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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN THE CITY AND COUNTY OF SAN FRANCISCO
HONORABLE GARRETT WONG, JUDGE PRESIDING

DEPARTMENT NO. 15

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COPY

THE PEOPLE OF THE STATE OF CALIFORNIA,)	
)	Court No. 12001311
Plaintiff,)	
)	
vs.)	
)	
ROSS MIRKARIMI,)	<u>402 HEARING</u>
)	
Defendant.)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Friday, March 2, 2012

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Reported by: Susan Lee, CSR No. 4280
Official Court Reporter

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I N D E X

WITNESSES

For the People:

Direct

Cross

Christine Marie Flores

(By Ms. Aguilar Tarchi) 7

(By Ms. Stiglich) 63

1 **FRIDAY, MARCH 2, 2012**

9:27 A.M.

2 --- PROCEEDINGS ---

3 **THE COURT:** All right. We're on the matter of the
4 People vs. Ross Mirkarimi, Court No. 12001311. This is an
5 in camera hearing pursuant to the motion filed by the People
6 to admit evidence of other acts of domestic violence under
7 Evidence Code Section 1109. The Court has expressed, based on
8 an offer of proof by the People, that the evidence should be
9 admitted under Section 1109. But the Court, as it explained
10 the other day to the parties, is still required to perform an
11 evaluation under Evidence Code Section 352. So that is what
12 this hearing is designed to do today. And I'll have counsels'
13 appearances at this time.

14 **MS. AGUILAR TARCHI:** Yes. Good morning, Your Honor.
15 Elizabeth Aguilar Tarchi for the People. And present, also,
16 is post-Bar legal intern Ms. Christina Chen.

17 **MS. STIGLICH:** Your Honor, Lidia Stiglich on behalf of
18 Ross Mirkarimi. His appearance has been waived pursuant to
19 977, or I would ask to that it be. And Your Honor, I would
20 just like to note, as you recall our discussions regarding
21 1109 last week, that I did not intend to waive the argument
22 that I raised in my brief regarding the definition of whether
23 the acts in question or the injury in question meets the
24 definition of domestic violence. I believe for purposes of
25 this hearing, the facts elicited about the nature of the
26 incident would be sufficient for Your Honor, then, to make a
27 legal ruling on that issue.

28 **THE COURT:** Okay. Well, I'll need to hear the evidence.

1 Let me further point out that the Court has decided to hold
2 this hearing, actually, in the courtroom rather than in
3 chambers or in the Jury Room. A number of individuals that
4 are involved in this proceeding, the security issues raised by
5 the bailiffs, and also, just the logistical nature of the
6 parties that are involved here, the number of people that
7 involved, the Court decided that it would be best to hold the
8 hearing in the courtroom, itself.

9 The Court has made this an in camera hearing for the
10 expressed purpose of not having the public or the press
11 involved in this case. The Court recognizes the press' and
12 the public's right to know information. However, this is
13 information that is extremely private in nature, and I wish to
14 respect the privacy of not only Ms. Flores who is here today
15 to testify, but also the privacy of the defendant in this
16 matter. Should the Court rule that this evidence does not
17 come into the trial, the Court would be very concerned that if
18 the press got a hold of this information, that they would
19 still pass it onto the public, and that would create even more
20 difficulties with a fair trial for all involved, including not
21 only the defendant, but also for the People. So the Court is
22 well aware of the right of the press to be here, but because,
23 again, of privacy concerns for all involved in this case. And
24 I will say that the parties also agree -- so I don't there's
25 any objection to this -- that we will hold this hearing now.
26 So let us begin.

27 **MS. AGUILAR TARCHI:** Yes. Thank you, Your Honor. At this
28 time I would ask --

1 **THE COURT:** Oh, Ms. Scott?

2 **MS. AGUILAR TARCHI:** Oh, I was just going to ask,
3 Ms. Flores is present, and she needs to be sworn under oath.
4 Could you please stand, Ms. Flores?

5 (Witness sworn)

6 **THE CLERK:** Can you please state and spell your full name
7 name for the record.

8 **THE WITNESS:** My full legal name is Christine Marie
9 Flores, C-h-r-i-s-t-i-n-e, second name M-a-r-i-e, last name
10 F-l-o-r-e-s.

11 **THE CLERK:** Thank you.

12 **THE WITNESS:** You're welcome.

13 **THE COURT:** All right. Before we begin, I'm going to ask
14 you to follow these suggestions. So, have you ever testified
15 before?

16 **THE WITNESS:** No. I have not.

17 **THE COURT:** Okay. So here's how it works. Please let
18 each lawyer finish the question before you start answering
19 because you may be answering something that the lawyer's not
20 asking. Second. Please listen carefully to the question and
21 only answer the question. We do not proceed by way of
22 narrative. In other words, we don't want a story told after
23 each answer. We ask for separate and discreet bits of
24 information. If either lawyer seeks more information, the
25 lawyer will ask another question.

26 And when you answer, you must answer out loud and use an
27 audible English word. Sometimes people shake their heads or
28 they go "uh-huh," or they say "uh-uh". Well, the reporter

1 here is not able to look at you because she's focused on her
2 machine, and her hands are moving very quickly. So it's very
3 important that you give a verbal English response.

4 **THE WITNESS:** Okay.

5 **THE COURT:** Great. So if there comes a point in time when
6 you're not sure, we're asking you not to, guess, because you
7 are under oath. If you don't understand the question, you can
8 say that you don't. If you hear an objection, that means
9 don't answer because it means I must rule on the objection,
10 and I'll tell you if you have to answer the question, or I'll
11 tell the lawyer to ask you another question. So make sure you
12 keep your voice up, though. Well, you should keep it up so
13 that Ms. Stiglich --

14 **THE WITNESS:** Okay.

15 **THE COURT:** We'll go off-the-record.

16 (Off-the-record)

17 **THE COURT:** We're back to record. Make sure you keep your
18 voice up, and this gives an order to the way the testimony is
19 presented.

20 **THE WITNESS:** I have a question.

21 **THE COURT:** Yes.

22 **THE WITNESS:** Do I address you in answering, or do I
23 address whoever's asking?

24 **THE COURT:** Address the lawyers.

25 **THE WITNESS:** Okay.

26 **THE COURT:** Address whoever's talking to you and that
27 should be fine.

28 **THE WITNESS:** Okay. Yes.

1 **THE COURT:** All right. Ms. Aguilar Tarchi, would you
2 please begin. Any other things before we start, counsel?

3 **MS. STIGLICH:** No, Your Honor.

4 **THE COURT:** All right. Very well. You may inquire.

5 **MS. AGUILAR TARCHI:** Yes, thank you.

6 **CHRISTINE MARIE FLORES,**
7 called as a witness by the People pursuant to Evidence Code
8 Section 402, having been first duly sworn, was examined and
9 testified as follows:

10 **DIRECT EXAMINATION**

11 **BY MS. AGUILAR-TARCHI:** Q. Ms. Flores, your legal name is
12 Christine Marie Flores. Do you go by "Christina"?

13 A. Yes, I do. In German, "e" is pronounced (German
14 pronunciation of e). So my mother named me Christina, but
15 spelled it in her traditional thingy. I also go by Christina
16 Marie.

17 Q. Thank you, Ms. Flores. Do you know the defendant,
18 Mr. Ross Mirkarimi, in this matter?

19 A. Yes, I do.

20 Q. And when and where did you first meet Mr. Mirkarimi, if
21 you can recall? And at this point, I'm asking approximately
22 the month, the year, and the location.

23 A. It was in June 2007. It was at the Haight Street Fair. I
24 met him there, and he gave me his card, and we talked about
25 having coffee.

26 Q. All right. And what was Mr. Mirkarimi's line of work when
27 you met him and he gave you his card?

28 A. Supervisor was on the card, San Francisco.

1 Q. All right. And what was your line of work at the time?

2 A. I was working at BJ Droubian Company for Pete Branagan. I
3 stage homes, as well as have open homes. He's a real estate
4 agent, and I've worked for him since 2006.

5 Q. All right. Without giving me an address, where do you
6 live now presently?

7 A. Presently, I have two residences. One, I live with my
8 boyfriend in Marin County, and then for three months I'm in
9 Los Angeles studying there. So I'm both right now.

10 Q. All right. And what is your present line of work?

11 A. I have many jobs, actually. I worked for Net.App. I am
12 their tech talk show host. I've been doing that for half a
13 year now. I also do print modeling for mostly computer
14 companies and drug companies and, also, I do commercial work.

15 Q. Okay. And it sounds like you do have two separate holes.
16 But prior to being in San Francisco for this incident, would
17 you visit the SF office -- San Francisco office, pardon me?

18 A. I don't understand exactly what you're saying, prior to
19 the --

20 Q. Well, how long -- when did you first move to L.A. or
21 to --

22 A. The L.A. is just a temporary housing. I've always been in
23 the Bay Area all my life except two years a long time ago, in
24 Los Angeles. And I'm in the City about four times a week,
25 even though I'm in Marin County, I come into San Francisco.

26 Q. All right. Thank you, Ms. Flores. Now at some point,
27 would it be fair to say after you met Mr. Mirkarimi, as you
28 said, in June of 2007, would it be fair to say that you became

1 boyfriend and girlfriend?

2 A. Yes.

3 Q. And without giving us your exact address, what
4 neighborhood did you reside in, in San Francisco, when you
5 were boyfriend and girlfriend?

6 A. Noe Valley. It's kind of Baja Noe Valley, Valencia
7 Street. So kind of right in between.

8 Q. Where, if you recall, did Mr. Mirkarimi live when you met
9 him?

10 A. Webster Street.

11 Q. And for the duration of your relationship him as
12 girlfriend/boyfriend, did he live at that Webster Street
13 address?

14 A. Yes.

15 Q. And is that a single-family dwelling?

16 A. No. It's, I believe, four condos. He lived in the lower
17 left-hand side, and it's blue and gray -- blue and white and
18 gray.

19 Q. And would you describe that as a large apartment? Small?
20 Just briefly tell us the configuration. It is rather
21 relevant, Your Honor.

22 A. All right. You walk in the doorway, there's a hall
23 immediately to your right. There's a front room with a
24 fireplace. The next room is the bedroom. The hall continues
25 down, opens into a family area kind of off the kitchen room,
26 and then the last room is the kitchen, and then there is a
27 deck in the back.

28 Q. So it's a one-bedroom home or apartment?

1 A. Yes, it is. It's one of those -- it could be the family
2 room, but it's no door or closet. So it would be considered a
3 one-bedroom.

4 Q. All right. Now did you, as his girlfriend, actually spend
5 time with him in this apartment, or condo, that you're
6 describing on Webster Street?

7 A. Yes.

8 Q. And could you tell us did you ever formally move in with
9 him?

10 A. I did not formally move in. No.

11 Q. Now did you stay in his apartment, as his girlfriend, any
12 time during the week when you were?

13 A. Yes.

14 Q. Approximately how many times a week would you stay at his
15 place overnight at the apartment?

16 A. Anywhere from two to three times a week.

17 Q. And this is while you were in a boyfriend/girlfriend
18 relationship?

19 A. Yes.

20 Q. And did you briefly -- did you have a cordial
21 boyfriend/girlfriend relationship as it was progressing along?

22 A. It was very up and down. There were really good times and
23 there were not so good times.

24 Q. Before we get to the not so good times. Could you tell
25 us -- I don't I don't think I've asked you this yet -- the
26 length, in terms of months or years, of your

27 boyfriend/girlfriend relationship with Ross Mirkarimi? You
28 said you met him in June of 07?

1 A. Correct.

2 Q. And when would you say that the relationship ended, so we
3 get a time frame?

4 A. It absolutely ended the end of December 2008. It broke
5 apart around October 2008, but it was kind of limping back and
6 forth after that.

7 Q. And so from June of '07, when you met him at the Haight
8 Street Fair, to December of '08, so an approximate one
9 year-and-a-half relationship as boyfriend/girlfriend?

10 A. Yes, till late December, late the 29th, or so.

11 Q. Now you've told us you stayed at his apartment as his
12 girlfriend two to three nights per week. Would he ever stay
13 at your place?

14 A. Yes.

15 Q. Also overnight?

16 A. Yes.

17 Q. All right. Now just briefly, how would you characterize
18 just the beginning of your girlfriend/boyfriend relationship
19 with Mr. Mirkarimi in terms of just his demeanor during the --
20 as it was growing, your relationship?

21 A. When we were together, alone, he was very sweet. He was
22 distracted quite often. At the very beginning, it was, you
23 know, text back and forth constantly. It was like a normal
24 relationship. A little -- yeah. I would say it's fairly like
25 a normal relationship at the beginning.

26 Q. All right. Now at some point during this year-and-a-half
27 boyfriend/girlfriend relationship, did Mr. Mirkarimi
28 display -- verbally abuse you?

1 A. Yes.

2 Q. Can you explain how often and under what context?

3 **MS. STIGLICH:** I'm going to object as argumentative,
4 "verbally abuse you."

5 **MS. AGUILAR TARCHI:** Your Honor, it's a common lay
6 opinion. It's for purposes of this. If the Court later
7 needed to strict the parameters.

8 **THE COURT:** I'll overrule it. I don't have a jury here,
9 and I understand what Ms. Stiglich is getting at. It's
10 overruled.

11 **MS. AGUILAR-TARCHI:** Q. And by "verbal," I would mean
12 not -- anything that caused you concern, alarm, fear, in his
13 verbal context towards you?

14 A. Yes.

15 Q. On how many occasions?

16 A. All together throughout the whole relationship? Four,
17 maybe.

18 Q. Now could you tell us the nature, in these four separate
19 situations, just the nature of what you might consider or
20 would describe as "verbally abuse you"?

21 A. I can describe one incident very clearly, I remember. It
22 was at my house in the Noe Valley area. He had come in and
23 said -- he had called me and said "I need to talk to you
24 immediately," and I told him to come on over. And he marched
25 in the door and immediately started yelling and pointing his
26 finger saying that I was setting him up. He said that -- I
27 had no idea what he was talking about and he thought I did.
28 And he said "Who is setting you up to take me out?" And I

1 said "What are you talking about?" And he said "You left your
2 underwear under my bed." "What do you think you're doing?"
3 And I said "I didn't realize that I left it there," and "How
4 can you not leave your underwear?" when I'm yelling and got
5 louder and louder to the point of where I had closed my doors
6 to the back of the house because I was sure the neighbors were
7 going to start coming over trying to figure out what's going
8 on because he was yelling. I told him to keep it down. And
9 he started approaching me and pointing, pointing his finger
10 and backing me up into the corner of my couch against the
11 wall. And I felt very threatened at this point.

12 **MS. AGUILAR TARCHI:** And Your Honor, may the record
13 reflect that as the witness, Ms. Flores, testified "he was
14 pointing his finger and backing me against the wall," she
15 lifted her right hand and motioned with her index finger in a
16 moving back and forth towards the direction away from her; is
17 that correct?

18 **THE WITNESS:** Yes.

19 **MS. AGUILAR TARCHI:** Q. Now when you were backed-up
20 against the wall, how was it that you were backed-up against
21 the wall, if you can describe it? Was it literal, or did
22 you -- describe what you mean that you were pushed or --
23 excuse me, backed-up against the wall?

24 A. When he was yelling, he was walking towards me at the time
25 that he was yelling at the top of his lungs accusing me of
26 setting hit him up by somehow leaving my underwear at his
27 house, and very gruff, very abrasive, very abrupt approaching
28 me -- that's the only way I know how to describe that, but to

1 the point where I was literally pinned back against the couch
2 saying "What are you talking about?" And he was sure that I
3 knew.

4 Q. And how close did this finger pointing come towards any
5 part of your body, if you know?

6 A. Under a foot. It was approximately six inches?

7 Q. From what part of your body?

8 A. From my face.

9 Q. Now you said, your words were that he was "screaming" --
10 "yelling," pardon me, at the top of his lungs. Did this
11 yelling include any type of profanity?

12 A. No.

13 Q. All right. And did this behavior -- oh, I didn't ask you
14 this. Can you approximately remember the time frame of
15 either the month or the year when this occurred?

16 A. I believe this was -- a guess -- November, but I'm very
17 sure -- I don't know what date in November, but I do remember
18 it was before Christmas.

19 Q. All right. And --

20 **MS. STIGLICH:** Your Honor. I'm going to object. What
21 year?

22 **THE COURT:** What year?

23 **THE WITNESS:** I'm sorry. That would be soon after we met.
24 So it was 2007, still before 2008.

25 **THE COURT:** Thank you.

26 **MS. AGUILAR TARCHI:** Q. So in November of 2007. And at
27 the time, was it just you, this incident which you've just
28 described, was it just you and Mr. Mirkarimi in your

1 apartment?

2 A. Yes.

3 A. May I correct it? At my house.

4 Q. At his house?

5 A. No, excuse me. My house.

6 Q. You did say that. It's my mistake?

7 Now was this behavior that you described of November '07
8 cause you any fear or to be alarmed?

9 A. I was on the watch for him to do that, because it was
10 strange, the paranoia that went along with it was kind of
11 strange to me. So I was on watch. But continued with the
12 relationship. Yes.

13 Q. Now how long, if you can recall, in terms of minutes or
14 hours, did this yelling at the top of his lungs occur?

15 A. It went on for about ten minutes.

16 Q. And in that ten-minute period, he moved and you moved
17 about in areas of your home?

18 A. I kept moving away and he kept following me in my room, my
19 front room which I was at.

20 Q. So what room of the house did it begin and where did he
21 move you away to?

22 A. In the front room. It all occurred in the same place. I
23 just kept moving to the side because it felt uncomfortable.

24 Q. And he followed you as you moved?

25 A. Yes.

26 Q. So it began in the front room, and where did it end after
27 ten minutes?

28 A. In the kitchen which is adjacent to my front room. It's

1 an open floor plan. And I want to make it clear that he
2 approached me. That he was following me at first. But then
3 he was just following me around. It wasn't like he was
4 running around after me.

5 Q. And as he followed you around, was he still in the same
6 demeanor that you described of the tone of yelling at the top
7 of his lung?

8 A. After he finished yelling, it was more of agitated,
9 persistent questioning. And I'm trying to think of the right
10 word, accuse, accusatory statements.

11 Q. Did these accusatory statements make any sense to you?

12 A. No. They did not.

13 Q. What did you say or do as he followed you around in this
14 agitated state, ultimately, following you and your moving away
15 from him?

16 A. I asked him why he kept insisting that that was a problem
17 that I left my underwear there if there was no other romances
18 going on and we're supposed to be together, why would he get
19 so mad at that?

20 Q. And was there any response?

21 A. No. He just kept thinking I was setting him up for
22 something.

23 Q. And he never elaborated to you setting him up for
24 something? Did he elaborate on the set-up thing?

25 A. It was very strange to me. And I asked him what he met.
26 At first he thought I knew what he meant, and then I think he
27 realized it wasn't that and calmed down after that. He didn't
28 leave as angry as he came.

1 Q. Now when you say that you were backed-up against the wall,
2 was it at the end of this situation you're describing?

3 A. At the beginning.

4 Q. Oh, at the beginning.

5 A. Yes, almost immediately.

6 Q. And did you feel -- was he pointing the finger at you as
7 you were backed-up against the wall?

8 A. Yes.

9 Q. And this wall is in what part of the house?

10 A. The back wall of the front room. When you walk in, there
11 are double-glassed doors for the back entrance, which he came
12 in, and walked me directly -- there is a couch as soon as you
13 approach. I was sitting on the couch. I stood up. And then
14 at the end of the first few minutes, I was up against the back
15 wall where the couch is adjacent to. It's kind of hard to
16 describe.

17 Q. Did you feel cornered at that time?

18 A. Yeah. Yeah.

19 Q. How were you able to ultimately move away from that
20 backed-up position?

21 A. I walked around the other side in and came around back
22 towards the doors where he entered and just kind of, as it was
23 diffusing, kept walking around.

24 Q. And he followed you?

25 A. Yes.

26 Q. Now at some point, did you ever get physical with him --

27 A. No.

28 Q. -- during that episode?

1 Q. And how did it ultimately end or diffuse?

2 A. Um, I think he realized after it wasn't anything that I
3 meant to do on purpose, he was still angry, and then it
4 diffused much like other situations. It diffused to a okay.
5 I don't even remember. It wasn't a happy ending, but it
6 basically just dissolved. And he had to go back to work.

7 Q. Okay. So let's -- I'd like to move onto the second
8 incident. You said there were a total of four. So the first
9 one you just described in November of 2007 in your home.

10 Can you tell us, again, as it regards verbal or physical
11 abuse, what this second incident, when the time frame of the
12 second incident that you spoke of, if you can recall?

13 A. Yes. I believed there were two instances in February, one
14 being the one that I'm going to speak about now. And that was
15 simply --

16 Q. I'm sorry. In what year?

17 A. Oh, I'm sorry. That would be 2008.

18 Q. All right. I apologize. So two incidents in February of
19 2008. And if you could go to what I'll call as Incident
20 No. 2. Where were you and Mr. Mirkarimi when the second
21 incident in February of '08 occurred?

22 A. These occurred in his house.

23 Q. All right. And what was the nature of this incident, this
24 first incident in February of '08?

25 **MS. STIGLICH:** Your Honor, I just -- and I don't mean to
26 interrupt the witness. The People have noticed -- I'm just
27 curious if the People are intending on offering these verbal
28 incidents, or the incident that was noticed in the papers of

1 this alleged arm grab? This has been noticed as this one
2 incident they want to introduce now. Now we're talking about
3 a lot of verbal things. I'm unclear if this is background for
4 Your Honor for your consideration of what they're trying to
5 offer? I'm just trying to get some specificity about what
6 we're offering here.

7 **MS. AGUILAR TARCHI:** At this point, Your Honor, with
8 respect to the notice. At the conclusion of the hearing, the
9 People will proffer any and all relevant evidence as it may go
10 to the motion, and that would include some of the incidents
11 we're getting to. But even if the Court were to, assuming
12 arguendo, exclude these, let's call it "four separate verbal
13 incidents," I do think they provide context to the incident
14 occurring, which we'll get to, which involved the alleged
15 physical situation that caused a bruise on Ms. Flores. But
16 also, it does provide the relevancy and her state of mind to
17 explain her relationship. It's proper propensity evidence.
18 And at this point, it's been discovered, and it would provide
19 the backdrop, should this go to the triers of fact, as to the
20 volatility and nature of the relationship. It can't be taken
21 in a vacuum. Her credibility, most certainly, will be
22 attacked on a certain level. I won't say more at this
23 juncture in front of the witness. But yes. We would be
24 offering verbal and physical.

25 **THE COURT:** Okay. Well, I understand what Ms. Stiglich --
26 again, I understand what she's driving at. Let me just listen
27 to the evidence. If you're proffering all of this, and you're
28 saying, you used the word "discover". I assume that you mean

1 these circumstances, or evidence of these circumstances have
2 been reduced to writing and have been produced to the
3 defendant?

4 **MS. AGUILAR TARCHI:** Yes, Your Honor, in the form of
5 transcripts, a timeline that Ms. Flores proffered herself
6 concerning different incidents, and those were also
7 discovered, along with pictures, e-mails, to the defense.

8 **THE COURT:** Well, just for the record. I know counsel
9 refers to it as "discovered to the defense." But what that
10 means, for purposes of the Court's interpretation, is that
11 this evidence or discovery has been provided to the defendant.

12 **MS. AGUILAR TARCHI:** Yes, Your Honor.

13 **THE COURT:** So I think for purposes of any record, it's
14 better to refer to it as "produced," or "provided," or
15 something like that. All right. So I'm going to grant you
16 the right to put this evidence on. I'll reserve decision, as
17 I've mentioned already, so that Ms. Stiglich can give full and
18 thorough cross-examination. If she needs additional time,
19 there's sufficient reason for that preparation, I'll listen to
20 that. But right now, everything's been disclosed on the part
21 of the People. Think I we should just keep going with this.
22 And I understand, again, I appreciate why we need to narrow
23 some of this down. But then, again, I also appreciate what
24 the People's position is in this matter. So please continue.

25 And Ms. Flores, just make sure -- I know that you are
26 eager to tell everything. But just let Ms. Aguilar Tarchi ask
27 a question. It may not ask for as much as you think she
28 wants, or you're trying the anticipate. In this kind of

1 hearing, it's just important that you just listen. If you
2 testify in front of a jury, the same rules will apply. Okay?

3 **THE WITNESS:** Keep it short.

4 **THE COURT:** Yes. Keep it short.

5 **THE WITNESS:** Okay.

6 **THE COURT:** And she'll elicit the questions that she needs
7 to. All right. Ms. Aguilar Tarchi, please continue.

8 **MS. AGUILAR TARCHI:** Yes. Thank you.

9 Q. Because you indicated there were four alleged incidents of
10 verbal abuse, I'm going to go use chronological numbering.

11 Let's go to the second incident which you indicated

12 occurred -- in one of two -- in February of '08. Where were
13 you and Mr. Mirkarimi when the second incident of verbal abuse
14 occurred?

15 A. His house.

16 Q. And why were you there? Lunch? Dinner? Breakfast?

17 A. We were meeting in the evening there just to meet at his
18 house.

19 Q. And what, if anything occurred, that you would describe as
20 verbal abuse?

21 A. We were both arguing because of his saying that he was
22 somewhere that he wasn't, and I accused him of that. Yeah.

23 Q. So you basically accused him of lying to you?

24 A. Yes.

25 Q. And again, were you still boyfriend/girlfriend?

26 A. Yes.

27 Q. How, if at all, did Mr. Mirkarimi respond to this
28 accusation or this statement of yours that you were lying --

1 or that he lying?

2 A. He blew up.

3 Q. And please tell us, in your own words, what he said or did
4 that you described "blew up"? How did he react?

5 A. Very loudly, saying that I'm accusing him of all these
6 things and I don't trust him, and I should know that he is
7 where he says he is when he is.

8 Q. And what was his demeanor like, as he uttered, stated
9 these words?

10 A. Very loud.

11 Q. And did he use any profanity?

12 A. No.

13 Q. Okay. And did he motion towards you in any physical way
14 with his body or his language that caused you to be alarmed or
15 in fear?

16 A. Yes.

17 Q. What was it that he did, physically, with his body that
18 caused you to be fearful?

19 A. I followed him down, telling him that I had checked where
20 he said he was and he wasn't there. And he spun around, as I
21 followed him, and backed up towards me, yelling at me, not
22 pointing his finger, just approaching me full stance. I don't
23 know how to say it, just very aggressively.

24 Q. And what did he do as he yelled at you in full stance
25 aggressively?

26 A. He just approached me, turned it around -- because I was
27 following him now -- he turned around and started backing
28 towards me.

1 Q. Now he say or do anything that intimidated you at that
2 point?

3 A. That was, in itself, intimidating to me.

4 Q. Did you call him on this behavior, so to speak?

5 A. Yes.

6 Q. What did you say to him?

7 A. I said "If you're not lying, you wouldn't be so angry."

8 **THE COURT:** I'm sorry. What was his statement?

9 **THE WITNESS:** "If you're not lying, why are you so angry?"

10 **MS. AGUILAR TARCHI:** Q. And was there any response
11 verbally or physically?

12 A. No. He just put up his hands and went in his bedroom.

13 Q. And you used the words for the second incident that he
14 "blew up". Would you consider it, the second incident to be
15 similar to the first situation that you described in November
16 of '07?

17 **MS. STIGLICH:** Object to relevance. Describing the
18 incidents, comparing them.

19 **THE COURT:** Sustained. Why don't you rephrase the
20 question.

21 **MS. AGUILAR TARCHI:** Q. How did you feel concerning his
22 blowing up, being loud, spinning around and yelling at -- you
23 said he spun around yelling at you. How did you feel at that
24 time?

25 A. Scared.

26 Q. Now he didn't touch you, did he?

27 A. No. He did not.

28 Q. He didn't hit you in any way?

1 A. No.

2 Q. Why were you scared?

3 A. The presence that he had, and the anger that just all of a
4 sudden flared up. It wasn't an argument. It was a dominating
5 kind of explosive stance.

6 Q. And when he came over to your house in February of '08 for
7 this incident that you're describing, had you invited him to
8 come over?

9 A. I'm sorry. When?

10 Q. We're talking about the same incident.

11 A. It was at his house.

12 Q. It was at his house?

13 A. Yes.

14 Q. You were over there just for a regular
15 boyfriend/girlfriend meeting when he blew up?

16 A. Yes.

17 **THE COURT:** There's something that I don't understand.
18 You said that -- who was the one who -- the argument was
19 apparently over his not being where he was supposed to be. Is
20 that my understanding?

21 **THE WITNESS:** Yes, yes.

22 **THE COURT:** And did you follow him somewhere where he
23 wasn't or he was?

24 **THE WITNESS:** I was waiting outside of his house for an
25 hour. He was supposed to meet me an hour before he actually
26 came home. And during that hour, I went by his work to see if
27 he really was at work. He was texting me he had to work late
28 at City Hall. So I drove by. The lights were out, and he was

1 not there, and his car was not parked around it. So I waited
2 in front of his house, and he finally did come back.

3 **THE COURT:** Thank you.

4 **THE WITNESS:** You're welcome.

5 **MS. AGUILAR TARCHI: Q.** And it was your approaching him
6 and catching him, so to speak, in a lie that caused this
7 blow-up that you have described?

8 A. Yes.

9 Q. And now you've indicated there was another incident in
10 February of '08 where Mr. Mirkarimi verbally abused you?

11 A. Yes.

12 Q. And I'll call that Incident No. 3. Where were you and
13 Mr. Mirkarimi during this third incident of alleged verbal
14 abuse?

15 A. This -- I have to ask for clarification.

16 Q. Yes.

17 A. The third one was actually the one where he did actually
18 grab my arm.

19 Q. And so this later incident in February '08 involved
20 physical abuse?

21 A. Yes.

22 Q. Did it also involve verbal abuse?

23 A. Yes.

24 Q. And getting to this February '08 incident. Where was the
25 location of the incident?

26 A. His house.

27 Q. On Webster Street?

28 A. Yes.

1 Q. And do you recall the time of day that it was?

2 A. It was in the evening.

3 Q. All right. And tell us the setting prior to the incident
4 that we'll be getting details on. Were you there for dinner?
5 Were you planning to spend the night? Just explain briefly.

6 A. I always bring chicken and ice cream, and I was bringing
7 that in for dinner for us to eat, after he had worked, which
8 is about 10:00, 10:30 in the evening. And that's what led up
9 to that.

10 Q. Now if I could just get the setting. Did you have a key
11 to his apartment to get in and out?

12 A. I believe at that time I did. It may have been later.
13 But I remember, somehow, there must have been a Hide-a-Key, I
14 think. So yes.

15 Q. So I'm just trying to understand. Were you already in the
16 home waiting for Mr. Mirkarimi to arrive with the chicken and
17 ice cream you had purchased, or were you coming in?

18 A. I was coming in and he was there at the same time.

19 Q. Did you meet up with him outside?

20 A. Yes.

21 Q. And your understanding is he was coming home from his work
22 as supervisor?

23 A. Yes.

24 Q. So you meet up outside the home. You have these items to
25 have dinner. What next occurred?

26 A. I followed him into his house and went to put it away in
27 the kitchen.

28 Q. And then what happened?

1 A. I ate some food in the kitchen with him there, the
2 chicken, the rotisserie chicken. And then I moved into the
3 bedroom and started to relax and put my clothes away in the
4 closet. That is when I notice --

5 Q. Something?

6 A. Yes.

7 Q. What, if anything, did you notice as you were going
8 into -- strike that.

9 Your dinner was, situation, everything was cordial. No
10 arguments of any nature?

11 A. Correct.

12 Q. So at some point, you're in his bedroom putting your
13 clothes away. Did you find an item of clothing that made you
14 upset?

15 A. Yes.

16 Q. Just briefly, what did you find?

17 A. It was a woman's underwear.

18 Q. And after you found a woman's underwear, did you say or do
19 anything towards Mr. Mirkarimi?

20 A. I picked it up and I walked to him and told him, or asked
21 him "What's this?"

22 Q. And did he respond in any way?

23 A. Yes.

24 Q. Tell us how he responded?

25 A. He said "Those are yours."

26 Q. All right. And was that true?

27 A. No.

28 Q. So what, if anything, occurred next after you were

1 discussing this item of clothing that you were showing him?

2 A. He kept insisting they were mine.

3 Q. And at some point, did the discussion escalate to
4 something else?

5 A. Yes.

6 Q. And at what point was that, Ms. Flores?

7 A. We were at the foot of his bed in his bedroom, which is
8 right near the door to the closet, as well as the door to the
9 hallway, and we argued.

10 Q. And would it be fair to say you were upset?

11 A. Yes.

12 Q. All right. Did you ever physically strike him, or push
13 him, or pull him in any way?

14 A. No. I did not.

15 Q. All right. But were you verbally abusive towards him?

16 A. Yes.

17 Q. What did you say to him?

18 A. I said "You're a liar." And I said "These probably belong
19 to your ex-girlfriend who I think is still staying here."

20 Q. Okay. This is private now. But who is the ex-girlfriend?

21 A. The ex-girlfriend at the time is Evelyn.

22 Q. And do you know her last name?

23 A. Neves, Neve -- something. Sorry.

24 Q. So you're upset you're telling him this belongs to perhaps
25 his ex-girlfriend Evelyn Neves. And what happens next?

26 A. He said that she's stays over every once in awhile because
27 she couldn't afford her own place sometimes.

28 Q. All right. Now at some point, did this argument become

1 physical?

2 A. Yes.

3 Q. At what point?

4 A. When I said I was going to leave.

5 Q. Now prior to your saying, you said you were going to
6 leave -- excuse me if I ask the obvious -- why do you tell him
7 you wanted to leave?

8 A. I believed he was lying. It was upsetting me
9 tremendously.

10 Q. And again, prior to telling Mr. Mirkarimi that you wanted
11 to leave, had you been in any way physical with him at all?

12 A. No.

13 Q. And what, if anything, was Mr. Mirkarimi's reaction when
14 you told him you wanted to leave?

15 A. He continued yelling. And as I went out the door, I was
16 in the doorway, as I turned to get my purse, he grabbed my arm
17 and pushed me up against the wall as he was yelling.

18 Q. And for the record, Ms. Flores indicated with two hands,
19 open palms up, motioning forward. Would that be correct? He
20 pushed you?

21 A. One arm -- he pushed me back against the wall, not this
22 way. I'm not saying with that kind of force.

23 Q. Please describe in your own words, if you have to
24 demonstrate, that's fine, in your own words, the manner in
25 which Mr. Mirkarimi pushed you against the wall?

26 A. He pushed this way (indicating).

27 Q. And you are using one hand, the right hand motioning
28 towards what?

1 A. Mowing towards my arm.

2 Q. Okay. And he actually grabbed you with his hand?

3 A. He did.

4 Q. What part of the body did he grab you with his hand?

5 A. Right here (indicating). I'm sorry. This would be the
6 right hand tricep back here (indicating) and bicep
7 (indicating). So it would be cupping the bicep and the
8 tricep.

9 Q. Of your arm?

10 A. Of my arm. Yes.

11 Q. And what arm, if you know, did he use to grab you in that
12 fashion?

13 A. I don't recall.

14 Q. But you were grabbed by him?

15 A. Yes.

16 Q. On your upper right arm you were grabbed?

17 A. Yes.

18 Q. Were you grabbed, as you were pushed against the wall,
19 were you grabbed with his other hand, if you can recall?

20 A. Those are two questions. I'm sorry. So one more time?
21 Just one at a time.

22 Q. I would be -- I'll try to be more clear. I just want
23 to -- you've indicated you were grabbed with a hand, you're
24 not sure which, of Mr. Mirkarimi to grab you on your upper
25 right arm?

26 A. Correct.

27 Q. Do you know what he did with his other hand, if anything?

28 A. I don't.

1 Q. All right. And what room of his apartment or condo did
2 this happen in? The wall aspect?

3 A. That is right outside the door of his bedroom.

4 Q. Did your body actually touch the wall that you were pushed
5 up against?

6 A. Yes. The left side (indicating) of my body hit the wall.

7 Q. And the witness is motioning left side of the body with
8 the right side more exposed.

9 A. Correct.

10 Q. Did your head hit the wall in any way --

11 A. No.

12 Q. -- or touch the wall?

13 Q. So it would be your left shoulder area?

14 A. Correct. I was turning to go.

15 Q. To go away?

16 A. Yes.

17 Q. So your right shoulder area was exposed and your left was
18 against the wall?

19 A. Correct.

20 Q. What was he saying or doing as he grabbed you in the
21 manner you have described and you were up against the wall?

22 A. I remembered him mentioning, then, I'm overreacting.

23 Q. I'm sorry?

24 A. Yelling about me overreacting.

25 Q. Okay. And how would you describe this demeanor this
26 behavior? How did he change?

27 A. He's very loud. He was same tone all the way through. He
28 didn't get louder at that point. He just came at me at that

1 point.

2 Q. Was he shouting or just having a discussion?

3 A. Shouting.

4 Q. And what were his, if you know, did his facial expressions
5 change in any way during this episode of grabbing you and
6 having you against the wall?

7 A. Not until afterwards.

8 Q. Okay. Were you saying anything to him just shortly before
9 this happened and as you were pushed against the wall?

10 A. No, just as I was leaving, as I said.

11 **THE COURT:** I'm sorry. I missed that. What happened with
12 his facial expressions?

13 **MS. AGUILAR TARCHI:** I think the answer was that happened
14 later.

15 **THE COURT:** All right. Thank you.

16 **MS. AGUILAR TARCHI:** Q. Were you, at the moment you were
17 grabbed in the fashion on your arm in the way you have
18 described, and pushed against the wall as you turned to leave,
19 were you scared?

20 A. Yes.

21 Q. Why?

22 A. Because it was physical.

23 Q. How did you get away from him?

24 A. I yelled immediately on hitting the wall very, very loud,
25 and it shocked me and him, and he immediately let go.

26 Q. And you recall, if you can, just what word you uttered to
27 get him to let you go?

28 A. I don't recall. But it was loud.

1 Q. Did you physically strike him? Kick him? Bite him?
2 Anything like that?

3 A. No.

4 Q. Did he use any profanities other than the tone you just
5 described about being loud, and yelling, and the physical
6 aspect during this incident?

7 A. No.

8 Q. When you say let you go, he finally let go of the grip he
9 had of your upper right arm?

10 A. Yes.

11 Q. Today your arms are bare. If you recall, did you have a
12 jacket on when he grabbed you? Did you have a sweater?
13 Long-sleeve? Just if you know?

14 A. No. My stuff was in the kitchen. That's where I was
15 heading to get them.

16 Q. So you had a bare arm?

17 A. Yes.

18 Q. Bare arms, rather. What immediately happened after you
19 said you yelled at him. What were the words? I'm sorry?

20 A. I do not recall what I said.

21 Q. But you made it clear that you wanted him to let you go?

22 A. Yes.

23 Q. What, if anything, did he say or do upon letting you go?

24 A. He let me go immediately when I yelled. He looked
25 shocked. I looked shocked. And then he said "I'm sorry. I
26 didn't mean to do that."

27 Q. And it was just "I didn't mean to do that"?

28 A. Yes.

1 Q. Did you ask him to clarify?

2 A. No.

3 Q. Did you say anything in response?

4 A. No.

5 Q. What happened next?

6 A. I was in shock because this was the first time it
7 happened. And I walked over to get my things in the kitchen
8 like I was preparing to do.

9 Q. Did you decide to leave as had been your plan?

10 A. I brought my stuff to the door, and I stood at the door
11 for a good two minutes.

12 Q. And what happened?

13 A. I was trying to decide whether I should go out or stay,
14 and I stood at the door.

15 Q. And why were you hesitant for about two minutes in your
16 decision? Why?

17 A. He continued to talk and be kinder and apologized and say
18 "Let's just talk about this. This is stupid." And it went on
19 like that.

20 Q. And do you remember the words he offered to apologize to
21 you?

22 A. Just the ones I said. Nothing more than that, really. It
23 was the tone that was much more soothing.

24 Q. And this kinder apologetic soothing tone was for
25 approximately two minutes as you stood at the door deciding
26 "Should I go or stay"?

27 A. It continued throughout the evening.

28 Q. Ultimately, Ms. Flores, did you remain in the home or

1 condo of Mr. Mirkarimi's, or did you go home that evening?

2 A. I remained there.

3 Q. So you spent the night?

4 A. Yes.

5 Q. Other than the apologies he proffered in this two-minute
6 period while were you're at the door, did he say or apologize
7 any time during the evening for his behavior?

8 A. You mean after?

9 Q. After?

10 A. No.

11 Q. Did you feel -- can you describe whether the grab to your
12 arm, was it a gentle one? Was it a forceful one? Describe in
13 your own words how you felt at the point he grabbed you?

14 A. It was forceful.

15 Q. And he was angry when he did it?

16 A. Angry and frustration. Did you feel any pain as he
17 grabbed you at that moment of the strength of how he grabbed
18 you?

19 A. Not necessarily pain. I felt adrenaline through my body,
20 and I was ready to do more if I had to. But the fact that it
21 stopped so quickly and he responded to the outburst made me
22 relax. But it's very -- I didn't specifically feel a sharp
23 pain or anything like that.

24 Q. All right. Now at some point later, did you discover any
25 injuries on the part of the body where Mr. Mirkarimi grabbed
26 you and pushed you against the wall?

27 A. Yes.

28 Q. And what, if any injuries, did you discover?

1 A. Small bruise on my arm.

2 Q. And if you recall the time frame of when you made that
3 notice of the small bruise on your arm?

4 A. The next day.

5 Q. And when you discovered it, was Mr. Mirkarimi present at
6 the time you discovered the bruise?

7 A. No.

8 Q. So the next day, where did he go? You spent the night at
9 his apartment and he left?

10 A. He went to work. Yeah.

11 Q. And you remained in the apartment?

12 A. No. He always had me leave before him.

13 Q. And why was that?

14 A. I don't know.

15 Q. You had instructions you always had to leave before him?

16 A. Yes.

17 Q. You could not leave together?

18 A. No. We never left together. I always left before him
19 unless we were going somewhere together.

20 Q. And did he ever say to you he did not want to be seen with
21 you in public?

22 A. Yes.

23 Q. Did he explain why?

24 A. Yes.

25 Q. What was that?

26 A. And it was in January, it was a specific incident. Am I
27 allowed to say?

28 Q. Yes.

1 A. In January, I was trying to become a police officer. And
2 he said police officers seeing me with him would ruin my
3 chance of getting into the department.

4 Q. Did he explain what he meant by that? Why would your
5 chances be ruined if police officers saw you with
6 Mr. Mirkarimi?

7 A. He said it wasn't a good idea.

8 Q. All right. And this was his explained, reason for not
9 being seen, your being seen entering or exiting with him
10 together from his apartment?

11 A. Yes.

12 Q. Did that instruction apply as well to your home? Could
13 you exit your house with him as well or --

14 A. I exited my house with him. My front entrance is actually
15 unusual because it's in an alley, very secluded. So yeah.

16 Q. So let's -- getting back to where, after the physical
17 abuse you described with the bruise on your arm you noticed.

18 As Mr. Mirkarimi leaves for work, what do you do? Just
19 briefly, where do you go?

20 A. Back to my house.

21 Q. At some point, did Mr. Mirkarimi mention the bruise on
22 your arm?

23 A. No.

24 Q. Did he ever see the bruise on your arm?

25 A. Yes.

26 Q. What time frame, I want? Was it the very next day?

27 A. It was the day after then. So it was two days.

28 Q. So two days after this incident of February, where were

1 you when Mr. Mirkarimi -- we'll get to the point -- sees the
2 bruise? Where were you you guys?

3 A. I was on Webster Street at the very end of the street,
4 very opposite end of his side of the block in my blue Mini
5 Cooper.

6 Q. And were you waiting for him?

7 A. Yes.

8 Q. To come out of his house?

9 A. Yes. I was driving.

10 Q. So you had an arrangement to get together?

11 A. Yes.

12 Q. Did he enter your Mini Cooper?

13 A. Yes.

14 Q. And what, if anything, was said, if at all, about this
15 bruise?

16 A. Well, we were talking. I went to grab something on the
17 front and he said "What is that?" referring to the small
18 bruise on my arm, and I said "You did that." And then he
19 replied "When did I do that?" and I said "The other day," and
20 he said "I'm sorry. Didn't mean to do that. It was an
21 accident."

22 Q. And did you respond to him when he said to you "I'm sorry.
23 It was an accident"?

24 A. No. I did not.

25 Q. To your recollection, he, Mr. Mirkarimi, was the one who
26 pointed to the bruise on your arm saying "What is that"?

27 A. Yes.

28 **THE COURT:** While you're thinking about your question.

1 How big was the bruise?

2 **THE WITNESS:** Probably about the size, a little bigger
3 than a dime, smaller than a nickle.

4 **THE COURT:** What side of the arm?

5 **THE WITNESS:** Right here (indicating).

6 **THE COURT:** The record should reflect on the backside of
7 her right arm, the upper right arm.

8 **MS. AGUILAR TARCHI:** Thank you, Your Honor.

9 Q. Now before we get to incident, I'll call it alleged
10 Incident 4. Did you ever report -- strike that.

11 Other than Mr. Mirkarimi making the observations and
12 statements that you've testified to, your seeing your bruise,
13 did you tell anyone else about what he did to you that caused
14 the bruise?

15 A. Not about the grab. No.

16 Q. And did you tell anyone about the verbal abuse you had
17 endured during this incident, or others, with Mr. Mirkarimi?

18 A. My friends all know about the verbal, but I don't remember
19 if this particular one I called everybody. But they do know
20 about the history.

21 Q. And so, specifically, you did you take a photo of your
22 bruise?

23 A. No.

24 Q. Did you ever report this incident to the police?

25 A. No.

26 Q. Without giving specific names, do you come from a, well,
27 you come from a law enforcement family?

28 A. Yes, I do.

1 Q. And who in law enforcement relationships?

2 A. Um, father is retired, uncle is retired, ex-husband is
3 currently working, and cousins, as well.

4 Q. All right. Now you come from a law enforcement family.
5 Yet, why didn't you feel that you should report this physical
6 incident that caused a bruise to the police?

7 A. Because he immediately let go and apologized for it. And
8 I think he did it without realizing he was doing it. I felt
9 if he advanced it further, I definitely would have fought back
10 and said something. But because he let go and looked really
11 shocked, that I didn't think that I wanted to say anything. I
12 was kind of just watching and seeing if it ever happened
13 again.

14 Q. Did you remain, continued, obviously, with your
15 relationship with Mr. Mirkarimi, notwithstanding these --
16 we're now at the third incident -- these episodes of verbal
17 abuse, and now this verbal and physical?

18 A. Yes.

19 Q. What, if anything, can you tell us about an alleged fourth
20 incident, correct me I'm wrong, this would be of verbal abuse?

21 A. The fourth incident, I remember standing at the door
22 deciding whether it was scarier to go out and try to find my
23 car near the projects that he lives near or stay inside. I do
24 not remember the specifics of the argument.

25 Q. Okay. But did you end up leaving? You were at the
26 Webster Street apartment?

27 A. Yes.

28 Q. And was it morning, afternoon or late evening?

1 A. Approximately 2:00 in the morning.

2 Q. Were you fearful during this verbal abuse?

3 A. Fearful, yes, and angry.

4 Q. You don't recall what prompted the argument?

5 A. I do not.

6 Q. But can you recall the nature of the verbal statements
7 that you can characterize as being abusive? What did he say?

8 A. Just the intensity, not what he said, but how he
9 approached me and said these thing.

10 Q. What was the intensity?

11 A. Very intense. It's like it goes from zero-to-50.

12 **THE COURT:** When did this happen?

13 **THE WITNESS:** This was in late February.

14 **THE COURT:** Of 2009?

15 **THE WITNESS:** Yes. Am I allowed to add anything, or is
16 that --

17 **THE COURT:** No. Wait for her to ask you a question.

18 **THE WITNESS:** Yes.

19 **THE COURT:** Ask the question.

20 **MS. AGUILAR TARCHI:** Yes.

21 Q. All right. Is there about adding, is there something
22 about this particular incident that, without saying what it
23 is, that you wanted to elaborate on?

24 A. Not particularly.

25 Q. Of th prior incident?

26 A. Of the prior.

27 Q. Is there anything regarding the physical abuse incident?

28 A. No.

1 Q. About any prior verbal abuse that you wanted to clarify?

2 A. No.

3 Q. All right. You have used the term, you're saying
4 intensity 0-to-50. Did you use -- during your interview with
5 inspector -- excuse me, district attorney Investigator Mike
6 Kloss, any other words to describe this level of intensity or
7 description of how he behaves?

8 A. The two that I have used is accurate, is "Jekyll and Hyde"
9 kind of mentality. And the other one is "pitbull," because
10 the way a pitbull, to me, what that means is it locks on you
11 and it senses and then goes forward if it wants to continue
12 being aggressive. And that's what I would see, the motion of
13 forwarding yourself towards someone that you are yelling at.

14 Q. Would the pitbull-type behavior, would you use that to
15 characterize any of these incidents so far that we've been
16 describing?

17 A. Yes.

18 Q. All or some?

19 A. All.

20 Q. What do you mean, and it may be obvious, in your own
21 words, why you have characterized Mr. Mirkarimi's behavior,
22 and I'll get to the time frame, but just the terms Jekyll and
23 Hyde?

24 A. Because it's not an advancing argument. It doesn't start
25 to get heated, start to get a little more heated, and up there
26 it goes from zero to "Why are you accusing," the big
27 grandiose. That's what I mean by, you know, coming from a
28 very calm place to a very loud place.

1 Q. And with respect to the Jekyll-Hyde behavior that you've
2 described, would you characterize that behavior manifested
3 itself in these four incidents of which you've spoken?

4 A. Yes.

5 Q. Did all of these four incidents happen within the confines
6 of your private residence or apartment?

7 A. Yes.

8 Q. Never out in public?

9 A. No.

10 Q. And just to finish. The last incident that you
11 specifically recall of the verbal intensity you can't remember
12 what it was about. This is the one where you decided to go to
13 your car?

14 A. Yes.

15 Q. You went alone?

16 A. Yes.

17 Q. You did not stay in the home at that time?

18 A. No.

19 Q. Why not?

20 A. I thought it was safer to try to walk through the projects
21 to my car than stay because he was getting more and more
22 angrier.

23 Q. Can you recall whether this fourth incident where you felt
24 safer to go your car by yourself than remain in the home with
25 him, did he move forward to you in any way, or was it all just
26 verbal intensity?

27 A. It was verbal intensity. He did not charge as much as the
28 others.

1 Q. Do you remember him following you about his apartment?

2 A. No.

3 Q. Okay. At some point, Ms. Flores, did you and
4 Mr. Mirkarimi end your boyfriend/girlfriend relationship?

5 A. Yes.

6 Q. Okay. Was there a reason or reasons that the relationship
7 ended?

8 A. Yes.

9 Q. Please tell the Court, briefly, what and why?

10 A. I, a few times, said that "I don't want to be treated this
11 way. I deserve better," and I ended the relationship.

12 Q. Okay. And at some point, did he promise to -- did he make
13 any statements when you uttered why you deserved to be treated
14 better, were you referring to these episodes of his?

15 A. Yes.

16 Q. What did he respond to that?

17 A. That I'm over-reacting.

18 Q. Other than over reacting, did he ever accuse you of
19 anything else?

20 A. He accused me of sleeping with other people.

21 Q. Anything else that he accused you of?

22 **MS. STIGLICH:** I'm going to object. Vague as to time.

23 **THE COURT:** Sustained.

24 **MS. AGUILAR TARCHI:** Q. Is this right before the
25 relationship ended?

26 A. The accusations?

27 Q. Yeah.

28 A. It ended a few times. So before that, that was maybe one

1 of the excuses or the reasons that prompted that.

2 Q. And again, because we need a time frame, roughly, maybe
3 not a specific time and date, but month, year?

4 A. Of which time?

5 Q. Of when he accused you of overreacting or sleeping with
6 other people?

7 A. I don't recall the month it happened.

8 Q. Okay. But it was prior to breaking up?

9 A. Yes.

10 Q. And were these some of the reasons, the treatment of you,
11 and these, we'll call them "accusations," were these some of
12 the reasons why you were breaking up with him?

13 A. Yes.

14 Q. Now excuse me if I ask this, and it maybe very silly. But
15 was it a mutual breaking-up, or you said "This is it," or he
16 said "This is it"? Just please briefly explain.

17 A. At times I said "This is, it" and I have an e-mail to that
18 extent, and then we would talk and then get back together.
19 Sometimes he said "This is it" and "No more," and then we
20 ended up e-mailing, or texting, or talking, and getting back
21 together.

22 Q. So it was a little bit off again/on again until it
23 ultimately ended, in your words, in December of '08?

24 A. Yes.

25 Q. Now did you learn -- at some point, did he needed to go do
26 a conference in South America?

27 A. Yes.

28 Q. And what month and year was that, if you can recall?

1 A. I have it in my e-mail.

2 Q. Do you have it in any timeline?

3 A. Yes, I do.

4 **MS. AGUILAR TARCHI:** Okay. I'll have to mark that as an
5 exhibit. Well, actually, for refreshing, I don't need to do
6 this. I wish to refresh -- hand a document of a timeline,
7 multiple pages in length. I'm showing it to Ms. Stiglich. It
8 was provided as part of discovery.

9 If I could have Ms. Flores just review this to herself.
10 And then at some point, I'll ask her to refer to what page her
11 memory may be refreshed so I can show Ms. Stiglich. May I
12 approach?

13 **THE COURT:** Yes.

14 **MS. AGUILAR TARCHI:** Q. So Ms. Flores, without speaking,
15 just look through this document and see if your memory can be
16 refreshed as to the month and year Mr. Mirkarimi left for a
17 conference in South America.

18 A. There were two trips.

19 Q. Okay. Let's just refresh your memory as to the dates of
20 the two trips and then don't say anything yet. Tell us if,
21 after reviewing that timeline, if your memory is refreshed,
22 and then we can ask you some more questions.

23 A. Ah, May 1st through 4th.

24 Q. And what page is that, Ms. Flores?

25 A. On that I don't see a page number.

26 Q. Because Ms. Stiglich needs to know.

27 A. It's that chronologically order, May 1st through 4th.

28 Q. Just read it to yourself because I'm going to ask some

1 questions about those two dates, and then I'll need the
2 document back. Just refresh your memory.

3 **THE COURT:** Don't read it out for the reporter. Just read
4 it to yourself. And then once you are done, hand it to
5 Ms. Aguilar Tarchi. All right?

6 **THE WITNESS:** Okay.

7 **MS. AGUILAR TARCHI:** Q. Is your memory now refreshed with
8 with respect to some time frame of when Mr. Mirkarimi left the
9 country?

10 A. Yes.

11 **MS. AGUILAR TARCHI:** All right. And I now have the
12 timeline back.

13 **THE COURT:** All right. The record should reflect that the
14 timeline has been provided, returned to the prosecutor. And
15 Mr. Hinckley is now present as counsel for Mr. Mirkarimi.
16 Good morning, sir,

17 **MR. HINCKLEY:** Good morning, Your Honor.

18 **MS. AGUILAR TARCHI:** Thank you, Your Honor.

19 Q. So Ms. Flores, just briefly. At some point, did
20 Mr. Mirkarimi, while were you boyfriend and girlfriend, depart
21 for a conference of some sort to South America?

22 A. Yes. Yes.

23 Q. And on how many separate times, that you know of, did he
24 tell you that he was going to South America?

25 A. Two separate times.

26 Q. What was the date, month and year of the first trip?

27 A. May 1st, 2008.

28 Q. I'm sorry.

1 A. Uh-huh.

2 Q. And where did he tell you he was traveling to?

3 A. Brazil.

4 Q. All right. And was it for a particular event?

5 A. He was asked to speak at a Green Conference.

6 Q. And did you go with him?

7 A. No.

8 Q. How long was the conference?

9 A. I believe two or three days.

10 Q. Did he go anywhere else, that he told you, before
11 returning from Brazil?

12 A. No. That I know of, no.

13 Q. Upon returning, did he say anything to you about your
14 relationship upon returning from Brazil in May of '08?

15 A. No.

16 Q. All right. Did he ever say he met anybody there?

17 A. No.

18 Q. And let's talk about the second time he went to South
19 America. What month and year would this have been?

20 A. Um --

21 Q. Do you need to refresh your memory?

22 A. Yes, I do. I'm sorry. I want to make sure I get it
23 right.

24 Q. Once again, I'm just approaching the witness with a
25 timeline sheet prepared. It's been discovered -- shared and
26 copied for defense counsel. Just refresh your memory as to
27 that, and let me know when your memory is refreshed as to the
28 month and year of a second trip to South America.

1 A. Okay.

2 Q. Thank you. Tell us the the month and year Mr. Mirkarimi
3 told you, when were you still boyfriend and girlfriend, when
4 he was going to South America?

5 A. Beginning of October 2008.

6 Q. And where did he go?

7 A. He didn't tell he. He said that it was a very private,
8 secret trip.

9 Q. But he said this private, secret trip took place in
10 October of '08?

11 A. Yes.

12 Q. How long was he away?

13 A. Just I believe a week.

14 Q. Upon return, did he say or do anything to reveal where he
15 really was for this secret trip?

16 A. No.

17 Q. At some point, later, did you learn that Mr. Mirkarimi,
18 while being presumably in a relationship, intimate
19 boyfriend/girlfriend relationship was seeing someone else?

20 A. Yes.

21 Q. When was this?

22 A. Middle to end of October, same year.

23 Q. Did he tell you whom he met where?

24 A. He had told me that there was a woman that was a one-night
25 stand he had, that he slept with one time, and that she got
26 pregnant.

27 Q. And did he tell you where he met this woman for this
28 one-night stand?

1 A. He said that he met her at the conference that he went to
2 in Brazil, and she was coming through the City.

3 Q. So he told you she was -- I'm sorry. He told you how far
4 along she was?

5 A. Three months.

6 Q. Three months pregnant. That he met her in May during --
7 I'm sorry. I apologize. A one-night stand, she's pregnant,
8 and this was the person he met at the conference in Brazil?

9 A. Yes.

10 Q. The conference of May of '08?

11 A. The first one in Brazil. Yes.

12 Q. Now did you get upset?

13 A. Yes.

14 Q. All right. And you said she's coming through the City.
15 Can you elaborate?

16 A. I did not understand that. He said that he slept with her
17 one time, that she was in San Francisco, and that they slept
18 together and she got pregnant.

19 Q. And if you know, when he said "she's in San Francisco," he
20 meant, she, the woman he got pregnant, was in San Francisco as
21 he was telling you this?

22 A. No. No.

23 Q. Oh, all right. So you did not understand. Just she's in
24 San Francisco, but you didn't know when she arrived?

25 A. Correct.

26 Q. Did he tell you where she's from? Like what country?

27 A. I don't recall.

28 Q. All right. Now you were upset. Did you get physical with

1 him as you, presumably, discussed or confronted him about this
2 affair?

3 A. No. I was shocked.

4 Q. What would you say was his demeanor as he shared with you,
5 briefly, these specifics about getting a woman pregnant after
6 a quote "one-night stand."

7 A. Extremely apologetic.

8 Q. What did he say?

9 A. Just that he didn't mean it to happen and he's really
10 sorry. And we had a conversation but not loud, not yelling.

11 Q. Okay. And were you crying?

12 A. Yes.

13 Q. Was he crying?

14 A. Yes.

15 Q. Was he soothing you in any way?

16 A. Yes.

17 Q. Did he state that he wished to continue in the
18 relationship with you, notwithstanding this situation he was
19 in?

20 A. No. He said he was confused and he needed time.

21 Q. All right. Did he ever tell you, at that time or some
22 time thereafter, that he wanted advice to establish whether,
23 in fact, he was the father of this unborn child?

24 A. Yes.

25 Q. When did he say -- when did he seek advice from you and in
26 what manner?

27 A. I don't recall the date. The time frame was in November,
28 and he asked about paternity tests.

1 Q. Do you recall if those asking you about paternity tests
2 was, what mode? Phone call? Texting?

3 A. There was a text that I have of myself sending him
4 information on paternity testing.

5 Q. And who brought up paternity testing?

6 **MS. STIGLICH:** Object. Relevance on this point.

7 **THE COURT:** Sustained.

8 **MS. AGUILAR TARCHI:** Q. And you still have a text of
9 that?

10 A. Yes.

11 Q. We're now in November of '08. Between November of '08,
12 when Mr. Mirkarimi was -- excuse me, Mr. Mirkarimi was
13 confused and needed time up until the December '08, when you
14 ended the relationship, what, if anything, was the nature of
15 your exchange or visits, if anything, with Mr. Mirkarimi?
16 Just briefly.

17 A. I wanted to continue talking with him. He needed space.
18 We kept talking and finding out more information. I'm trying
19 to remember.

20 Q. Well, let me move a little forward. When you ended it,
21 did he acknowledge that that was it? There was no problem
22 with your terminating the relationship?

23 A. Um, well, we had one further discussion that is pertinent.

24 Q. And when was that discussion?

25 A. That was, I believe, it's hard to say the exact date. But
26 it was in December.

27 Q. And what --

28 A. -- of 2008.

1 Q. And in this pertinent discussion, was it relating to your
2 relationship or his relationship with the mother of this
3 unborn child?

4 A. Yes.

5 Q. And what did he say?

6 A. That's when he told me that the second trip that he went
7 on that I was under the assumption it was a green trip was
8 actually to visit her in her home town of Venezuela. He said
9 she is on television there and I'd probably like her, and do I
10 want to see her picture, and that he has decided to move her
11 up here and not get married, but just have her raise his
12 child.

13 Q. And you specifically recall him saying that he would move
14 her up here to raise his child, but that he would not marry
15 her?

16 A. Yes.

17 Q. And did that -- was that any prompting factor in your
18 ultimately ending the relationship in the same month?

19 A. Yes.

20 Q. Now did you threaten him with anything, getting back at
21 him, anything like that, because of this situation that
22 unfolded?

23 A. No.

24 Q. Were you shown a picture of his --

25 A. No. I did not want to see it.

26 Q. All right. And at some point, did he ever communicate to
27 you, in any way, that he was going to, that he did, or would
28 be married?

1 A. No.

2 Q. You were not invited to any wedding. I'm sorry if I asked
3 that.

4 A. No.

5 Q. Now I want to ask you about your coming forward with this
6 information. You've testified, of course, that you didn't
7 photograph the bruise. You talked about verbal abuse with
8 friends, but you never told anyone about the physical pushing
9 against the wall?

10 A. Right.

11 Q. Now did you report to a police station, I think it was
12 Northern Station, on January 22nd of this year, at about
13 1 p.m., to actually file a report documenting what you've
14 testified to here?

15 A. Yes.

16 Q. Why did you decide, Ms. Flores, to make an official report
17 or documentation nearly four years after the abusive incident?

18 A. I had seen a paper, an Examiner Newspaper in the coffee
19 shop when I came up from L.A. with my boyfriend. And on the
20 cover it said "The City is Ruining My Marriage" or "The
21 Country is Ruining My Marriage," something to that affect. On
22 opening it, I read that she had decided to take back the
23 information that she had had out before. And that I felt in
24 my heart, that I need to come out and say something about this
25 because this woman is not strong enough to go forward with
26 this. And in my heart, I believed that this was something
27 that he was manipulating her to withdraw all these things that
28 happened, the same type of thing that happened to me.

1 Q. Were you ever offered any money, any gain literally or
2 figuratively from coming forward?

3 A. No.

4 Q. Prior to making a police report, did you speak to any
5 member of the San Francisco Police Department?

6 A. Yes.

7 Q. Who did you speak to?

8 A. I spoke to my ex-husband Tony Flores.

9 Q. And just briefly, how long ago were you married and for
10 how many years?

11 A. Oh, we were married for 11 years and it ended in 1999,
12 legally separated five years before that, and we have two
13 daughters together. Yes.

14 Q. Okay. And you're still amicable with him?

15 A. Yes.

16 Q. Prior to talking to him -- and we'll get to that in a
17 moment about this situation you had been in -- did you talk to
18 any other member of the police station?

19 A. No.

20 Q. How often would you talk to Mr. Flores, your ex-husband
21 prior to communicating with him about this?

22 A. About once a year.

23 Q. And is it on holiday or birthday?

24 A. Yes, Christmas.

25 Q. And briefly, is that Christmas cards? Visits? What is
26 it?

27 A. Just phoning and telling him I appreciate him being a good
28 dad.

1 Q. Okay. And he is a good father to your children?

2 A. Yes, very good.

3 Q. And what position, if you know, you're aware of his
4 position within the San Francisco Police Department, his
5 title?

6 A. Yes.

7 Q. What is it?

8 A. He, inspect -- oh, you know what? I have to take that
9 back. I think it's an inspector, but I think he might be a
10 sergeant. I don't know if he gained that yet. I don't speak
11 to him regularly.

12 Q. But you know he's not on patrol?

13 A. Right. Right.

14 Q. Now when and how did you communicate with Inspector
15 Flores, your ex-husband, about this situation before coming to
16 the police station?

17 A. So you want me to do the records of how it all works?

18 Q. You read the paper.

19 A. I read the paper. I called the media.

20 Q. Oh, excuse me. What media forum did you call?

21 A. I believe it was Channel 7, first, to tell them that I had
22 history with this person. I wanted to say something. I was
23 very frustrated and wanted to say my experience with this
24 person. They had no one available to talk to me till Monday.
25 So I called Channel 4 as well.

26 Q. Did Channel 4, any reporter or person talk to you?

27 A. Yes.

28 Q. And what did you tell them?

1 A. I told them I wanted to tell my history.

2 Q. Okay. And did they set up an appointment?

3 A. Yes.

4 Q. All right. And was that for a future date?

5 A. That day 3:30.

6 Q. And did you end up keeping that appointment?

7 A. No.

8 Q. What happened between the time you spoke to the second
9 media, Channel 7?

10 A. 7, first, and then 4.

11 Q. Excuse me, Channel 4. They set up a later afternoon
12 appointment. Between that time period, did you contact
13 Mr. Flores?

14 A. Yes, I did.

15 Q. And what did you say? What was the exchange?

16 A. I said "I want you to know that I've called the media, and
17 I need to say what my experience was with this person. And I
18 want to give you the heads-up," because he being in the police
19 department I'm sure would be mentioned.

20 Q. And what, if anything, did Mr. -- you call him Tony
21 Flores, did Inspector Flores say to you?

22 A. He said "What are you going to talk about?" And I said
23 "my relationship," and I explained the situation being the
24 same as her report.

25 Q. And did he give you any statement, at that point, about
26 how you should proceed? What might be the more recommended
27 approach?

28 A. Yes. He said "Do not talk to the media." He said "They

1 twist everything that you say, and it's going to come out
2 really bad and make you look bad." And he said that he would
3 find out the best way to approach this.

4 Q. Okay. And did he put you on hold or what happened?

5 A. He called me back five minutes later and said he talked to
6 his superior and they said that I immediately should go down
7 and make a report of what happened.

8 Q. Okay. And then you did that?

9 A. The next morning, yes.

10 Q. At anytime, did Mr. Flores give you or direct you to say
11 or do anything to kind of script you as to what you needed to
12 say to the police?

13 A. No.

14 Q. Other than what you've said now, that was the extent of
15 your conversation with him?

16 A. Yes.

17 Q. You were in San Francisco reading the Examiner. You
18 recall that?

19 A. Yes. I was visiting up here from L.A.

20 Q. So did you, after ending the conversation and Mr. Flores
21 telling you his superior saying you should make a police
22 report, what is the next thing you did?

23 A. At that moment, I went with my boyfriend to go see the
24 Chinese acrobats. We had tickets. So I couldn't go
25 immediately. So first thing in the morning after I got up and
26 got dressed we went to the station.

27 Q. Okay. And again, you did not keep an appointment to speak
28 to anybody?

1 A. No. I cancelled that.

2 Q. And you did not go on any other media forum to discuss
3 what we have been discussing here?

4 A. No, not on that point.

5 Q. Now I do need to bring up some things. We're in a closed
6 setting, and Judge Garrett Wong will make some decisions
7 after, Ms. Flores. But I do need to ask you during the course
8 of your intimate relationship with Mr. Mirkarimi did you send
9 him photos of you naked?

10 A. Yes, I did.

11 Q. All right. And was there a time frame, just roughly, was
12 it every month? Every week?

13 A. Usually every other week.

14 Q. And did you do so at his request?

15 A. I did so, at first, at my prompting. And he liked them
16 and said he would like more, you know. He gave me requests of
17 certain things and I would send them.

18 Q. Okay. And they were only sent to him?

19 A. Yes.

20 Q. And what medium did you use to send most of these photos?

21 A. Um, it was between texting and e-mailing.

22 Q. Okay. And so the e-mail would be an attachment?

23 A. Yes.

24 Q. And it was to his personal e-mail or business e-mail?

25 A. I only had one e-mail for him.

26 Q. Me. And the texting would be to his cell phone?

27 A. Yes.

28 Q. All right. And were these photos meant for, and when I

1 say private, you were sharing them with him through a medium,
2 but they were private, to your knowledge, to be shared only
3 with him?

4 A. Absolutely.

5 Q. You did not send them for purposes of having them
6 published to a magazine?

7 A. No. No. Private.

8 Q. For your work?

9 A. Nothing.

10 Q. You didn't blind cc anybody these photos?

11 A. No.

12 Q. And other than these photos you have said you have sent
13 via e-mail to him only, and to his cell phone only to him, did
14 you ever give him any physical photos?

15 A. Yes.

16 Q. And can you describe what that was?

17 A. I, for his second trip overseas, I took a lot of the
18 photos I sent him, previously, and put them in a collage for
19 him to bring on the trip with him.

20 Q. He told you he wanted to bring it on his trip with him to
21 South America?

22 A. No. I gave them to him.

23 Q. And he took them?

24 A. Yes.

25 Q. And we'll call it, in your view, a collage of photos of
26 you undressed?

27 A. Yes. Yes.

28 Q. And is that the only known copy of this collage?

1 A. Yes.

2 Q. And did you ever ask for that collage back?

3 A. Yes.

4 Q. And can you tell us, approximately, the month and year
5 when you asked for those back?

6 A. That was October 2008.

7 Q. So prior to the breakup of December '08 --

8 A. Yes.

9 Q. -- you asked. What did he say or do when you asked him
10 for the collage back?

11 A. He wouldn't give them to me. I said "I'll give you your
12 key back if you give me my photos back. I would like my
13 collage back."

14 Q. What did you say or do?

15 A. I didn't give him his key back because he said "No. I
16 might need them some day."

17 Q. "Might need them some day" meaning the collage?

18 A. The picture, the pictures. Yes.

19 Q. Have you in any other forum, and we're now in the digital
20 age, Facebook, U-Tube, plenty more, Ms. Chen would know them
21 all, published, printed, sent any of these photos of you where
22 you're undressed to any of these mediums?

23 A. No.

24 Q. In Facebook, do you use Facebook?

25 A. Yes, I did.

26 Q. Do you use or have you used LinkedIn?

27 A. Yes.

28 Q. Was Mr. Mirkarimi sharing things with you on Facebook

1 while he was campaigning for Sheriff?

2 A. No. I had defriended and blocked him.

3 Q. Why?

4 A. Because I didn't want any association, I didn't want to
5 know what was going on. I wanted to wash my hands of the
6 situation.

7 Q. Okay. On any of these any medium, have you ever suggested
8 that you have come forward to describe the verbal and physical
9 abuse you've testified here today?

10 A. No.

11 Q. That you've done it to be vindictive?

12 A. No.

13 Q. Or that you're getting him back?

14 A. No.

15 **MS. AGUILAR TARCHI:** Your Honor, at this time, I have
16 nothing further.

17 **THE COURT:** Okay. Well, let's take a break.

18 **MS. STIGLICH:** Your Honor, with the Court's indulgence.

19 **THE COURT:** Let's go off-the-record.

20 (Off-the-record)

21 **THE COURT:** We'll start up at 11:05.

22 (Recess)

23 --- 11:05 A.M. ---

24 **THE COURT:** All right. The record should reflect that we
25 are back on the record. All counsel are present. Ms. Flores,
26 you're still under oath, and we're ready for
27 cross-examination.

28 **MS. STIGLICH:** Thank you, Your Honor.

CROSS EXAMINATION

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BY MS. STIGLICH: Q. Good morning, Ms. Flores.

A. Good morning.

Q. Ms. Flores, you have described a girlfriend/boyfriend relationship with Mr. Mirkarimi; correct?

A. Yes.

Q. You were not allowed to leave things at his house, were you?

A. At first, no. Later, yes.

Q. You didn't have a drawer there; correct?

A. No I did have a drawer.

Q. When was that?

A. That was about halfway through the relationship.

Q. At what point would have been halfway through the relationship?

A. I would say about March.

Q. He never wanted you to drop him off in front?

A. Correct.

Q. He wanted you to drop him off around the corner?

A. Correct.

Q. And he was worried about being seen with you?

A. Yes.

Q. And in fact, you and he had discussions about that, didn't you?

A. In what way?

Q. You accused him of not wanting to be seen together?

A. Well, police officers.

Q. Didn't you also accuse him of not wanting to bring a wet

1 swimsuit into the house because he didn't want somebody to
2 know he had been off swimming somewhere?

3 A. Correct.

4 Q. You applied for the Police Academy; correct?

5 A. Yes.

6 Q. You were rejected from the Police Academy; right?

7 A. No.

8 Q. You didn't enter the Policy Academy, did you?

9 A. I passed all the way through till the very end. At that
10 point, there was thing with my my taxes I had to deal with. I
11 took it on and I went over, and I made payment plans with the
12 IRS and the Federal Tax Board. Then Sergeant, the one that
13 was working with me said "Are you ready to go back in and
14 continue?" And at that point I didn't.

15 Q. When was that?

16 A. Um, let me see. I applied in January. I don't have the
17 date, but but I still have the e-mail.

18 Q. Was early 2008; correct?

19 A. I don't have the date. I don't know.

20 Q. Well, it had to be during your relationship with
21 Mr. Mirkarimi; correct?

22 A. Yes.

23 Q. Okay. So that started in June of 2007?

24 A. Yes.

25 Q. And your testimony here has been that ended in 2008?

26 A. Yes.

27 Q. Was it towards the beginning of your relationship, in te
28 middle, or the end?

1 A. I applied for the SFPD in June of 2008. It was processed
2 January, February, March. It must have been somewhere in
3 April.

4 Q. Somewhere in April. This not wanting to be seen with you
5 is no longer an issue because you weren't going to the Police
6 Academy, were you?

7 A. It faded out. It started out more so in the beginning and
8 later faded. So he didn't respond.

9 Q. Now with respect to the incidents you have described here
10 in court today. In December of 2008, you and Mr. Mirkarimi
11 broke up; correct?

12 A. Yes.

13 Q. And that was the final time you broke up; isn't that
14 right?

15 A. At the very end, about the 29th.

16 Q. And he broke up with you because he told you he was
17 bringing, who we now know is Ms. Lopez, here, and he was
18 bringing her here to the States, and they were going to raise
19 their baby together; right?

20 A. At the end of December, yes.

21 Q. And that was the break-up; correct?

22 A. Yes.

23 Q. And after that conversation with Mr. Mirkarimi, you found
24 out other information that pertained to your own relationship
25 with him; correct?

26 A. Yes.

27 Q. You were angry when he told you that decision in late
28 December; is that right?

1 A. At that point, it was kind of falling apart. So I wasn't
2 surprised as much as I was when he said he got her pregnant,
3 to begin with.

4 Q. You reached out and you connected with other individuals
5 who had previously dated him; is that correct?

6 A. Not previously. At the same time. Yes.

7 Q. I meant previous to that date? Well, strike that.

8 You found out he was dating other people when you were in
9 a relationship with him?

10 A. I was called by her. Yes.

11 **THE COURT:** I'm sorry. Wait. Wait a second. I missed
12 the question. Sorry.

13 **MS. STIGLICH:** Q. After Mr. Mirkarimi broke it off with
14 you related to Ms. Lopez bringing her to the United States --

15 A. Yes.

16 Q. -- you had a contact with another woman, not Ms. Lopez,
17 that he had also been dating during the period that you
18 thought were you boyfriend/girlfriend?

19 A. Yes.

20 Q. Prior to him breaking up with you in late 2008, you had
21 never told anyone else that you had had this physical incident
22 with him; correct?

23 A. Not the grabbing my arm part.

24 Q. You had not told anyone else that you had had these, what
25 you've described here in court today as verbal abusive
26 incidents?

27 A. Yes, I have.

28 Q. Who had you told?

1 A. I have a friend Artina Morten and a friend Mary Murley.
2 Both of them know about that.

3 Q. And you've described this verbal abuse to them?

4 A. Yes.

5 Q. Did you characterize it like that to the inspectors as
6 verbal abuse?

7 A. Yes.

8 Q. Ms. Flores, after December of 2008, you saw, sometime
9 later, an article relating to what you've described here in
10 court, this incident with Mr. Mirkarimi and his wife; correct?

11 A. Yes.

12 Q. And at that time, do you recall that --

13 **THE COURT:** Did you mean after 2011?

14 **MS. STIGLICH:** Q. I'm sorry. Let me back up. After
15 2008, your was break-up in 2008? --

16 A. Yes.

17 Q. Fast forward approximately three, four years --

18 A. Yes.

19 Q. -- to the alleged date of this incident?

20 A. Yes.

21 Q. Okay. You know why we're here. You saw it in the
22 newspaper; didn't you?

23 A. No.

24 Q. How did you become aware of it?

25 A. My friends texted me. I received approximately four text
26 mails from my friends saying "Did you see what's happening?"

27 Q. And then you saw the newspaper?

28 A. No.

1 Q. Right?

2 A. No. I spoke with them about what was going on.

3 Q. Okay. Was that on the 22nd of January?

4 A. No, that was when it first started. They started
5 e-mailing me and texted me.

6 Q. Your friends?

7 A. Yes. I was in L.A. at the time.

8 Q. You testified here that at some point, you saw an article
9 in the Examiner talking about family?

10 A. Yeah. That was the first time I had seen it in print.

11 Q. And after that, you made an appointment to speak to two
12 television reporters; right?

13 A. Yes.

14 Q. And you called --

15 **MS. AGUILAR TARCHI:** I'm sorry. That misstates the
16 evidence. She made an appointment with one.

17 **MS. STIGLICH:** Q. You made an appointment with Channel 7
18 and Channel 4?

19 A. Channel 7, they had no one to talk to me till Monday.
20 Channel 4 said they had somebody available at 3:30, and I made
21 an appointment with them.

22 Q. Okay. So you had an appointment with one and one was
23 going to be Monday?

24 A. Yes.

25 Q. You also talked to print media, didn't you?

26 A. Not at that point.

27 Q. Do you recall what date it was that you made these calls
28 to the news stations?

1 A. 21st, I want to say, but I don't remember exactly. I
2 believe it was the 21st.

3 Q. And after you made these appointments, you called your
4 ex-husband, as you've described here, to kind of give him a
5 heads-up; correct?

6 A. Yes?

7 Q. Now is it your testimony that you're not aware that since
8 2001, Inspector Antonio Flores has been an inspector in the
9 Domestic Violence Response Unit?

10 A. I knew that he was, but at the time I didn't. It didn't
11 come to my mind first. I wanted to make sure that he knew
12 that there was going to be media.

13 Q. I'm not intimating that you were calling him for any other
14 reason. I'm just asking on this date and time, you were aware
15 that that was his assignment, had been his assignment for some
16 time.

17 A. I knew that he did that.

18 Q. All right. And he told you "Whoa. Whoa. Don't do it
19 this way. Make a police report," or words to that effect;
20 correct?

21 A. He said "I wouldn't call the media because they'll twist
22 your words."

23 Q. So as a result of that conversation, you went down and
24 made a police report; correct?

25 A. Correct.

26 Q. On the 23rd, you also gave interviews to Rachel Warden, a
27 reporter; correct?

28 A. There were -- I guess the word, because I phoned to try to

1 get the interviews on t.v., the word got out that I was going
2 to be doing this. So I just started getting bombard with
3 phone calls. And now my name got out there with the phone
4 number from the people I initially contacted.

5 Q. Again, prior to that police report, prior to this coming
6 forward January 21st, 2012, having this, making these calls,
7 you had not reported an act of physical violence by
8 Mr. Mirkarimi against you to anyone?

9 A. No. I have not.

10 Q. Do you recall -- well, strike it.

11 Your motivation, at least one of your motivations, was
12 that Mr. Mirkarimi had told you that Eliana Lopez knew about
13 your relationship with him and you thought that was a lie?

14 A. That's twisting what I'm saying.

15 Q. Do you recall telling the inspectors on January 2nd, page
16 five of the January 22nd transcript:

17 "Q. So the woman that you met with, was she the one
18 from Venezuela?

19 "A. No.

20 "Q. Okay. This is another woman.

21 "A. He -- Mr. Mirkarimi -- said that the woman from
22 Venezuela knew about our relationship and it
23 didn't matter --

24 **MS. AGUILAR TARCHI:** Excuse me.

25 **MS. STIGLICH:** I'm on page six.

26 **MS. AGUILAR TARCHI:** Of which transcript.

27 **MS. STIGLICH:** The 22nd.

28 **MS. AGUILAR TARCHI:** Can you give the lines?

1 **MS. STIGLICH:** Page six, line three.

2 **THE COURT:** Okay. Now just slow down just a bit because
3 she's trying to catch everything you're saying. I
4 understand --

5 **MS. STIGLICH:** No. All right.

6 "Q. Do you recall telling the inspector, he --
7 Mr. Mirkarimi -- said that the woman from
8 Venezuela knew about our relationship and
9 it didn't matter to her?"

10 **THE WITNESS:** Yes. I remember saying that.

11 **MS. STIGLICH:** Q. You went further and you said.

12 "A. Which is a lie, and that's probably why I'm
13 here because I don't think she knew."

14 You recall telling him that?

15 A. Yes. I recall saying that.

16 Q. So when I quoted that, that's not twisting your words.
17 Those are your words?

18 A. I took offense to the "motivation" part of it. That was
19 not my motivation.

20 Q. You told him "That's probably why I'm here"? That's your
21 words; correct?

22 A. Well, that was a partial sentence.

23 Q. Okay. Now you recognized, when you have talked about, and
24 I think Ms. Tarchi asked you about electronic conversations,
25 and e-mails, and whatnot, you recognize that there's a record
26 of those e-mails?

27 A. Yes.

28 Q. In fact, you self-selected a number of e-mails to provide

1 to the District Attorney's Office --

2 A. Yes.

3 Q. -- in that case? Okay. And you provided those in your
4 initial report to prove that you even had a relationship with
5 him; is that correct?

6 A. Correct.

7 Q. You subsequently provided an additional e-mail to them; is
8 is that correct?

9 A. I believe so. I am not a hundred percent sure. You mean,
10 to the investigator?

11 Q. Correct, to Mr. Kloss.

12 A. I believe I gave him an e-mail. I'm not a hundred percent
13 sure.

14 Q. You provided them with e-mails, the D.A.'s Office?

15 A. Yes. Uh-huh.

16 Q. Now the alleged incident of violence that you have alleged
17 here occurred in, according to your testimony here today, in
18 February of 2008?

19 A. I believe so. Yes.

20 Q. Do you recall when you first spoke to the investigators on
21 January 22nd, 2012, you told them you didn't know when it
22 happened?

23 A. Correct.

24 Q. You told them it happened sometime in the relationship
25 between June 2007 and May 2008?

26 A. Correct.

27 Q. And you spoke to them again, subsequently; correct;

28 A. I spoke to the officer?

1 Q. Inspectors, again. Let me back up. January 22nd, you
2 spoke to police inspectors; is that right?

3 A. Yes.

4 Q. And subsequent to that, in February, you spoke to D.A.
5 Inspector Mr. Kloss?

6 A. Yes.

7 Q. And you gave him another statement; correct?

8 A. Yes.

9 Q. And you're aware both of those statements are transcribed;
10 are you not?

11 A. Yes.

12 Q. You knew they were audiotaped?

13 A. Yes.

14 Q. So on the first tape, you said you weren't sure when it
15 was, you weren't sure what the fight was about, and you
16 weren't sure what the details were?

17 A. Yes.

18 Q. When you spoke to them, again, and I say "them," meaning
19 law, enforcement in February, then you surmised that it was in
20 January of 2008; correct?

21 A. Correct.

22 Q. And that it had something to do, you believed, with this
23 interplay about underwear?

24 A. Yes.

25 Q. And you've testified here today that now you believe it
26 was in February of 2008?

27 A. Correct.

28 Q. And then now you have more details about how that

1 occurred?

2 A. Yes.

3 Q. Ms. Flores, with respect to your not telling anyone
4 regarding this incident of violence, you have never, there's
5 not one e-mail to Mr. Mirkarimi from you that references
6 violence; isn't that right?

7 A. No. There is not.

8 Q. There's not one e-mail from you to Mr. Mirkarimi that
9 references verbal abuse?

10 A. Yes, there is.

11 Q. Which one would that be?

12 A. May I look through my e-mails?

13 **MS. STIGLICH:** Your Honor, if I could just inquire. These
14 are all the e-mails that we have or we don't have?

15 **THE WITNESS:** I don't know if you have this one or not. I
16 can tell you the date, and you can check before I say
17 anything.

18 **MS. STIGLICH:** Well, I want to see them.

19 **THE COURT:** Well, I want to know if you've provided those
20 e-mails to Ms. Aguilar Tarchi, or to her staff?

21 **MS. AGUILAR TARCHI:** Your Honor, I can state that we have
22 received numerous e-mails. However, when Ms. Flores arrived
23 this morning, she indicated she brought e-mails with her. We
24 only had less than 30 minutes to review. And so we can
25 certainly check. Some may have already been discovered. I
26 did not --

27 **THE COURT:** Produced.

28 **MS. AGUILAR TARCHI:** Yes. I didn't go through every

1 document Ms. Flores brought with her in her personal attache
2 to look at. So we need to see the date.

3 **THE COURT:** I'm going to order those e-mails to be
4 provided to you immediately, and they shall be provided to
5 Ms. Stiglich.

6 **MS. AGUILAR TARCHI:** Of course.

7 **THE COURT:** She should have them now, to the extent that
8 she's going to be able to examine the witness with these
9 e-mails. So if you have one that you're referring to, please
10 provide that. If you've got them all tagged, then you should
11 provide those e-mails to Ms. Stiglich and Ms. Aguilar-Tarchi
12 now.

13 **THE WITNESS:** This is one with the verbal abuse.

14 **MS. AGUILAR TARCHI:** May the People approach to look at
15 the date?

16 **THE WITNESS:** Okay. February 10th, 2008.

17 **MS. AGUILAR TARCHI:** May I be allowed to retrieve that to
18 see?

19 **THE COURT:** Yes. Both lawyers should be able to see them
20 now.

21 **MS. AGUILAR TARCHI:** Yes. The witness' handing me a
22 document. Thank you. I will show this to Ms. Stiglich.

23 There is an e-mail that I've just shared with
24 Ms. Stiglich, and it does appear to be one that People have
25 not been privy to prior to today. In the interest of moving,
26 may we get this immediately copied, continue the testimony.
27 We can deal with -- or suspend the testimony. I'm not sure.
28 Whatever the Court wishes.

1 **THE COURT:** Ms. Scott, can you have that copied, and then
2 I'll allow Ms. Stiglich to come back to this issue.

3 **MS. STIGLICH:** All right. And Your Honor, I don't know
4 which, if Ms. Flores has more e-mails than she's provided to
5 the district attorney. And certainly, the district attorney's
6 provided materials to us from Ms. Flores. So -- yes, ma'am.

7 **THE WITNESS:** I just wanted to say that on my first time
8 that I went down there, I grabbed some e-mails to show that I
9 had a relationship with this person. I didn't pick through
10 them or look through them. And in a subsequent meeting with
11 the investigator, I had pulled some more to go back with the
12 timeline to find the framework of what happened at what time.
13 And then the last one is just the last week, I've been going
14 through and really looking through everything in order to
15 bring it. That's why there's three stages of e-mails.

16 **THE COURT:** Have you completed your review?

17 **THE WITNESS:** Yes.

18 **THE COURT:** All right. And everything that you've
19 retrieved or found to be relevant here -- and that's a legal
20 term -- but anything that you felt was referencing this matter
21 you've pulled up, retrieved, and printed out?

22 **THE WITNESS:** Yes.

23 **THE COURT:** All right. And they are here today?

24 **THE WITNESS:** Yes.

25 **THE COURT:** Very well. Those documents will be turned
26 over to the D.A. for review, and to Ms. Stiglich, as well.
27 We'll have copies of those made after -- well, they will be
28 turned over to Mr. Hinckley, who can remain in the courtroom,

1 because I'm not going to let Mr. Hinckley leave, or Ms. Flores
2 leave without those documents.

3 **MS. AGUILAR TARCHI:** We will make immediate copies, and
4 they're only for us here now.

5 **MS. STIGLICH:** Okay. If this is affecting the ability to
6 cross-examine her with respect to e-mails, then I apologize.

7 **THE COURT:** No. I understand that.

8 **MS. AGUILAR TARCHI:** We may need to continue it, Your
9 Honor.

10 **THE COURT:** Let's do as much as you can within the -- I'll
11 give you whatever time you need to follow up on this before I
12 issue a ruling. But there's not much we can do. We're kind
13 of pressed here for examination. I can't issue a ruling. You
14 won't have the ability to examine her, and you won't have the
15 ability to ask jurors certain questions.

16 **MS. AGUILAR TARCHI:** Your Honor, I'm sorry. I know we've
17 all been accommodating. And though no fault of -- when I
18 cancelled a trip for today and Monday, I did not know
19 Ms. Stiglich only had a half a day.

20 **MS. STIGLICH:** You know, I base it on what things we've
21 scheduled.

22 **THE COURT:** Yes.

23 **MS. AGUILAR TARCHI:** That why we're here.

24 Thank you. I just received and Ms. Stiglich has received
25 a copy of an e-mail that witness Flores was about to
26 reference. We both have seen this. Ms. Stiglich and I have
27 seen this for the first time this morning. It was part of,
28 apparently, several e-mails that Ms. Flores gathered prior

1 till today. And after this hearing, of course, the People
2 will make copies of all materials Ms. Flores brought for her
3 that are relevant. They will be be duplicated for
4 Ms. Stiglich.

5 **MS. STIGLICH:** I'm sorry. They're going to be copied
6 after the --

7 **MS. AGUILAR TARCHI:** Unless we want to do it now. But we
8 would suspend the proceedings for me to copy them. You have
9 to ask her.

10 **THE COURT:** Okay. Let's go-off-the-record.

11 (Off-the-record)

12 **THE COURT:** Let's go back on the record. The Court has
13 had a discussion off-the-record regarding the discovery of
14 extra or other materials that have been offered by the lay
15 witness. The Court has expressed its displeasure at the
16 People in their delaying in terms of the investigation. These
17 documents should have been provided to the defense at the
18 beginning of this week, or the time this matter was called and
19 sent out for trial. The Court does not attribute this to the
20 prosecutor, herself. But the investigation unit needs to
21 understand they need to be thorough, and they were not.

22 We're going to continue this matter to 1 o'clock on
23 March 5th before the jury comes back from their recess. We'll
24 have approximately 45 minutes for Ms. Stiglich to perform the
25 examination.

26 And it's the Court's finding in this matter that the
27 lawyers need to have these documents reviewed so that proper
28 examination can be occur. Ms. Stiglich will have an

1 opportunity to fully cross-examine Ms. Flores.

2 Now with respect to disclosures to the press. We are
3 going to tell the press that this matter is going to be
4 continued, and that will be it. I am still taking this matter
5 under submission. I have made no decisions yet about the way
6 this is going other than to say that I hold the D.A.'s Office
7 and their investigators, in particular, accountable for this.
8 And if this happens again, there will be appropriate sanctions
9 imposed. We're adjourned.

10 (Off-the-record)

11 **THE COURT:** Back on-the-record. Ma'am, you are ordered to
12 return here at 1 o'clock on Monday for examination. Do not
13 speak to anyone about the topics discussed in this matter.
14 You may need to talk to the D.A.'s Office and their staff for
15 logistical purposes and presentation of anything else you
16 have. But if you do find something in the time between now
17 and then, you are ordered to provide those to the D.A. without
18 delay. And I assume the D.A. will pay for any costs
19 associated with the delivery of any of those items. I don't
20 want anymore surprises here. All right. Thank you. You are
21 ordered to return.

22 (Whereupon, these proceedings were continued to
23 Monday, March 5, 2012 at 1:00 p.m.)

24

25

26

27


28

1 STATE OF CALIFORNIA)
2 CITY AND COUNTY OF SAN FRANCISCO) : ss.

3
4 **REPORTER'S CERTIFICATE**

5 I, Susan Lee, Official Court Reporter for the
6 Superior Court of the State of California, in and for the
7 City and County of San Francisco, do hereby certify that
8 the foregoing transcript is a full, true and correct
9 transcription of the shorthand notes taken as such reporter
10 of the proceedings in the above-entitled matter, as reduced
11 to computer-aided transcript form under my direction and
12 control to the best of my ability.
13

14 Dated: March 6, 2012
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20 
21 _____
22 Susan Lee, C.S.R. No. 4280
23 Official Court Reporter
24
25
26
27
28

1 SUPERIOR COURT OF CALIFORNIA

2 COUNTY OF SAN FRANCISCO

3 BEFORE THE HONORABLE **GARRETT L. WONG**, JUDGE PRESIDING

4 DEPARTMENT NUMBER 15

5 ---oOo---

6 PEOPLE OF THE STATE OF CALIFORNIA,)

7 Plaintiff,)

8 vs.)

9 ROSS MIRKARIMI,)

10 Defendant.)

) Court No. 12001311

) **402 HEARING**

) **Volume 2**

) Pages 81 - 163

11 _____)
12
13 **Reporter's Transcript of Proceedings**

14 Monday, March 5, 2012

15
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27 **COPY**

28 Reported By: Loretta Najera, CSR #5153

I N D E XPEOPLE'S WITNESSESPAGE VOL.FLORES, CHRISTINA (RECALLED)

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E X H I B I T SDEFENDANT'S EXHIBITSDESCRIPTIONIDENEVIDVOL.

A	Set of emails produced on Friday, March 2, 2012	108		2
B	Email, dated February 10, 2008 at 7:58 a.m.	108		

1 Monday, March 5, 2012

1:37 P.M.

2 AFTERNOON SESSION

3 **THE COURT:** All right. Good afternoon, everyone.

4 **MS. AGUILAR TARCHI:** Good afternoon, Your Honor.

5 **THE COURT:** The record should reflect that both counsel are
6 present. Or, actually, all the lawyers are present for the
7 parties.

8 Defendant's appearance will be waived.

9 And Ms. Flores has returned to the witness stand.

10 Ma'am, you're still under oath. Do you understand that?

11 **THE WITNESS:** Yes, I do.

12 **CHRISTINA FLORES,**

13 called as a witness for the People, having been previously duly
14 sworn, testified further as follows:

15 **THE COURT:** Very well. We'll continue this proceeding.

16 **MS. STIGLICH:** Thank you, Your Honor.

17 **CROSS-EXAMINATION** (RESUMED)

18 **MS. STIGLICH:** Q. Good afternoon, Ms. Flores.

19 A. Good afternoon.

20 Q. Ms. Flores, I want to just back up a bit.

21 We were here on Friday, correct?

22 A. Yes.

23 Q. All right. On Friday we talked about -- and I think
24 Ms. Tarchi had kinda labeled four separate incidents?

25 A. Yes.

26 Q. That I remember.

27 With respect to what Ms. Aguilar Tarchi described as number
28 four, as the most recent in time, was that still in February of

1 2008?

2 **A.** Yes, in February, end of February.

3 **Q.** And with respect to that testimony, as you sit here today,
4 you can't recall what the argument was about?

5 **A.** No.

6 **Q.** Right? Or the particulars thereof?

7 **A.** No.

8 **Q.** With respect to the first situation that you described --

9 **A.** Yes.

10 **Q.** -- number one.

11 Now, you had testified that that was an argument where it's
12 alleged that Mr. Mirkarimi came over to your house and he was
13 angry with you?

14 **A.** Yes.

15 **Q.** And that relates to your having left a pair of underwear
16 over at his house?

17 **A.** Yes.

18 **Q.** And he confronted you with that; isn't that correct?

19 **A.** Yes.

20 **Q.** Now, in that regard you also were angry; isn't that correct?

21 **A.** No.

22 **Q.** You felt -- well, strike that.

23 You were asking him, "Why do you have a problem?"

24 **A.** Yes.

25 **Q.** I'm sorry. I'll try not to talk over you. I got
26 admonished, and I'm going to make sure that I don't talk over
27 you. We'll take turns.

28 Because you were asking him, why is there a problem?

1 "If," -- you know, "it was an accident, why is there a problem
2 if I did leave underwear at your house," correct?

3 A. Correct.

4 Q. And that's because you believed at that time that you were
5 in a boyfriend/girlfriend relationship?

6 A. It was starting, yes.

7 Q. Well, when it had started, he had told you he was coming out
8 of a relationship with someone else, correct?

9 A. Yes.

10 Q. And that individual continued to sometimes stay at the house
11 and leave things at the house; is that correct?

12 A. No.

13 Q. What did he tell you?

14 A. He told me that she moved out and she had her things there,
15 but because it was a small place that she lived in, she still
16 had a lot of her things there. He did not tell me she slept
17 over.

18 Q. He asked you if you could be discreet when you first started
19 dating; is that correct?

20 A. That was before we started dating, yes.

21 Q. When he confronted you on this occasion, he confronted you,
22 and he told you that he thought that it wasn't classy of you to
23 have done that, knowing that the other individual was still
24 there?

25 A. No.

26 Q. Now, you had an argument on that occasion, didn't you?

27 A. On which occasion?

28 Q. On occasion number one that we're talking about.

1 **A.** About the underwear? Yes.

2 **Q.** Correct. Correct.

3 And at times it was a loud argument, correct?

4 **A.** Yes.

5 **Q.** And you engaged with him, as well; isn't that correct?

6 **A.** No.

7 May I explain?

8 **THE COURT:** No.

9 **MS. STIGLICH: Q.** Is it your testimony in any of these
10 incidents that you engaged, as well?

11 **A.** How so "engaged"? Define that.

12 **Q.** Well, you guys would have arguments, correct?

13 **A.** Yes.

14 **Q.** You would have loud arguments on occasion?

15 **A.** He was louder than I was, but, yes.

16 **Q.** Well, you were loud, too, correct?

17 **A.** I was not as loud as him, no.

18 **Q.** Would you yell at him, as well?

19 **MS. AGUILAR TARCHI:** Vague as to time, Your Honor. Is it
20 still incident one of November '07?

21 **THE COURT:** Sustained.

22 Rephrase it.

23 **MS. STIGLICH: Q.** Ever. Did you ever yell back at him?

24 **MS. AGUILAR TARCHI:** Objection. Vague as to time, Your
25 Honor, in light of the testimony. Vague as to time.

26 **THE COURT:** Sustained. I think you need to frame it.

27 **MS. STIGLICH: Q.** Well, Ms. Flores, you described yourself
28 at different points in time to the inspector as a strong person,

1 correct?

2 A. Yes.

3 Q. Someone who knows self-defense, right?

4 A. Yes.

5 Q. Child of police officers, correct?

6 A. Officer.

7 Q. Officer.

8 A. Yes.

9 Q. Child of a police officer, correct?

10 A. Uh-huh.

11 Q. You were formally married to a police officer?

12 A. Correct.

13 Q. And you explained to them, "I was taught if somebody was
14 being a bully to get right back in their face," correct?

15 A. I was taught at first not to hit but to yell back and
16 respond when someone is physically abusive, and if that doesn't
17 react, then take it further from there.

18 Q. You told the inspectors that you were taught to get back in
19 someone's face; is that correct?

20 A. I'm not sure if I used those words, but, yes, that sentiment
21 is correct.

22 Q. Now, with respect to this number one, that was
23 in approximately November of 2008; is that correct?

24 A. It was in November, yes.

25 **MS. AGUILAR TARCHI:** Objection. Misstates, 2007.

26 **MS. STIGLICH:** Q. I'm sorry. That's just a mistake.

27 November of 2007 --

28 A. Yes.

1 Q. -- is that correct?

2 Okay. And there was nothing physical involved in that
3 altercation, correct?

4 A. Physically touching me, no.

5 Q. He yelled?

6 A. Yes.

7 Q. Is that your testimony?

8 He was angry?

9 A. He approached me and aggressively marched right at me,
10 yelling.

11 Q. And then did he leave or did he stay over?

12 A. He did not stay over. He left.

13 Q. And how soon after that did you see him again?

14 A. I don't recall the exact date. I would say probably within
15 the next week or so.

16 Q. Now, over the period of time after incident one and up to
17 what you've described here as the second and third and fourth
18 incidents, those latter three all occurred, according to your
19 testimony, in February of 2008; is that correct?

20 A. Correct.

21 Q. Now, with respect to just before we leave your own kinda
22 description of your behavior in these incidents, one, two,
23 three, and four, do you recall speaking to the inspectors on
24 January 22nd, 2012?

25 A. Yes.

26 Q. Do you recall indicating that you would fight back and it
27 would be very long, loud conversations and arguments?

28 A. Yes.

1 Q. You're not a shrinking violet, are you?

2 A. No, no, I'm not.

3 Q. Okay. Now, with respect to what you've described as -- or
4 what you've been asked to call "incident number two," okay, so
5 number two, that is also an allegation of a verbal argument that
6 occurred at his home on this occasion --

7 A. Correct.

8 Q. -- right?

9 And that was a situation where you had -- you believed you
10 were supposed to be meeting him at his house?

11 A. Yes.

12 Q. He told you you were working -- he was working, correct?

13 A. He was at work, at the office, yes.

14 Q. And you went and checked up on him, didn't you?

15 A. After waiting 45 minutes and having him text that he was at
16 the office working, I did check up on him.

17 Q. So you drove down there. Did you drive down there?

18 A. Yes.

19 Q. You drove down to City Hall, correct?

20 A. Yes.

21 Q. And you looked and checked to see what lights were on?

22 A. If his light was on and his car was parked where it usually
23 is. No, it was not.

24 Q. Okay. So you didn't see the lights on and you didn't see
25 the car, correct?

26 (Reporter interruption)

27 **THE COURT:** Right. We're off the record right now.

28 (Discussion off the record between Court and counsel.)

1 **THE COURT:** Continue, please.

2 **MS. STIGLICH: Q.** So you went down; you checked -- you
3 checked up to see if he was where you believed he was supposed
4 to be and he wasn't, correct?

5 **A.** Yes.

6 **Q.** And you were angry?

7 **A.** Yes.

8 **Q.** And you went back to his house?

9 **A.** Yes.

10 **Q.** And on this occasion you confronted him, didn't you?

11 **A.** After we got in the house, yes.

12 **Q.** So you got in the house and you were angry, correct?

13 **A.** Yes.

14 **Q.** You were loud?

15 **A.** No.

16 **Q.** Is that correct?

17 You called him a liar?

18 **A.** Yes.

19 **Q.** You were following him around the house initially, correct?

20 **A.** I entered in behind him and started telling him what I did.
21 So I didn't just start following him around the house. I came
22 in after him.

23 **Q.** You were coming in behind him, complaining to him that he
24 had lied to you --

25 **A.** Yes.

26 **Q.** -- is that correct?

27 (Reporter interruption)

28 **MS. STIGLICH: Q.** You walked in -- I'll try.

1 You walked into the house behind him, and you were upset and
2 addressing the fact to him that you believed he lied to you?

3 **A.** Yes.

4 **Q.** And he was walking into the house and you continued after
5 him, expressing anger; is that correct?

6 **A.** Yes.

7 **Q.** And what you've described as the verbal argument happened
8 when he turned around and then responded to you; is that right?

9 **A.** Correct.

10 **Q.** And, in fact, you told the inspectors that he turned it
11 around, and then that's when he started talking to me, or he
12 started getting angry at me about this altercation, correct?

13 **A.** I don't understand the question. Could you rephrase that,
14 please.

15 **Q.** When you went into the home after him, you were mad,
16 correct?

17 **A.** Yes.

18 **Q.** You thought he had lied to you?

19 **A.** Yes.

20 **Q.** You thought that was disrespectful?

21 **A.** Yes.

22 **Q.** You thought you were in a relationship with him at the time?

23 **A.** Yes.

24 **Q.** And you felt because you went and you didn't see his lights
25 or his car that he had lied to you about where he had been?

26 **A.** Yes. This has been numerous times he's done this sort of
27 thing.

28 **Q.** And you were angry about that?

1 **A.** Yes.

2 **Q.** And you were confronting him about that?

3 **A.** Yes.

4 **Q.** As you confronted him after following him into the
5 apartment, he turned around then and responded to you; is that
6 right?

7 **A.** He was responding as he was walking in front of me and then
8 turned around and continued responding, yes.

9 **Q.** And that's the incident that we've described here as number
10 two, correct?

11 **A.** Correct.

12 **Q.** And with respect to that -- that argument and the
13 characterization of it, there was no physical altercation on
14 that occasion; is that correct?

15 **A.** There was not.

16 **Q.** Now, with respect to incident number three, which is the
17 incident in which you have alleged that he grabbed your arm.

18 **A.** Yes.

19 **Q.** Now, with respect to incident number three, you have
20 testified here on Friday that it happened at his house and that,
21 again, you -- only this time instead of him confronting you with
22 your underwear, you found a different woman's underwear at his
23 house; is that right?

24 **A.** The first confrontation was at my house about the underwear.
25 The second one was at his house, yes.

26 **Q.** And that's because you found a pair of underwear at his
27 house that didn't belong to you?

28 **A.** Female underwear, yes.

1 Q. And you confronted him with that, didn't you?

2 A. Yes.

3 Q. You testified on Friday you confronted him with that and you
4 were upset?

5 A. I asked him about it. I held it up and I asked him why
6 there's a pair of women's underwear here.

7 Q. And did he have a good explanation for you?

8 A. He said they were mine.

9 Q. You got into an argument with him at that point, didn't you?

10 A. They were not mine. Yes.

11 Q. You called him a liar, correct?

12 A. I said, "You're lying. These are not my underwear. I know
13 my own underwear," yes.

14 Q. And you were upset, again, because you believed he was being
15 untruthful to you in the relationship, correct?

16 A. Yes.

17 Q. And that it was becoming clear to you that there may be some
18 other party that he was seeing?

19 A. He was definitely hiding something, yes.

20 Q. And it's your testimony now -- strike that.

21 It's your testimony now that at that point you chose to
22 leave the apartment, and that is when he is alleged to have
23 grabbed your arm?

24 A. I said, "I'm leaving." I backed out and turned in the
25 doorway, and that's when he grabbed my arm.

26 Q. After that, you've testified to, you ended up staying the
27 night, correct?

28 A. After quite a while of deliberation, yes.

1 Q. Now, when you first -- well, strike that.

2 You first -- this third incident is alleged -- you alleged
3 on Friday to be February of 2008, correct?

4 A. Yes. After I checked my emails, that's when it came to be
5 that the arguments were.

6 Q. Now, the first time that you told anybody about this
7 allegation of physical touching by him to you was in January of
8 2012, correct?

9 A. To the -- when I made the report -- first, actually, I told
10 the incident to Tony. That's the first person that actually
11 heard about the incident.

12 Q. And that was -- well, back up.

13 Prior to this case being publicized -- well, let me back up
14 further.

15 You heard about this case through friends; is that fair to
16 say? That's how you first heard about it?

17 A. Yes.

18 Q. Friends of yours that knew you had dated texted you or
19 emailed you or said "hey," that, you know --

20 A. Lots of them said that he's -- "Did you see what's
21 happening?"

22 Q. Okay. And at that time you still hadn't told any of them
23 that there had been this physical interaction between you and
24 Mr. Mirkarimi, correct?

25 A. I responded, saying I was not surprised because he is very
26 abusive.

27 Q. So, as I asked, you did not tell any of them that he had
28 been physically abusive to you; is that correct?

1 **A.** Not specifically that he grabbed my arm, no.

2 **Q.** And, in fact, January 21st before you talked to Tony -- and
3 who is Tony?

4 **A.** Tony is my ex-husband, Antonio Flores.

5 **Q.** And Antonio Flores is an inspector in the Domestic Violence
6 Unit here in San Francisco, right?

7 **A.** Yes, he is.

8 **Q.** Okay.

9 **A.** I had also told my boyfriend early on because we had passed
10 Ross a couple times when he was trying to be sheriff, and they
11 said that they ended up talking about why you're getting so
12 crazy when you see him that you're getting shaky.

13 And I said, "Because It still feels really bad about what's
14 going on."

15 So he had asked me, and I told him the incident about what
16 happened with my arm, as well as him being very aggressively
17 charging me when he would yell and his tendency to be that way.

18 **Q.** Ms. Flores, prior to just now, you have never told anyone
19 affiliated with this case that you related that you had been
20 allegedly assaulted or grabbed by Mr. Mirkarimi; isn't that
21 correct?

22 **A.** Before what date?

23 **Q.** Well, you never told -- well, strike that.

24 You never told the inspectors that you talked to in the
25 first occasion -- you told them, "I had never told
26 anybody before," right?

27 **A.** Right.

28 **Q.** You told the San Francisco DA inspectors, or investigators,

1 DAI, who talked to you on the second occasion that you had never
2 told anybody about it before you contacted the news?

3 A. It just -- yeah. I remember now that I did tell my
4 boyfriend.

5 Q. Your boyfriend was sitting with you when you were
6 interviewed on January 22nd, 2012, correct?

7 A. And I believe in that he also alleged that I did mention it
8 to him before.

9 Q. Ms. Flores.

10 A. Uh-huh.

11 Q. He was sitting with you on January 22nd, 2012, when you
12 spoke to inspectors for the first time?

13 A. Yes.

14 Q. Is that correct?

15 A. Yes.

16 Q. And on that occasion you told them, "I had never told
17 anybody about physical violence before I called the papers"?

18 A. Yes.

19 Q. And your boyfriend was sitting right there with you --

20 A. Yes.

21 Q. -- correct?

22 So today, now you're saying, "Oh, I told him, too"; is that
23 right?

24 A. Well, I did tell him in passing, but I didn't think to
25 mention that. But it was in the police report because I
26 remember him telling the police officers that she did say that
27 she did get grabbed.

28 **THE COURT:** I'm sorry. Let's clarify. You referenced "he"

1 and we have "boyfriend," "your boyfriend," "the defendant,"
2 could be anyone. And then "she," I don't know who you're
3 referring to.

4 So you're going to have to be clear for the reporter and for
5 the written record who you're referring to.

6 **THE WITNESS:** Okay.

7 **THE COURT:** So who is "he"?

8 **THE WITNESS:** Bill. Boyfriend is Bill. Ex-husband is Tony.

9 **THE COURT:** Rephrase the question so that I know who the
10 pronouns are that she's speaking about.

11 **MS. STIGLICH:** Thank you.

12 **Q.** Ms. Flores, did you have a chance to review your audio-taped
13 interview with the inspectors?

14 **A.** Yes, I did. That was about a week ago that I read it last.

15 **Q.** Would it surprise you that there's nothing in there about
16 you telling Bill?

17 **A.** No, because I didn't consider that as being something
18 that -- this boyfriend/girlfriend thing.

19 **Q.** In fact, Bill piped up during your interview, didn't he?

20 **A.** I believe so. That's what -- yeah.

21 **Q.** Because you told the inspectors after December, "I never had
22 any contact with Mr. Mirkarimi"; isn't that correct?

23 **A.** Not as boyfriend/girlfriend.

24 **Q.** First you told the inspectors, "I didn't have any contact
25 with him after December of 2008." Is that what you first told
26 them?

27 **A.** Probably, yes.

28 **Q.** And then Bill chimed in, and Bill corrected you because he

1 said, "Well, yeah, you guys have had contact about Cable Access
2 or about your TV show"; right?

3 **A.** The Cable Access show, yes, which I thought was a completely
4 different --

5 **THE COURT:** Stop, stop, stop. You have got to let her
6 finish, ma'am. Let her finish and then you can answer. Take a
7 deep breath. Let her finish the sentence, or the question, and
8 then you answer.

9 **MS. STIGLICH: Q.** So, Ms. Flores, other than Bill making
10 that comment, you have never mentioned in any recorded document
11 of this case that you also told Bill prior to going to the
12 press --

13 **A.** No, I didn't.

14 **Q.** -- are you aware of that?

15 **A.** Sorry.

16 **Q.** You never did; is that correct?

17 **A.** I did not.

18 **Q.** The first time you're telling somebody on record is today?

19 **A.** Yes.

20 **Q.** And when you were first alerted by individuals -- by friends
21 about the fact this case was going on, it wasn't until you
22 actually physically saw an *Examiner* article -- and I might have
23 the paper wrong -- January 21st of 2012; is that correct?

24 **A.** Yes.

25 **Q.** And it was at that time you decided to come forward about
26 this situation?

27 **A.** Yes. I was letting justice take its course, and I thought
28 that it would go the way that it usually would go, the wife

1 would say what happened and would come to court and that would
2 be it.

3 Q. Okay. So you were following the case?

4 A. No. I just assumed that that's what would happen and
5 that -- you know, I was in Los Angeles. I didn't get the paper,
6 and no one would continually contact me and update me on what
7 was going on.

8 Q. So on January 21st of 2012, you contacted two news outlets.

9 A. After seeing the paper, yes.

10 Q. Because you wanted to tell them about your situation?

11 A. Do you want me to tell you how it unfolded?

12 Q. No. I'm just asking you if you contacted two outlets.

13 A. Yes.

14 Q. To tell them about this alleged incident of physical
15 violence.

16 A. Yes.

17 Q. And you set up an appointment with one, correct?

18 A. One said that Carolyn Tyler would not be in until Monday and
19 she would call me.

20 The other one said he has someone at 3:30 that would come to
21 talk with me and set up a place.

22 Q. And after you made those telephone calls, it occurred to
23 you -- well, strike that.

24 You wanted to give Inspector Flores a heads-up that you were
25 going on record with the media; is that correct?

26 A. Yes, because he would be involved, being my husband.

27 Q. You weren't calling him to report that you had been
28 assaulted, right?

1 A. No.

2 Q. And, in fact, over the years you had never given him any
3 information regarding being assaulted?

4 A. He knew about the verbal violence. He did not know about
5 the assault.

6 Q. So you never told him, either, about any assaultive
7 behavior?

8 A. Define "assault."

9 Q. About any physical incident.

10 A. No physical incident, no.

11 Q. And when you spoke to Inspector Flores, he indicated you
12 shouldn't go to the media, correct?

13 A. The first thing he said is, "Do not go to the media because
14 they will change what you're trying to say and mix your words
15 up."

16 Why did you look at the audience then?

17 Q. So, again, I'm focusing on incident three, which is the
18 alleged physical.

19 After you spoke to Inspector Flores, you did as he
20 suggested, you went down and made a police report, correct?

21 A. Inspector Flores then said, "What happened?" I told him
22 what happened. He said, "Let me talk to my boss and see what I
23 should do about this."

24 He immediately called me back and said that his superior
25 said to go and report this incident to the police department.

26 Q. So after you hung up with him, you took his advice, and you
27 went down and made a report with the police department?

28 A. The next morning, yes.

1 Q. And then you gave at least two print media interviews to
2 various news outlets --

3 A. No, I did not.

4 Q. Did you speak to Rachel Gordon?

5 A. I spoke to people after it came out, and they somehow got a
6 copy with my name on it. They started calling me.

7 Q. When they called you, you spoke to them?

8 A. I told them what had happened is true, and they asked me
9 questions specifically about the document, which I told them
10 what happened.

11 Q. Well, when you spoke to the police inspectors on
12 January 22nd, 2012, with respect to the alleged physical
13 interaction, you told them that you didn't know when it had
14 occurred, correct?

15 A. Correct.

16 Q. You didn't know what it was about -- what the argument was
17 about?

18 A. Specifically, no.

19 Q. Then you spoke to DA investigators on February 3rd; do you
20 recall that?

21 A. I don't remember if it was February 3rd, but I did speak to
22 one investigator, yes.

23 Q. Let me back up for a second.

24 When you spoke to investigators on January 2nd, 2012 -- and
25 if I get these dates wrong, you --

26 A. Okay. I --

27 Q. Let me back up.

28 A. Okay.

1 Q. You've given two interviews to either inspectors of the
2 police department or DA investigators, correct?

3 A. Yes.

4 Q. One was January 22nd, right at the beginning of the
5 disclosure, correct?

6 A. Yes.

7 Q. And one was approximately February 3rd?

8 A. I don't know the date.

9 Q. Okay. But you haven't given any other interviews --

10 A. No.

11 Q. -- other than that? Okay.

12 When you spoke to the investigators on January 22nd, you
13 didn't know when it had occurred or what the argument was about,
14 correct?

15 A. Correct.

16 Q. And you brought to that meeting a handful of emails for the
17 inspectors; isn't that correct?

18 A. I believe two.

19 Q. Are you sure it wasn't more than that?

20 A. It may have been. I said I don't know exactly.

21 Q. Do you recall why you brought them emails?

22 A. I randomly picked out emails from a timeframe to show when I
23 was dating him. I also brought copies of pictures -- a couple
24 pictures of the two of us on many different dates.

25 Q. On that first occasion?

26 A. Yes. I brought four and they, I believe, took one or two.

27 They only took a few of each to back up my story. I was not
28 looking or dissecting all the emails yet.

1 Q. And those are emails that you selected, correct?

2 A. They're ones randomly I took from the timeframe to show how
3 long.

4 Q. When you spoke to DA investigators -- and I have
5 February 3rd, but if we can agree it's February 3rd. It's the
6 second interview. Because I know that you're not sure of the
7 date.

8 A. I don't know the date. I'm sorry.

9 MS. AGUILAR TARCHI: Yes, February 3rd with Investigator
10 Kloss.

11 MS. STIGLICH: Q. So when you spoke to Investigator Kloss
12 on February 3rd, then when you talked about the physical
13 incident, you told him it was in January of 2008, correct?

14 A. That's what I had believed from putting together the
15 timeline.

16 Q. Well, you put together a timeline for him, didn't you?

17 A. From the emails that I had. I had many, many emails, so I
18 brought it down to what I could figure each thing was about.

19 Q. And when you talked to him February 3rd, 2012, you told him
20 that now you believed the incident had occurred in January of
21 2008?

22 A. Sometime in January.

23 Q. And that it regarded this conversation about underwear on
24 top of a --

25 A. The laundry hamper, yes.

26 Q. -- laundry pile?

27 A. I'm sorry, the laundry hamper.

28 Q. Do you recall telling the inspector on that occasion that

1 you and Mr. Mirkarimi had gotten into an argument on that
2 occasion?

3 **A.** Yes.

4 **Q.** And you described it that: It got hot; it got volatile,
5 yelling back and forth?

6 **A.** Yes.

7 **Q.** That means you were yelling, too, correct?

8 **A.** I was yelling but not in such an aggressive manner as he
9 does.

10 **Q.** I see.

11 **A.** We've had many arguments before that didn't -- I mean, we've
12 disagreed about things.

13 **Q.** There's no question right now. I'm sorry.

14 **A.** Okay.

15 **Q.** So in January when you spoke, you didn't know when or what.

16 In February when you spoke, you thought you knew when; you
17 thought you knew what, correct; what the argument was about and
18 when it had occurred?

19 **A.** Yes.

20 **Q.** And then when you testified here on Friday, you said it
21 occurred in February?

22 **A.** Yes. I looked through the rest of the emails and had a
23 closer idea of what time it happened.

24 **Q.** Now, you had not -- strike that.

25 You have all your emails from that period, don't you?

26 **A.** Most of them. Towards the end I erased some, I believe.

27 **Q.** Do you recall in February when you spoke to the DA
28 inspectors or investigators, that you indicated to them that

1 you've never erased your emails from then?

2 **A.** I said, "It's a good thing I never erased my emails," yes.

3 **Q.** Now, with respect to the emails, you have provided in three
4 different batches emails to the District Attorney's Office,
5 correct?

6 **A.** Correct.

7 **Q.** The first time in this first interview with inspectors; is
8 that right?

9 **A.** "Inspectors," you mean, the police department?

10 **Q.** In January. Yes, police department. I'm sorry.

11 **A.** Okay. I brought -- yes, I had some that I threw down at
12 them when the first police report interview.

13 **Q.** In February when you met with DAI, you brought them a
14 timeline that you had created, as well as emails, correct?

15 **A.** I'm sorry, "DAI"?

16 **Q.** DAI, DA investigators.

17 **A.** Yes.

18 **Q.** You selected some more emails that you brought along with
19 the timeline that you created in February, correct?

20 **A.** As well as I could. My emails to him -- he didn't email me
21 very often. He didn't like things in writing. He would phone
22 me most -- the majority of the time, or text.

23 **Q.** When you came to court Friday, you provided additional
24 emails regarding this?

25 **A.** Yes. The last ones that I thought were pertinent to the
26 case.

27 **Q.** So when you say "were pertinent to the case," do you have
28 other emails that you have not provided here that are between

1 you and Mr. Mirkarimi?

2 **A.** There's maybe 150 emails, and as the Judge asked if all
3 those were -- the ones with the little notes on them and
4 everything, if they're important in the conversation, I put them
5 in; if they're not -- otherwise, we'd have hundreds of emails.

6 **Q.** So you selected which ones you thought were important?

7 **A.** I thought the ones which had to deal with arguments, yes.

8 **Q.** And no one's asked you to produce all your emails, correct?

9 **A.** No.

10 **Q.** Just the ones that you think are important?

11 **A.** Just the ones that I brought, yeah.

12 **Q.** Now, you say that Mr. Mirkarimi didn't really email that
13 much; is that right?

14 **A.** No.

15 **Q.** In fact, the emails that you provided by and large start
16 with you, correct? You started the email chain, and you
17 provided emails back and forth between the two of you; is that
18 right?

19 **A.** Yes.

20 **Q.** And with respect to the emails that you have provided over
21 this period, there is no reference in any of those emails about
22 physical violence between you and Mr. Mirkarimi; is that
23 correct?

24 **A.** There's one that I feel is a reference.

25 **Q.** And is that the email that you produced on Friday regarding
26 the word "bitch"?

27 **A.** No. That's another one. So that would be two, then.

28 **Q.** Which other one are you referring to?

1 **A.** There's one -- may I see the emails that I brought, and I
2 can give you the --

3 **MS. STIGLICH:** I don't know which one she's referring to.

4 **THE WITNESS:** I can say it. I just don't want to misquote
5 myself.

6 **MS. AGUILAR TARCHI:** Your Honor, just to expedite matters,
7 there is -- call it a set of emails that was discovered on
8 Friday.

9 **MS. STIGLICH: Q.** Are those the ones you're referring to?
10 It's in that pile?

11 **A.** Yes.

12 **MS. STIGLICH:** May I approach the witness, Your Honor?

13 **THE COURT:** Yes.

14 **THE WITNESS:** It may be mentioned later in the same email.
15 I know there were two specific things.

16 **MS. AGUILAR TARCHI:** One second.

17 (Discussion off the record between counsel.)

18 **MS. STIGLICH: Q.** All right.

19 **A.** If I could see them, I can tell you.

20 **MS. AGUILAR TARCHI:** You need to mark --

21 **THE WITNESS:** You know what? Actually, I think I have
22 copies of the last five in here.

23 **MS. AGUILAR TARCHI:** Your Honor, the People would ask that
24 this be marked as an exhibit.

25 **THE COURT:** Collectively?

26 **MS. AGUILAR TARCHI:** And there is a separate one, only to
27 expedite, one that madam clerk copied on Friday, dated
28 February 10, 2008, at 7:58 a.m. That's what prompted a slight

1 break in the proceedings.

2 **THE CLERK:** Marking Defense Exhibit A and B.

3 (Defense Exhibits A and B marked for
4 identification)

5 **MS. STIGLICH:** Your Honor, may I approach the witness?

6 **THE COURT:** You may.

7 **MS. STIGLICH: Q.** Ms. Flores, I'm handing you what's been
8 marked Defense Exhibit A. It's a packet of emails, I think
9 about seven emails.

10 If you can tell me if you recognize the documents in that
11 packet.

12 **A.** Yes. It's the second one.

13 **Q.** Which email is it in that packet, or is the email in that
14 packet that you're referring to?

15 **A.** April 2008.

16 Would you like me to read the sentence?

17 **THE COURT:** Ma'am --

18 **THE WITNESS:** I'm sorry.

19 **THE COURT:** Please, unless Ms. Stiglich asks you questions,
20 don't volunteer anything. Those are the rules here, please.

21 **MS. STIGLICH: Q.** Can I see the packet?

22 **A.** Well, I have to --

23 **Q.** When it's time to answer a question, I'll give it back to
24 you.

25 **A.** Okay.

26 **Q.** Okay. Is it the April 24th, 2008, that you're referring to,
27 email?

28 **A.** April 24th, 2008, yes.

1 Q. Okay. What in there are you indicating references physical
2 violence?

3 A. "It's heartbreaking to me to enjoy intense moments with you
4 romancing the possibilities of having something more together
5 when one day you're head over heels and the next it feels shaky
6 because of my unintended disappointing" --

7 (Reporter interruption)

8 **THE WITNESS:** "One day you are head over heels and then the
9 next it feels shaky because of my unintended disappointing
10 behavior."

11 **MS. STIGLICH: Q.** So it's your testimony that this
12 April 24th email refers back to this now February incident that
13 you're talking about here?

14 A. He's done that many times besides February and --

15 Q. My question is -- we're talking about a physical incident
16 that you're alleging.

17 And is it your testimony here that that passage, that piece
18 of an email that he wrote you, over two months later, that's
19 your testimony that's what it's referring to?

20 A. It's referring to his rage that he would have many times in
21 arguments, yes.

22 Q. There's nowhere in this email that talks about physical
23 violence, correct?

24 A. He does not have it in print, no.

25 Q. There's nowhere in any of these emails where he talks about
26 rage, correct?

27 A. His unintentional behavior is what he would refer to always
28 saying that he didn't mean to do it.

1 There's another one that you're referring to, as well, about
2 being called a "bitch." That's an earlier one.

3 **Q.** Well, that's in February, correct?

4 **A.** Yes.

5 **Q.** And that's when you're alleging you had the argument
6 regarding -- well, which is it? Is that about spying on him or
7 about underwear?

8 **MS. AGUILAR TARCHI:** Objection. Argumentative.

9 **THE COURT:** That's overruled.

10 You may answer the question, please.

11 **THE WITNESS:** I'm sorry. Could you repeat the question,
12 please?

13 **MS. STIGLICH:** **Q.** You indicated -- I had asked you --
14 strike that -- earlier, if there was anywhere in these emails
15 that you provided that talks about physical violence, and you
16 directed us now to two emails: One, this April 24th one where
17 he references unintended disappointing behavior --

18 **A.** Yes.

19 **Q.** -- and one that we've now called "bitch" email, but that's
20 not -- it's an email of February 10th, 2008, correct?

21 **A.** Yes.

22 **Q.** And you had an argument, didn't you?

23 **A.** I'm sorry?

24 **Q.** In February you had an argument. You had a series of
25 arguments, didn't you?

26 **A.** Yes.

27 **Q.** You had a series of arguments about whether or not he was
28 still in a relationship with his ex-girlfriend?

1 **A.** The first one was not whether or not he was in a
2 relationship. The first one was about my underwear being left
3 there and about him saying that I was trying to pull something
4 on him. That was the argument. That was very confusing to me.

5 **Q.** Because you thought you were in a relationship with him, and
6 therefore it shouldn't matter if you had underwear at his house,
7 correct?

8 **A.** That was part of it.

9 **Q.** Now, with respect to this email in April that you're
10 referring to, his comments are in response to an email from you;
11 isn't that right?

12 **A.** Yes, where I was breaking up with him.

13 **Q.** Okay. And that was on April 23rd, 2008, correct?

14 **A.** Uh-huh, yes.

15 **Q.** So you sent him an email; he responded to it; is that right?

16 **A.** Yes.

17 **Q.** And your email was that you had a real difficult time
18 sleeping, "I had the place to myself and no distractions, just a
19 lot of time to think. I really love you but I am going to have
20 to end this. I do want more in a relationship than you can
21 offer me. I crave romance and companionship that you are not
22 able to give. I need someone that loves me exactly as I am and
23 lets me know that, someone with a happy outlook that sees all
24 the really great things that I have to offer. I do care so much
25 about you, but I need someone who is very caring back. I don't
26 think that you are unable to do it, just far too busy with your
27 own interests. Your priorities are you and your job first. I
28 am emailing this because I don't want to get into an argument

1 with you. It's not because of Louis or Ken. It's because I
2 deserve more. I wish all the best of luck in your career and a
3 peaceful and relaxing home for you someday. With much love,
4 Christina."

5 **A.** Yes.

6 **Q.** That's the email he was responding to, correct?

7 **A.** Correct.

8 **Q.** So nowhere in your email do you say, "I can't be with you
9 because you rage"; is that right?

10 **A.** No. He knew that from before.

11 **Q.** My question is, there's nowhere in your email that you say,
12 "I can't be with you because you rage"?

13 **A.** Not in this email, no.

14 **Q.** "I can't be with you because you're physically violent to
15 me." That's not in your email, either, is it?

16 **A.** Not in this email, no.

17 **Q.** You say you can't be with him because you want more from the
18 relationship than he's willing to give; is that right?

19 **A.** Yes, and I wanted somebody with a happier outlook.

20 **Q.** I see.

21 And, in fact, when he responded to you, you're interpreting
22 now that that's the unintended disappointing behavior; is that
23 right? That's now your interpretation of what he's referring
24 to, that it refers to physical violence somehow?

25 **A.** It refers to the raging, which I consider also very
26 physically abusive, even though it wasn't a physical touch.
27 That's what this court is about, what abuse is, and I believe
28 being backed into a corner and being scared in my own home is

1 abuse, as well as being grabbed.

2 Q. So, I mean, the lines that you quoted from his email are
3 just a piece of the email; is that right?

4 A. Yes.

5 Q. And other than that quote that you've interpreted here and
6 ascribed meaning to, there's nothing in that where he refers to
7 raging or apologizing for bad behavior; is that right?

8 A. He would never put that in an email.

9 Q. I see.

10 And you responded to this email, didn't you?

11 A. To the -- are you talking about: I started; he responded; I
12 responded to that?

13 Q. Yes.

14 A. Yes.

15 Q. And you indicated, you know, everything you said is really
16 nice --

17 **MS. AGUILAR TARCHI:** Vague as to time. May we have a date?

18 **MS. STIGLICH:** These are all April 23rd was the first email
19 from Ms. Flores. I think she testified to that. April 24th was
20 his response that she read into the record.

21 Q. April 24th later is your reply to him, correct?

22 A. Yes. And then he has another reply to me on the very top.

23 Q. We will get there.

24 A. Uh-huh.

25 Q. And you indicate then that you guys should have a
26 conversation in person --

27 A. Yes.

28 Q. -- is that right?

1 And he tries to -- afterwards says, "Okay," and you guys try
2 to make arrangements to do that?

3 **A.** And to go to a film festival party that I did go to with
4 him.

5 **Q.** Okay.

6 So, Ms. Flores, the -- would it be fair to say with respect
7 to your -- there have been a number of breakups and
8 get-back-togethers with you and Mr. Mirkarimi during this
9 period?

10 **A.** Yes.

11 **Q.** And by that I mean the period of your relationship, from
12 June of 2007 until December of 2008.

13 **A.** Yes, the majority of it being up until October, and then
14 from October till December still together but not as much.

15 **Q.** Okay. Because in February you had a round of emails with
16 him, saying, "Look, I deserve better." I'm paraphrasing but, "I
17 deserve better." "I want to move on."

18 **A.** In February? I have it as April.

19 **Q.** Okay. Do you recall having any emails with him in February
20 about wanting to break it off or move on or deserve more?

21 **A.** I don't have that information with me so I don't know.

22 **Q.** Do you recall having an exchange in April where, again,
23 we've quoted some of it about breaking up or staying together?

24 **A.** Yes.

25 **Q.** Correct?

26 **A.** I mean, there was very good and there was very bad. He's a
27 very good person on one hand and then it snaps and then he's
28 not. So there's definitely love here (indicating).

1 Q. Okay. And then in October of 2008, you email him during
2 that period and say that you want to be with him?

3 A. I'm sorry? Excuse me?

4 Q. Do you recall emailing him in October and having another
5 colloquy about being together?

6 It's not in front of you.

7 A. Oh.

8 Q. I'm sorry.

9 A. October, that was probably in the beginning before he told
10 me about the other woman.

11 Q. Okay. So do you recall during that period you were still in
12 this "we should be together" kinda phase?

13 A. Yes, before October, yes.

14 Q. And when he told you -- well, strike that.

15 You reached out to him, and because of the other
16 circumstance with who we now know is Ms. L, the woman of this
17 proceeding, that you didn't think you guys could or should
18 continue your relationship?

19 A. I'm sorry. What date are you talking about? Because he
20 left in October?

21 Q. October, when he got back.

22 A. When he got back?

23 Q. Yes.

24 A. You want what he told me, or I'm supposed to say --

25 Q. My question to you is about email exchanges. Did you have
26 email exchanges in October -- strike that.

27 At some point in October did you break up for a period of
28 time?

1 **A.** October he returned from his trip. I had said, "Why is
2 there radio silence?" I believe I remember sending an email
3 about that. And no communication is kind of weird. I remember
4 that.

5 And then he called me over to his house to let me know about
6 the quoted one night stand and that he supposedly had someone
7 pregnant.

8 **Q.** And at that point in time, did you break it off?

9 **A.** We had a two-hour conversation about it. There was a lot of
10 crying going on back and forth. I was in complete shock,
11 totally did not expect that to be coming out of his mouth.

12 **Q.** Did you break it off?

13 **A.** I remember then saying that I wanted my -- I wanted to
14 return my stuff and have my things given back to me, and
15 something stated about, "I don't want to be a part of the
16 ex-girlfriend graveyard in this house."

17 **Q.** Okay.

18 **A.** I believe that's in here, as well.

19 **Q.** Okay. So you recall in October having email conversations
20 with Mr. Mirkarimi regarding your relationship ending in a
21 request from you to get items back?

22 **A.** Yes.

23 **Q.** Okay.

24 **A.** I think --

25 **Q.** And you're referring to October 16th, "I'll give you your
26 key back when I get the pictures, my green umbrella, tools,
27 vacuum and clothes back"?

28 **A.** Yes.

1 Q. And the reference, "I do not wish to add them to your
2 ex-girlfriend graveyard in your home"?

3 A. Yes.

4 Q. So on the 16th you guys had broken up?

5 A. Yes.

6 Q. And that's because he told you that he had had a
7 relationship. Obviously, if somebody was pregnant, it would
8 have been during your period of relationship, correct?

9 A. He had had an encounter, not a relationship.

10 Q. Do you recall, then, after October 16th breaking up with
11 him, reaching out to him at the end of October, wanting to get
12 back together?

13 A. At that point, yes, because we were talking about having the
14 test to see if the baby was his or not, which he was not sure
15 that it was.

16 Q. So after October you reached out and reached out to try to
17 reunite, correct?

18 A. Yes. Well, we were continuously talking so we talked about
19 getting back together.

20 Q. And in November, November 14th, roughly, you asked -- you
21 emailed him, wanting to get together?

22 A. Is that in here? Yes, yes.

23 Q. In November, right?

24 A. The last email, correct, November 10th.

25 Q. And you said, "Let's get together."

26 And he responded, "Well, we can get together but no
27 expectations" type of thing; is that right?

28 A. Yes. It's a coming together of sorts but no expectations,

1 yes.

2 Q. Now --

3 A. And which was Tuesday.

4 Q. Now, there were exchanges between you about needing to come
5 to an understanding in this relationship, correct?

6 A. Correct.

7 Q. So now I want to -- we're through November. I just want to
8 take you to December. Were you in a relationship with him in
9 December?

10 A. It was not as boyfriend/girlfriend strong as it was before,
11 but I was still talking to him at least once a week and we did
12 have a physical encounter, as well.

13 Q. Did you want to be boyfriend/girlfriend with him in
14 December?

15 A. My gut was saying not to, but you go back sometimes to
16 things and it doesn't seem right, but, yeah, I was still
17 flirting back and forth with him.

18 Q. Did you offer to him to raise his child as your own here?

19 A. No.

20 Q. Do you recall having conversations to that effect?

21 A. I had conversations, asked him what he was going to do later
22 in December. He said that he wanted the child -- at that point
23 he confessed to me that the second trip that he said was for a
24 Green trip was actually to go to Venezuela. He said that he
25 doesn't want his son raised there.

26 (Reporter interruption.)

27 **THE WITNESS:** That he does not want his son raised there, or
28 his child -- he didn't know it was his son -- raised there, and

1 that it was filthy. And he wanted to bring the woman here, set
2 her up in an apartment, and keep her as -- and this is his
3 term -- "baby mama."

4 **MS. STIGLICH:** Q. Ms. Flores.

5 **A.** Yes.

6 **Q.** So in late December he told you he was bringing her here
7 with the baby; is that correct?

8 **A.** Yes, that he wanted her to have the child.

9 **Q.** And in that, that he was going to help raise the child,
10 correct?

11 **A.** That he would take a part but not marry her. He wanted to
12 be like Willie Brown. That was his quote.

13 **Q.** I see.

14 Now, when was the last time you had emailed Mr. Mirkarimi?

15 **A.** I believe it was during Public Access. We were trying to
16 save the station. So maybe February, March.

17 **Q.** Well, during February and March, you were emailing about an
18 issue, correct?

19 **A.** About saving the AccessChannel, yes.

20 **Q.** Prior to February and March, when was the last time you had
21 emailed him anything personal?

22 **A.** I believe it was the very last day of the year, the 29th or
23 perhaps the 30th, somewhere around there, if not the 1st or 2nd.
24 It's right -- I don't know the exact date.

25 **THE COURT:** I'm sorry. Is this 2008?

26 **THE WITNESS:** This would be December 2008 at the very end or
27 the very beginning of 2009.

28 **THE COURT:** Thank you.

1 **MS. STIGLICH: Q.** And is that an email that you provided
2 here in court?

3 **A.** That one is -- let me think what it was. That was probably
4 not one of the ones, no.

5 **Q.** And without going into the details of it, what was the topic
6 of that email?

7 **A.** Well, the topic of that one was talking about the girl that
8 gave me a call.

9 **Q.** That was you talking about that?

10 **A.** Yes.

11 **Q.** Because after you -- toward the end of your relationship,
12 you found out that in addition to Ms. Lopez, that he may have
13 been in a relationship with another woman at the same time as
14 you, correct?

15 **A.** She called me, yes.

16 **Q.** So you connected -- and you connected with her, didn't you?

17 **A.** Yes, I did. We had drinks at Martuni's.

18 **Q.** And you both kind of swapped Ross stories; is that fair to
19 say?

20 **A.** Absolutely, yes.

21 **Q.** And in that regard you never told that woman, either, that
22 you had been physically assaulted?

23 **A.** I told her -- we compared the stories about the verbal
24 abuse. We didn't talk about further abuses.

25 **Q.** You never told her that you had been physically assaulted?

26 **A.** Not hit or punched, no.

27 **Q.** And do you have that email with you here today?

28 **A.** I do not. We were instructed not to bring any more emails.

1 Q. So you have about -- I think at the beginning of your
2 testimony -- about a hundred more emails on this topic but you
3 don't have them here?

4 MS. AGUILAR TARCHI: Objection. Misstates the evidence.
5 It's about relationship, not on this topic, however vague that
6 is.

7 MS. STIGLICH: Q. You have about a hundred more emails
8 about in -- between you and Mr. Mirkarimi that relate to your
9 relationship?

10 A. Yeah, but a lot of them were very just, you know,
11 non-important. Like, what time are you picking me up, when I'm
12 getting back. I mean, I can bring them.

13 Q. Any reason why you didn't bring them?

14 A. Just because of the sheer amount of them. I mean, I thought
15 that it would be important to have any kind of fights or
16 disagreements.

17 Q. Okay. So this December email that has not been provided,
18 you talk about this other woman?

19 A. I talk about the whole relationship. I believe I wrote him
20 a poem, and it described the whole thing from the beginning all
21 the way through to the end.

22 Q. And is that a poem where you basically threaten to get him
23 back?

24 A. I said that it was unwise for him to tell me all the things
25 that he did and do everything that he did to me in a small town
26 like San Francisco. And at the end that I know a lot of people
27 and I'm meeting a lot of people. Yeah. I didn't say I was
28 going to threaten his life or anything, no.

1 Q. You have threatened him to -- well, what did you threaten to
2 do?

3 A. I left it open, saying that I had a talk show at that time,
4 which he knew of, where I interviewed many, many people from the
5 government in San Francisco, and that wouldn't it be interesting
6 if any of them ever found out.

7 Q. And, in fact, you told inspectors that you did talk to some
8 of those political people and made sure that they knew that you
9 thought he was an asshole.

10 A. Absolutely not.

11 Q. Do you recall talking to the inspectors January 22nd, 2012?

12 A. One inspector.

13 Q. Do you recall telling the inspector that about halfway
14 through your relationship, you started SF Live where you
15 interviewed politicians?

16 A. I started SF Live while I was still with Ross.

17 Q. Do you recall telling him about halfway through your
18 relationship with Ross that you started SF Live?

19 A. I don't remember if I said that in it. I did start it
20 earlier. It did take off afterwards.

21 Q. Do you recall opining to them that you thought Ross was
22 scared that you would talk to those people when you'd bring them
23 in for interviews?

24 A. Yes.

25 Q. Do you recall, "which I did talk to a few of them because
26 he's an asshole, and I wanted to let them know he is not the
27 person he is portraying to be."

28 A. Those weren't city officials that I talked to. I talked to

1 other people. I interview more than just city officials.

2 Q. I see.

3 A. I have two shows. Had.

4 Q. Do you recall this colloquy with the inspectors?

5 A. I'm sorry?

6 Q. Do you recall the colloquy that I'm talking to you about
7 that you had with the inspectors?

8 A. You're saying "inspectors." I spoke with one inspector from
9 the DA's office, and I talked with the police inspectors. There
10 were two in the first. So I don't know which you're referring
11 to.

12 Q. On January 22nd, you talked to San Francisco Police
13 Inspectors, correct?

14 A. January -- yes. Those were in the police department.

15 Q. And do you recall talking to them about the colloquy that
16 I've been asking you about?

17 A. I don't remember, but reading it, I believe I did say that
18 then.

19 Q. With respect to your poem that you described here --

20 A. Uh-huh.

21 Q. -- is it your testimony that in that you reference physical
22 violence?

23 A. I don't believe I did. I believe I mentioned the yelling
24 and barking at me, but I don't have the poem in front of me so I
25 can't say for sure.

26 Q. Do you recall threatening to unwind his political future?

27 A. No, not "unwind your political future." I did not say that.

28 Q. Do you recall telling him, "What to do with the ball in my

1 court. Let us see what happens"?

2 **A.** Yes.

3 **Q.** That was the end of your poem, wasn't it?

4 **A.** I believe that was towards the end. I don't know if that
5 was the last line.

6 **Q.** And here we are, right?

7 No further questions.

8 **MS. AGUILAR TARCHI:** Objection. I would ask that the
9 question be stricken. It's self-serving.

10 **THE COURT:** Motion's granted.

11 **MS. AGUILAR TARCHI:** Thank you.

12 **THE COURT:** It's argumentative.

13 All right. Redirect?

14 **MS. AGUILAR TARCHI:** Yes, Your Honor.

15 **REDIRECT EXAMINATION**

16 **MS. AGUILAR TARCHI:** **Q.** Ms. Flores, on Friday you spoke of
17 four separate incidents that occurred that you regard to be
18 verbal abuse, and one of the four to be verbal and physical; is
19 that correct?

20 **A.** Correct.

21 **Q.** Now, and those -- would it be a fair statement that those
22 four incidents you recall because they go to the -- as you
23 described, the Dr. Jekyll, Mr. Hyde verbal-physical abuse that
24 took you by surprise in your relationship?

25 **A.** Yes.

26 **Q.** Now, there were other times, were there not, during the
27 course of your one-and-a-half-year relationship as boyfriend and
28 girlfriend that you had, one might characterize, as more routine

1 disagreements?

2 **A.** Absolutely, yes.

3 **Q.** And those are not -- you're not purporting that other
4 disagreements, lovers' quarrels, arguments -- you're not
5 suggesting that those were verbal abuse and physical?

6 **A.** No. We could argue very civilly about things that were --
7 we disagreed, and I'm fine with that. But it only got violent
8 when he was accused of doing something that he -- I considered
9 he was lying and found out later from the other girl that it
10 backed up what my gut feeling was.

11 **MS. STIGLICH:** Objection. Move to strike as to what the
12 other girlfriend said.

13 **THE COURT:** Sustained. It's hearsay.

14 **MS. AGUILAR TARCHI:** **Q.** What was it specifically that
15 prompted you -- prior to calling Inspector Flores in
16 January 2012, what was it upon learning of this incident via
17 text that prompted you to make calls to some news sources?

18 **A.** There was the report from the friends that said that this
19 was happening. And I said, "It's not a surprise to me." I was
20 waiting to see how it would go, you know, figuring it would go
21 through the jury, go through the court.

22 When I saw that she recanted her story and that she was now
23 blaming -- or the couple was saying that the city or their
24 country is ruining -- like that infuriated me. Because I know
25 what his tendencies are. I've stood at that door, scared to go
26 out, not to know what was going to go on.

27 **MS. STIGLICH:** I am going to object. Move to strike. It's
28 nonresponsive.

1 **MS. AGUILAR TARCHI:** Your Honor, the People submit that it
2 is quite responsive to precisely what her motivations were.
3 There were suggestions for the last hour and a half of cross on
4 love poems that provide some motive, perhaps, or vice for lying,
5 and this refutes that. It's proper redirect.

6 **THE COURT:** Overruled.

7 But you need to focus your questions so that she doesn't end
8 up giving a narrative.

9 **MS. AGUILAR TARCHI:** Yes, Your Honor.

10 **Q.** Okay. Let's break it up to the point where you said you
11 were upset about news accounts of something. What is it that
12 you read that upset you?

13 **A.** Was that she had said these things about him and then all of
14 a sudden recanted her story and took it back, saying that the
15 City is pressuring that, and that she said that there's a group
16 of people trying to come after him and that's why this is going
17 out of proportion.

18 **Q.** Okay. And with respect to that aspect, was that something
19 your friends told you, or did you read these suggestions of the
20 country not being fair? Or where did you learn that?

21 **A.** I read it for the first time on the paper, the *Examiner*
22 cover, opened the story and heard her -- about making a tape
23 about this and saying that she was abused, and I felt that she
24 was bullied into taking her story back.

25 **MS. STIGLICH:** Object. Move to strike.

26 **MS. AGUILAR TARCHI:** Your Honor, again, it's responsive.

27 **THE COURT:** What's the basis?

28 **MS. STIGLICH:** Speculation. Personal knowledge.

1 Foundation.

2 **MS. AGUILAR TARCHI:** It's a lay opinion. It's not -- she's
3 not saying she heard it.

4 **THE COURT:** Overruled.

5 **MS. AGUILAR TARCHI:** So it remains.

6 **Q.** So what was it about -- you didn't talk to Ms. L directly,
7 correct?

8 **A.** I've never met her.

9 **Q.** So what was it about your reading what she was stating, the
10 press accounts, the newspaper you saw open, that made you feel,
11 in your opinion, that, quote, "she was being bullied"? Why did
12 you say that? What forms the basis of that opinion of yours?

13 **A.** Because in my experience that sounds like his spin. That
14 does not sound like her. It felt like she couldn't be brave
15 enough to stand up and continue with this, and that was what she
16 was told to say.

17 **Q.** Although you didn't know that personally?

18 **A.** No. That's just from my experience I felt it.

19 **Q.** Now, on cross Ms. Stiglich said, "You're no shrinking
20 violet." Do you feel you're a strong, independent woman?

21 **A.** Yes, I am.

22 **Q.** And why are you coming forward -- it could be suggested
23 several years after the fact you come forward and talk about
24 several instances of verbal abuse and one specifically involving
25 verbal and grabbing, causing you an injury? Why did you wait
26 several years to come forward on the -- specifically, as it
27 relates to the physical abuse?

28 **A.** Because I didn't want to deal with him anymore. I let it

1 go. I didn't want to even see his face anymore. But when it's
2 in my face and the story is there, and I feel where that woman
3 was, and I think that next time it will be worse, that I need to
4 say something.

5 **MS. STIGLICH:** Objection. Move to strike.

6 **MS. AGUILAR TARCHI:** Your Honor, it was responsive.

7 **THE COURT:** It's overruled. She's explaining why she's
8 waited this length of time to come forward.

9 Very well. Next question, please.

10 **MS. AGUILAR TARCHI:** Yes, Your Honor.

11 **Q.** And you -- the day you spoke to Inspector Flores, you did
12 not keep the one appointment you had with the news media, nor
13 did you talk to the other news person that wasn't available
14 until Monday; is that correct?

15 **A.** Correct.

16 **Q.** And you followed the advice of Inspector Flores, which
17 you've testified to, and you made a report?

18 **A.** Yes.

19 **Q.** And you told the truth of what you recall happened during
20 your relationship?

21 **A.** Yes.

22 **Q.** And, um, without giving names, did you -- you indicated you
23 may have gotten together with a group of female friends where
24 you talked -- where you personally shared your stories of verbal
25 abuse --

26 **A.** Yes.

27 **Q.** -- at the hands of the defendant?

28 And without naming names, approximately what month and year

1 was this brunch date with these women?

2 **A.** It was after February, March in time. I don't have the
3 exact date.

4 **Q.** And during that -- was it brunch?

5 **A.** It was a brunch that was arranged by the woman that was the
6 other woman that called me.

7 **Q.** The other woman that called you -- we need a timeframe --
8 called you when? What month and time period are we speaking of?

9 **A.** Well, we met at the end of December. She actually came to
10 my party, my New Years party, after I met her, and we remained
11 friends. She said there were two women that she wanted to
12 introduce me to.

13 **Q.** I'm sorry. I have to ask you when -- who is -- just a first
14 name at this juncture, the friend that called you, what's her
15 first name?

16 **MS. STIGLICH:** I'm going to object to relevance.

17 **MS. AGUILAR TARCHI:** Again, there's been some claims that
18 she's never come forward or shared information, Your Honor. And
19 I won't belabor this. I'm just trying to get a timeframe.

20 **THE COURT:** All right. Objection's overruled.

21 **MS. AGUILAR TARCHI:** **Q.** I'm talking specifically -- listen
22 carefully to my question.

23 I'm sorry. I stepped on a cord, Your Honor.

24 If you can recall the month and year when this friend,
25 female friend, called you.

26 **A.** I believe it was in March of -- January, February, March --
27 the brunch -- you're talking about the brunch. That was
28 somewhere around March in 2009.

1 Q. Okay. And she called you for purposes of getting together?

2 A. She said she wanted me to meet two women that worked with
3 him, yes.

4 Q. All right. And -- and did you meet, you, the woman that set
5 it up -- did you meet with two other women, so a total of four
6 of you got together?

7 A. Correct.

8 Q. And during the brunch you talked about your relationship?

9 A. Correct.

10 Q. Just yes or no. Did you share with any of these three other
11 women that got together at brunch verbal abuse at the hands --
12 excuse me -- by the defendant Mirkarimi?

13 A. Yes.

14 Q. Did you during this female brunch outing discuss with these
15 other three women any physical abuse?

16 A. I heard stories they told me but not anything else.

17 **MS. STIGLICH:** Objection. Move to strike.

18 **THE WITNESS:** We compared notes.

19 **THE COURT:** Well --

20 **THE WITNESS:** Sorry.

21 **THE COURT:** -- is it based on hearsay?

22 **MS. STIGLICH:** Correct.

23 **THE COURT:** Sustained.

24 **MS. AGUILAR TARCHI:** Q. So without saying what they told
25 you, how many -- there were four of you?

26 A. Yes.

27 Q. So of the three other women, how many shared with you
28 discussions about the defendant?

1 A. All of them.

2 Q. All right. And with respect to you personally, you only
3 shared verbal abuse stories with them?

4 A. Yes.

5 Q. Why didn't you tell them about the grabbing incident where
6 he caused a bruise and pushed you into a corner?

7 A. He was very apologetic after it and he never did it again.

8 Q. And when he apologized, did he say he'd never do that again?

9 A. He said, "It was a mistake. I'm sorry."

10 Q. And why did you, Ms. Flores, bring a couple of photos to
11 that first report you made to the police? Why did you bring
12 photos of you and the defendant?

13 A. To prove that I had a relationship with him. I didn't want
14 them to think I just walked in off the street.

15 Q. And those showed photos of you and Mr. Mirkarimi during
16 happy times?

17 A. Yes. There were happy times, too.

18 Q. All right. And you also, in fact, shared a photo of
19 yourself with the three other women during this brunch where you
20 spoke of your verbal abuse?

21 A. Yes.

22 Q. And you spoke of many more emails that you shared,
23 exchanged, with your boyfriend then, Mr. Mirkarimi, during the
24 one-and-a-half-year relationship. Is it fair to say they number
25 over a hundred?

26 A. Probably right around a hundred.

27 Q. And fair to say that in terms of phone conversations with
28 Mr. Mirkarimi, pleasant ones, how many hundreds of phone calls

1 would you say you had pleasant exchanges over the year and a
2 half?

3 **A.** I have no way of guessing how many there were. That was two
4 phones ago. Everything from that phone is gone. But there were
5 many. We had good times, too.

6 **Q.** And the same question as it relates to any texts. Did you
7 during happy times during the course of your one-and-a-half-year
8 relationship also exchange texts and pleasantries?

9 **A.** Yes.

10 **Q.** And you pulled out -- and I think counsel used the words
11 "three separate batches." You pulled out on three separate
12 occasions emails, much like the photos, that you felt would be
13 relevant to the proceedings here in court today?

14 **A.** Yes.

15 **Q.** And the reference "unintended disappointing behavior," it
16 doesn't say, "when I pushed you and caused a bruise," does it?

17 **A.** No.

18 **Q.** But is it your testimony today that the reference in that
19 April '08 email where Mirkarimi writes to you about his
20 "unintended disappointing behavior," end quote, what did you
21 take that to mean?

22 **A.** About his yelling and raging and charging at me.

23 **Q.** And that was during the episode where he caused the bruise
24 on your arm?

25 **A.** That was many episodes.

26 **Q.** All right. And in one of the emails -- I think it was
27 referred to as the "bitch" email -- do you talk to him about how
28 you're a strong, self-confident woman and that you're not a

1 bitch?

2 **A.** Yes.

3 **Q.** And why are you telling him this? What prompted this email
4 to him about being "self-confident, powerful, beautiful, strong
5 woman, and calling me a bitch is unacceptable." What were you
6 referring to?

7 **A.** I was defending myself because he called me a bitch at one
8 point and I was flabbergasted because I was not.

9 **Q.** Now --

10 I'm almost done, Your Honor.

11 When you ultimately ended your relationship with the
12 defendant, Mr. Mirkarimi, did you ever make threats to him --
13 pardon me. I won't use that word "threats" -- indicate to him
14 in any way, verbally or through correspondence of any sort, that
15 you would get back at him because he left you for a woman he got
16 pregnant?

17 **A.** No. That had nothing to do with that.

18 **Q.** All right. Did he ever tell you after he had, you said on
19 direct on Friday, this one night stand with a Venezuelan
20 woman -- did he ever tell you that he wanted to get back with
21 you, notwithstanding the fact that he had gotten her pregnant?

22 **A.** No. We played. It was a relationship still but it wasn't,
23 um -- it was kind of just a casual sexual relationship at that
24 point.

25 **MS. AGUILAR TARCHI:** Thank you, Your Honor. I have nothing
26 further.

27 Thank you, Ms. Flores.

28 **MS. STIGLICH:** Real briefly, Your Honor.

RECROSS-EXAMINATION

1
2 **MS. STIGLICH: Q.** The motive that you described today is
3 different than that that you expressed to the inspectors when
4 you spoke to them on January 22nd, 2012, when you explained your
5 reasons for coming forward; is that correct?

6 **A.** No.

7 **Q.** On January 22nd, 2012, you told inspectors that
8 Mr. Mirkarimi told you that Ms. Lopez knew about his
9 relationship with you, and you told him, I quote, "which I think
10 is a lie, and that's probably why I'm here, because I don't
11 think she knew."

12 Do you recall telling the inspectors that?

13 **A.** There's more to that sentence.

14 **MS. STIGLICH:** May I approach the witness?

15 **THE COURT:** Yes.

16 **MS. STIGLICH: Q.** I will show you the transcript marked
17 January 22nd, 2012. I direct your attention to page 6.

18 **MS. AGUILAR TARCHI:** Lines, counsel?

19 (Discussion off the record between counsel.)

20 **MS. STIGLICH:** Okay.

21 **MS. AGUILAR TARCHI:** And, Your Honor, since -- the People
22 would request that perhaps the witness begin at page 5, line 20
23 to put it in context.

24 **MS. STIGLICH:** She shouldn't direct the witness as to what
25 in context.

26 **MS. AGUILAR TARCHI:** It's just that page 6 starts with a
27 random line.

28 **THE COURT:** I don't know what counsel requests, but I'm

1 going to ask Ms. Stiglich to ask the question, and if there's an
2 objection as to something missing, because there is a rule of
3 completion here, then you may make that objection.

4 **MS. STIGLICH: Q.** Ms. Flores, it's in front of you. Do you
5 recall making that statement to the inspector?

6 **A.** Where is it in the list on the numbers?

7 **Q.** On page 6 --

8 **A.** Yes.

9 **Q.** Probably about a third of the way down.

10 **A.** Yes.

11 **Q.** Go just a few lines down.

12 Do you see it?

13 **A.** (Views document.)

14 **Q.** Let me know when you've had a chance to review that.

15 **A.** I'm sorry. Let me look at this. "Because I don't think she
16 knew." I did say that, yes.

17 **MS. STIGLICH:** May I approach the witness, Your Honor?

18 **THE COURT:** You may.

19 **MS. STIGLICH: Q.** So there's no other part to that
20 sentence. You tell the inspectors, "He" -- Mr. Mirkarimi,
21 referring to him -- "said that the woman from Venezuela knew
22 about our relationship and it didn't matter to her."

23 And you go on further and say, "which I think is a lie, and
24 that's probably why I'm here, because I don't think she knew."

25 That's what you said to the inspectors, correct?

26 **A.** That's not how it meant, though. Maybe -- when I said I --
27 okay. You can ask me.

28 **Q.** I'm asking what you said, okay?

1 A. Uh-huh.

2 Q. When you subsequently spoke to inspectors on February 3rd --
3 and I'm kind of calling them all "inspectors."

4 A. Okay.

5 Q. You had a January interview and a February interview.

6 A. Because February was one person.

7 Q. When you spoke to the inspector in February --

8 A. Uh-huh.

9 Q. -- you then told him when Ms. L changed her story that's
10 when you came forward. And you explained because you know what
11 it's like to be threatened and scared. And then you told, "I
12 was the one being bizarre and weird about it."

13 A. Yes.

14 Q. With respect to the email of February 10th -- and I'm sorry
15 we keep referring to it as the "bitch" email, but we don't have
16 any other title for it.

17 **THE COURT:** Exhibit B.

18 (Laughter.)

19 **MS. STIGLICH:** Q. Exhibit B.

20 In that email you also refer to -- when you tell him, "Hey,
21 calling me the 'B' word is unacceptable." You tell him that,
22 "Every time I see that you're on the same track" -- the two of
23 you as a couple, that: He derails it with such force you have
24 no choice but to go, right?

25 A. Yes.

26 Q. And you add, "You become insulting and cold."

27 A. Yes.

28 Q. Not, "You rage like a pit bull," correct? Is that right?

1 A. I didn't say that he raged like a pit bull in that email,
2 no.

3 Q. Not, "You put your hands on me," correct?

4 MS. AGUILAR TARCHI: Objection. The exhibit speaks for
5 itself, Your Honor. Argument.

6 THE COURT: She can answer the question. It's either a yes
7 or a no.

8 MS. STIGLICH: I'm sorry. Did you answer?

9 A. Sorry. Could you ask me that again, please?

10 MS. STIGLICH: Q. "Insulting and cold" is how you described
11 his behavior?

12 A. Yes, in that email.

13 MS. STIGLICH: Thank you. No further questions.

14 MS. AGUILAR TARCHI: Just a quick one.

15 THE COURT: Well -- all right.

16 MS. AGUILAR TARCHI: Just quickly to explain.

17 FURTHER REDIRECT EXAMINATION

18 MS. AGUILAR TARCHI: Q. Now, when you were speaking to the
19 inspector, the first interview date of January 22nd, it was
20 question and answer, right?

21 A. Yes.

22 Q. And the remark -- pardon me.

23 The question that Ms. Stiglich pointed out at page 6 where
24 you answered "I think is a lie" -- well, I will take it in
25 context:

26 You said that the woman from Venezuela knew about a
27 relationship and it didn't matter to her.

28 "Q. Okay.

1 "A. Um, which I think is a lie, and that's
2 probably why I'm here, because I think she knew"--
3 Pardon me --

4 "I don't think she knew.

5 "Q. Okay.

6 "A. I think --"

7 And immediately a question is posed:

8 "Q. Have you had any contact with Mr. Mirkarimi
9 since?"

10 You weren't allowed to complete that statement, "I think."

11 **A.** No. It was cut off by the next question.

12 **Q.** All right.

13 And what is it that you mean or meant by this statement that
14 was quoted directly, "And that's probably why I'm here, because
15 I don't think she knew"?

16 **A.** I was under the assumption that she knew about me and that
17 she didn't care was what was told to me. But I think that this
18 was just a woman that came in and thought that this was going to
19 be a wonderful relationship and didn't know about me and the
20 other woman at the same time as her. So I didn't think she had
21 the guts to stand up and go through with what's going on.
22 That's why I'm here.

23 **Q.** I see.

24 So the reference about "don't think that she knew that there
25 was more than one woman," and that's why that it maybe did
26 matter to her, but she did not know the full story?

27 **A.** I then believed that she didn't know the whole story.

28 **Q.** Although you never met her?

1 **A.** No.

2 **MS. AGUILAR TARCHI:** I have nothing further.

3 **FURTHER RECROSS-EXAMINATION**

4 **MS. STIGLICH:** **Q.** Ms. Flores, you don't know anything about
5 what happened between he and Ms. L on the day in question here,
6 do you?

7 **A.** I'm sorry. What day in question?

8 **Q.** You don't have any information about what Ms. L knew or
9 didn't know, correct?

10 **A.** I'm sorry. I don't know about what she knew about what?

11 **Q.** You have no idea how Ms. L was feeling when you read this
12 paper, correct?

13 **A.** Just from the same experience I had.

14 **Q.** You have no idea what happened between she and Mr. Mirkarimi
15 on December 31st, 2011, correct?

16 **A.** Correct.

17 **MS. STIGLICH:** I don't have any further questions.

18 **MS. AGUILAR TARCHI:** Nothing further, Your Honor.

19 **THE COURT:** Thank you.

20 All right. Let's take a five-minute break and we'll collect
21 our -- or a ten-minute break because I think my reporter needs
22 it more than we do. And we'll come back for the ruling.

23 Thank you.

24 **MS. AGUILAR TARCHI:** Thank you, Your Honor.

25 **THE COURT:** Ms. Flores, you may step down.

26 (Witness excused)

27 (Brief recess.)

28 **THE COURT:** All right. The record should reflect that we're

1 back on the record. We have all counsel present, and the
2 defendant's appearance is waived. I'll hear arguments. It's
3 the People's motion to admit evidence in this matter.

4 Ms. Aguilar Tarchi?

5 **MS. AGUILAR TARCHI:** Yes, Your Honor. Thank you.

6 Your Honor, the People did file formal papers to admit
7 evidence of other acts of domestic violence pursuant to Evidence
8 Code Section 1109.

9 The specific acts that People seek to admit and that we
10 submit are proper under this Evidence Code section and by case
11 law is specifically two separate sets.

12 The incident -- the four incidents of which Ms. Flores
13 testified to Friday and today, three which were verbal abuse,
14 and one of which was a combined verbal and physical abuse, where
15 the physical abuse included the cornering of Ms. Flores in the
16 hallway of the defendant's apartment where he grabbed her with
17 one hand with such force her body did go near and against the
18 wall, that it did cause a bruise which she noticed the following
19 day, and when the defendant noticed it, as he was seated in her
20 car and said, "What is that?" specifically referring to the
21 large bruise that had formed on her right upper arm, Ms. Flores
22 testified that she said words to the effect, "You did it."

23 And he said words, like, incredulous that he did, and then
24 he apologized, that he was sorry.

25 This pattern of conduct which shorthand form Ms. Flores said
26 the behavior of rage, going from Dr. Jekyll, Mr. Hyde-type
27 behavior, where he would blow up, follow her around like a pit
28 bull, yelling, subsequently apologizing. The intensity of one

1 of the incidents, the last, she even went so far as to describe
2 it going from, in her words, "zero to 50."

3 And then she later stated that words she had used to
4 describe this behavior of going from seemingly a very
5 normal-type behavior and discussion and attitude to one of
6 Dr. Jekyll, Mr. Hyde, pit bull.

7 And in one of them, that last incident describing that it
8 caused her so much fear that she chose to leave and go to her
9 car in which she thought wasn't the best neighborhood for her to
10 be going to alone at night, but she preferred that at about
11 2:00 a.m. in the morning to leave alone than to stay with this
12 pit bull who made her feel unsafe.

13 We are asking that the Court is well within its bounds to
14 accept 1109 evidence. The defendant's prior acts of domestic
15 violence are admissible because it presents a truthful picture
16 of defendant Mirkarimi's propensity for violence against female
17 intimate partners.

18 Evidence Code 1109 allows the introduction of evidence of
19 the defendant's prior acts of domestic violence in a criminal
20 action, charging defendant with an offense involving domestic
21 violence.

22 It states in part that in a criminal action in which a
23 defendant is accused of an offense involving domestic
24 violence -- and here, of course, he's charged with one count of
25 domestic battery, Penal Code Section 273.5 -- evidence of the
26 defendant's commission of other domestic violence is not made
27 inadmissible by Section 1101 if the evidence is not admissible
28 pursuant to Section 352.

1 Of course, Evidence Code 352 provides a safeguard against
2 undue prejudice. The Trial Court, Your Honor, has full
3 discretion in admitting evidence pursuant to Section 352.

4 However, in applying that section, that balancing test,
5 "prejudicial" is not synonymous with "damaging."

6 Evidence of prior domestic violence can be charged or
7 uncharged incidents. The incidents that we speak of, Your
8 Honor, the four incidents that Ms. Flores alluded to and
9 described with particulars both Friday afternoon and this
10 afternoon, as well as the victim, the complaining witness's
11 statements to her neighbor and to another witness that this is a
12 not -- pardon me, this is not the first time this is happening.
13 The first time, as she pointed to a physical bruise on her
14 arm -- the first time happened in March of last year, meaning
15 March of 2011.

16 Similarly with Ms. Flores, she described, Your Honor, why a
17 few years later she stepped forward to come forward and make
18 public the physical abuse, although she had already shared with
19 members of her lunch of female friends and others, including her
20 boyfriend, of verbal abuse.

21 So evidence of prior domestic violence can be charged or
22 uncharged incidents.

23 In criminal DV cases the California legislature has
24 determined that policy considerations favor admission of
25 uncharged domestic violence offenses and outweigh the policy
26 considerations favoring the exclusion of such evidence.

27 And it cites the seminal case in this case, *People v.*
28 *Johnson*, 77 Cal.App.4th at page 410, specifically page 420,

1 stating that under this section, 1109, permits the admission of
2 defendant's other acts of domestic violence for the purpose of
3 showing a propensity to commit such crimes.

4 We are also submitting that the evidence is proper and not
5 subject to exclusion even under 352 undue -- alleged undue
6 prejudice analysis, Your Honor, in that the uncharged acts we
7 seek to admit, those described by Ms. Flores and Ms. L's, this
8 happened before, last year in March of 2011, is they're
9 admissible under Evidence Code 1109 if the uncharged acts are
10 similar to the charged offenses.

11 Here we know that the prior acts described by Ms. Christina
12 Marie Flores, and those which will be proffered, what the victim
13 said to her neighbor, are admissible to show defendant
14 Mirkarimi's propensity to commit acts of domestic violence. And
15 the Court doesn't say they have to be broken bones or homicidal
16 rages. It's prior acts of domestic violence against his
17 intimate female partners.

18 The legislative history, Your Honor, of 1109 recognizes the
19 special nature of this section. And I think it's very important
20 to state the legislative history of the section, quote -- and
21 this is the Assembly Committee on Public Safety, June 25 of
22 1996:

23 "The propensity inference is particularly
24 appropriate in the area of domestic violence because
25 ongoing violence and abuse is the norm in domestic
26 violence cases. Not only is there a great likelihood
27 that any one battering episode is part of a larger
28 scheme of dominance and control, that scheme usually

1 escalates in frequency and severity. Without the
2 propensity inference, the escalating nature of
3 domestic violence is likewise masked. If we fail to
4 address the very essence of domestic violence, we
5 will continue to see cases where perpetrators of
6 domestic violence will beat their intimate partners,
7 even kill them, and go on to beat or kill the next
8 intimate partner. Since criminal prosecution is one
9 of the few factors which may interrupt the escalating
10 pattern of domestic violence, we must be willing to
11 look at that pattern during the criminal prosecution
12 or we will miss the opportunity to address this
13 problem at all."

14 Thus, Your Honor, in this case the defendant is charged with
15 inflicting corporal injury, battery, on Ms. L, his wife, an
16 offense of domestic violence.

17 There's evidence that he committed a prior act against
18 Ms. L, and the inference by a preponderance that he also
19 committed acts of physical violence with Ms. Flores.

20 And these prior acts of domestic violence each resulted in a
21 bruise on the women's arm. Neither of these acts were charged.

22 As stated, Your Honor, with the legislative history,
23 uncharged acts of prior DV are admissible so long as the acts
24 are similar to the charged crime and inflicted upon persons
25 similarly situated as the victim.

26 Ms. Flores was a long-term girlfriend in a
27 girlfriend/boyfriend relationship, Ms. L in a married
28 relationship. The injuries are similar. Ms. L's was caused

1 during a pushing -- grabbing, pushing and pulling during a
2 heated argument, all injuries.

3 The prior acts, Your Honor, were committed, again, against
4 the former girlfriend and former wife, and just as we argued
5 with *People v. Johnson*, this is indicative, as the Court said in
6 *Johnson*, quote, "of cases where perpetrators of this violence
7 will beat their intimate partners, even kill them, or go on to
8 kill the next intimate partner."

9 And his behavior, defendant Mirkarimi's behavior, as
10 described by Ms. Flores, not suggesting that every disagreement
11 she had with him was unpleasant. That was not her testimony.
12 But the four incidents were demonstrative of his behavior when
13 things didn't seem to go his way.

14 And because she's not a shrinking violet, she felt the need,
15 in her own opinion, perhaps Your Honor had suggested that almost
16 to come to the aid of a lady she didn't even know. It caused a
17 visceral impact on her when she read the paper and felt, oh, my
18 goodness, this lady is -- she was going to allow it to go
19 forward but she felt, quote, this woman -- let's -- she did not
20 know her name at this point, but let's call her the victim,
21 Ms. L. Here she is, let it take its course and let the courts
22 deal with it.

23 But when she read, far from it, she has recanted, minimized,
24 accused as part of a larger conspiracy and the country is
25 against her, that's when Ms. Flores, not for any motive or
26 scheme to set up a prior boyfriend, but she felt a need to come
27 forward and say thoroughly what she had been subjected to by
28 this pit bull behavior on four instances, one of which caused

1 the bruise.

2 So, Your Honor, because of the evidence of defendant's prior
3 conduct against Ms. Flores, the prior conduct against Ms. L that
4 she specifically referenced a specific month and year it
5 happened. It's not the first time this is happening. He needs
6 help. We need help, that it's completely probative and more
7 probative than any suggested prejudice that could possibly be
8 alleged by defense attorney. And the incidents of domestic
9 violence were relatively recent.

10 We have a case, Your Honor, if it's suggested as to Ms. L
11 that because we don't have all the particulars of what the
12 defendant did in March of 2011, the suggestion may be by
13 defense, it can't come in. It's speculative. It's prejudicial.
14 She didn't give details about what he did.

15 There's a specific case on point which allows prior -- oh,
16 thank you -- which allows prior evidence under 1109, propensity
17 evidence, even if it's not related to the physical abuse. In
18 one instance the Court felt that the kicking of a dog, an actual
19 physical kicking of abuse to an animal, by the defendant was
20 sufficient propensity evidence to be admitted in a court of law
21 involving violence of an individual. Because, again, to shroud
22 an accused, who has a right, of course, to their fair trial, but
23 not to shroud them with this protective cloth of, it never
24 happened before; it's a crazy woman, type of defense.

25 So the case we wish to cite -- I will have the cite, Your
26 Honor. But one of the cases -- okay. I will get the cite, Your
27 Honor. But it did permit testimony concerning prior abuse even
28 without the particulars.

1 The Court is well within its rights, I'm confident. This
2 was a 402, Your Honor. The People would certainly narrow the
3 scope of any testimony to make it appropriate for the jury.
4 There was much more testimony during the course of Friday and
5 even today that perhaps the Court may narrow.

6 But we ask the Court to exercise its sound discretion and
7 appropriate ruling to allow the testimony of Ms. Flores on the
8 four prior incidents, and the testimony from one, possibly two
9 witnesses, concerning the reference Ms. L said that it happened
10 before. And "it" being physical abuse.

11 **THE COURT:** Ms. Stiglich?

12 **MS. STIGLICH:** Your Honor, Mr. Mirkarimi didn't kick a dog.
13 And I know the case they're referring to. But just by means of
14 example, kicking a dog is something specific. It's something
15 you can reply to. Kicking someone's family dog is something
16 that at least in that Court's estimation constituted an act of
17 intimidation. So it's not relevant here.

18 What we have here, the People have gone from trying to
19 introduce this alleged physical act between Ms. Flores and
20 Mr. Mirkarimi that occurred approximately four years ago and
21 have referenced this comment that is alleged to be made by Ms. L
22 in regard to, quote, "It happened before," or words to that
23 effect.

24 With respect now to Ms. Flores, they're trying to introduce
25 three instances of verbal violence, and we've called them here
26 one, two and four, and one act of physical violence which we
27 deemed number three.

28 In that regard we've had an evidentiary hearing, and I would

1 submit to the Court with respect to Ms. Flores that items one,
2 two and four quite simply don't meet the definition of domestic
3 violence that's laid out in 1109 in the statute, and certainly
4 they would not pass muster under 352 in this instance.

5 1109 was not intended to introduce arguments between couples
6 or bad relationships. It's the type of evidence that jurors can
7 use for propensity, and the danger of admitting propensity
8 evidence, as well, is that it can be misused.

9 So merely stating that they fought about different things on
10 different occasions, that it was verbal and not physical, Your
11 Honor, I think vitiates against it, A, because it doesn't meet
12 the definition set out in the statute which references the
13 Family Code, that it is an act of domestic violence as
14 contemplated by 1109.

15 So I want to jump forward to act number three, which is the
16 alleged physical act. I did brief in my papers really only with
17 respect to that act. And I think even with respect to what is
18 alleged, an arm grab and in this case a minor bruise, there is
19 some question whether or not that conduct actually meets the
20 definition of "domestic violence." And it's outlined very well
21 in my brief.

22 But for purposes of argument, it really comes down to a 352
23 analysis. And, Your Honor, there's six reasons why, or more, it
24 should not be admitted.

25 One -- and the Court is to consider both passage of time and
26 corroboration when the Court looks at admission of this type of
27 testimony.

28 The People have offered no corroboration for Ms. Flores'

1 claims. Ms. Flores herself testified that she didn't tell --
2 and I'm speaking to item number three -- that until she read
3 about it in the paper and contacted inspectors, she had not
4 related this incident of physical violence to anyone, not to
5 friends that she got together with to complain about
6 Mr. Mirkarimi's behavior, not to her ex-husband, who's a
7 long-time Domestic Violence Inspector in San Francisco. She
8 didn't write about it in her emails. She didn't write about it
9 in the breakup poem when she broke up with him.

10 So I note there was no corroboration proffered for her
11 claims. The contemporaneous evidence -- two, the
12 contemporaneous evidence is presented as inconsistent with her
13 new allegations.

14 We have emails spanning the whole period in this situation.
15 All those descriptions that she gave here on the stand are
16 profoundly inconsistent with characterizations in those emails,
17 nor do they reference physical violence.

18 Third, her testimony here does not emanate from an
19 independent source. Ms. Flores herself admits she first told
20 somebody about this alleged prior conduct only after she read a
21 newspaper article describing the alleged Lopez incident.

22 So while the prosecution argues both here in court and in
23 its brief that there are supposed similarities between the
24 alleged incidents, that's no surprise. Her accusation wasn't
25 made until after she had already read published newspaper
26 accounts of the incident.

27 So any similarities between the two really doesn't
28 necessarily vitiate evidence to this Court admitting it.

1 Courts have long recognized that when a witness in this
2 context does not come forward until he or she has knowledge of
3 the charged offense, the probative value of the prior acts
4 evidence, in this case the 1109 material, is undermined.

5 Four, you have passage of time. In light of the conduct
6 that was described here, an alleged spontaneous incident with a
7 different person resulting in a minor bruise, you're talking
8 about a passage of four years of time. And I think for our
9 purposes here it renders the incident remote, remote in offering
10 us some insight or direction into whether or not what
11 happened -- to inform the Court or the jury what happened
12 between Mr. Mirkarimi and Ms. Lopez on December 31st, 2011.

13 That's allegedly why we're bringing it in here is they're going
14 to inform that situation, and I would submit that it doesn't.

15 Fifth, any probative value with respect to her description
16 of the incident has to be weighed against her vague and changing
17 descriptions. She spoke to inspectors after not having told
18 anybody ever. She initially says she can't recall when it
19 happened, what they were arguing about initially -- and, again,
20 we have citations to the record in our brief -- which arm was
21 supposedly grabbed.

22 And in that vague account now we have one statement, "It
23 happened. I'm not sure."

24 The next statement, "I think it happened in January. On
25 Friday -- it happened in February."

26 So we have an ever-changing account. We don't have anything
27 put forth until it comes here to court.

28 Finally, I think what has been shown here is there is a

1 strong motivation to fabricate in this regard. You have a
2 relationship where it's clear one party is talking about the
3 other party not wanting to be seen with her, getting dropped off
4 at the corner, lying about the relationship.

5 You have another party, Ms. Flores, who is consistently
6 sending emails trying to jump start the relationship and finally
7 only breaks it off after she's allegedly told by the defendant
8 that he's going to be starting a family with Ms. L.

9 And at that point in time sends the poem that she described
10 as in late December, that we talk about where basically -- I
11 think a reasonable interpretation is she's threatening to get
12 even with him.

13 So due to the inherent risks and all the comments that we've
14 made here, this type of conduct should only be admissible and is
15 only admissible if it has substantial probative value.

16 And I think the Court here has to question whether or not in
17 fact it does. And if there's any doubt, the evidence should be
18 excluded. And that, I believe, is supported by case law.

19 So here with respect to incident three, which arguably meets
20 the definition under 1109, the probative value is minimal or
21 nonexistent, and there's many reasons to doubt the account, and
22 her testimony in that regard in total should be excluded under
23 Evidence Code Section 352.

24 Further, the admission of that testimony creates a
25 substantial danger of undue prejudice and confusion of the
26 issues for the jury.

27 First, any time you have an uncharged act, there's always a
28 danger that the jury may want to punish the defendant for that

1 act. They may want to punish the defendant because the
2 defendant didn't get charged or didn't get convicted of that
3 act. So the absence of a conviction increases the likelihood
4 that the issues can be confused --

5 (Reporter interruption)

6 **MS. STIGLICH:** -- in that the jury has to determine whether
7 or not in fact the acts occurred.

8 Second, while her account of the incident, Ms. Flores'
9 account of the incident, is vague, it's arguably stronger than
10 any admissible evidence that relates to the charged offense
11 where you have a situation where the evidence of the charged
12 offense is marginal or weak, the largely prejudicial impact of
13 the Flores evidence is increased.

14 **THE COURT:** Is it increased? Is that what you said?

15 **MS. STIGLICH:** I'm sorry. The prejudicial impact is
16 increased.

17 This is coupled with a situation where we may or may not
18 have the alleged victim in the case at bar testifying at trial.
19 And you have a danger that Ms. Flores is going to be the
20 stand-in as a result of that and, again, further confuse and
21 prejudice the jury.

22 Third, Ms. Flores' testimony relating to this account, her
23 descriptions are highly inflammatory, and they largely are in
24 unflattering terms, calling him a pit bull. He rages all the
25 time because he's very, very volatile.

26 These type of descriptions, if any, increase the chance that
27 the jury is going to be unable to separate and evaluate that
28 evidence in a manner that's appropriate and as directed by the

1 judge.

2 And so there is going to be this issue about the jurors
3 identifying with this offensive character as described by
4 Ms. Flores and, hence, tending to disbelieve evidence in his
5 favor.

6 Finally, just with respect to Ms. Flores' testimony, it's
7 clear that at trial it's -- there is an issue that it could
8 confuse the jury and is going to necessitate an undue
9 consumption of time.

10 With respect to Ms. Flores' account while we've been here
11 the 402 hearing has taken a fair amount of time. At a trial the
12 defense is going to have to present a substantial amount of
13 evidence in the form of additional emails of eyewitnesses that
14 would undermine Ms. Flores' testimony.

15 So given the prosecution's lack in this regard of admissible
16 evidence at this point, and certainly the strength of the
17 evidence relating to the charged conduct, the trial would
18 effectively become an adjudication of the Flores incident and
19 not an adjudication of what occurred on December 31st, 2011.

20 So, additionally, because that testimony would confuse the
21 issues and would consume an undue amount of time, it should be
22 excluded.

23 Now, the rest of the arguments are in my brief, Your Honor,
24 and I know that you're thorough and you read my brief.

25 What is absent from the People's brief -- and, accordingly,
26 not responded to adequately. I did in a footnote respond to
27 it -- is the record as to this alleged act of 1109, or this 1109
28 uncharged conduct as to Ms. L that the People are now seeking to

1 introduce, they've asked you to introduce conduct because that's
2 what 1109 is, conduct with respect to some statements that
3 they've made, "Oh, it's happened before."

4 They have not produced one stich of evidence in this court
5 with this motion such that we can even consider that request.
6 They have not brought on a witness. They have not produced
7 anything -- accompanying this motion, there's not one citation
8 to a record, not something for you to include, aside from a
9 vague, "It happened before."

10 Well, what happened before? Did we argue? Did we fight?
11 Is there a bruise? Is there -- we don't know because they're
12 asking you to interpret, and they're asking you to interpret
13 something that's not even before this Court on this record.

14 There is no evidence in the record here that this Court
15 could conclude that this alleged -- she's indicated this alleged
16 act, this "it" that happened before, A, meets the definition of
17 domestic violence under Section 1109; B, is not 352. Is there
18 corroboration to that incident? We don't know. We don't have
19 enough information to make that determination.

20 And, accordingly, because on that the People have the burden
21 of producing evidence in that regard such that you can rule on
22 this matter. There is none. And they are asking this Court to
23 speculate and include that evidence here at this trial.

24 We can't address the basic questions with respect to
25 reliability of that statement because we don't even know what
26 the statement is, what it means or the surrounding context. And
27 the People haven't provided any evidence here from which you can
28 make that determination.

1 So with respect to the matters of Ms. Flores, items one, two
2 and four, I'd submit to the Court you can always have people
3 come in and talk about arguments. That's not what 1109 is
4 about. Those allegations don't meet the basic definition under
5 1109 of domestic violence.

6 Item number three, for the reasons stated under 352 I
7 believe should be excluded. The code itself under 1109 requires
8 corroboration and talks about remoteness of time.

9 Corroboration is lacking, and it is remote in time compared
10 to this incident and all the other reasons give it cause to be
11 suspect and should be excluded.

12 And, finally, with respect to Ms. Lopez, quite simply,
13 there's no record from which we can conclude that it is relevant
14 or admissible here. People haven't even met their burden to
15 even have this conversation.

16 Submitted, Your Honor.

17 **MS. AGUILAR TARCHI:** Brief rebuttal, Your Honor, since we do
18 have the burden.

19 Section 1109 does not articulate a cutoff. And that's,
20 again, because it does cut off in terms of a time period for
21 prior incidents of propensity because that is left to the sound
22 discretion of the Trial Court.

23 **THE COURT:** Well, now, wait a minute. It's ten years under
24 Section 1109(e).

25 **MS. AGUILAR TARCHI:** And certainly the incidents of which
26 Ms. Flores testified to are not ten years or older.

27 Finally, there's no independent requirement of
28 corroboration. Particular case in -- it was a murder case, the

1 *Brown* case. It's 19 -- excuse me. It's a February 2011 case,
2 192 Cal.App.4th at page 1222.

3 In that case the Court allowed propensity evidence,
4 statements from a co-worker about the decedent's having been
5 strangled before during an argument, without specifics, allowing
6 a statement that the decedent had told a former boyfriend that
7 she couldn't greet the accused, the defendant that did the
8 homicide, in public because it would be harmful to her. And
9 that -- another comment, that the defendant had threatened her
10 life because she broke off their relationship, and that the
11 defendant had told the victim she would kill other people --
12 other people if she dated other persons.

13 So this suggestion that you have to have numerous witnesses
14 and corroboration is simply not the requirement.

15 The People submit that the priors of propensity, including
16 that statement of Ms. L, come in on a preponderance of the
17 evidence.

18 There is enough, Your Honor, to go to the triers of fact.
19 The Court will read in its instructions a very important
20 instruction on how to assess the credibility of every witness
21 that testifies. I think there's -- I didn't count them, but
22 they number about 15, 16 different factors, some of which
23 include a witness's -- how they testify on the stand, their
24 treatment -- how they behave while testifying, any bias or
25 motive they may have for not telling the truth, how well a
26 witness testifying may recall facts.

27 So the concern that defense counsel argues would be
28 prejudicial. The triers of fact will be instructed by Your

1 Honor on how to assess the credibility of each witness that
2 testifies, and there are also, as the Court well knows, specific
3 instructions that go to the jury on how they -- um -- deal or
4 assess propensity evidence.

5 Hypothetically, the same with an expert. If the People call
6 an expert, the Court has an instruction on how the jury handles
7 the testimony of the expert.

8 There are guiding rules so that the jury does not commit any
9 acts of prejudice and understands why the law is what it is, and
10 they apply the law to the facts that they take as true.

11 So the so-called "danger" of presumed trial within a trial
12 or a danger of a jury accepting as true would not happen if they
13 do, in fact, as they will be told, follow the instructions of
14 the Court.

15 And I'll recall, as it relates to Ms. Lopez's statement,
16 Ms. Stiglich is correct, the victim, Ms. L, has always been
17 unwilling, reluctant to come forward, minimizing, accusing --
18 several reasons.

19 She has chosen not to be interviewed, although she was asked
20 to give a statement the very day that Ms. Madison made a call to
21 the Domestic Violence Response Unit. The People, as we would
22 with other cases -- the Court has already made certain rulings
23 on the type of -- excuse me -- statements that would come in and
24 the physical evidence that would come in.

25 So it's no surprise how the People plan to proceed. And,
26 again, the Court will have instructions on how to handle direct
27 evidence and circumstantial evidence.

28 If a jury in reviewing, at an appropriate time, statements

1 made by the victim spontaneous about what happened, how he did
2 this before, "It happened before," as she's pointing to her arm,
3 they can draw the logical, reasonable inference of what "it" is.

4 And, thus, Your Honor, the People urge the Court based on
5 the proper authority it has before it, 1109, to allow Ms. Flores
6 to testify, not in a vacuum because then it would be proffered
7 that she just made up one incident, but she shows how there was
8 not only a loving relationship, presumably, between her and the
9 defendant, or just say what happened on a certain date, not that
10 he's a bad man but that a certain criminal act or acts occurred.
11 And that it goes to the case not only of the DV charge, but to
12 the dissuading.

13 And we'd ask that the Court admit the evidence, Your Honor.

14 **THE COURT:** Anything else?

15 **MS. STIGLICH:** Just three brief comments.

16 One, Your Honor, it's difficult to address case law that's
17 cited for one proposition in a brief and then a different one in
18 the courtroom. So with respect to *Brown*, I can't respond to it.
19 I don't have that case in front of me.

20 Ms. L has said she would testify if the prosecution would
21 give her immunity, which they have denied to do.

22 And, finally, 1109(d)(3) indicates that subject to a hearing
23 conducted pursuant to Section 352, which shall include
24 consideration of any corroboration and remoteness in time.

25 So you do have to consider corroboration. You do have to
26 consider all the factors that we raised.

27 And for the reasons stated, I would note even in this
28 colloquy, the People have still not told you what evidence it is

1 that they're presenting. Them telling you is not evidence.
2 There's no witness, no declaration, no attachment, and they're
3 telling you, we want to put it in so the jury can speculate on
4 it and draw inferences. And we're talking about "it" but "it"
5 is not even before you.

6 This is a hearing at the point where we talk about evidence.
7 This is a hearing where we look at the evidence. And they've
8 provided no evidence to support that theory.

9 Submitted, for real.

10 **MS. AGUILAR TARCHI:** Submitted, Your Honor.

11 **THE COURT:** Thank you.

12 All right. Well, the Court appreciates the arguments here.

13 Let me say that CALCRIM instruction 852, evidence of
14 uncharged domestic violence, takes care of whatever the jury's
15 going to do.

16 But that's not before the Court. The Court is here to
17 determine whether the introduction of the four incidents that
18 have been identified by the parties in this case shall be
19 admitted.

20 And Evidence Code Section 1109 simply allows the
21 introduction of evidence of defendant's commission of prior acts
22 of domestic violence in a criminal action, charging a defendant
23 with an offense involving domestic violence.

24 And I don't think -- I think the parties here would agree
25 that this is an offense involving domestic violence. That's
26 Count 1, violation of Penal Code Section 273.5, as a
27 misdemeanor.

28 And once I've done that, the code also says that I have to

1 determine whether -- weigh the evidence whether the evidence
2 should come under Evidence Code Section 352.

3 The prejudice which exclusion of evidence under Section 352
4 is designed to avoid is not the prejudice or damage to the
5 defense that naturally flows from relevant, highly probative
6 evidence. All evidence which tends to prove guilt is
7 prejudicial or damaging to a defendant's case. Of course, it
8 makes sense, the stronger the evidence, the more it is
9 prejudicial.

10 The prejudice referred to in Section 352 applies to evidence
11 which uniquely tends to evoke the emotional bias against the
12 defendant as an individual and which has very little effect on
13 the issues. In applying Section 352, "prejudicial" is not
14 synonymous with "damaging."

15 And *People v. Poplar* is a decision that reiterates that
16 comment or remark. That's a 1999 decision, 70 Cal.4th 1129,
17 1138.

18 The Court will -- has evaluated the corroboration issues and
19 the remoteness in time. However, Section 352 requires the
20 exclusion of evidence only when its probative value is
21 substantially -- and I emphasize "substantially" -- outweighed
22 by its prejudicial effect.

23 Evidence is substantially more prejudicial than probative
24 only if, broadly stated, it poses an intolerable risk to the
25 fairness of the proceedings or the reliability of the outcome.
26 And that's a case that's cited by defense, *People v. Tran*, 2011
27 decision, 51 Cal.4th 1040 at 1047.

28 I cannot say in this instance that the evidence I have heard

1 poses an intolerable risk to the fairness of the proceedings or
2 the reliability of the outcome in this case.

3 Mind you, as an aside, I know that there's some reference to
4 Ms. L's testimony, but all of that is before the Appellate
5 Division now. I will reserve ruling on that matter.

6 What I am concerned about is the four incidents that have
7 been testified to by Ms. Flores over Friday and today.

8 The Court will comment that there were three verbal abuse --
9 three instances of verbal abuse and one verbal and ultimately a
10 physical abuse allegation raised by Ms. Flores.

11 The Court will find that the evidence is extremely
12 probative, showing defendant's propensity for verbal abuse that
13 would result in rage and violence against an intimate female
14 partner.

15 The prior incidents of domestic violence were not the sort
16 to evoke an emotional bias against defendant.

17 The Court, having weighed the evidence as required under
18 Evidence Code Section 1109 and 352, grants the People's motion
19 to admit Ms. Flores' testimony as to the four different
20 incidences that were testified to on Friday and today.

21 And that will be the Court's ruling in this case.

22 With respect to Ms. L's, I think I will reserve a ruling on
23 that. As I mentioned before, the matter of her testimony or the
24 statements that have been made on a videotape are still at issue
25 and before the Appellate Division. The Court is not in a
26 position now to make a ruling on that.

27 Very well. Let me just go off the record.

28 (Discussion off the record between Court and counsel.)

1 **THE COURT:** Back on the record.

2 All right. So tomorrow we will see each other again at --
3 let's see. We are to meet the jury at 9:00 o'clock tomorrow
4 morning. If you could come at 8:30, the parties, so that we can
5 understand where you're at with respect to further excuses for
6 the jurors.

7 I did have a number of folks that we excused for hardship
8 this morning. Somehow I think some of our jurors thought about
9 it over the weekend and decided that they wanted out, but we'll
10 have to work through that.

11 So, yes.

12 **THE CLERK:** I gave them a list of the names.

13 **THE COURT:** Oh, you have them. Okay. Good. I'm glad.

14 Yes, ma'am?

15 **MS. AGUILAR TARCHI:** I apologize, Your Honor.

16 Just briefly on an administrative matter, may Ms. Stiglich
17 and I see the Court for a moment in the back? It would take a
18 minute. It is relevant.

19 **THE COURT:** Okay.

20 All right. Thank you very much.

21 Thank you to the press. We appreciate you being here.

22 (Proceedings concluded at 4:09 p.m.)
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1 State of California)
2 County of San Francisco)
3
4

5 I, Loretta Najera, Official Reporter for the Superior Court
6 of California, County of San Francisco, do hereby certify:

7 That I was present at the time of the above proceedings;

8 That I took down in machine shorthand notes all proceedings
9 had and testimony given;

10 That I thereafter transcribed said shorthand notes with the
11 aid of a computer;

12 That the above and foregoing is a full, true, and correct
13 transcription of said shorthand notes, and a full, true and
14 correct transcript of all proceedings had and testimony taken;

15 That I am not a party to the action or related to a party
16 or counsel;

17 That I have no financial or other interest in the outcome
18 of the action.
19
20

21 Dated: March 7, 2012
22

23 
24 Loretta Najera, CSR No. 5153
25
26
27
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