAVE WHAT IT
23 TAKES, YOU'VE GOT TO BE DIRECTED.

24 Q. HOW DO CHILDREN LEARN TO MAKE DECISIONS?
25 A. WELL, THEY LEARN TO MAKE DECISIONS BY
26 MAKING DECISIONS, AND THEY LEARN BY OBVIOUSLY WATCHING
27 THEIR PARENTS MAKE DECISIONS.
28 BUT BY BEING ALLOWED AND ENCOURAGED TO MAKE

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1 DECISIONS, LITTLE ONES WHEN THEY'RE YOUNG, AND THEN
2 BIGGER ONES, AND MORE OF THEM AND MORE OF THEM AND MORE
3 OF THEM.

4 Q. YOU'RE AWARE OF THE INFORMATION IN THIS
5 CASE THAT MR. MENENDEZ WOULD DEVISE LISTS THAT WOULD
6 DELINEATE EVERY SINGLE THING THAT THE CHILDREN WERE
7 SUPPOSED TO DO AT VARIOUS TIMES OF THE DAY?

8 A. YES, I AM.

9 Q. AND YOU'RE AWARE THAT ERIK WAS REQUIRED TO
10 WRITE LISTS TO INDICATE WHETHER HE DID OR DIDN'T COMPLY
11 WITH THESE THINGS?

12 A. YES.

13 Q. IS THAT THE KIND OF MICRO-MANAGEMENT THAT
14 YOU'RE TALKING ABOUT?

15 A. YES. YES, I AM. I HAVE TAUGHT AND WORKED
16 WITH THOUSANDS OF CHILDREN AND YOUNG ADULTS AND SO ON.
17 I CAN'T REMEMBER EVER COMING ACROSS ANYTHING THAT
18 EXTREME IN TERMS OF GIVING DIRECTIONS.

19 Q. DOES THE CHILD GET THE MESSAGE THAT EVERY

20 SINGLE THING HAS TO BE DECIDED BY THE PARENTS, BECAUSE
21 THEY'RE TOO STUPID TO FIGURE IT OUT?
22 A. YEAH, THAT WOULD BE ONE OF THE MESSAGES.
23 THE COURT: ALL RIGHT. WE'RE AT 4:30 HERE.
24 MS. ABRAMSON: ALL RIGHT.
25 THE COURT: WE'LL TAKE A RECESS UNTIL TOMORROW AT
26 8:30.
27 DON'T DISCUSS THE MATTER WITH ANYONE.
28 DON'T FORM ANY FINAL OPINIONS ABOUT THE CASE, AND WE'LL

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1 SEE YOU ALL BACK HERE TOMORROW AT 8:30.

2 (AT 4:30 P.M. PROCEEDINGS WERE
3 ADJOURNED UNTIL 8:30 A.M THE
4 FOLLOWING DAY.)

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT NW "N" HON. STANLEY M. WEISBERG JUDGE
4
5 THE PEOPLE OF THE STATE OF)
6 CALIFORNIA,)
7)
8 PLAINTIFFS,)
9)
10 VS.) NO. BA 068880
11)
12 ERIK GALEN MENENDEZ, AND)
13 JOSEPH LYLE MENENDEZ,)
14)
15 DEFENDANTS.)

)

11

12 REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

13 TUESDAY, APRIL 2, 1996

14 VOLUME 319

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19

APPEARANCES:
20 (SEE APPEARANCE PAGE)

21

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23

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25

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1 APPEARANCES:

2

FOR THE PEOPLE: GIL GARCETTI
3 DISTRICT ATTORNEY
BY: DAVID CONN, DEPUTY
4 AND
CAROL NAJERA, DEPUTY
5 18000 CRIMINAL COURTS BLDG.

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LOS ANGELES, CA 90012

6

7

8

FOR THE DEFENDANT

9 JOSEPH LYLE MENENDEZ: MICHAEL P. JUDGE,
PUBLIC DEFENDER

10 BY: CHARLES GESSLER, DEPUTY
AND

11 TERRI TOWERY, DEPUTY

210 WEST TEMPLE

12 LOS ANGELES, CA 90012

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FOR THE DEFENDANT

15 ERIK GALEN MENENDEZ: LESLIE ABRAMSON
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21

MARY LU MURPHY

22 CSR NO. 5178

MARILYN FADALE,

23 CSR NO. 4547

OFFICIAL REPORTERS

24

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28

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3					

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6

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7

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9

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12 (402) 53517-A 53520-N 319

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13 (RESUMED) 53529-N 319

14 HART,
STUART 53542-A 319

15

16

17

18

19

LEGEND:

20

A = MS. ABRAMSON

21 C = MR. CONN

G = MR. GESSLER

22 K = MS. TOWERY

L = MR. LEVIN

23 N = MS. NAJERA

24

25

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1 EXHIBITS INDEX

2 EXHIBITS: MARKED RECEIVED VOL.

3 458- P.D.S. RECORDS 53535 319
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