

BEFORE THE ETHICS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
STATE OF CALIFORNIA

In the Matter of Charges Against
ROSS MIRKARIMI,
Sheriff, City and County of San Francisco

City and County of San Francisco
Special Meeting of the Ethics Commission
Wednesday, July 18, 2012 - 5:06 p.m.
Volume VI (Pages 988-1199)

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1 BE IT REMEMBERED that on Wednesday, July 18,
2 2012, commencing at the hour of 5:06 p.m. thereof, at
3 CITY HALL, 1 Dr. Carlton B. Goodlett Place, Room 400,
4 San Francisco, California, before me, MARLENE PUAOI, a
5 Certified Shorthand Reporter in and for the State of
6 California, the following proceedings were had of
7 record.

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9
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8 BY: PAULA CANNY, Attorney at Law

8 ---o0o---

9 Commissioners Present

10 Benedict Y. Hur, Commission Chairman
11 Jamienne S. Studley
12 Beverly Hayon
13 Dorothy S. Liu
14 Paul A. Renne

13 Staff Present

14 John St. Croix, Executive Director
15 Catherine Argumedo, Legal Analyst/Ethics Investigator
16 Mabel Ng, Deputy Executive Director

16 Also Present

17 Ines S. Swaney, Certified Spanish Interpreter

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

4 COMMISSIONER HUR: Good evening. I'd like to call
5 to order the continued special meeting of the
6 San Francisco Ethics Commission. We'll begin by taking
7 the roll.

8 (Roll taken)

9 COMMISSIONER HUR: All commissioners being present,
10 we are ready to begin.

11 Counsel, before we start with the testimony of
12 Ms. Haynes, are there any issues that need to be
13 addressed?

14 MR. KOPP: I don't think so on behalf of the
15 sheriff. Thank you.

16 MR. KEITH: None for the mayor.

17 COMMISSIONER HUR: Who will be conducting the
18 examination for the mayor?

19 MS. KAISER: Of which witness?

20 COMMISSIONER HUR: Ms. Haynes.

21 MS. KAISER: I will.

22 COMMISSIONER HUR: Ms. Kaiser, do you have an
23 estimate on how long you expect to be with her?

24 MS. KAISER: I don't know for sure. I would guess
25 an hour and a half to two hours.

1 COMMISSIONER HUR: Okay.

2 MS. KAISER: And I'll try and speak into the
3 microphone.

4 COMMISSIONER HUR: An hour and a half to two --
5 it's a one-page declaration, Ms. --

6 MS. KAISER: That's part of the problem.

7 COMMISSIONER HUR: -- Kaiser.

8 MS. KAISER: Right.

9 COMMISSIONER HUR: Okay. Well, we'll -- we'll see
10 how it goes.

11 MS. KAISER: Okay. I will do what I can to be
12 speedy. I understand that we want to finish.

13 COMMISSIONER HUR: Thank you very much. Appreciate
14 that.

15 Okay. Then without further ado, if Ms. Ng could
16 invite Ms. Haynes into the hearing room.

17 Before we swear the witness, I'd like to instruct
18 the sheriff's department to please remove anyone from --
19 from the hearing room who makes any outbursts.

20 Again, for the public, we -- we certainly
21 appreciate your presence. Given that we are engaging in
22 live testimony here, we're going to have a very strict
23 rule about any noises or outbursts from -- from the
24 crowd, and we hope you understand that.

25 So please, do not wait for instruction from me.

1 Just if you hear somebody, please remove them.

2 MR. KOPP: And I'm sorry, Chairperson Hur. Having
3 just spoken with Mr. Safire, counsel for Ms. Haynes, I
4 think he would like to address the commission prior to
5 her taking the stand.

6 MR. SAFIRE: If I may be heard?

7 COMMISSIONER HUR: Very well.

8 MR. SAFIRE: Good evening, Mr. Chairman. My name's
9 Eric Safire, and I represent Ms. Haynes relative to
10 these proceedings.

11 We received subpoenas from the -- both parties in
12 this case, I think signed by yourself, and it was our
13 understanding that -- that the purpose of the testimony
14 is to be cross-examined relative to issues that were
15 raised in Ms. Haynes' declaration.

16 But since that time, it's become clear that the
17 issue, at least according to the mayor's statements, has
18 to do with the conviction of the sheriff and the --
19 whether or not that conviction rises to the level of
20 conduct that requires termination, and in that regard,
21 Ms. Haynes has no relevant testimony.

22 So unless there are issues that relate strictly to
23 her declaration, she has no relevant testimony to be
24 cross-examined upon.

25 COMMISSIONER HUR: I'm not sure you're familiar

1 with the amended charges that the mayor has filed, but
2 in those charges, the mayor alleges that Ms. Haynes was
3 involved in a -- in acts to intimidate witnesses at the
4 direction of the sheriff. As a result, Ms. Haynes is on
5 the mayor's witness list as well, so there is going to
6 be some examination beyond the scope of direct.

7 And as a result, although I wouldn't comment on the
8 relevance of her testimony until we hear questions, I
9 think there's enough foundation for -- for her to be
10 here and to be -- to be questioned.

11 MR. SAFIRE: So she will be cross-examined, or she
12 will be examined, I should say, about issues regarding
13 the conversations on January 4th and the issues raised
14 in her declaration, and it's not just limited to the --
15 as we read in the paper, the process of the conviction.

16 COMMISSIONER HUR: I will not comment what was in
17 the paper, but what -- my understanding is that she's
18 going to be examined on the topics that I've just
19 addressed.

20 MR. SAFIRE: Okay. Very well.

21 COMMISSIONER HUR: Thank you.

22 And I'm sorry. One last thing. Counsel, do you
23 need all of the seats that are behind you? I understand
24 there are a lot of people waiting, and so if they're not
25 needed, perhaps we can -- we can fill them if there are

1 people who want to fill them.

2 MR. KOPP: We can release, I think -- we had ten,
3 and I think we can release -- we can release three of
4 them.

5 COMMISSIONER HUR: What about from the mayor's
6 side? Any?

7 MR. KEITH: I think we only have two more seats
8 back here.

9 COMMISSIONER HUR: So you can release two?

10 MR. KEITH: We only have two more back here, and I
11 think we need them --

12 COMMISSIONER HUR: Oh, you need them.

13 MR. KEITH: -- for the mayor's office.

14 COMMISSIONER HUR: Okay. Okay. So we can make
15 room for three more people, it looks like.

16 Will the court reporter please swear in the
17 witness.

18 LINETTE PERALTA HAYNES,
19 having been first duly sworn by the court reporter,
20 testified as follows:

21 ---o0o---

22 CROSS-EXAMINATION BY MS. KAISER

23 MS. KAISER: Q. Good evening, Ms. Haynes. My name
24 is Sherri Kaiser. I'm counsel for the mayor in these
25 proceedings.

1 A. Good evening.

2 Q. This setup can be a little bit awkward, so if
3 I stray away from the microphone and you can't hear me,
4 please let me know.

5 A. Sure.

6 Q. I appreciate your coming in. I know that this
7 isn't really anyone's favorite activity, so thank you
8 for being here.

9 I wanted to start by asking you other than your
10 attorney, Mr. Safire, who have you spoken to to prepare
11 your testimony here today?

12 A. I pretty much prepared by myself, and if I had
13 any conversation, it was with my wife.

14 Q. Did you talk to the sheriff about your
15 testimony here today? By "sheriff," I mean Sheriff
16 Mirkarimi.

17 A. No.

18 Q. Did you talk to Eliana Lopez about your
19 testimony here today?

20 A. No.

21 Q. Did you talk to any of their attorneys?

22 A. No.

23 Q. Are you familiar with the prior testimony or
24 the evidence that's already been submitted in this case?

25 A. Some evidence, but I haven't really been

1 following the case that closely.

2 Q. What have you reviewed?

3 A. I have reviewed, I guess, the evidence,
4 Exhibit 80 and 81. I think 81, I was concerned with,
5 because that's something that's -- that I'm involved in.

6 Q. 80 and 81, I think those are the text
7 messages --

8 A. Yes.

9 Q. -- back and forth --

10 A. Yes.

11 Q. -- that Sheriff Mirkarimi produced.

12 A. Yes.

13 Q. Okay. Did you review the declaration of Ivory
14 Madison?

15 A. No, I did not.

16 Q. Did you review Eliana Lopez's declaration?

17 A. No, I did not.

18 Q. Did you review Callie Williams's declaration?

19 A. No, I definitely did not.

20 Q. Thank you. Did you review the sheriff's
21 declaration?

22 A. No, I did not.

23 Q. And did you review any of the experts'
24 declarations in this case?

25 A. No, I did not.

1 Q. Okay. Thank you. But you yourself filed a
2 declaration in this case; is that correct?

3 A. I did. I did.

4 Q. Did --

5 A. And I watched a little bit of the Ethics
6 Commission, you know, like a couple of the sessions, and
7 that's about it.

8 Q. Do you remember which sessions you watched?

9 A. When Ross Mirkarimi was testifying.

10 Q. Okay. So you did review -- you watched his
11 testimony live?

12 A. On the TV, yeah.

13 Q. Okay. Did you see any other sessions that
14 included witness testimony?

15 A. I saw a little bit of the mayor's testimony
16 before the television was cut off. Yeah.

17 Q. And was there any other session that you
18 watched?

19 A. No.

20 Q. Okay. So but you did file a declaration in
21 this case. Correct?

22 MR. KOPP: That's asked and answered.

23 COMMISSIONER HUR: Sustained.

24 MS. KAISER: Q. Did you file this declaration at
25 Sheriff Mirkarimi's request?

1 A. No. Actually, my attorney -- my attorney
2 asked me to do a declaration, and then I only talked to
3 my attorney about it.

4 Q. Do you know who requested your attorney to ask
5 you to file a declaration in this case?

6 A. No, I do not.

7 MR. KOPP: Objection, calls for hearsay.

8 MS. KAISER: Q. Did your attorney tell you why he
9 was asking you?

10 MR. SAFIRE: That calls for communications between
11 my client and myself.

12 COMMISSIONER HUR: I'm sorry, sir. Can you please
13 come -- maybe get the microphone? I understand you may
14 have to make privilege objections, but there's a
15 microphone right there, if you could speak into that.

16 MR. SAFIRE: I object based on the attorney-client
17 privilege.

18 MS. KAISER: Q. We asked to -- by "we" --

19 COMMISSIONER HUR: Hold on.

20 MS. KAISER: Q. -- I mean the city attorney's
21 office --

22 COMMISSIONER HUR: Ms. Kaiser, we're considering an
23 objection.

24 Can you please read back the question?

25 (Record read as follows:

1 "Q Do you know who requested your
2 attorney to ask you to file a declaration
3 in this case?"

4 "A No, I do not."

5 "Q Did your attorney tell you why he
6 was asking you?")

7 COMMISSIONER HUR: Sustained.

8 MS. KAISER: Q. On behalf of the mayor, the City
9 Attorney's Office contacted you and asked you to speak
10 to our office and our investigators voluntarily; isn't
11 that correct?

12 A. Can you repeat the first part of the question?

13 Q. Yes. On behalf of the mayor, the City
14 Attorney's Office contacted you and asked you to speak
15 with us voluntarily; isn't that correct?

16 A. Yes, it is.

17 Q. And you declined to do so; isn't that right?

18 A. Yes, I did. Respectfully.

19 Q. Are you familiar with the contents of the
20 declaration that you submitted in this case?

21 A. Yes, I am.

22 Q. Did you submit it under penalty of perjury?

23 A. Yes, I did.

24 Q. And I intend to quote passages here and there
25 from your declaration. As we've already discussed, it's

1 only one page. I have extra copies if you want to refer
2 to it. But I just wanted to let you know to stop me if
3 I say anything that you think doesn't sound right or if
4 you want to refer to what the declaration itself says.

5 A. Okay.

6 Q. Okay? I'm happy to make it available to you.

7 So the first thing your declaration says is that
8 you served as the campaign manager for Ross Mirkarimi's
9 successful campaign for sheriff during the fall 2011
10 election; is that correct?

11 A. Yes, I did.

12 Q. Had you done similar work in the past?

13 A. Yes, I --

14 MR. KOPP: Objection, relevance.

15 COMMISSIONER HUR: Give you some leeway. It's
16 overruled.

17 THE WITNESS: Yes, I've actually served -- I've
18 been a campaign manager a couple of times and have had
19 successful campaigns.

20 MS. KAISER: Q. And have those always been in San
21 Francisco?

22 A. Yes.

23 Q. Okay. How many times have you served as a
24 campaign manager in the past?

25 A. It'll be a total of three times.

1 Q. Okay. And how does one become a campaign
2 manager?

3 MR. KOPP: Objection, relevance.

4 COMMISSIONER HUR: Counsel, where -- where are we
5 going with this?

6 MS. KAISER: I'm laying a foundation for bias.

7 COMMISSIONER HUR: Okay. Get there quickly.

8 Overruled.

9 THE WITNESS: What's the question once more?
10 Sorry. Got a little distracted.

11 MS. KAISER: Could you read the question, please?

12 (Record read as follows:

13 "Q And how does one become a
14 campaign manager?")

15 MR. SAFIRE: Well, it's vague, Mr. Commissioner.
16 How does one be educated? How does one get hired?

17 COMMISSIONER HUR: Mr. Safire, you're permitted to
18 interpose privilege objections, but you're not permitted
19 to propound form objections. Please do not interrupt
20 unless you have a privilege objection.

21 THE WITNESS: I'm sure there's many ways that
22 people become campaign managers. I can only speak how I
23 became a campaign manager.

24 MS. KAISER: Q. Okay. How did you become a
25 campaign manager?

1 A. In all three instances, the candidate
2 approached me and asked me to be their campaign manager.

3 Q. Okay. Did that have anything to do with
4 having done a good job in the past?

5 A. No.

6 Q. No. Okay.

7 A. Unless -- unless -- well, I guess you could
8 say after being a campaign manager for one of the
9 campaigns, then I was asked to be a legislative aide
10 afterward. So in that case, I guess then you could say
11 yes.

12 Q. When did you get hired to be Sheriff
13 Mirkarimi's campaign manager?

14 A. I believe it was in September of 2011. I
15 don't know the exact date.

16 Q. And what were your duties?

17 A. My duties were for the most part organizing:
18 Field-work organizing; bringing in volunteers,
19 recruiting volunteers, keeping them energized and
20 working and inspired; and managing events.

21 Q. Are there other kinds of campaign managers?

22 MR. KOPP: Objection, vague.

23 COMMISSIONER HUR: Sustained.

24 THE WITNESS: I believe --

25 COMMISSIONER HUR: You don't --

1 THE WITNESS: I don't have to answer that?

2 COMMISSIONER HUR: Yes.

3 MS. KAISER: Q. Do you -- do you understand the
4 question?

5 A. I think you should repeat it.

6 Q. Okay. Are there --

7 COMMISSIONER HUR: Counsel, the objection was
8 sustained. You can rephrase your question, but --

9 MS. KAISER: Okay. It was just unclear that she
10 didn't understand, but I will do so.

11 Q. Are there other kinds of positions within
12 Sheriff Mirkarimi's campaign, to be concrete, that are
13 referred to as "campaign manager," or is there only one
14 campaign manager in a campaign?

15 A. In Ross Mirkarimi's campaign?

16 Q. Yes.

17 A. There was only one campaign manager.

18 Q. Okay. Were you paid for your services?

19 A. Yes, I was.

20 Q. And how much were you paid? Just ballpark
21 amount.

22 MR. KOPP: Objection, relevance.

23 COMMISSIONER HUR: Overruled.

24 THE WITNESS: A whopping \$6,800.

25 MS. KAISER: Q. And did the campaign pay you

1 directly or through some other intermediary?

2 A. Directly.

3 Q. Are there other benefits to being a campaign
4 manager besides a whopping \$6,800?

5 A. Really believing in your candidate; believing
6 in the issues that your candidate is promoting; trying
7 to make your community, San Francisco, a better place.
8 I -- I believe that that is a great benefit and a
9 passion of why you do this work.

10 Q. Isn't it also the case that you know people in
11 power and have influence in their decisions if you
12 successfully help them with their campaign?

13 A. I think it depends on how you define "power"
14 and how you define "influence."

15 MS. KAISER: Okay. I have a PowerPoint that I'm
16 going to try to work with because we discovered at the
17 last hearing that, you know, the exhibits were sometimes
18 unwieldy.

19 I'll try this. If it doesn't work or if the
20 commission's not satisfied with it, we'll go back to
21 using the paper exhibits. Okay? And I just beg your
22 indulgence for a moment as I try and set it up. I also
23 noticed --

24 COMMISSIONER HUR: What is the PowerPoint of?

25 MS. KAISER: The PowerPoint is of exhibits that are

1 existing and already in evidence, so excerpts from
2 Exhibit 81 and 83, predominantly.

3 COMMISSIONER HUR: Any objection from sheriff's
4 counsel?

5 MR. KOPP: No.

6 MS. KAISER: Thank you.

7 THE WITNESS: Could I have a little water? Is
8 there any water?

9 MS. KAISER: Yeah. I think we'll just try and use
10 the overhead.

11 All right. We'll try our second-line technology.
12 That looks more promising.

13 All right. Well, we'll do our best.

14 Okay. This -- unfortunately, I did not come with
15 copies of this presentation for everyone. What I can do
16 is I do have a copy that I can share with the witness,
17 but I can also tell the commission where exactly these
18 documents are located. Or if you'd prefer, we could
19 break for just ten minutes and I can make you a copy of
20 the whole set because our offices are nearby.

21 COMMISSIONER HUR: As long as you reference the
22 exhibit number, I think we'll be okay.

23 MS. KAISER: Okay. All right. Let me know if you
24 want something different. Sorry for the technical
25 difficulties. It's always a risk.

1 Q. All right, Ms. Haynes, this is a copy -- this
2 is a copy of what's on the screen that sadly is behind
3 you.

4 A. Okay.

5 Q. I didn't realize that was going to be the
6 setup, and I apologize for that.

7 A. Okay.

8 Q. My question had been about intangible benefits
9 that flow to you from being a campaign manager or,
10 really, anyone in politics. And that is, I was asking
11 you, isn't it the case that you become then connected
12 and influential with people in power and have the
13 ability to influence their decisions?

14 A. You can advocate for your communities. That's
15 why I do it.

16 MR. KOPP: Well, I don't -- I don't think there was
17 a question pending, so I'll object.

18 MS. KAISER: Q. "Isn't that the case?" was the
19 question.

20 COMMISSIONER HUR: I'm going to sustain that. I
21 got lost in that statement or question.

22 MS. KAISER: Okay. Fine.

23 Q. Moving on, then, if you'll look at the -- if
24 you'll look at the excerpt from Exhibit 81 that I've
25 given you, it is a text exchange between you and Sheriff

1 Mirkarimi that's already been submitted into evidence,
2 and I just wanted to point out to you the text that
3 begins, "Hi Ross. If you haven't made a decision on
4 your Chief of Staff, I have . . . 2 great people for you
5 to consider. Let me know if you are interested."

6 And can you read for me what the sheriff responded?

7 A. It reads, "Always interested in what you have
8 to say."

9 Q. And how did you begin your response?

10 A. I said, "Thank you."

11 Q. Right. Because it's -- it's nice, isn't it,
12 to have an elected official who's always interested in
13 what you have to say?

14 MR. KOPP: Objection, relevance.

15 MS. KAISER: Bias.

16 COMMISSIONER HUR: Overruled, Counsel, but I think
17 we're getting the point.

18 MS. KAISER: That's fine.

19 Q. Are you planning to continue doing consulting
20 and campaign work in the future?

21 A. After this experience, I'm not sure.

22 Q. What's your best guess?

23 A. I'm leaning towards maybe no.

24 Q. Okay.

25 A. It depends. I have to be really called for

1 the candidate and really believe in the candidate, and
2 that's always been who I am and why I do what I do. I
3 don't just do -- just pick anyone to -- to work for.

4 MS. KAISER: Move to strike the statement about
5 choosing your candidate and working for your candidate.
6 It wasn't responsive to the question.

7 COMMISSIONER HUR: I'm sorry. Can you please read
8 back the question?

9 (Record read as follows:

10 "Q What's your best guess?"

11 "A I'm leaning towards maybe no.")

12 COMMISSIONER HUR: Okay. I don't need the answer.
13 Thank you.

14 The objection's overruled.

15 MS. KAISER: Q. Ms. Haynes, does a political aide
16 or a campaign manager have to be loyal?

17 A. Define "loyalty."

18 Q. What does it mean to you?

19 A. You asked the question.

20 Q. But I want you to give an answer that makes
21 sense to you. And since I'm asking the questions, my
22 question for you is what does "loyalty" mean to you?

23 A. I think it depends on -- probably a candidate
24 would want or someone -- any -- anyone, I would think --
25 not just a candidate, but just a boss, an employer,

1 would want a loyal, hard-working employee. So I think
2 that spans across any profession, any commission.

3 Q. Can you explain a little bit more about what
4 you mean about "loyalty"? You said "a loyal" and
5 "hard-working employee," but you didn't explain what you
6 meant by "loyalty."

7 A. Well, to me, what "loyalty" means is actually
8 honesty. I have seen where maybe loyalty to other
9 people can -- it could be defined different ways, but
10 for me, loyalty is honesty and will always be honest,
11 not just tell a candidate what they want to hear, not
12 just do what a candidate or a supervisor or a sheriff
13 wants me to do. You would be honest and have honest
14 dialogue, and that is loyalty to me.

15 Q. Thank you. Do you think that a campaign
16 manager is supposed to protect the elected official from
17 political attacks?

18 A. While you're in the throes of a campaign, yes.
19 Most- -- mostly, I think it's about knowing the
20 political landscape and informing the candidate about
21 the political landscape and any political insights you
22 may have.

23 Q. Is part of a campaign manager's job to protect
24 the candidate or the official from scandal?

25 A. Maybe for some campaign managers.

1 Q. Did you perceive that as part of your job?

2 A. No, I did not.

3 Q. Is part of a campaign manager's job to hush
4 controversy or do damage control?

5 A. I think generally speaking for campaign
6 managers, you would work on communications.

7 Q. Did you see hushing controversy or doing
8 damage control as part of your job as campaign manager?

9 A. No, I did not.

10 Q. Do you think someone who isn't loyal or
11 doesn't protect an official from political attacks or
12 doesn't protect an official from scandal or hush
13 controversy -- do you think someone who doesn't do those
14 things would be successful in a future political career?

15 MR. KOPP: Objection, relevance. Calls for
16 speculation.

17 COMMISSIONER HUR: Sustained.

18 THE WITNESS: So answer the question?

19 COMMISSIONER HUR: No.

20 MS. KAISER: You don't need to answer.

21 THE WITNESS: Okay.

22 MS. KAISER: Q. When did you first meet
23 Eliana Lopez?

24 A. I met Eliana Lopez while I was working as
25 campaign manager for Ross Mirkarimi.

1 Q. Do you remember about when that was?

2 A. In September. Sometime in September, when she

3 was coming into the campaign office.

4 Q. Did Sheriff Mirkarimi introduce you?

5 A. I don't remember.

6 Q. Do you remember when you first spoke to her?

7 A. Not the first conversation, no, I don't

8 remember.

9 Q. What was your impression of her when you met

10 her?

11 A. She was friendly, very nice, happy.

12 Q. And how well did you get to know each other?

13 A. So what point? To what point during the --

14 Q. Well, would you describe yourself -- would you

15 describe her as your friend?

16 A. I would say we were friendly.

17 Q. But you'd stop short of saying she was your

18 friend?

19 A. Yes, she wasn't -- I mean, I met her, my --

20 the candidate's wife, and then we were friendly.

21 Q. Okay. I assume you noticed that English is

22 not her first language.

23 A. Yes.

24 Q. And how would you characterize her verbal

25 English abilities?

1 A. Good. I mean, sometimes I witnessed a couple
2 of kind of confusion -- miscommunication because of
3 language.

4 Q. Mm-hmm. Did you have any opportunity to see
5 her written English?

6 A. Never. Oh, actually, one time, one e-mail
7 about a Halloween parade, I believe, or something with
8 the campaign.

9 Q. And did you notice anything about her written
10 English abilities?

11 A. Well, you could tell English was not her first
12 language.

13 Q. Did you ever go out socially with Ms. Lopez?

14 A. No, never.

15 Q. Did you ever tell her about your professional
16 or personal background?

17 A. One time we chatted and -- we chatted and we
18 were talking about -- she was talking about her passion
19 about women's rights and about her anti-violence work in
20 Venezuela and I shared a little bit about mine.

21 Q. What did you tell her?

22 A. Basically, I shared her passion for women's
23 rights and I shared her passion -- she did some
24 anti-homophobia work as well, so I shared her passion
25 there. And also, I let her know that I had worked in

1 the field of domestic violence. And also anti-human
2 trafficking, international.

3 Q. Tell me more about your domestic violence
4 work. Where did you get that background?

5 A. I worked at Sor Juana Ines Services for Abused
6 Women, and that's a domestic violence agency that serves
7 primarily Latino women and immigrant women in San Mateo,
8 and I was a volunteer coordinator and -- I was a
9 volunteer and community education coordinator.

10 Q. How long did you work there?

11 A. I think it was about a year and a half or two
12 years.

13 Q. And when was that?

14 A. The mid-'90s or mid to late '90s.

15 Q. Do you have any formal training in domestic
16 violence?

17 A. While I worked there, we went through a
18 40-hour course, a certificate course through the State
19 of California.

20 Q. So you have a certificate in domestic
21 violence?

22 A. Yes. From back then, yes.

23 Q. Do you know the name of the certificate?

24 A. It's just a -- I -- it's just a 40-hour
25 training --

1 Q. Okay.

2 A. -- that most like domestic violence agencies
3 have their volunteers go through.

4 Q. Okay. So what of all of this do you remember
5 telling Ms. Lopez about?

6 A. I didn't go into detail. I just said that I
7 worked in the field of domestic violence.

8 Q. Okay.

9 A. And also I served as a consultant to the S.F.
10 County Jail here in San Francisco --

11 Q. Mm-hmm.

12 A. -- for the Sister program. I was a consultant
13 for their domestic violence and healthy empowerment
14 class. I created the curriculum. I actually taught in
15 the jails, tried out the curriculum, had it finalized,
16 and just trained some of the staff, and that was like --
17 I think it was like early 2000.

18 Q. Who were you working for at the time?

19 A. It was for the Sisters pod, the D pod.

20 Q. Okay. So with that amount of contact with the
21 issue of domestic violence, is it fair to say that
22 you're familiar with recanting victims?

23 A. Okay. What do you mean by "recanting"?
24 Sorry. I don't know what that --

25 Q. That victims of domestic violence often recant

1 their reports. Are you familiar with that?

2 MR. KOPP: Objection, relevance. She's not an
3 expert witness.

4 COMMISSIONER HUR: Overruled.

5 THE WITNESS: Yes, I am.

6 MS. KAISER: Q. Do you agree that batterers should
7 be prosecuted even if victims recant?

8 MR. KOPP: Objection, relevance.

9 COMMISSIONER HUR: I assume this is not going to be
10 a long line. I'm going to overrule that, but --

11 MS. KAISER: I'll keep it short.

12 COMMISSIONER HUR: -- let's move on.

13 You may answer the question, Ms. Haynes.

14 THE WITNESS: Yes, I do.

15 MS. KAISER: Q. Are you familiar with the power
16 and control wheel?

17 A. Absolutely, yeah.

18 Q. So you're familiar that physical abuse can
19 happen in relationships that are also characterized by
20 emotional abuse or sexual abuse?

21 A. Mm-hmm.

22 Q. Okay.

23 A. And verbal abuse.

24 Q. And verbal abuse, exactly. Thank you.

25 Did you communicate with Sheriff Mirkarimi by phone

1 or by text at any time between December 31st and the
2 beginning of January 4th?

3 A. I only had three text messages to Ross
4 Mirkarimi during that time, and those text messages were
5 "Happy New Year. All good things for" -- "for all of us
6 in 2012, for your family." I was wishing him good
7 wishes.

8 And then also the other two texts that were letting
9 him know that if he hadn't found a chief of staff that I
10 may have two good recommendations for him.

11 Q. Did you communicate about anything else by
12 phone? Those were the texts. Did you have any
13 additional conversations by phone?

14 A. No, I did not.

15 Q. Okay. Did you communicate with him by e-mail?

16 A. No, I did not.

17 Q. Do you routinely -- at that time, did you
18 sometimes communicate with him by e-mail?

19 A. At what time?

20 Q. That time period, December 31st to
21 January 1st, but I really mean sort of the period when
22 you were working as a campaign manager and thereafter,
23 while you stayed in contact with the sheriff.

24 MR. KOPP: Well, I think the question's vague as to
25 time.

1 COMMISSIONER HUR: Ms. Haynes, do you understand
2 the question?

3 THE WITNESS: It's kind of vague. I feel like
4 she's asking two questions.

5 COMMISSIONER HUR: Sustained.

6 THE WITNESS: So maybe you want to ask everything.

7 MS. KAISER: Q. Okay. Did you com- --

8 THE WITNESS: I'll answer --

9 MS. KAISER: I'll ask it separately, then.

10 Q. Did you communicate with Sheriff Mirkarimi by
11 e-mail between December 31st and January 4th?

12 A. No, I did not have any e-mails with him.

13 Q. Did you routinely communicate with Sheriff
14 Mirkarimi by e-mail while you were his campaign manager
15 and in the period thereafter?

16 A. Not really. It was more, you know, in the
17 campaign office when we were working, and I guess some
18 phonecalls and texts.

19 Q. Did you ever communicate with him by e-mail?

20 A. I don't -- I don't remember. I don't think
21 so.

22 Q. Did you ever communicate with Ms. Lopez by
23 e-mail?

24 A. I don't remember.

25 Q. Did you have her e-mail address?

1 A. I think there was actually one time she had
2 written me. That's when I was talking to you about the
3 Halloween. It was either the Halloween or a fundraiser
4 that she was working on. And I responded to her because
5 she wrote me, and I responded to her back. But that's
6 during the cam- -- that's prior to December 31st, so --

7 Q. Yes. I was asking in general whether you ever
8 communicated with the sheriff by e-mail, and then I
9 followed up with whether you ever communicated --

10 A. Right.

11 Q. -- with Ms. Lopez by e-mail.

12 A. Right. Those are the only two times, I think,
13 that I talked to Eliana Lopez with e-mail.

14 Q. Okay.

15 A. During the campaign time.

16 Q. Okay. The mayor subpoenaed your documents
17 regarding the events of December 31st and the arrest
18 and prosecution of Sheriff Mirkarimi, didn't he?

19 A. Yes, he did.

20 Q. And the court ordered you to produce any
21 records in your control that were from or to or between
22 anyone in regard to the December 31st incident and the
23 subsequent police investigation and prosecution; isn't
24 that correct?

25 MR. KOPP: Objection --

1 MR. SAFIRE: Objection, that calls for
2 communications between her and her attorney.

3 MR. KOPP: And I'm not sure if the question's
4 finished, but I'd object on relevance grounds.

5 COMMISSIONER HUR: Counsel, what's the -- what's
6 the relevance?

7 MS. KAISER: I'm asking her about documents that
8 she was not able to provide, and I'm first establishing
9 a foundation that the court ordered her to provide them.

10 COMMISSIONER HUR: Okay. I'm going to overrule the
11 relevance objection.

12 I would caution the witness not to reveal any
13 communications you had with your counsel in your answer.

14 MS. KAISER: That's correct. And for
15 clarification, I mean, the court excluded
16 attorney-client communications.

17 THE WITNESS: Okay.

18 MS. KAISER: Q. So is it your recollection that
19 the court ordered you to produce all your records other
20 than attorney-client communications in regard to the
21 December 31st incident and the subsequent police
22 investigation and prosecution of Ross Mirkarimi, and
23 that included your e-mails as well as any other
24 documents you might have?

25 A. Yes.

1 Q. Did you do a search for such documents?

2 A. Yes, I did.

3 Q. And what did you produce after your search?

4 Do you remember?

5 A. I didn't have any e-mails during that time

6 period that was asked.

7 What's the time period that you're asking from?

8 For the December 31st to the 1st or to the 14th?

9 MR. KOPP: Yeah, then I object. The question's

10 vague if she can't understand it.

11 COMMISSIONER HUR: Sustained.

12 MS. KAISER: Q. Would you like to review the court

13 order to refresh your recollection?

14 A. Well, I'm just asking you, what is the time

15 period you're asking me?

16 COMMISSIONER HUR: Counsel, there's no question

17 pending, so there's nothing to refresh. I would just

18 ask the question.

19 MS. KAISER: All right.

20 Q. What did you produce in response to the court

21 order?

22 MR. SAFIRE: That calls for communications between

23 herself and her lawyer. I don't know how she could

24 answer it without it.

25 COMMISSIONER HUR: Overruled. I mean, there were

1 documents that were produced. The fact that documents
2 were produced is not privileged.

3 MR. SAFIRE: Well, to whom?

4 COMMISSIONER HUR: Counsel, your objection is
5 overruled.

6 You can answer the question.

7 THE WITNESS: So from December 31st to whatever
8 January -- the two-week period that they had asked me, I
9 produced whatever I had. And so I had -- I think it was
10 two e-mails that really probably -- I don't think is
11 that related to the case, but I forwarded it and we
12 produced that.

13 MS. KAISER: Q. Did you then only search for
14 documents within a certain time period?

15 A. I searched for -- I think I put a search for
16 all of the documents, and that's what I had, and it was
17 during that time period.

18 Q. We know from documents that Sheriff Mirkarimi
19 has produced that there were text messages -- and I'm
20 going to show them to you soon -- between you and the
21 sheriff in regard to these topics that you didn't
22 produce to us, and I'm wondering if you can tell me why.

23 A. I actually --

24 MR. KOPP: Well, objection. That assumes facts not
25 in evidence. No foundation. Counsel's testifying.

1 COMMISSIONER HUR: Overruled.

2 THE WITNESS: So answer the question?

3 COMMISSIONER HUR: Answer the question, please.

4 THE WITNESS: So in terms of texts, I actually
5 erase texts on a regular basis because I get a lot of
6 texts in. And so by the time they asked me to produce
7 any texts, I already had erased my texts from those time
8 periods, so I didn't have anything. So it's not that
9 I'm not giving it to you; I didn't have anything.

10 MS. KAISER: Q. And do you also erase your
11 e-mails?

12 A. No, I don't.

13 Q. Do you erase all of your texts from everyone
14 you speak to? Or everyone you text with, I guess I
15 should say.

16 A. Business, a lot of business, and some --
17 probably some of the personal, too, because it starts
18 taking up a lot of space on your phone.

19 Q. How long do you wait before you delete your
20 texts?

21 A. Sometimes a week. Routinely like a week or
22 two weeks.

23 Q. So you have a routine time that you go in and
24 delete your texts?

25 A. Yeah.

1 Q. Do you put it on your calendar?

2 A. No, I'm not that -- no, but I do it routinely.

3 Q. Do you have your phone with you right now?

4 A. No, I do not. Sorry.

5 Q. Do you have texts that go back more than a

6 week or two with any of your business acquaintances on

7 your phone now, to the best of your knowledge?

8 MR. KOPP: Objection, relevance.

9 COMMISSIONER HUR: Sustained.

10 Counsel, I would move on.

11 MS. KAISER: Q. Since we didn't get the documents,

12 I'm going to have to ask you to rely on your memory.

13 Did you text anyone else besides Ross Mirkarimi and

14 Eliana Lopez about the December 31st incident, the

15 subsequent police investigation, or the prosecution of

16 Ross Mirkarimi?

17 A. Not to my knowledge.

18 Q. You didn't text with political consultants?

19 A. No.

20 Q. Board members?

21 A. No.

22 Q. Media contacts?

23 A. Absolutely not.

24 Q. Okay. Thank you. Your declaration says, "On

25 January 4th, 2012, Eliana Lopez contacted me and I had

1 several phone conversations with her regarding a
2 domestic violence related incident that had occurred
3 with her husband Ross Mirkarimi."

4 Does that sound about right?

5 A. Yes.

6 Q. Okay. If my fancy-dancy technology were
7 working, I would have this electronically and see how it
8 looks on the screen. It's an attempt to take the first
9 page of Exhibit 83 -- and just for your background,
10 Exhibit 83 is a compilation that all counsel have looked
11 at and agreed to that compiles the communications
12 between a number of people on January 4th, just
13 January 4th, and it's all communications that we're
14 aware of -- texts, phones, e-mails -- including calls
15 that don't go through or don't get answered.

16 And the people who it records from is Ross
17 Mirkarimi, Eliana Lopez, you, Ivory Madison, Abe
18 Mertens, and Callie Williams. Okay? So that's what
19 Exhibit 83 is. And there are seven pages of sort of
20 small text lines. And so in an attempt to help you, I
21 have tried to pull some of these out. If you want to
22 take out your binder, I have exhibits right here.

23 A. Okay.

24 Q. Exhibit 83 is there in full. I just want you
25 to know that in case you want to double-check any of the

1 things that I'm highlighting here to make sure if you
2 have any doubts about their accuracy.

3 The first box is a series of texts at 10:55 from
4 Eliana Lopez to you; another one, same; and then one at
5 10:56, again from Eliana Lopez to you. But since we
6 don't have your texts, we don't know what the content
7 is, and I'm wondering if you remember what those text
8 messages said.

9 A. I vaguely remember, basically, she had let me
10 know that she had an argument with Ross and that she
11 wanted to talk to me. That was the gist of it.

12 Q. Had she ever confided her personal affairs in
13 you before?

14 A. Never.

15 Q. Were you surprised to get these text messages?

16 A. Yes.

17 Q. Did you have any idea that she was going to
18 contact you about something like that?

19 A. I had no idea.

20 Q. Do you remember the wording of the messages at
21 all?

22 A. I don't recall. I'm sorry.

23 Q. Were they long or short?

24 A. I don't remember.

25 Q. But they did convey that there was an argument

1 and she wanted to talk to you about an argument with her
2 husband?

3 A. Yes.

4 Q. Okay. If you look down, there are some
5 phonecalls that -- I don't know. I guess I want to ask
6 you. Did those -- did these phonecalls follow as a
7 result of the text messages? Is that why you called
8 Ms. Lopez?

9 A. Yes.

10 Q. Okay. Do you remember what you talked about
11 on the 11:00 o'clock call? It was only one minute long.

12 A. I don't remember. Also, where I live, the
13 phone -- it's really bad phone service, and the phone
14 constantly drops, so sometimes someone may call me and
15 will have to call me like four or five times to -- for
16 us to actually connect.

17 Q. Okay. According to the exhibit, can you tell
18 me how long you and Ms. Lopez spoke during the
19 11:00 o'clock hour?

20 A. Well, I -- I believe if we had the -- the
21 40-minute phonecall, we did talk on the phone at length
22 at that point.

23 Q. Okay. What did you talk about?

24 A. She called. When -- when we talked to each
25 other, she told me that she had an argument with Ross,

1 and she told me it was an argument about going to
2 Venezuela and that it ended up with her having a bruise
3 on her arm.

4 Q. Did she tell you that it wasn't the first time
5 that he had hurt her?

6 A. No, she did not say that.

7 Q. Did she tell you that Theo was present and
8 crying during the argument?

9 A. I don't recall.

10 Q. Did she tell you that the argument happened
11 both in the car and in her home?

12 A. No, she only talked about being in the car.

13 Q. Did she tell you that Sheriff Mirkarimi had
14 threatened her with winning custody because he's a very
15 powerful man?

16 A. No, she did not say that to me.

17 Q. Did -- sorry, paper-shuffling.

18 Did she say that she shouted very loudly in her
19 house so that her upstairs neighbor could hear the
20 fight?

21 A. She did not tell me that, no.

22 Q. How did she describe the physical contact that
23 led to the bruise?

24 A. She actually didn't go into detail. She
25 mostly talked about the argument about going to

1 Venezuela and that they were -- they yelled at each
2 other and that she got a bruise. But I never -- she
3 never went into any detail with me.

4 Q. Did she tell you where the bruise was?

5 A. On her arm.

6 Q. Did she tell you how big it was?

7 A. She did not tell me. Not that I recall.

8 Q. Did you have an impression?

9 A. I -- I don't remember.

10 Q. So it would be consistent with what you
11 remember now that she could have been talking about a
12 very small bruise?

13 MR. KOPP: Objection, that calls for speculation.

14 COMMISSIONER HUR: Overruled.

15 THE WITNESS: My impression was that -- she just
16 said a bruise on her arm, so I didn't know what size it
17 was or anything. She didn't go into detail.

18 MS. KAISER: Q. Did she tell you that the sheriff
19 repeatedly grabbed her or pulled her or pushed her
20 violently?

21 A. No, she did not.

22 Q. Did she tell you how long the fight went on?

23 A. No, she did not.

24 Q. Did she ever say that she ran out into the
25 street to escape from the fight?

1 A. No, she did not.

2 Q. And -- I'm sorry -- I know I asked and you
3 answered. Just for my own edification, because I
4 forgot, did she say that The- -- whether or not Theo was
5 present for the fight?

6 A. I don't remember. I don't recall that, so I'm
7 sorry.

8 Q. Okay. Did she tell you that Sheriff Mirkarimi
9 was swearing at her?

10 A. She said he was yelling.

11 Q. Did she ever say that she was recording the
12 fight on her mobile phone?

13 A. No, she did not tell me that.

14 Q. Did she tell you that they had been on their
15 way to lunch, but the sheriff had turned the car around
16 and brought her home?

17 A. No. She did say they were going to lunch, but
18 she didn't talk about turning around and going home.

19 Q. Were you under the impression that the fight
20 happened in the restaurant?

21 A. No, my impression was that the argument
22 happened in the car. And then she said at one point she
23 stepped out of the car, and then was he yelling at --
24 you know, they were yelling back and forth. Then she
25 didn't care about a scene and then she got back in the

1 car.

2 Q. Okay. And you aren't clear whether or not --
3 she didn't tell you whether Theo was in the car?

4 A. No, I don't remember. I honestly don't
5 remember.

6 Q. Okay. Did she tell you that she had been
7 talking about this incident with a neighbor?

8 A. She told me that she was really worried about
9 custody issues and she was talking to a friend who was
10 an attorney.

11 Q. Did she say this friend was her neighbor or
12 could she have been referring to someone else?

13 A. She just said a friend who was an attorney.
14 She never told me the person's name. She didn't say
15 their neighbor. She just said a friend who was an
16 attorney.

17 Q. What do you remember about how she described
18 this friend or what they were talking about?

19 A. She didn't go into any details.

20 Q. Okay. Did she -- so she never mentioned to
21 you that she was talking to a neighbor specifically?

22 A. She did not say that.

23 Q. Okay.

24 A. She said "a friend."

25 Q. Did she tell you that she had made a video

1 of -- documenting the bruise?

2 A. She did, but way later in the day, not at --
3 not at this phonecall.

4 Q. Okay. Not during this phonecall?

5 A. No.

6 Q. Okay. But she did tell you later? About
7 when? Do you remember?

8 A. I -- I think it was late in the afternoon. I
9 don't know if it was more like around 5:00 or 6:00 or
10 something -- something more later that day.

11 Q. Did she describe what she said in the video?

12 A. No, she did not.

13 Q. Did she tell you who she made the video with
14 or who shot the video for her?

15 A. No, she just told me, "A friend helped me do a
16 video just in case I need it for custody issues."

17 Q. Did she tell you that on the same day that
18 Sheriff Mirkarimi and Eliana Lopez had the argument that
19 led to the bruise that they on that day made a decision
20 to look for a couples therapist?

21 A. No, she did not tell me that.

22 Q. Did she say that the custody of Theo was her
23 only concern?

24 A. Her con- -- her only concern?

25 Q. In regard to the December 31st incident.

1 A. No, she did not.

2 Q. Did she tell you that Sheriff Mirkarimi had
3 grabbed her arm taking Theo out of the car seat?

4 A. No, she did not tell me that.

5 Q. Did she tell you that the person who shot the
6 video for her told her what to say in the video?

7 A. No, she did not.

8 Q. Did she tell you that the person who shot the
9 video told her she should go tell her story to a
10 different neighbor?

11 A. No, she did not.

12 Q. Did she tell you that the person who shot the
13 video advised her to accuse the sheriff of domestic
14 violence so that she could get custody of Theo?

15 A. No, she did not.

16 Q. Did she state -- tell you that -- in that
17 conversation that she believed that Ross was a good and
18 kind person?

19 A. In the 40-minute phonecall?

20 Q. Yeah.

21 A. She did tell me that she really wanted to work
22 on her marriage and she -- you know, she wanted to make
23 it work. But she said but just in case, she wanted to
24 make sure she got custody of Theo.

25 Q. Did she say how she was going to do that?

1 A. She wanted to have counseling, maybe. Some
2 counseling with both of them. Marriage counseling.

3 THE REPORTER: I'm sorry. Could you repeat what
4 you just said? I couldn't hear you.

5 THE WITNESS: I think at some point, maybe not in
6 that 40-minute conversation -- I think it was the next
7 conversation that we had that she said that she wanted
8 to have marriage counseling. So it wasn't in that
9 conversation --

10 MS. KAISER: Q. And that --

11 A. -- if I remember correctly.

12 Q. Okay. And that's how she was going to make
13 her marriage work, was with marriage counseling?

14 A. Well, she was going to -- she just mentioned
15 it. So I don't know how she was going to make her
16 marriage work. I just know that she had mentioned it.

17 Q. Okay. And did she tell you that she had any
18 sort of strategy for keeping custody of Theo if the
19 counseling didn't work?

20 A. Well, she did say that the video -- she had a
21 video. Her friend made a video, and just in case,
22 she -- you know, which is later in the day she told me,
23 that she would have it just in case. You know, but it
24 was her kind of property, and just in case she needed
25 it.

1 Q. Your declaration goes on to say -- and we've
2 talked about some of this -- "I have had training
3 regarding domestic violence, and my primary concern" --
4 this is you discussing the phonecall that we just were
5 talking about -- "my primary concern was to assess the
6 situation and determine if Eliana was in any danger.
7 After speaking with her, I was satisfied that she was
8 not in danger."

9 What did you think she might be in danger of?

10 A. Well, if I hear of anything that somebody's
11 grabbing someone and there's a bruise, I want to explore
12 to see if there was domestic violence that's going on or
13 if there's a cycle or if they're afraid. And if so, I
14 want to be able to, if I can, make some referrals and
15 support the person through what they're going through.

16 Q. So you -- if I understand you correctly, you
17 wanted to assess whether this was domestic violence so
18 that you could make a more accurate determination of
19 whether she was in danger? Is that --

20 A. I wanted to be able to support Eliana, and
21 obviously, she is giving me a call in the middle of the
22 day, something that she does not do. And she's telling
23 me about an argument and she tells me there's a bruise.
24 And she wanted some support, and I wanted to give it to
25 her. And I was fully present for her.

1 Q. I still want to know what sort of danger you
2 thought she might be in.

3 MR. KOPP: Well, I think that misstates the
4 testimony. The declaration says she was satisfied she
5 wasn't in danger.

6 THE WITNESS: Right.

7 MS. KAISER: The declaration --

8 COMMISSIONER HUR: I'll hear your argument.

9 MS. KAISER: Thank you. The declaration says, "my
10 primary concern was to assess the situation and
11 determine if Eliana was in any danger."

12 I've been trying to identify with the witness what
13 danger she was concerned about.

14 COMMISSIONER HUR: Overruled.

15 THE WITNESS: So answer the question?

16 COMMISSIONER HUR: Please.

17 THE WITNESS: Okay.

18 MS. KAISER: I'll ask a new question.

19 Q. What was the nature of the danger that you
20 were concerned she might be in?

21 A. For me, the danger is asking -- actually
22 asking the person do they feel that they are in danger
23 in any way. So somebody can say that they feel that
24 they're in danger, you know, physically or emotionally
25 or -- you know, so it was basically an open-ended

1 question to just kind of explore for her if she did feel
2 that she was in danger, or Theo. And after talking to
3 her, I determined that she was not.

4 Q. My question is what were you concerned that
5 she might be in danger of?

6 A. Oh. Since I heard a bruise, I wanted to make
7 sure that she wasn't in danger with her husband.

8 Q. So in danger of further injury?

9 A. Right, of any further injury.

10 Q. Okay.

11 A. Or any injury in the past.

12 Q. Had you ever -- were you concerned because you
13 had previously witnessed some concerning behavior by the
14 sheriff?

15 A. Could you repeat that question?

16 Q. Yes. Did you have a concern that she might be
17 in danger because you had ever witnessed some concerning
18 behavior by the sheriff in the past?

19 A. Oh, no. No.

20 Q. Okay. As part of your domestic violence
21 assessment, did you ask her whether there had ever been
22 prior physical assaults in the relationship?

23 A. Yes, I did.

24 Q. Did you ask her when any such assaults
25 occurred?

1 MR. KOPP: Assumes facts not in evidence.

2 COMMISSIONER HUR: Sustained.

3 MS. KAISER: Q. Did she answer whether or not
4 there had been prior physical assaults?

5 A. She did. She said no, that there was not.

6 Q. Did you ask her whether there had been prior
7 sexual abuse?

8 A. I did.

9 Q. And what did she say?

10 A. "No."

11 Q. Did you ask her whether the sheriff's anger
12 was currently escalating?

13 A. Not exactly phrased the way you did, but I
14 asked if she had been going through any verbal abuse. I
15 said verbal abuse, emotional abuse, physical abuse, and
16 sexual abuse.

17 And I actually -- knowing that her language is
18 Spanish, her first language is Spanish, and we were
19 speaking in English, I defined each category briefly and
20 made sure -- like I asked questions, open-ended
21 questions, to see if she understood what I was saying,
22 and in all accounts, she said no, that she was not
23 experiencing those forms of violence.

24 Q. Did you give her the example for emotional
25 abuse of the batterer controlling money?

1 A. I don't remember the specific example, but I
2 did define what emotional abuse was.

3 Q. Okay. Did --

4 A. I remember that.

5 Q. Okay. Do you remember anything about your
6 definition? Did it include isolation or belittling or
7 controlling food or any of those behaviors?

8 A. I made a reference to the power and control
9 wheel, and I said, "Maybe later, you know, I could show
10 you." But I did go through the basic emotional abuse
11 being any -- basically, being treated less than, you
12 know, with words, being put down with words, with
13 emotions.

14 Physical, I defined it as from unwanted touching to
15 pushing to slapping to kicking. And sexual abuse,
16 unwanted touching, talking derogatory of body parts
17 and -- or rape or sexual assault. So that's how I
18 defined the categories.

19 Q. Great. And she denied all of those?

20 A. She did.

21 Q. She didn't give a single affirmative answer to
22 any of those questions?

23 A. She did not.

24 Q. Okay. Did you ask her whether Sheriff
25 Mirkarimi was threatening any physical harm to her or to

1 himself or to their son or -- I don't know; maybe they
2 have pets -- to a pet? Threatening physical harm in any
3 way?

4 A. I did for her and I did for Theo, and she said
5 no.

6 Q. Okay.

7 A. And I asked her if she was afraid and I asked
8 if she was in any -- if she felt that she was in any
9 danger, and she told me no.

10 Q. Did you ask her whether Sheriff Mirkarimi had
11 guns or other weapons in the house?

12 A. I did not ask that question.

13 Q. Why not? Isn't that a standard indicator of
14 dangerousness?

15 MR. KOPP: Objection, compound.

16 COMMISSIONER HUR: Sustained.

17 MS. KAISER: Q. Why not?

18 A. I don't know. I mean, we were having a
19 conversation and I was going through as much as I could
20 go through, you know. I'm working, telecommuting from
21 home. I'm working, and I get a call, and I'm doing the
22 best that I can to try to see, you know, if she's in any
23 danger or if she needs any support.

24 Q. So you just didn't think of it at that time?

25 A. Yeah.

1 Q. Would you agree that having guns in the home
2 is a risk factor for further violence?

3 A. Yes.

4 Q. Did you ask her whether she was threatening to
5 leave the sheriff or to take their son?

6 A. I did not ask that.

7 Q. Would you agree that the danger is heightened
8 when the victim is threatening to leave?

9 A. Absolutely.

10 Q. Did you ask her whether the sheriff was ever
11 drinking or using drugs during this time period?

12 A. No.

13 Q. Would you agree that drinking or using drugs
14 is a risk factor for violence?

15 A. Yes.

16 Q. Did Ms. Lopez tell you during this phonecall,
17 this first 40-minute phonecall, that she was considering
18 making a police report?

19 A. No, she did not tell me that.

20 Q. Did -- did you discuss the impact that
21 disclosing this incident would have on Sheriff
22 Mirkarimi?

23 A. No, I did not.

24 Q. Did she bring it up?

25 A. No, she did not.

1 Q. And you didn't bring it up?

2 A. No.

3 Q. Do you know whether she was considering
4 reporting the abuse to a doctor?

5 A. Yes, she did tell me that in that
6 conversation.

7 Q. Did you give her any advice about that?

8 A. No, I told her -- I said I would support
9 whatever she needed to do for herself and for Theo.

10 Q. Did you tell her that a doctor would be a
11 mandatory domestic violence reporter?

12 A. I don't recall that.

13 Q. Do you know that for a fact, that a doctor is
14 a mandatory domestic violence reporter?

15 A. I believe so, but I've -- I've also been out
16 of the field for a while, so --

17 Q. But you don't remember mentioning to her that
18 that could be a consequence?

19 A. I don't remember. I'm sorry.

20 Q. Okay. Did you discuss anything else other
21 than her describing what had happened and you doing a
22 danger assessment? Were there other topics in the
23 phonecall?

24 A. Yes, I actually told her -- just in case, I
25 told her that, you know, if anything came up for her

1 that -- you know, because I know sometimes women may not
2 tell you everything. And so I told her, "Well, just in
3 case, you can, you know, speak to La Casa de Las Madres,
4 who will speak to you in Spanish, and it's an 800
5 number, and you can talk on the phone or you can make an
6 appointment for counseling."

7 And I gave her that referral and I told her I'd be
8 happy to give her anything else if anything came up in
9 the future that she needed. I would try to do my best
10 to help her, to support her.

11 Q. Did you discuss anything else?

12 A. She talked about custody issues.

13 Q. What did she say about custody issues?

14 A. She was really stressed and panicked. She
15 told me she had talked to a friend who was an attorney
16 and was helping her with custody issues, but she wanted
17 to know my opinion. And she was just really panicked
18 about it, that she was going to lose Theo if her
19 relationship didn't work out.

20 And I told her, "I'm not an attorney, so I'm sorry.
21 I can't help you on that." But I told her I'm sure she
22 has rights, you know. You know, it's her child and
23 biological child, and I said, "But I'm not an attorney,
24 so I can't advise you on that."

25 So I was more listening to her.

1 Q. Did she express any concern about the fact
2 that she's not a United States citizen, but Sheriff
3 Mirkarimi is?

4 A. She did not tell me that. She did not say
5 that to me.

6 Q. Did she have any concern that he was reluctant
7 to allow her to take Theo out of the country?

8 A. Yes.

9 Q. What did she say about that?

10 A. That she was -- just that they had an argument
11 about Venezuela and that he was -- you know, that was
12 kind of an argument that they had.

13 It sounded like the way she had told me, if I
14 remember correctly, that it was an argument that was
15 ongoing, that, you know, he would get really stressed
16 for her to take Theo.

17 Q. But she didn't connect that fact to custody?
18 It wasn't related --

19 A. No.

20 Q. -- in her mind as she explained it to you?

21 A. Yeah. No --

22 Q. Okay.

23 A. -- that was just in the context of talking
24 about the argument.

25 Q. Okay. How did the call end?

1 A. I had to go on a conference call. Remember, I
2 was telecommuting that day. So this was like in between
3 like having meetings on the phone. And so I had told
4 her that I had to go, but that I would call her back if
5 she wanted me to, or I'd be there to support her.

6 And so she had asked me to call her back after I
7 finished, and so I said, "Okay."

8 Q. According to the record that I gave you, when
9 did you have your last conversation with Ms. Lopez in
10 that 11:00 o'clock hour?

11 A. So -- I'm sorry -- I don't really quite
12 understand the question.

13 Q. I guess when did you stop talking to Ms. Lopez
14 in that first series of calls?

15 A. So it looks like when we had the 40-minute
16 conversation that we just talked about. And I think we
17 tried to connect, but when I called her back, she was
18 busy. So we did not talk again, I think, until later in
19 the afternoon.

20 Q. Okay. So you finished talking with that
21 40-minute call. That would have been about 11:58, and
22 it looks like maybe there's some attempt to connect that
23 was short.

24 A. I think like the call dropped, like I told
25 you.

1 Q. The call dropped?

2 A. And then I called right back. And then --

3 (Telephonic interruption)

4 MS. KAISER: Q. I was just hoping that wasn't my

5 telephone.

6 A. Yeah.

7 Q. Okay. So the call dropped, but you mostly had

8 the 40-minute call?

9 A. Yes.

10 Q. Are you familiar from any of the review that

11 you've done of the materials in this case that shortly

12 after she spoke to you, Eliana Lopez wrote a text to

13 Ivory Madison, saying, "I'm not going to call the

14 police. I'm going to open a record with my doctor"?

15 A. I don't know anything about that.

16 Q. That had nothing to do with your phonecall?

17 A. Nothing --

18 MR. KOPP: Well, that calls for speculation.

19 MS. KAISER: Q. Do you have any reason

20 to believe --

21 I'm sorry.

22 COMMISSIONER HUR: Sustained.

23 MS. KAISER: Q. Do you have any reason to believe

24 that that e-mail was prompted by the phonecall that you

25 and she had?

1 A. No, I mean, I -- I would not think so. I
2 don't know, I mean, what she's doing.

3 Q. I'm just asking for your reasonable belief.

4 A. Yes.

5 Q. You can't read her mind. I understand.

6 A. No, I can't.

7 Q. I get that.

8 A. Yeah.

9 Q. Fair enough.

10 A. I don't know.

11 Q. So your declaration then says, "At some point
12 in the afternoon on January 4th . . . , I called
13 Eliana back to follow up on our conversation and to
14 explore if she needed any additional support from me or
15 any referrals."

16 Is it correct that that was at her request?

17 A. No. Well, the phonecall was, but not for
18 referrals. Like she just wanted me to call her back.
19 That was something that was in my mind, that I wanted
20 to -- to be prepared if she wanted it.

21 Q. And she had asked you to call her later in the
22 afternoon at the end of the prior phonecall. Correct?

23 A. Yes.

24 Q. Okay. This is an excerpt from page 2 of
25 Exhibit 83, and its intent is to highlight a number of

1 texts that run from 1:39 to 2:43. I'm sorry. It's --

2 I did not actually come prepared for the paper
3 testimony so that I can give you a paper as easily as I
4 would like.

5 A. Okay.

6 Q. Are you able to see the screen behind you
7 conveniently?

8 A. Not really.

9 Q. Or not really.

10 A. But I can see this screen.

11 COMMISSIONER HUR: She has a monitor in front of
12 her.

13 MS. KAISER: Q. Oh, you have the monitor. Oh,
14 that makes me so happy. I didn't realize that. Good.

15 A. Okay.

16 Q. Okay. So I'm trying to highlight for you that
17 there's a series of texts over the course of an hour and
18 a phonecall, and I'm wondering if you remember whether
19 there was any content to any of those attempts to
20 contact.

21 A. I don't recall. I know we were trying to
22 connect with each other, but I was tele- -- you know, I
23 was working from home that day, and I know that we were
24 hit and miss, you know, in terms of phonecalls.

25 Q. Okay. Do you remember any other subject

1 matter associated with those texts?

2 A. No, I do not recall.

3 Q. Okay. And then according to these records,
4 the next time you guys connect by phone is at 3:31 p.m.,
5 in a call that lasts for 14 minutes. Does that more or
6 less comport with your memory of timing?

7 A. Yes.

8 Q. Okay. So was this -- so was this the call
9 where you offered to provide referrals?

10 A. No. Well, in the first phonecall of 40
11 minutes, I told her about La Casa --

12 Q. Okay.

13 A. -- the 1-800 number. And at the beginning of
14 the next call, I picked up where -- where I -- I wanted
15 to just make sure that I was doing the right thing
16 and -- and helping her if she was in that situation.
17 And although she had told me no, no, no, no, no, I just
18 wanted to be extra careful and clear.

19 And so when we picked up the conversation, you
20 know, I had asked her, you know, "Do you" -- "Is there
21 any other referrals or anything that you want?"

22 And she was -- she said no. She had started
23 talking about, again, custody issues. That was her
24 concern.

25 Q. So when you called her back, she again was

1 raising custody issues and refusing further referrals?

2 A. She just wasn't -- it wasn't that she was
3 refusing. She just wasn't as interested. And I
4 realized that I just wanted to cover just in case
5 that -- you know, if I could support her in any way,
6 that I wanted to make sure I was doing the best that I
7 could to help her.

8 Q. Did you talk to her about whether or not she
9 had already discussed the incident with her husband?

10 A. No, I did not.

11 Q. Do you know if she was planning to discuss the
12 incident with her husband?

13 A. I don't know.

14 Q. Do you know if she -- did she -- did she say
15 whether or not she was going to tell her husband that
16 she had spoken to you?

17 A. She never said anything about that. I did
18 tell her when we started talking at the 40-minute
19 conversation that what we talk about is confidential.
20 And the content of what I've talked with Eliana, I have
21 never talked to Ross about. I've upheld her
22 confidentiality. And I was there to support her and
23 fully be present for her.

24 Q. So it's your testimony that instead of calling
25 a domestic violence agency -- La Casa, for example, that

1 could speak to her in Spanish and counsel her -- she
2 called you, but with no mention of her husband; is that
3 correct?

4 A. I -- I'm a little bit unclear of where you're
5 going, like what's happening.

6 MR. KOPP: Objection, that's unintelligible.

7 MS. KAISER: Q. Instead of calling --

8 I'll rephrase.

9 Instead of calling a domestic violence agency for
10 support, she called her husband's campaign manager. Is
11 that your testimony?

12 MR. KOPP: That's argumentative.

13 COMMISSIONER HUR: Sustained.

14 MS. KAISER: Q. Instead of --

15 I'll rephrase. Instead of calling a domestic
16 violence agency for support, she called her husband's
17 campaign manager, who had informed her of a passing
18 domestic violence background?

19 MR. KOPP: Objection, argumentative.

20 COMMISSIONER HUR: Counsel, I think that's the same
21 question. I think we've established that Ms. Lopez
22 called her.

23 MS. KAISER: Okay.

24 COMMISSIONER HUR: Overruled. Or sustained. I'm
25 sorry.

1 MS. KAISER: That's fine.

2 Q. Your declaration goes on to say, "Towards the
3 end of our phone conversation, I could hear Eliana
4 speaking to someone else. Eliana quickly became
5 distraught and I heard her cry out 'Help me, help me,
6 help me,' as she handed the phone to an unknown female."

7 Do you know where Eliana was when you called her at
8 3:31?

9 A. No, I did not.

10 Q. Did you have the impression that she had
11 changed locations at any time?

12 A. No. Hmm-mm.

13 Q. Okay. Can you tell me how she sounded when
14 she said, "Help me, help me, help me"?

15 A. She sounded stressed out. She sounded on the
16 brink of crying and tears. And yeah, she was really
17 stressed.

18 Q. Can you repeat it the way she sounded?

19 A. I probably can't. But she was -- I mean, she
20 was like, "Help me! Help me! Help me!"

21 And she like -- like I heard the phone like --
22 like, you know, make a sound.

23 Q. Was she asking you to help her?

24 A. I just heard, "Help me, help me, help me," and
25 I'm at the other end of the phone, going, "What is going

1 on?"

2 Q. Okay. And she didn't tell you what was going
3 on?

4 A. No. I was talking to her mid-sentence, and I
5 hear her talking to someone in the background, and then
6 I hear her yell, "Help me, help me, help me," and then
7 the phone is fumbling. And then, all of a sudden, a
8 woman starts -- says "Hello" on the other end of the
9 phone.

10 Q. Okay. Did you ever find out who that woman
11 was?

12 A. Only after watching the media. I never knew
13 her phone -- her name.

14 Q. And who was that woman?

15 A. I figured it out from all the media. It was
16 Ivory Madison.

17 Q. Okay. Your declaration says, ". . . the
18 woman," Ivory Madison, "informed me that she had been
19 talking to Eliana for several days about the incident
20 and had called the police, I asked whether she had
21 contacted any domestic violence agencies, or attempted
22 to connect Eliana with any domestic violence agencies
23 for support. The woman responded no and became
24 agitated."

25 Did you think that was strange?

1 A. I did.

2 Q. Did you have any understanding of why the
3 woman would be agitated about you asking whether she had
4 called domestic violence agencies?

5 A. I mean, the whole situation was very strange,
6 to be honest. I mean, just being thrown in the middle
7 of a phonecall with someone I don't even know, it was
8 a -- you know, a strange situation. I was trying to do
9 the best I could do.

10 Q. Did you have any understanding of why she was
11 agitated about your question whether she had called
12 domestic violence agencies?

13 A. I don't know. I don't know why she was
14 agitated.

15 Q. Did you ask her?

16 A. We spoke very briefly. Like it was like a
17 minute, maybe two, bare -- barely. So we weren't having
18 a lot of conversation.

19 Q. But she wasn't relieved, then, to talk to you
20 and have someone else asking about domestic violence
21 support?

22 MR. KOPP: Objection, no foundation. Calls for
23 speculation.

24 COMMISSIONER HUR: I'll allow it. It's a
25 foundational question. Did she ask?

1 THE WITNESS: Can you rephrase that? Because I
2 wasn't sure.

3 MS. KAISER: Q. Did you -- sure. Did you get the
4 sense that she was relieved to talk to someone else who
5 was trying to help Eliana with a domestic violence
6 problem?

7 A. I -- I can't really speculate on what she was
8 feeling. I can tell you what happened, what we talked,
9 you know, what we said, but --

10 Q. I'm just asking. I completely agree with you.

11 A. Yeah, I can't --

12 Q. I'm asking for your impression. Did she give
13 you the impression that she was relieved?

14 MR. KOPP: That calls for speculation.

15 COMMISSIONER HUR: Sustained. There's no
16 foundation now.

17 MS. KAISER: Q. How did you get the impression
18 that she was agitated?

19 A. Her tone of voice.

20 Q. What was her tone of voice like?

21 A. She was like, "No. What are you tell- -- what
22 are you telling me? I'm making a mistake? Are you
23 telling me to not talk to the cops? Are you telling me
24 to lie to the cops?"

25 And I was like, "Absolutely not. I'm not telling

1 you that. I'm telling you that maybe what you should do
2 is talk to Eliana, your -- Eliana, your friend, and
3 listen to her and respect her."

4 I actually asked her to get off the phone and talk
5 to Eliana because I could hear Eliana in the background,
6 and she was saying, "This is not what I want. This is
7 not what I want."

8 And she sounded like she was on the verge of tears.

9 Q. Did it sound like she was talking to somebody?

10 A. I just heard in -- in the distance, "This is
11 not what I want. This is not what I want."

12 Q. So you don't know if she was talking to
13 anybody?

14 A. I don't know.

15 Q. Okay. Do you have any -- any understanding at
16 all about how Ms. Madison made the leap from "Did you
17 call domestic violence agencies?" to asking whether you
18 were telling her not to speak to the police?

19 MR. KOPP: It calls for speculation. No
20 foundation.

21 COMMISSIONER HUR: Can you rephrase?

22 MS. KAISER: Q. You told Ms. Madison -- well, you
23 asked Ms. Madison whether or not she had called domestic
24 violence agencies. Correct?

25 A. Yes, after she told me at the beginning of the

1 phonecall, "I've been talking to Eliana for several" --

2 When I said, "What's going on?" Because I don't
3 know at this point. Is someone getting run over by a
4 car? I have no idea what is going on. Like is this --
5 do we need to call 911? I have no idea what is
6 happening. And when I said, "Hi," you know, "can you
7 tell me what's going on? Eliana, like what is going
8 on?" you know, Eliana just handed the phone -- "What's
9 happening?"

10 And she told me, she said, "I've been talking to
11 Eliana for several days about an argument that she had
12 with Ross Mirkarimi. And, you know, he gave her a
13 bruise, and I just called the police."

14 And I said, "Did you, you know, call any domestic
15 violence agencies? Did you make any referrals or give
16 Eliana any support around with domestic violence
17 agencies?"

18 And then she said, "No. Do you think I'm making a
19 mistake? Are you telling me I'm making a mistake? Do
20 you want me to lie to the police? Do you want me not to
21 talk to them?"

22 And I said, "No, that is not what I'm saying. That
23 is not where I was going."

24 Q. Did you ever offer anything affirmatively, any
25 opinion or statement, about the fact that Ms. Madison

1 had called the police?

2 A. No.

3 Q. So when she told you that she had called the
4 police, you responded with, and only with, "Did you call
5 a domestic violence agency" --

6 A. Yes.

7 Q. -- "for a referral and support?"

8 A. Yes.

9 Q. Okay. And so then she thought somehow, as far
10 as you could tell, from what you could hear in the
11 conversation, that that was a response to her calling
12 the police?

13 MR. KOPP: Objection, calls for speculation.

14 COMMISSIONER HUR: Sustained.

15 MS. KAISER: Q. When you spoke to Ms. Madison, did
16 you hear Eliana tell her that you were a friend of
17 Ross's who was a domestic violence advocate?

18 A. No. I heard Eliana talking, but I didn't hear
19 what she said.

20 Q. Okay. Did Ms. Madison ask you your name?

21 A. No, she did not.

22 Q. Did you tell her your name?

23 A. No, I did not.

24 Q. Did you chastise her for involving the police
25 in the situation?

1 A. Absolutely not.

2 Q. Did you tell her that she was the one who had
3 hurt and disempowered Eliana?

4 A. No. No.

5 Q. Did she tell you that the police were at the
6 door?

7 A. No, she did not.

8 Q. Did she ask you what you thought she should do
9 with the police at the door?

10 A. No, she did not.

11 Q. Did she -- I'm sorry. Did you advise her to
12 refuse to talk to the police?

13 A. Absolutely not.

14 Q. Did you advise her to tell the police that she
15 had lied?

16 A. No.

17 Q. Did you advise her to tell the police that she
18 was mistaken?

19 A. No.

20 Q. Or that she was talking about another couple?

21 A. No.

22 Q. How did the talk with Ms. Madison end?

23 A. It was -- we had a very -- like I said, a very
24 brief conversation, and she -- I told her -- the way it
25 ended is I actually told her, "I really think that you

1 just need to get off the phone and need to talk to
2 Eliana, listen to her, and respect her."

3 And then she -- she handed the phone to Eliana, and
4 then Eliana was on the phone.

5 Q. So what happened after Eliana was back on the
6 phone with you?

7 A. Eliana sounded panicked and really stressed
8 out, and she said, "I want you to call Ross. I'm going
9 to need to get ahold of him. I need you to call him
10 right now for me and -- and tell him what happened."

11 Q. So she wanted you to tell him about what
12 happened and not tell him herself?

13 A. That's all she said. It was super brief.

14 Q. That's what she said?

15 A. Yes.

16 Q. You don't know what she wanted deep inside,
17 but that's what she told you?

18 A. Yeah.

19 Q. Okay. All right. So what did you do after
20 you hung up, then?

21 A. I did what Eliana wanted me to do. I called
22 Ross.

23 Q. Okay. So just putting this back briefly, if
24 your call started at 3:31 and lasted 14 minutes, it
25 would have been over around 3:45. Correct? Assuming my

1 math is correct?

2 A. I don't know. To be honest, I'll probably use
3 a calculator.

4 Q. All right.

5 A. I'm not a numbers girl.

6 Q. Take my word for it, then.

7 A. Okay. All right.

8 Q. Unless the commission has any corrections.

9 A. Okay.

10 Q. Okay. So that conversation finished at
11 3:45 or thereabouts. And the next thing that Exhibit 83
12 reveals is two texts that I'm highlighting. They're
13 texts that are found on page 2. One is at 3:57 p.m.,
14 and the other is at 3:53 p.m., and they're texts from
15 you to Sheriff Mirkarimi.

16 Can you please read me the text that you wrote at
17 3:47?

18 A. Sure. I wrote him and said, "Can you call me.
19 It is urgent. Regarding Eliana."

20 Q. And what about at 3:53?

21 A. "I need to talk to you to protect you. Call
22 me."

23 Q. Why did you write "I need to protect you"?

24 A. I wrote that because I had just finished being
25 on the phone earlier with Eliana, and Eliana -- we had

1 gone through even a screen of domestic violence, and
2 Eliana had from her -- from her lips to my ears told me
3 that she was not in a cycle of domestic violence abuse
4 from what she had talked to me in the conversation, and
5 yet I'm in a situation where -- hearing a woman that I
6 don't even know who this woman is, she said she's
7 calling the police or she called the police, and I hear
8 Eliana on the verge of tears, saying, "This is not what
9 I want. This is not what I want. Help me, help me,
10 help me."

11 And my thinking was that something sounded fishy.
12 Something was fishy; something wasn't right. And the
13 first thing I thought is they needed legal protection,
14 both Eliana and Ross, and so that's what I meant by
15 that.

16 Q. Is it unusual in your experience as a domestic
17 violence counselor for a domestic violence advocate to
18 get in touch with the alleged batterer and tell him she
19 needs to protect him?

20 MR. KOPP: Objection, relevance.

21 COMMISSIONER HUR: I'll allow that one. Overruled.

22 THE WITNESS: Yes, but when you have Eliana Lopez,
23 who you're there to support, and I'm listening to her,
24 being present to her, and she asks me to call her
25 husband, I'm going to do what she asks me to do.

1 MS. KAISER: Q. Why didn't you say "I need to
2 protect you and Eliana"?

3 A. In the heat of everything, I was moving as
4 fast as I could to support her.

5 Q. But your focus had been Eliana up until then.
6 Right?

7 A. My focus has always been Eliana.

8 Q. Okay. So your declaration says, along with
9 the testimony you just gave, "I respect Eliana Lopez's
10 confidentiality and was fully present for Eliana
11 regardless of my previous professional relationship with
12 Ross Mirkarimi."

13 And do you find that statement consistent with your
14 text message of 3:53 saying that you need to talk to him
15 to protect him?

16 MR. KOPP: Objection, calls for speculation.
17 Argumentative.

18 COMMISSIONER HUR: Overruled.

19 THE WITNESS: Yes. I just explained to you where I
20 was coming from when I wrote that.

21 MS. KAISER: Q. So if I understand correctly, by
22 him, you meant he and Eliana?

23 A. Their family.

24 Q. Their fam- -- okay. Their family. And at
25 that point, you perceived them all to have common,

1 harmonious interests?

2 A. No, I went -- well, yes, that they needed
3 legal protections. But when I did talk to him, I said
4 they each need to have their own attorneys. That was my
5 suggestion, so that Eliana was protected, Ross was
6 protected, and they can each --

7 Q. Okay. Thank you. That's helpful.

8 Sorry. Searching for the proper paper. Okay.
9 Here we go.

10 So you texted Ross Mirkarimi coming up on 4:00,
11 late in the 3:00 o'clock hour, and again, according to
12 Exhibit 83, there's a series of phonecalls.

13 Actually, I'm ahead of myself. But it's all the
14 same series, really. There's a series of phonecalls
15 where Sheriff Mirkarimi joins this conversation that had
16 been happening, really, just between you and
17 Eliana Lopez for the first time.

18 According to these records, on the 4th, the first
19 telephone contact between the sheriff and Ms. Lopez is
20 at 4:23. Then there's a break where nobody's talking.
21 And then at 5:12, he calls you. At 5:20, he calls
22 Ms. Lopez, talks to her until 5:24, for four minutes,
23 and at 5:24, he calls you back.

24 In the meantime, according to these records, at
25 5:24, Ms. Lopez calls Ms. Madison. So there's a series,

1 as I understand these records. And you can correct me
2 if you have a different recollection or understanding,
3 and I'm actually inviting that.

4 A. Okay.

5 Q. As I understand these records, this is -- this
6 is the hour and the time when the conversations back and
7 forth begin and that you're having them and Ms. Lopez is
8 having them, according to these records.

9 Were you -- here's my -- finally my question. Were
10 you aware that the sheriff and Ms. Lopez had connected
11 on the phone by the time the sheriff called you?

12 A. No, I did not know that.

13 Q. You were unaware that they had talked?

14 A. I was totally unaware.

15 Q. So in your mind, you were breaking all this
16 news to him for the very first time?

17 A. Yes.

18 Q. What did you tell him?

19 A. I told him that Eliana was looking for him and
20 that she really needed to talk to him, so answer her
21 phone or her calls, her texts. And I told him -- told
22 him that a friend called the police about their argument
23 where he gave her a bruise. That's what I told him.

24 Q. And you told him nothing else?

25 A. Nothing else.

1 Q. Did he say -- did he ask you how you knew
2 about this argument?

3 A. He did, and I just said, "Well, I talked to
4 Eliana, but what we talked about, I'm going to -- that's
5 going to be between me and Eliana."

6 Q. Did you tell him that you talked to this
7 person who had called the police?

8 A. I said I -- I talked -- at the time, at that
9 moment, I did not. But later, I did say I talked. I
10 never talked about the content of what we talked about,
11 this unknown woman, which now we know is Ivory Madison.
12 But I did tell -- tell him that I -- you know, I talked
13 to, I guess, a friend briefly, Eliana's friend briefly.

14 Q. And what did you say you talked to her about?

15 A. I never talked about the content.

16 Q. And he didn't ask what you were talking to the
17 person who called the police about?

18 A. Actually, he did not.

19 Q. Okay. So, so far, I understand -- and tell me
20 if I've missed something -- that you told him that you
21 were aware there was an argument that caused a bruise --

22 A. Yeah.

23 Q. -- that Eliana was looking for him; that --
24 that a friend had called the police?

25 A. Mm-hmm.

1 Q. And that's it?

2 A. Yep.

3 Q. Was there anything else?

4 A. No.

5 Q. What did he say to you?

6 A. I think he was -- you know, he was kind of

7 shocked. You know, I think one, it's like -- I mean,

8 I'm saying a pow- -- you know, a lot in just like a

9 sentence or two, you know, and it was hard for me to

10 deliver that, but Eliana asked me to.

11 And he -- he seemed kind of a little taken aback,

12 but then he was open to the information I was giving

13 him.

14 Q. Did he tell you he already knew this stuff?

15 A. He did not tell me that.

16 Q. So that phonecall, let's say the first

17 phonecall you had with the sheriff at 5:12, that lasted

18 seven minutes, so I'm wondering if there's anything else

19 that you remember from that phonecall.

20 A. I don't recall any --

21 MR. KOPP: I think that question's been asked and

22 answered.

23 COMMISSIONER HUR: I'll allow it. Overruled.

24 THE WITNESS: I don't recall anything else.

25 MS. KAISER: Q. Okay. And you don't recall

1 anything else that he said?

2 MR. KOPP: That's asked and answered.

3 COMMISSIONER HUR: Sustained.

4 MS. KAISER: Q. Did he tell you to do anything in
5 that phonecall?

6 A. No, he did not.

7 Q. Okay. Did you make a plan to speak with him
8 again?

9 A. No, I did not.

10 Q. Did he ask you about the text where you said
11 "I need . . . to protect you"?

12 A. He didn't ask specifically about that text.
13 We just started talking.

14 Q. Okay. So you didn't talk about how he needed
15 to be protected or anything to do with protection?

16 A. Well, now that I recall -- you're jogging my
17 memory right now.

18 Q. Okay.

19 A. And that's when I did say that it just sounded
20 really fishy. You know, it sounded like Eliana wasn't
21 being respected. And that's basically the extent of the
22 conversation. And it sounded really fishy, and I told
23 him that I think that both him and Eliana need to get
24 separate legal counsel.

25 Q. And did you make a plan to follow up about

1 that?

2 A. No, we did not make any plan.

3 Q. Did he ask you to make a recommendation on
4 legal counsel?

5 A. He did ask me.

6 Q. And did you seek out recommendations?

7 A. I gave a suggestion.

8 Q. Did you give it in that call or in a
9 subsequent call? Do you remember?

10 A. I believe it was later, later in the day.

11 Q. Okay. So according to this first blurb, that
12 5:12 call that lasted seven minutes, that would have
13 gone to about 5:19. And then at 5:20, according to
14 this, the sheriff calls Ms. Lopez.

15 I'm wondering if at the end of your phonecall he
16 told you that he was going to call Ms. Lopez.

17 A. I don't recall. All I know is they were
18 trying to connect with each other. That's what -- to my
19 understanding, Eliana was trying to reach him, and now
20 he's going to try to reach her, and they need to
21 connect.

22 Q. Okay. So he speaks to her for four minutes,
23 and then, according to this, he calls you again, right
24 after he talks to her for two minutes. Do you know what
25 that was about?

1 A. I don't recall. I'm sorry.

2 Q. Okay. Did he tell you, by any chance, to jog
3 your memory, that he had spoken to Eliana and asked her
4 to call Ivory Madison?

5 A. No, I know he did not say that.

6 Q. Okay.

7 COMMISSIONER HUR: Counsel, how much more do you
8 think you've got left?

9 MS. KAISER: I've got -- let me check. Half an
10 hour.

11 COMMISSIONER HUR: Proceed.

12 MS. KAISER: Thank you.

13 THE WITNESS: How much time have we been going?

14 COMMISSIONER HUR: About 90 minutes.

15 MS. KAISER: Maybe an hour and a half by the time
16 we got situated.

17 THE WITNESS: Okay. So the one thing is I have a
18 newborn baby, and I'm breast-feeding. And I do want to
19 have a little break to -- at some point if we're going
20 this long just to check on my baby.

21 COMMISSIONER HUR: Ms. Haynes, any -- any time you
22 need a break, you tell me, and --

23 THE WITNESS: Okay. Well, I guess with my
24 attorney, if my -- my wife needs me, would you maybe
25 check in on her? We'll keep going unless she -- unless

1 I'm needed. Okay.

2 MS. KAISER: Absolutely.

3 THE WITNESS: Okay.

4 MS. KAISER: No objection from me.

5 THE WITNESS: Okay. Thank you.

6 MS. KAISER: Unless I'm right in the middle of a
7 really stunning question.

8 THE WITNESS: Okay.

9 MS. KAISER: Q. Okay. So I'm going to head back
10 in time just slightly. I sort of skipped ahead to kind
11 of explore what the sheriff knew and what you told him
12 and what that all meant. And now I want to go back to a
13 series of calls that the records show that you had with
14 Ms. Lopez. Okay?

15 So this is from page 2 again. It's the first call
16 of substance. There are a number -- by the way, as
17 we're going through these records, there are a number of
18 like attempts to call each other, you know, that are for
19 like zero seconds or ten seconds or whatever, so I'm not
20 really counting any of that in this narrative.

21 When I'm talking about calls that I see in the
22 record, I only mean ones that seem long enough to have
23 substance.

24 A. Okay.

25 Q. But, you know, you're welcome to check the

1 records or correct me with your recollection, anything
2 like that.

3 A. Okay.

4 Q. Okay. So after the phonecall that went from
5 3:31 to about 3:45 and then you texted the sheriff, the
6 next real substantive interaction is a phonecall that
7 you make to Ms. Lopez for 16 minutes, and this would
8 have been the first contact that you've had after that
9 weird conversation with Ivory Madison that you were
10 describing and Eliana seemed very upset.

11 A. Oh, yeah.

12 Q. Do you remember the content of this
13 conversation?

14 A. I just remember at that time that Eliana was
15 very upset, and I was just present and there to support
16 her and to listen. She did state that this -- this is
17 not what she wanted. She said that to me.

18 Q. Did you give her any suggestions for how to
19 handle the situation?

20 A. At -- no. I was there to listen and be
21 present for her and to just validate like her feelings,
22 you know.

23 Q. Did she tell you how she was thinking of
24 handling the situation?

25 A. No, she was just upset and she just was like

1 needing to talk.

2 Q. Okay. So it was more like emotional venting
3 and support than planning?

4 A. That's right. That's correct.

5 Q. Okay. Did you talk about any further
6 referrals at this point --

7 A. No.

8 Q. -- that you remember?

9 A. No, not that I recall.

10 Q. Okay. So this is solely -- I'm sorry.

11 A. Not that I recall.

12 Q. So to your recollection, this is solely
13 emotional support, nothing else?

14 A. Yes.

15 Q. Did she give you any more details about Ivory
16 Madison or who she was?

17 A. No, but she did say that she felt betrayed.
18 That's when she was emotionally like, "I feel betrayed"
19 and, you know, she felt really upset.

20 Q. Okay. So this phonecall at 3:56 lasts for 16
21 minutes, which takes us to maybe 4:12. I'll give you my
22 calculator if you want.

23 A. Okay.

24 Q. Do you want it?

25 A. No, that's okay.

1 Q. Okay. And I wanted to ask you about what
2 happened next, even though you didn't do it yourself.

3 But two minutes after you get off the phone with
4 her, she e-mails Ivory Madison, and she writes, "Dear
5 Ivory, I . . . hope you respect my feelings and work
6 with me in a healthy way without to mess it up. This is
7 my family and my son's dad."

8 Did she tell you -- does this help you recollect
9 that she was drafting an e-mail to Ms. Madison --

10 MR. KOPP: Objection.

11 MS. KAISER: Q. -- while she was talking to you?

12 MR. KOPP: Objection, assumes facts not in
13 evidence.

14 COMMISSIONER HUR: Sustained.

15 MS. KAISER: Q. Did you have -- based on looking
16 at this e-mail, do you now have any recollection that
17 Ms. Lopez talked about e-mailing Ms. Madison during your
18 phonecall?

19 A. She never talked about e-mailing Ms. Madison
20 during my phonecall.

21 Q. Okay. So this e-mail, to the best of your
22 knowledge, is completely independent of anything you
23 talked about?

24 A. Absolutely. I had no knowledge of this -- of
25 this text until this moment right now where I'm looking

1 at it on the screen.

2 Q. Okay. All right. So just to keep the
3 timeline intact, that was 4:14. Right? You finished at
4 4:12; she e-mailed at 4:14. At 4:14, then, you called
5 Ms. Lopez back for approximately a minute.

6 I don't think I kept anything that was less than a
7 minute because I didn't want to do anything that wasn't
8 connecting. But do you remember whether there was a
9 one-minute substantive communication at that point?

10 A. No, I don't recall.

11 Q. So do you have any sense at all whether there
12 was content to that?

13 A. No, but I do think during that time period, I
14 just was hoping that Eliana did connect with Ross
15 because it was like trying to connect.

16 Q. Right.

17 A. You know? And that's -- I just wanted to make
18 sure, you know, before I kind of went off on my day
19 that -- you know, that she had connected with Ross, and
20 that was my concern --

21 Q. Okay.

22 A. -- that they talk to each other.

23 Q. Okay. So at 4:16, then, Ms. Lopez -- and this
24 is just two minutes after her last e-mail -- sends this
25 to Ms. Madison. "Hello dear! I have been calling

1 social workers, therapists and lawyers. I don't want to
2 make impulsive decisions because Ross is a victim as
3 well. He couldn't escape from his circumstances. How
4 you said: He could got married with a shy . . . quiet.
5 . . . , but he got married to me that face and scream if I
6 have to be heard. I want to teach that to Theo as
7 well."

8 Were you aware that Ms. Lopez was drafting this
9 e-mail?

10 A. No.

11 Q. Did she discuss at the subsequent phonecall,
12 4:18 -- oh, wait. I'm sorry. That wasn't to you. I
13 apologize.

14 Does this help you remember whether or not at the
15 4:14 call there was substance to that call?

16 A. No.

17 Q. Okay. Is this e-mail, the way that it's
18 written, consistent with your observation of Ms. Lopez's
19 language abilities?

20 A. Like I said, I think I've only seen one
21 e-mail, maybe two, during the campaign. So I don't
22 think I'm really a good judge for that question you just
23 asked.

24 Q. Did you draft any portion of this e-mail and
25 send it to Ms. Lopez to then send to Ms. Madison?

1 A. Absolutely not.

2 Q. Did you draft any portion of the prior e-mail
3 at 4:14?

4 A. No.

5 MS. KAISER: Okay. I'm informed that you need to
6 take a break.

7 THE WITNESS: Okay. My son's probably crying right
8 now.

9 COMMISSIONER HUR: Okay. Let's take --

10 How much time do you need, Ms. Haynes, do you
11 think?

12 THE WITNESS: I'll try to speed him along. If he
13 can, I would be there for an hour. But probably 15
14 minutes. That's the shortest I think I can take.

15 COMMISSIONER HUR: Absolutely. Take your time and
16 just -- just let us know when you're --

17 THE WITNESS: Okay. Thank you.

18 COMMISSIONER HUR: -- when you're done.

19 In the meantime, how's our court reporter doing?

20 THE REPORTER: Could use a break.

21 COMMISSIONER HUR: Okay. Let's take ten minutes.

22 If Ms. Haynes is not back, I want to deal with the
23 evidentiary objections to the Lopez declaration, and
24 then we'll put Ms. Haynes back on. So ten minutes.
25 7:05, please.

1 (Recess taken from 6:55 p.m. to 7:07 p.m.)

2 COMMISSIONER HUR: Okay. We're back in session.

3 We still don't have Ms. Haynes, so let's turn to
4 the objections to the Lopez declaration.

5 MR. KEITH: Commissioners, if I might raise a
6 matter that's come up in the course of the hearing.

7 COMMISSIONER HUR: Sure.

8 MR. KEITH: There are -- there's at least one
9 member of the audience who has a small recording device
10 who's sitting next to us, and I've requested her not to
11 use it in our proximity so that she doesn't -- doesn't
12 overhear attorney-client communications and attorney
13 conferences. She has declined to stop doing that.

14 And I think that given the past of various people
15 using their recording devices to infringe on the mayor's
16 work-product and attorney-client privilege at prior
17 hearings, I'd like to get an order from the commission
18 that the only individuals that should be permitted to
19 use an audio recording device or video recording device
20 should be those credentialed members of the media who
21 are here.

22 COMMISSIONER HUR: Mr. Kopp, any response?

23 MR. KOPP: No.

24 COMMISSIONER HUR: I am sensitive to that concern,
25 and I will ask that members of the public not record the

1 proceedings, particularly if you are sitting in the
2 proximity of counsel. So --

3 UNKNOWN WOMAN: I'm not --

4 COMMISSIONER HUR: Ma'am, but --

5 Can we switch -- switch her seat with someone who
6 is --

7 UNKNOWN WOMAN: I'll just turn it off. What's the
8 difference?

9 COMMISSIONER HUR: Okay. Please turn off the -- if
10 you turn off -- if you're willing to turn off the
11 device, then we won't have a problem. Thank you.

12 So again, no recording devices used by members of
13 the public, please, out of respect for the
14 attorney-client privilege.

15 Okay.

16 MR. KEITH: Thank you.

17 COMMISSIONER HUR: The Lopez declaration. First of
18 all, thank you to both sides. I very much appreciate
19 you all working together and -- and finding reasonable
20 accommodation on many of the objections, and you did
21 narrow it down quite a bit for us, so thank you for
22 that.

23 My understanding is that there are only four
24 paragraphs of the Lopez declaration that are still at
25 issue.

1 MR. KEITH: One moment. I'll -- I'll check.

2 MR. KOPP: I haven't added them up. I just -- I

3 wrote this, but I didn't tally it, so --

4 COMMISSIONER HUR: Okay. That's fine.

5 MR. KOPP: And I'm sorry if it was not in the

6 format that anybody prefers, but hopefully, it was

7 clear.

8 COMMISSIONER HUR: I was able to follow it.

9 MR. KOPP: Okay. Okay.

10 COMMISSIONER HUR: Okay. So the first dispute

11 appears to be with respect to paragraph 6.

12 MR. KOPP: Yes. I guess they've made their

13 objection, so I'd like a chance at least to expand upon

14 why we think it is admissible and relevant.

15 COMMISSIONER HUR: Please. Go ahead, Mr. Kopp.

16 MR. KOPP: Okay. The way I understand the portion

17 of the mayor's case that deals with alleged attempts by

18 the sheriff to --

19 COMMISSIONER HUR: Mr. Kopp, I apologize for

20 interrupting you. I'm not sure that microphone works.

21 MR. KOPP: It's not? Okay.

22 COMMISSIONER HUR: It doesn't sound like it's

23 working.

24 MR. KOPP: Thank you. So the way that I understand

25 that portion of the mayor's case which deals with

1 dissuasion of witnesses is that the mayor contends that
2 the sheriff persuaded his wife and maybe other people, I
3 don't know, to try to not have Ivory Madison communicate
4 with the authorities, to not disclose the video.

5 And so the reason why this portion of paragraph 6,
6 we think, is admissible is because it demonstrates that
7 there is another, much more reasonable, in our view,
8 interpretation of what occurred, and that is that
9 Ms. Lopez did what she did because she believed that
10 Ms. Madison was an attorney and she believed that her
11 communications with her were confidential.

12 Now, in our view, it doesn't matter whether or not
13 that view's been upheld or not in the courts. It
14 explains her actions and it explains them in a way that
15 is consistent with innocence rather than any guilt on
16 the sheriff's part. So that's why we believe that the
17 remainder of that paragraph that we could not agree on
18 is admissible.

19 COMMISSIONER HUR: Mr. Keith?

20 MR. KEITH: With regard to Ms. Lopez's belief
21 whether an attorney-client privilege existed, it's
22 stated elsewhere in the declaration, in portions that we
23 haven't objected to. This level of detail and getting
24 into sort of a factual battle about whether -- about the
25 types of facts that pertain more to whether there might

1 have actually been an attorney-client privilege would
2 seem to be a waste of time and not relevant at this
3 point in the case, where the existence or not of an
4 actual privilege is not an issue.

5 COMMISSIONER HUR: Any questions for either of the
6 parties from the commissioners?

7 I would be inclined to sustain the objection.

8 Any --

9 COMMISSIONER RENNE: I guess I would be inclined
10 to -- although I think the relevance may be tangential,
11 I would be inclined to let that portion in that there
12 hasn't been a stipulation to cross out, which is line 7,
13 starting with "and," and line 8, which they stipulated
14 that that would go out. I think the -- I'd be inclined
15 to keep it, to overrule the objection.

16 COMMISSIONER HUR: So I -- I understand that the
17 portion that's been stricken begins with "and" and ends
18 with "attorney" on line 7, and the rest of it is what is
19 in dispute.

20 Any other comments from the commissioners? Views
21 on this particular paragraph?

22 COMMISSIONER LIU: I think I'd probably allow it
23 just for background evidence. I think it's fine.

24 COMMISSIONER HUR: Any dissenting view from that?

25 Okay. I think it should be overruled in light of

1 the views of the commissioners, and we can weigh the
2 evidence as we will. We have no jury here.

3 Okay. Paragraph 10. Mr. Kopp?

4 MR. KOPP: Yes. Thank you. Again, part of the
5 disputed portion of this paragraph supports and
6 buttresses Ms. Lopez's belief that she was dealing with
7 Ivory Madison not just as a friend, but as an attorney,
8 and it explains in large part why the videotape itself
9 was made.

10 And so I think -- I think it's highly relevant to
11 dispute the mayor's assertion that this attorney-client
12 relationship was made up after the fact by lawyers. So
13 that's -- that's why we see this as admissible and
14 highly relevant.

15 COMMISSIONER HUR: Mr. Keith?

16 MR. KEITH: Again, I mean, I think our arguments on
17 this point are -- really are much as with the other
18 paragraph, that these more go to the existence of an
19 actual attorney-client privilege than Ms. Lopez's
20 reasonable belief. And plus we'd argue just the form of
21 it is argumentative.

22 COMMISSIONER HUR: I would be inclined to overrule
23 this objection. Any dissenting view from my fellow
24 commissioners?

25 Okay. That objection is overruled. Paragraph 21.

1 Mr. Keith, do I understand that the only portion of 21
2 that you are objecting to is the portion that says "as
3 that is the way the law is in Venezuela"?

4 MR. KEITH: That's right.

5 COMMISSIONER HUR: Okay. Mr. Kopp?

6 MR. KOPP: Well, we offer this not to show what is
7 or is not the law in Venezuela, but to again support her
8 belief that whether or not Ms. Madison had passed the
9 bar and obtained the license to practice law here,
10 because of Ms. Lopez's knowledge of what the law is or
11 her understanding of what the law is in Venezuela, that
12 supported her belief that she had a privilege that
13 existed between her and Ms. Madison.

14 And I don't want to repeat the arguments that I
15 previously made as to why that's relevant.

16 MR. KEITH: And from our standpoint, if -- if this
17 is offered with the caveat that Ms. Lopez doesn't
18 actually know what the law is in Venezuela, but this is
19 simply what she believes, that's fine. We just don't
20 want to get into a side battle about the law of
21 Venezuela.

22 MR. KOPP: Okay. And we would agree with that.

23 COMMISSIONER HUR: Okay. The objection is
24 overruled with the understanding that we will interpret
25 Ms. Lopez's not actually knowing what the law is in

1 Venezuela.

2 Paragraph 25.

3 MR. KOPP: It's -- it's much the same argument that
4 I have already made, but in response to the mayor's
5 suggestion earlier that we don't need to get bogged down
6 in the details about all this stuff, well, I have to
7 disagree with that because if Ms. Lopez knew these
8 things, it would add credence to her belief that
9 Ms. Madison was an attorney.

10 So, you know, you need -- you need facts to build
11 the foundation for a belief, and we think that these are
12 the building blocks for that belief.

13 COMMISSIONER HUR: Mr. Keith?

14 MR. KEITH: With the exception of the first
15 sentence, which does actually state a fact to which
16 Ms. Lopez could plausibly have personal knowledge, the
17 rest of this is just argument. It's collecting stuff
18 from the Internet without a show- -- without a showing
19 that Ms. Lopez ever saw this or that it influenced her
20 view as to whether Ms. Madison was an attorney as of the
21 December 31st/January 4 time frame.

22 This is just stuff from the Internet that appears
23 to have been cobbled together and added to the
24 declaration, and so, you know, that's one the reasons
25 why we raised the foundation objection as well as the

1 argumentative objection.

2 COMMISSIONER HUR: I'm inclined to agree. I think
3 other than the -- other than, actually, the first
4 sentence and the last sentence, I would -- I would be
5 inclined to sustain the objection.

6 Any dissenting view from my fellow commissioners?

7 MR. KOPP: I'm sorry. May I just be heard briefly?

8 COMMISSIONER HUR: Mr. Kopp, please.

9 MR. KOPP: Whatever the commission's ruling is on
10 this, if the testimony of Ms. Lopez does establish she
11 knew some or all of these, I'd just like to be able to
12 revisit that issue. I mean, if you rule as you stated
13 you are likely to do, I'd like to be able to revisit it
14 after her testimony.

15 COMMISSIONER HUR: In other words, in order to
16 establish foundation for her knowledge of these --

17 MR. KOPP: Correct.

18 COMMISSIONER HUR: -- matters?

19 Well, it's -- it's redirect, so I guess that's --
20 we'll see if you would get that opportunity.

21 But the objection will be sustained with respect to
22 starting with line 5, "In fact her words," through
23 "custody of Theo" on line 16. Otherwise, overruled.

24 Okay. I don't think there are any other objections
25 to Ms. Lopez, if I understand the parties' stipulations

1 correctly.

2 MR. KEITH: There's one.

3 COMMISSIONER HUR: Did I miss one?

4 MR. KOPP: Twenty-eight, I think.

5 MR. KEITH: Twenty-eight.

6 COMMISSIONER HUR: Ah! Okay. Sorry, I did miss
7 that. Mr. Kopp.

8 MR. KOPP: So this is a little bit of a different
9 issue here, and we did agree that that -- that one
10 phrase can go out.

11 The reason why we think the remainder of this
12 paragraph should be admitted is because the opinion of
13 Ms. Lemon, the domestic violence expert that the people
14 have proffered, is that Sheriff Mirkarimi exhibits the
15 characteristics of an unreformed batterer and has made
16 statements typical of such people, and we think that
17 this directly rebuts that opinion testimony.

18 Now, I mean, I also don't think Ms. Lemon's
19 testimony is relevant and should be admitted for any
20 purpose, but I can -- I have a pretty good sense that
21 the commission is going to accept the majority of it,
22 and if it does, then we think that this would rebut at
23 least that portion of her opinion testimony.

24 COMMISSIONER HUR: Mr. Keith?

25 MR. KEITH: You know, I think given that there's

1 been a stay-away order in place since January, I don't
2 see a foundation for Ms. Lopez to offer these opinions
3 about the sheriff's behavior or perspectives or attempts
4 to be a better parent or spouse since this incident
5 occurred. I -- I simply don't see the foundation for
6 it. It's argument.

7 I mean, it is good character testimony, which is
8 permitted under some circumstances, but, really, it's
9 mostly argumentative, and it just seems to lack
10 foundation given that they've had no contact since
11 January 13th.

12 COMMISSIONER HUR: I'd be inclined to overrule the
13 objection.

14 Any dissenting view from my fellow commissioners?

15 Okay. That objection is overruled.

16 Okay. So I think now we've got all of them.
17 Right?

18 MR. KOPP: Yes.

19 COMMISSIONER HUR: Okay. Great. Thank you.

20 MR. KEITH: Thank you.

21 COMMISSIONER HUR: And Ms. Haynes, thanks for your
22 patience. Sorry about that.

23 Ms. Haynes, let me remind you that you're still
24 under oath.

25 THE WITNESS: Yes.

1 MS. KAISER: Q. Hi. Welcome back.

2 I'm just going to take 30 seconds to clip these
3 papers together so that I will be a super-speedy
4 cross-examiner, which I know is what we would all like.

5 COMMISSIONER HUR: I will hold you to super-speedy.

6 MS. KAISER: I know you will. All right. So I was
7 actually in the middle of a line of questioning, and I
8 would like permission to go back and just go over two
9 sheets that we had already covered to briefly refresh
10 where we were.

11 COMMISSIONER HUR: Counsel, I -- I mean, unless the
12 commissioners would find that helpful, I was following
13 along pretty closely, and I feel like I -- I know where
14 you are.

15 COMMISSIONER STUDLEY: One question.

16 COMMISSIONER HUR: One -- Commissioner Studley has
17 asked for one question. One ques- -- rewind one
18 question, and then let's go forward.

19 MS. KAISER: Okay. Well, I believe my last
20 question was along the lines of did you help --

21 Is this working now? No. Did you disconnect it?

22 Oh, is it that simple? There we go. Thank you.

23 Q. All right. I believe my last question was
24 along the lines of did you help Ms. Lopez draft or did
25 you draft on her behalf the e-mails that she sent to

1 Ms. Madison at 4:14 and 4:16?

2 A. No, I did not.

3 Q. Okay. The next call that these records reveal
4 between you and Ms. Lopez is at 5:27, and it lasts for
5 four minutes. Do you have any recollection of what that
6 call was about?

7 A. No, I don't.

8 Q. So it would be over at, let's say, 5:31. Five
9 minutes later, as it happens, Ms. Lopez e-mails
10 Ms. Madison and says, "I'm so sorry you misunderstood
11 everything."

12 Does that jog your recollection about what your
13 phonecall was about at 5:27?

14 A. No.

15 Q. Did you draft that e-mail for Ms. Lopez to
16 send to Ms. Madison?

17 A. No, I did not.

18 Q. At 6:41, you call Ms. Lopez again, and the
19 call lasts for five minutes, so until maybe about 6:46,
20 and half an hour later, Ms. Lopez e-mails Ms. Williams
21 and she says, "Callie. Please all I told you today is
22 confidential. Please. Don't repeat please. It was to
23 dramatic."

24 Was anything about that 7:13 p.m. e-mail the
25 subject of the 6:41 p.m. phonecall?

1 A. No, it was not.

2 Q. Do you remember what that five-minute
3 phonecall was about?

4 A. No, I don't.

5 Q. So at 7:23, you call Ms. Lopez, but for
6 30 seconds. I'm assuming that's a missed connection or
7 maybe a message at most. Right?

8 A. A dropped call.

9 Q. "Call me," maybe.

10 A. Yeah, or a dropped call, maybe.

11 Q. Yeah, I don't know. But in any event, she
12 calls you back five minutes later and the call lasts for
13 11 minutes. Do you know what that call's about?

14 A. No, I do not.

15 Q. Okay. So then that call ends at, I believe,
16 7:39. And 7:47, Ms. Lopez e-mails Callie Williams and
17 says, "Don't talk to the police if they ask you."

18 Does that jog your recollection about any portion
19 of the phonecall at 7:28?

20 A. No.

21 Q. Did Ms. Lopez, to the best of your
22 recollection, ever tell you that she was going to send
23 an e-mail like that to Ms. Williams?

24 A. No.

25 Q. Did you help her draft that e-mail?

1 A. No.

2 MR. KEITH: Commissioners --

3 UNKNOWN WOMAN: It's a pen. I write with it.

4 MR. KEITH: Is it a recording device?

5 UNKNOWN WOMAN: It's a pen.

6 MS. KAISER: Is it also a recording device, ma'am?

7 UNKNOWN WOMAN: No.

8 MS. KAISER: You told me it was earlier.

9 UNKNOWN WOMAN: I did because you were bothering

10 me.

11 COMMISSIONER HUR: Counsel, let's not engage with

12 the --

13 MR. KEITH: Okay. Commissioners, I -- the citizen

14 said to us that this pen was a recording device.

15 UNKNOWN WOMAN: Because you were bothering me. You

16 already don't like that I'm holding these signs.

17 COMMISSIONER HUR: Okay. Ma'am --

18 UNKNOWN WOMAN: I'm sorry.

19 COMMISSIONER HUR: I'm talking to the counsel, if

20 you could please just give us a moment here.

21 Can the -- can the sheriff look at the pen, please?

22 (Sheriff's deputy complies)

23 COMMISSIONER HUR: Okay. Let's proceed, Counsel.

24 MR. KEITH: Sorry for the interruption.

25 COMMISSIONER HUR: Thank you, ma'am. Sorry for the

1 inconvenience.

2 MS. KAISER: If I may just point out, I don't know
3 if the full commission is aware because the
4 correspondence, to the best of my knowledge, did not go
5 to the full commission, but there was a community member
6 at a prior meeting who surreptitiously filmed my texting
7 during the meeting, and that's one of the reasons why --
8 and it was -- it was an attorney-client communication.

9 That's one of the reasons why we're sensitive to
10 this issue right now. We're not just upset about
11 your pen.

12 MR. KOPP: Can I just say something?

13 COMMISSIONER HUR: No, we're done with this topic.
14 I understand your concern.

15 MS. KAISER: Thank you.

16 COMMISSIONER HUR: We want to protect the
17 attorney-client privilege, but let's focus on what we're
18 here for.

19 MS. KAISER: Thank you. Sorry.

20 Q. Okay. You know, your declaration mentioned --
21 well, it didn't just mention. Your testimony in your
22 declaration said that you talked to Ms. Lopez on the
23 morning or, you know, early in the day of the 14th and
24 then there was one subsequent -- you mentioned one
25 subsequent phonecall for the purpose of referrals.

1 Are you surprised to see this large number of
2 phonecalls between you and Ms. Lopez on the 4th? Does
3 that comport with your recollection?

4 A. Yes, it -- yes, I recall.

5 Q. Oh. And do you have any recollection of the
6 content of any of the other calls beyond the first two?

7 A. I was basically just providing support for
8 her, just emotional support. Since she had called me at
9 the beginning or somewhere in the afternoon and had told
10 me this and looked to me for support, I wanted to be
11 there for her as another woman to support her for
12 whatever she was going through. So I would check in
13 with her, like "Are you doing okay? Are you okay?"
14 because she was very, very upset.

15 Q. Okay. So you called her to offer emotional
16 support at 5:38 and 5 -- you know, I mean, just like
17 repeatedly throughout the day in short calls?

18 A. That's right, especially when she calls me and
19 wants me to call her back.

20 Q. Okay.

21 A. Support just doesn't end at -- as soon as the
22 phonecall's over, especially when she wants to keep
23 talking to you.

24 Q. I -- I agree with you that support is
25 important and, you know, an act of friendship.

1 A. That's right.

2 Q. I'm not disputing that at all.

3 A. Yeah.

4 Q. I was just asking you about the number of
5 phonecalls since your declaration only referenced two.
6 Right?

7 MR. KOPP: Objection. Counsel's testifying.

8 COMMISSIONER HUR: Sustained.

9 MS. KAISER: I'll move on.

10 COMMISSIONER HUR: Thank you.

11 MS. KAISER: Q. Here's another call you made to
12 Ms. Lopez that we haven't discussed before. This one is
13 at 5:38, and it lasts for five minutes, and -- I put my
14 other paper away, but it comes shortly after the final
15 e-mail -- I apologize. See, I clipped all my papers
16 together, and it was going to be great.

17 It comes after the final e-mail that Iv- -- or that
18 Ms. Lopez wrote to Ivory Madison. I'm just about to
19 establish the time. There we go.

20 Okay. So you had spoken with her at 5:27 for four
21 minutes. She e-mails Ivory that last e-mail, "I'm so
22 sorry you misunderstood everything," and that is the
23 last e-mail in the record of Exhibit 83 for the
24 communications. And shortly after that, two minutes
25 later, you call Ms. Lopez again for five minutes. Do

1 you have any recollection of the content of that
2 conversation?

3 A. No, I do not.

4 Q. Do you remember Ms. Lopez telling you about
5 e-mailing Ms. Madison that she misunderstood everything?

6 A. No.

7 Q. Okay. Sorry. PowerPoint would have been so
8 much better.

9 So from 5:38, you talked for five minutes. That
10 brings us to 5:43. And I found an error on what I was
11 doing. This was supposed to say "5:43 to 5:47."
12 There's a flurry of four attempts by you to call Sheriff
13 Mirkarimi, but none of them are successful in these
14 records.

15 Then you text him, "Call me." Do you know what you
16 wanted him to call you about at that point?

17 A. I don't re- -- I don't recall. Most likely,
18 it was just checking in to see if they were okay.

19 Q. Okay. So to the best of your recollection,
20 you were trying to provide him that same sort of support
21 and check-in.

22 A. And make sure him and Eliana are connected.

23 Q. Okay. At 5:51 -- and this -- you may
24 recognize this from the paper -- Eliana texts to Sheriff
25 Mirkarimi, "You have to call hennessey and stop this

1 before something happen[s]. Ivory is giving the
2 investigators everything. Use your power."

3 Now, in the 5:38 phonecall that you had, did you
4 know that Eliana Lopez was going to text the sheriff and
5 suggest calling Michael Hennessey?

6 A. Absolutely not.

7 Q. She didn't tell you about her planned
8 communications with the sheriff?

9 A. No, she did not.

10 Q. Had she talked to you still in any way about a
11 plan that she was forming for dealing with the
12 situation?

13 A. She did not.

14 Q. She only shared her emotions?

15 A. That's right.

16 Q. Okay. After that text at 5:51, there's a
17 series of back-and-forths between you and Ms. Lopez.
18 Two one-minutes. Those are probably, you know, not
19 connecting calls. And then at 5:57, you talked to
20 Ms. Lopez again for seven minutes. Do you recollect the
21 content of that call?

22 A. No, I do not.

23 Q. Did she tell you then that she had texted the
24 sheriff and suggested calling Mike Hennessey?

25 A. No, she did not.

1 Q. Okay. So in the middle of that phonecall,
2 5:57 to -- gosh, I don't know -- 6:04, Sheriff Mirkarimi
3 texts Ms. Lopez, a response to her prior text, "I
4 cannot. And neither can he. You have to reject Ivory's
5 actions. We both do. I cannot involve new people."

6 Did she tell you about getting that text?

7 A. No, she did not.

8 Q. Do you know what it meant, "I cannot involve
9 new people"?

10 MR. KOPP: Calls for speculation.

11 MS. KAISER: I'm asking.

12 COMMISSIONER HUR: Overruled.

13 THE WITNESS: No, I do not.

14 MS. KAISER: Q. Okay. Okay. So that text comes
15 in at 5:51. Wait. No, that's wrong. I apologize.

16 That text comes in at 6:01, in the middle of a
17 phonecall you're having with Eliana Lopez that lasts
18 until about 6:04. Okay? So you hang up from that
19 phonecall at 6:04 and then you call Sheriff Mirkarimi.
20 Do you know what that was about?

21 A. I don't recall.

22 Q. At 6:05, just after you've connected with
23 Sheriff Mirkarimi, Eliana Lopez, who you'd just hung up
24 with, texts the sheriff and says, "Don't write any other
25 thing. Answer Linnette['s] call. She has some

1 advices."

2 Do you know what that's about?

3 A. I don't know what that's about.

4 Q. What advice did you have?

5 A. The only advice I had is what I told you, was
6 that they both needed to get attorneys, separately.

7 Q. Did you tell her to stop writing texts?

8 A. No, I did not.

9 Q. Did she -- did you tell her to tell the
10 sheriff to stop writing things?

11 A. No, I did not.

12 Q. How did she know that you were going to call
13 the sheriff, if you know?

14 A. I don't know.

15 Q. And the advice was just the legal counsel,
16 again?

17 A. That's right.

18 Q. At 6:06, she offers another suggestion to her
19 husband -- you may not know anything about this
20 either -- "You should not be in [a] public space and
21 maybe go to sleep with Pat."

22 Do you know who Pat is?

23 A. I don't know who Pat is. I mean, the only
24 guess I could think of is Ross's -- a relative named
25 Patricia.

1 Q. Okay. Did you give any advice that he should
2 not be out in public and maybe should not sleep at home?

3 A. No, I did not.

4 Q. Okay.

5 COMMISSIONER HUR: Counsel, you're now past your
6 first estimate and your second estimate.

7 MS. KAISER: I'm doing my best.

8 COMMISSIONER HUR: If there's a best you're saving
9 for last, I would get there.

10 MS. KAISER: Okay. I'm -- I'm there.

11 COMMISSIONER HUR: Thank you.

12 MS. KAISER: Q. Moving off of January 4th.

13 A. Okay.

14 Q. Okay. So here's some texts from Exhibit 81,
15 and you can see, maybe -- you probably can't see; I'm
16 sorry. This is a text from January 8th at 12:08 a.m.,
17 and you just started checking in about much less serious
18 stuff now, which must be a relief. Sorry for the
19 editorializing; didn't mean that.

20 So you write, "Curious, what . . . is the salary
21 range of your chief of staff?" back to the prior
22 conversation. And the next text says, "I still need to
23 send you the résumé of someone I think would be good.
24 We were too busy before."

25 Do you know what "busy" -- "We were too busy" was?

1 What does that refer to?

2 A. I was pregnant and really getting ready for my
3 baby boy that I have now. That's probably what it was.

4 Q. Okay.

5 A. And trying to still work at the same time with
6 my other -- with my job.

7 Q. Okay. So that wasn't a reference to this
8 whole flurry of activity --

9 A. No.

10 Q. -- on January 4th?

11 A. No.

12 Q. Okay. But you still feel confident after that
13 whole scandal and everything erupts around
14 January 4th -- which it did, quite publicly -- that
15 you can still make suggestions about a chief of staff to
16 the sheriff?

17 MR. KOPP: Objection, argumentative, relevance.

18 COMMISSIONER HUR: Overruled.

19 THE WITNESS: So I answer the question?

20 COMMISSIONER HUR: Please.

21 THE WITNESS: If I have good people to refer, then
22 I would -- I would refer them.

23 MS. KAISER: Q. Okay. Here's my last exhibit.
24 This is also from Exhibit 81. It's a little further
25 along. It's a text from you to Sheriff Mirkarimi. It's

1 on January 12, it's at 9:42 p.m., and it's very lengthy.
2 I wanted to put it all in just so that, you know, the
3 context is there, although what I really want to focus
4 on is the last part of the text. Do you want to read
5 this part first?

6 A. Yeah, because I --

7 Q. I understand.

8 A. I want to read the whole thing. Do you have a
9 copy where I can look at it?

10 Q. Here. Why don't you read it from here
11 quickly, and then I'll just take it back.

12 A. Okay. But can I have it while you're asking
13 questions to me?

14 Q. I need the last page for the overhead.

15 A. Okay.

16 Q. You should be able to see it.

17 A. Okay.

18 Q. If you can't see it, tell me --

19 A. Okay.

20 Q. -- and I'll make sure you have a copy.

21 A. Okay.

22 Q. It is in Exhibit 81, but you have to flip
23 around for it.

24 Can you see that clearly? I can't. How does --
25 okay. There we go.

1 A. No, but I can see this.

2 Q. Okay. So this is a text, and I just want to
3 start at the very end, like right here. Can you read
4 that for me to the end?

5 A. Why don't you start from the beginning so the
6 whole context is put into context?

7 Q. I just want to read from the end. You're
8 welcome when I ask you questions to give context.

9 A. Okay. "And remember who came out against you.
10 When time passes, and you are out if the clear, I and
11 Kim will express to Beverly how disappointed we are with
12 her. Innocence before proven guilty. This will pass.
13 Stay strong. We are with you & Eliana!"

14 Q. Okay. So who is Beverly who you're referring
15 to?

16 A. That's Beverly Upton.

17 Q. And what are you disappointed in Beverly Upton
18 about?

19 MR. KOPP: Relevance.

20 COMMISSIONER HUR: Overruled.

21 THE WITNESS: Beverly Upton's been a friend and
22 someone I've worked with, and I've always supported the
23 DV consortium and I've supported whatever I can -- could
24 do with add-backs for domestic violence. I have put
25 myself out there. And I really respect her. I've

1 respected her.

2 I was really disappointed in how there wasn't an
3 investigation about what was going on with domestic
4 violence, and yet people were doing rallies and before
5 information or investigation really came out. So that
6 was my disappointment.

7 And then also, you know, I heard from the
8 community, saying, "Oh, we care so much about Eliana and
9 Theo," and honestly, I was just shocked that there was a
10 rally and Eliana was walking into City Hall and they
11 didn't even know who she was. And so my disappointment
12 was that -- that Eliana and Theo were not at the center
13 of these conversations and their well-being, and
14 that's -- that's what I meant by that.

15 MS. KAISER: Q. By January 12th, hadn't
16 Eliana Lopez already told you that her husband had
17 injured her in a domestic dispute?

18 A. She said he bruised her arm, but she said that
19 he wasn't a batterer and what they were making him out
20 to be.

21 Q. So in your mind, on January 12, he was an
22 injurer, but not a batterer?

23 MR. KOPP: Objection, that's argumentative.
24 Relevance.

25 MS. KAISER: I'm trying to --

1 COMMISSIONER HUR: Sustained.

2 MS. KAISER: Okay.

3 Q. Can you help me understand why in your mind
4 the fact that he caused an injury during a domestic
5 dispute was not the same thing as domestic violence?

6 MR. KOPP: Objection, relevance.

7 COMMISSIONER HUR: You can answer that one.

8 THE WITNESS: I believe that anyone -- no one
9 should ever lay hands on anyone, and people should be
10 accountable for what they do, so I am not excusing that
11 he laid hands and put a bruise on his wife. That's
12 wrong.

13 My problem was that there was not an investigation
14 that was happening, and actually, an investigation where
15 it seemed like they were really seeking the truth and
16 trying to find out what was going on. And why did I
17 know this? Because Eliana, who's at the center of what
18 is going on, is letting me know that people aren't like
19 really trying to find out what really happened.

20 And instead, we are looking and -- you know, the
21 media is coming out with fabrications and media lies,
22 and on an every-other-day basis, and I know this
23 because, you know, Eliana talked me to me directly and
24 told me her story. And I listened, and I believe her.
25 Why would someone call me? I wasn't seeking out her;

1 she called me and wanted to talk and wanted to tell her
2 story.

3 And you know, if in fact with domestic violence,
4 you had -- you had referred and you had said isn't it
5 true when someone is in a domestic violence relationship
6 when they want to leave their batterer that it's -- more
7 violence can happen? In fact, like homicide, that's
8 usually when -- if the batterer is going to hurt the
9 person or the children, it's when the person leaves
10 that -- that person, the batterer.

11 Well, I had a real problem while I'm watching, you
12 know, off and on with the media -- I try not to listen
13 too much -- but to hear every other day or whatever is
14 in the media and they're talking about domestic violence
15 and leaking -- the D.A., you know, is leaking
16 information about the case. If they really cared about
17 Eliana and Theo, and if Eliana and Theo were really in a
18 situation of physical -- extreme physical abuse, then
19 with all the leaks and everything that they put out
20 there and fabrications, they could have been killed.

21 And I was very disappointed in how that domestic
22 violence unit handled the situation. They did not have
23 an investigation. They did not seem like they were
24 looking for her safety. If she was one of those women
25 that was in the situation, she could have been hurt and

1 so could have Theo. Thank God that she wasn't. Thank
2 God that she wasn't.

3 MS. KAISER: Q. And why were you disappointed in
4 Beverly Upton about how Eliana could have been in more
5 danger because of the way the investigation was
6 conducted?

7 COMMISSIONER HUR: Counsel --

8 MR. KOPP: That is asked and answered.

9 COMMISSIONER HUR: -- I think you have an answer to
10 that question. Sustained.

11 MS. KAISER: Q. Okay. On January 12th, in that
12 text, you wrote, "Innocence before proven guilty."

13 Did you know when you wrote that that Sheriff
14 Mirkarimi had actually committed domestic violence
15 against his wife?

16 MR. KOPP: Objection, relevance.

17 COMMISSIONER HUR: Counsel, I think you have -- I
18 mean, she has said that she knew about the -- the
19 bruising of the arm on January 1st, so we know that
20 she knew it at the time of this e-mail, if that's what
21 you're trying to get at.

22 MS. KAISER: Okay. Well, as long as you know, I'm
23 fine with that.

24 Q. Did the sheriff ever admit to you -- I know
25 Eliana told her side of the story, but did the sheriff

1 ever admit to you that he injured his wife?

2 A. He did.

3 Q. When did he do that?

4 A. Yeah. I think that day, when I had to call
5 him because Eliana asked me to, I believe he did mention
6 it, and he was ashamed of it, and he felt it was -- he
7 said it was wrong, you know, that he -- that he did.

8 Q. Okay. Did it change your views at all about
9 the domestic violence movement or the advocates and what
10 they did and who was against him, these -- these
11 sentiments in this text, did it change your view at all
12 when the sheriff pleaded guilty?

13 MR. KOPP: Objection, relevance.

14 COMMISSIONER HUR: Sustained.

15 MS. KAISER: Q. When you were speaking to the
16 sheriff either on July 4th or afterwards, did he ever
17 tell you that he felt as a chief law enforcement officer
18 he had a duty to make sure that the investigation was
19 unhampered or that witnesses cooperated?

20 MR. KOPP: Objection, relevance.

21 COMMISSIONER HUR: Overruled.

22 THE WITNESS: No, he did not.

23 MS. KAISER: Q. When you were speaking to the
24 sheriff either on January 4th or afterwards, did he
25 ever tell you that he was working to live up to a

1 professional standard of unflinching honesty and full
2 accountability?

3 A. No, he did not.

4 Q. Did he ever express to you in conversation or
5 in any other means any concern about the effect that his
6 actions both on December 31st and subsequently would
7 have on the sheriff's department?

8 A. No, he did not.

9 Q. Did he ever thank you?

10 A. For winning the election?

11 MR. KOPP: Objection, vague.

12 COMMISSIONER HUR: Sustained.

13 MS. KAISER: Q. Okay. Did he ever thank you for
14 everything that you did to help Eliana and him on
15 January 4th and afterwards?

16 MR. KOPP: Objection, relevance.

17 COMMISSIONER HUR: Sustained.

18 MS. KAISER: Almost done.

19 Q. So your declaration says -- and I think this
20 is probably the important point at the end of the day --

21 A. Okay.

22 Q. -- "At no time did I dissuade any witness from
23 talking with the police or cooperating in an
24 investigation."

25 A. Yes, I did not.

1 Q. But you tried, didn't you, when you spoke to
2 Ivory Madison?

3 A. No, I did not.

4 Q. And you coached Eliana about what to say to
5 witnesses to get them not to talk to police, didn't you?

6 A. I did not.

7 Q. And you sent her e-mails that she could cut
8 and paste and send on to those witnesses, didn't you?

9 A. No. No, I did not.

10 Q. And you encouraged her to make phonecalls to
11 Ivory Madison and continue to try and dissuade her from
12 talking to the police, didn't you?

13 A. No, absolutely not.

14 Q. And your declaration also says, "At no time
15 did Ross Mirkarimi ask" me to help dissuade witnesses,
16 but he knew that you were trying to clean up the mess he
17 made with his wife, didn't he?

18 MR. KOPP: Objection, that's argumentative.

19 COMMISSIONER HUR: Sustained.

20 MS. KAISER: Q. He was counting on you on the 4th
21 to help him get past scandal and to soothe Eliana,
22 wasn't he?

23 MR. KOPP: Objection, no foundation, calls for
24 speculation, argumentative.

25 COMMISSIONER HUR: Counsel, I haven't heard the

1 foundation for that, and I think you've asked and you've
2 gotten negative answers, so I'm going to sustain that
3 objection.

4 MS. KAISER: Q. You told him that you tried to get
5 Ivory Madison to send the police away, didn't you?

6 A. No, I did not. I never did.

7 Q. He never knew that from you?

8 A. No.

9 Q. And he knew, didn't he, on January 4th that
10 Eliana was working with you to try and keep Ivory
11 Madison and Callie Williams from talking to
12 investigators? Didn't he?

13 MR. KOPP: Objection, no foundation, calls for
14 speculation, argumentative.

15 COMMISSIONER HUR: Sustained.

16 MS. KAISER: Q. Did he ever indicate any concern
17 at all about what you were doing in the middle of the
18 situation on January 4th?

19 MR. KOPP: Objection, vague.

20 COMMISSIONER HUR: Sustained.

21 MS. KAISER: Q. Did he ever express any concern
22 about the appearance of having his campaign manager in
23 the middle of this scandal and talking to witnesses on
24 January 4th?

25 A. No, he -- there was no -- no.

1 Q. So then he never approached you about wanting
2 to set things straight or to make it clear what your --
3 that your role had nothing to do with being campaign
4 manager?

5 MR. KOPP: Objection, vague.

6 COMMISSIONER HUR: I'll let -- do you understand
7 the question?

8 THE WITNESS: I actually don't understand that
9 question.

10 Can you rephrase that, please?

11 COMMISSIONER HUR: Sustained.

12 MS. KAISER: Can you reread the question? Because
13 I'm not sure what I said.

14 COMMISSIONER HUR: She doesn't understand it.
15 Try -- try it again.

16 MS. KAISER: Okay. okay.

17 Q. Did -- was he ever concerned -- well, maybe
18 put it this way: Did he ever approach you about trying
19 to make clear, either privately to the witnesses or
20 publicly, why you as his campaign manager were involved
21 in the events of January 4th?

22 A. No.

23 MR. KOPP: Objection, relevance.

24 COMMISSIONER HUR: The answer's in.

25 MS. KAISER: Q. Are you aware of any time that

1 he's ever spoken out about your role and his
2 understanding of why you were enmeshed in these events
3 on January 4th?

4 A. No.

5 MS. KAISER: Okay. That's all I have.

6 THE WITNESS: Okay.

7 COMMISSIONER HUR: Any redirect, Mr. Kopp?

8 MR. KOPP: Yes. It's going to be brief.

9 COMMISSIONER HUR: Dare I ask how brief?

10 MR. KOPP: Five minutes.

11 ---o0o---

12 REDIRECT EXAMINATION BY MR. KOPP

13 MR. KOPP: Q. Good evening. It's Ms. Peralta
14 Haynes. Right?

15 A. Yes.

16 Q. Okay. My name's Shepard Kopp. I'm one of the
17 lawyers representing Sheriff Mirkarimi. And have you
18 and I ever met?

19 A. No.

20 Q. Have you and I ever even spoken?

21 A. No.

22 Q. Okay. Well, it's nice to meet you.

23 A. It's nice to meet you too.

24 Q. Now --

25 A. Maybe in better circumstances, though.

1 Q. Me too. You were asked some questions earlier
2 in the evening about not speaking with an investigator
3 or other representatives from the City Attorney's Office
4 or somebody sent by the mayor. Do you remember that?

5 A. Yes.

6 Q. And do you remember someone trying to contact
7 you?

8 A. Yes.

9 Q. And why was it that you did not speak with
10 that person?

11 A. From the beginning, since all of this started,
12 when it was first in the D.A.'s hands and then now it's
13 in the hands of the city attorney, I told the
14 investigator, all the investigators, that I was
15 pregnant. So from the beginning, I was, I think, four
16 months pregnant and then this time around, the second
17 time around, I was like seven months pregnant.

18 I'm older. It's my first child. So they
19 considered me a high-risk pregnancy, and I was having
20 medical -- some health complications. And so I told the
21 investigator that I was pregnant, older, high-risk, and
22 that my doctor had said that I needed to avoid stress.
23 And so I let them know that I -- at that point, when
24 they had asked me come in, that I needed to really
25 respect my doctor because my child is the most important

1 thing, you know, for me to focus on.

2 Q. Okay. And after you communicated that to the
3 investigator --

4 A. Yeah.

5 Q. -- from the City Attorney's Office, did that
6 person leave you alone thereafter?

7 A. No. I actually felt harassed. They came to
8 my work a couple of times. They came to my house. I
9 had an investigator and a police officer come to my
10 house on a Sunday evening, like when the sun was about
11 to go down, and when I opened up the window, they just
12 said, "Hey, we want to come in and talk to you."

13 And I was like, "Who are you?" and they had to show
14 me the badge. I wanted to see the badge. And I said,
15 you know, "No, thank you."

16 You know, I respectfully declined. They just
17 wanted to come in my house and just start talking to me.

18 Q. And how did that make you feel?

19 A. I felt -- like that made me feel really
20 unsafe, and it made me feel harassed and it -- it made
21 me feel very stressed.

22 Q. And were you concerned about how that stress
23 might affect the -- your health and the health of your
24 baby?

25 A. Yeah. My baby was the most important -- what

1 I was trying to focus on and trying to -- you know, I'd
2 always want to cooperate and, you know, to be honest and
3 just come and talk about what happened. I've never
4 wanted to not cooperate. But the way they were
5 harassing me, it was very, very stressful.

6 Q. Okay. Now, you also were asked several
7 questions about your loyalty as the campaign manager for
8 Ross Mirkarimi. Do you recall those questions?

9 A. Yes.

10 Q. And do you -- and I think you testified that
11 you felt like in order to be a campaign manager for
12 somebody, you had to believe in what they stood for; is
13 that right?

14 A. That's right.

15 Q. And why was it that you agreed to become the
16 campaign manager for Sheriff Mirkarimi?

17 A. For Ross Mirkarimi, or Sheriff Mirkarimi, I --
18 I really believed in what he wanted to do. I believed
19 he had a track record.

20 When I look at a candidate, sometimes candidates
21 can say a lot of things and they can sound really great,
22 but I want to hear "What have you done to make it
23 happen? What -- what is your track record already?"

24 And Ross Mirkarimi had a track record of really
25 looking out for diverse communities, for really, you

1 know, changing the landscape in his district for safety,
2 for public safety. And he really had a connection and
3 really understood the prison industrial complex. And he
4 really understood about people having another chance and
5 instead of us, as taxpayers, paying for people to be
6 locked up, to give people an opportunity to be
7 accountable for their actions and to be -- to -- to have
8 an opportunity to make a change and be productive
9 citizens. And so I really believed that he would
10 continue to build upon Sheriff Hennessey's legacy.

11 And honestly, like I see campaign management as
12 kind of a duty, like if you can do it for the good of
13 the community, you do it. It's not something you do for
14 money, in my opinion. It's not something that I want to
15 be a business. I have another job. It's something I do
16 from my heart and from passion. And, you know, I
17 believe Ross is a compassionate -- Ross Mirkarimi is
18 compassionate to people and will give them that chance
19 and make San Francisco a better place. He already has.

20 Q. Okay. And you were also asked about the fee
21 that you were paid to serve as his campaign manager.
22 You remember that?

23 A. That's right.

24 Q. And that was for a period of how many months?
25 Six, seven months?

1 A. Two months.

2 Q. Oh, two months. Okay.

3 A. Two months.

4 Q. Okay. Now, was that fee a big enough sum to
5 get you to lie under oath for the sheriff?

6 A. No fee would --

7 MS. KAISER: Objection.

8 THE WITNESS: No fee would be -- would be a price
9 for me to lie under oath.

10 MR. KOPP: Q. And is everything that you've
11 testified to tonight absolutely truthful?

12 A. Absolutely truthful.

13 MR. KOPP: Thank you.

14 COMMISSIONER HUR: Thank you, Mr. Kopp.

15 THE WITNESS: Um --

16 COMMISSIONER HUR: Ms. Haynes, was there something
17 you wanted to say?

18 THE WITNESS: I guess I'll -- I'll wait.

19 COMMISSIONER HUR: Okay. Recross?

20 MS. KAISER: Very briefly.

21 COMMISSIONER HUR: One minute.

22 MS. KAISER: Okay. Very, very briefly.

23 ---o0o---

24 RECROSS-EXAMINATION BY MS. KAISER

25 MS. KAISER: Q. Do you remember the name of the

1 city attorney investigator you dealt with?

2 A. I don't recall, but I -- I do have it written
3 down.

4 Q. Did you ever meet him?

5 A. I have met the investigators that came to my
6 work and then to my house.

7 Q. Do you recognize him here today?

8 A. It's been a while, so no, I'm -- I'm not
9 clear.

10 Q. Are you sure that someone who came to your
11 house with the police was a city attorney investigator?

12 A. Well, they gave me their card, and so one was
13 an investigator and one was a police officer. And I
14 still have their cards, I believe.

15 Q. Okay. The city attorney investigator, do you
16 remember whether any time before he sought you out, he
17 tried to call you?

18 A. Oh, it's this -- you. Right? With the --

19 Q. Our investigator's here.

20 A. Okay. So yeah.

21 MR. KOPP: So can we have the record reflect who
22 she's just identified?

23 COMMISSIONER HUR: Yeah. I don't -- I don't know
24 who you're pointing out.

25 THE WITNESS: The gentleman next to the gentleman

1 with the glasses.

2 COMMISSIONER HUR: So it's the gentleman in the --

3 THE WITNESS: Yeah.

4 UNKNOWN WOMAN: -- blue shirt.

5 MS. KAISER: His name is George Cothran.

6 THE WITNESS: Yeah, and he came also early in the
7 morning and kind of like jumped out.

8 MS. KAISER: Q. Yeah. Had he -- had he tried to
9 call you to arrange appointments?

10 A. And from the beginning, I was very respectful
11 and I told him exactly what I said in the court. I said
12 that I am pregnant -- and he had someone on
13 speakerphone, too. He put it on speakerphone. He said
14 there was someone else there.

15 And from the very beginning, I told him that, you
16 know, "I respectfully decline because I'm pregnant. I
17 am a high-risk pregnancy. It's my first child. I'm
18 older, and I'm having some health problems."

19 And so I told him that I really had to focus on my
20 son. And he said, "Is that really the reason?"

21 And I said, "Yes, that is really the reason."

22 Q. Did someone tell you --

23 COMMISSIONER HUR: Counsel, we are --

24 MS. KAISER: Okay.

25 COMMISSIONER HUR: This is a very ancillary issue.

1 MS. KAISER: It is ancillary.

2 COMMISSIONER HUR: If you have one or two questions
3 that go to something that is really at the heart of
4 this, then we'll allow it, but I don't want any more
5 answers --

6 MS. KAISER: One last question.

7 Q. Did you understand that Mr. Cothran was trying
8 to serve a subpoena?

9 A. That was the last time. That wasn't the times
10 that was at my -- at my work, standing outside my work
11 for 20 minutes and, you know, talking to my supervisor
12 numerous times after we had this conversation when I
13 respectfully declined.

14 Q. Could you have resolved the problem by simply
15 accepting service of the subpoena?

16 MR. KOPP: Objection, there's -- that assumes facts
17 not in evidence, it calls for speculation, it's
18 irrelevant.

19 COMMISSIONER HUR: Sustained.

20 MS. KAISER: That's all.

21 THE WITNESS: Um, if I may, can I say just one
22 thing before I leave?

23 COMMISSIONER HUR: Ms. Haynes, we actually -- the
24 commissioners may have questions for you --

25 THE WITNESS: Okay.

1 COMMISSIONER HUR: -- so you're not --

2 THE WITNESS: Okay.

3 COMMISSIONER HUR: -- quite done.

4 THE WITNESS: Okay.

5 COMMISSIONER HUR: Sorry about that.

6 Let me open it up to my fellow commissioners if
7 there are any questions for Ms. Peralta Haynes.

8 Commissioner Studley?

9 COMMISSIONER STUDLEY: Hello. Thank you for being
10 here.

11 I'd like to go back to about 10:55 in the morning
12 of January 4th. I noticed that there were at that point
13 three text messages from Ms. Lopez to you, and I wonder
14 if you recall whether there were three of them at 10:55
15 and 10:56 because they were so long that you had to roll
16 over or if they seemed to be separate messages. Can you
17 recall that?

18 THE WITNESS: I remember she gave me -- it was that
19 first text, and it was a really long text, and I gave
20 you the gist of the text. I can't tell you exactly what
21 she said, but it was one text that was like
22 blip-blip-blip, like three texts.

23 COMMISSIONER STUDLEY: Do you remember how the
24 initial e-mail began? The first one of that series,
25 when you opened it, what was the first thing that she

1 was saying?

2 THE WITNESS: I don't remember -- I don't -- I
3 don't remember the exact verbiage, but it was, you know,
4 that she had a fight, an argument with Ross and that she
5 needed to talk to me. And that was the gist, and that
6 it was really important that she talk to me.

7 COMMISSIONER STUDLEY: Mm-hmm. Did she ask you to
8 call her?

9 THE WITNESS: She did. She did. I believe she
10 did, yeah, because she didn't call me. She -- she
11 wanted to talk to me, and I believe she said, "Please
12 call me."

13 COMMISSIONER STUDLEY: Did she say why she was
14 reaching out to you in particular?

15 THE WITNESS: She never has told me why she reached
16 out to me.

17 COMMISSIONER STUDLEY: Did she say what she wanted?

18 THE WITNESS: Only at one time, one of the second
19 phonecalls, I bluntly asked her what she wanted, because
20 after that 40-minute call that we had -- and then I
21 realized, you know, there was a lapse of time because I
22 had to do the telecommute call. I had called her, you
23 know texted her back. She wasn't ready to talk because
24 she was busy with something with Theo or something was
25 going on.

1 And then when we actually talked, I remember
2 saying, you know, like here I was, like "Oh, what can --
3 do you need domestic violence, you know, referrals?"

4 Again, I was just wanting to just be sure, just in
5 case, of what -- if she was telling me, if she wasn't
6 telling me everything, just in case. And she was really
7 focused on the custody issues. And then I thought, I
8 better just ask her again, you know. So I asked her
9 bluntly, and I said, "You know, could you tell me what
10 support you need in general? And could you tell me, you
11 know, what support do you need from me? Like why did
12 you call me?"

13 COMMISSIONER STUDLEY: Mm-hmm.

14 THE WITNESS: And she said that she really wanted
15 to make it work with her husband. She talked about her
16 relationship and she wanted, you know, a warm
17 relationship. She really respected what he did and that
18 he did really good work and -- but that he worked a lot
19 and he wasn't around as much, and she wanted to have
20 a -- you know, a different -- a little bit more in her
21 relationship.

22 And so she told me that she wanted to get some
23 marriage therapists, that maybe they work together and
24 really try to work it out. And if he didn't -- you
25 know, he needed -- she wanted him to prioritize that.

1 And if not, if it didn't work out, that she wanted to
2 make sure she had custody, and that's what she told me.

3 But I -- I told her that I would -- that was not my
4 expertise or anything like that. I can ask some
5 friends, but -- and see if I can help her in that way.

6 COMMISSIONER STUDLEY: I counted -- quickly, I
7 admit -- 16 calls to and from you on that roster that
8 you were shown up until 4:14 and then 30 calls between
9 5:12 and 7:28. That's about 45 calls and texts back and
10 forth.

11 Can you remember how you felt during that time?
12 What was your mood and state of mind?

13 THE WITNESS: I think it was -- it was a very
14 stressful day. There was nothing that I thought -- you
15 know, I'm just at home, telecommuting, and it was very
16 stressful.

17 And I know that Eliana wanted to get ahold of Ross
18 and communicate with him, and I just really wanted them
19 to communicate. And yeah, I think it was just very
20 stressful and -- and, you know, strange, you know, being
21 thrust into some -- you know, with someone I don't even
22 know who's on the phone, who that is, so --

23 And just wanting the best for them is really -- you
24 know, and making sure that Eliana, you know, is taken
25 care of and she's okay.

1 COMMISSIONER STUDLEY: If you -- I'm going to give
2 you two words. One is "connecting" people, helping them
3 communicate, you mentioned. Another is
4 "problem-solving." Does one or the other or both of
5 them describe what you were trying to do that afternoon
6 or is there a better term for it?

7 THE WITNESS: I think "support." Emotional support
8 is what I saw, I think, that I was trying to do for
9 Eliana once she had reached out to me. And referrals,
10 if she needed them. But she didn't seem like she needed
11 them. I mean, she said she didn't need them.

12 COMMISSIONER STUDLEY: Thank you.

13 THE WITNESS: Yeah.

14 COMMISSIONER STUDLEY: Appreciate it. Thank you.

15 THE WITNESS: But she was appreciative to get them.

16 COMMISSIONER STUDLEY: Thank you.

17 COMMISSIONER HUR: Other questions for Ms. Peralta
18 Haynes?

19 Commissioner Renne.

20 COMMISSIONER RENNE: Good evening, Ms. Haynes.

21 THE WITNESS: Good evening.

22 COMMISSIONER RENNE: I -- I appreciate that we're
23 putting you under a lot of stress under all the
24 circumstances, and --

25 THE WITNESS: Yeah.

1 COMMISSIONER RENNE: -- I don't want to go over too
2 many of the things that have been covered.

3 THE WITNESS: Okay.

4 COMMISSIONER RENNE: But one thing I would like to
5 do is I understand that prior to January 4th, you had
6 not had a general communication with Eliana.

7 THE WITNESS: Yeah, no communication.

8 COMMISSIONER RENNE: And you had this phonecall
9 that lasted approximately 40 minutes on January 4th.

10 THE WITNESS: That's right.

11 COMMISSIONER RENNE: Now, I recognize that we're
12 talking seven months ago and memories fade, but tell me
13 as best you can recall what she said to you -- and I
14 understand you won't maybe know the exact words -- but
15 what information she conveyed to you in that first
16 40-minute conversation.

17 THE WITNESS: I mean, it's -- it's pretty much what
18 I shared today, what I recalled and throughout --
19 sprinkled throughout all the conversations or the
20 questions.

21 But ultimately, you know, she let me know that
22 there was an argument; she -- I depicted what she had
23 told me. I shared everything she had told me about the
24 argument that she had with Ross, to my recollection.

25 And then that's when I had said that sometimes an

1 incident could be something more; it could be connected.
2 You know, maybe there's more instances -- incidents.

3 And so I said, you know, "I wanted to see if it's
4 okay if I ask you a few questions and we can talk about
5 it, and what we talk about is confidential."

6 COMMISSIONER RENNE: This is in the first
7 conversation.

8 THE WITNESS: That's right.

9 COMMISSIONER RENNE: You started questioning her
10 about whether there were prior occasions?

11 THE WITNESS: Yes, and I went through the different
12 forms that -- that I had described to Kaiser,
13 Ms. Kaiser, about the different forms of domestic
14 violence that I was able to share.

15 I'm not an expert. I -- you know, so I just did
16 the best that I could, and I put out the different forms
17 and made sure that she knew that -- you know, what those
18 meant, and -- because of the language barrier, and asked
19 open-ended questions and then, at some points, just
20 direct questions. You know, has he --

21 COMMISSIONER RENNE: What answers did she give you
22 insofar as what had happened on the December 31st
23 occasion? What did she say?

24 THE WITNESS: Exactly what I said today. I mean,
25 she just -- I didn't get the full everything. I got

1 basically different parts of what she had said, that
2 they had gotten into an argument about Venezuela, about
3 how they were yelling back and forth at each other. You
4 know, she stepped out of the car. She didn't care about
5 making a scene, you know.

6 And that's what she had told me, and then she said
7 she had a bruise on the arm, but she didn't depict
8 anything more than that. I didn't get all the details.

9 COMMISSIONER RENNE: But you concluded from that
10 description, did you not, that it was what you called in
11 your declaration as a domestic violence incident?

12 THE WITNESS: I would say so. That's in my
13 opinion.

14 COMMISSIONER RENNE: Yeah. That was the conclusion
15 you came to at the end of the very first conversation?

16 THE WITNESS: Yes.

17 COMMISSIONER RENNE: And the second conversation
18 that you had with her, which occurred within -- within
19 the hour of the first, which lasted again for -- I think
20 it was an hour -- a minute and 55 seconds. That was
21 your next conversation with her.

22 What was the substance? What was said in that
23 conversation?

24 THE WITNESS: I don't recall. Sorry.

25 COMMISSIONER RENNE: And when you spoke with her in

1 the -- well, strike that.

2 THE WITNESS: In the first conversation, she also
3 talked about custody issues. Right? That her stress
4 about the custody issues, so -- which I had talked about
5 today.

6 COMMISSIONER RENNE: Now, the -- in the -- in the
7 first conversation, how would you describe her -- her
8 tone of voice or her demeanor to the extent that you
9 could draw some conclusions over the phone?

10 THE WITNESS: I guess troubled, stressed, wanting
11 to get information about the custody issues. Yeah.

12 COMMISSIONER RENNE: Are you saying that your first
13 conversation was that she wanted to -- she initiated the
14 call to get information on the custody issues?

15 THE WITNESS: Well, I find -- that's what she
16 talked about near the end of the conversation. And she
17 was really kind of -- how would you say it? Kind of
18 forceful or -- not -- you know, just really wanting to
19 talk about that.

20 When I was going through kind of an assessment of
21 domestic violence and trying to see if it was a cycle
22 and seeing if she needed any support and kind of
23 providing information and referrals and then seeing --
24 it was open-ended questions. Was there anything else
25 that she wanted to talk about, like did she -- what --

1 what kind of support?

2 You know, trying to probe what kind of support I
3 could provide as just -- as a person, as a woman, as
4 someone that cares about women and social justice and
5 community.

6 But near the end of the conversation, she was
7 very -- I don't know what the word is, but just really
8 stressed about the custody as I talked about the last
9 part of the conversation.

10 COMMISSIONER RENNE: And going to this second
11 conversation, which I think is at 3:30 -- 31 in the
12 afternoon, approximately a 14-minute conversation, as
13 you sit here today, can you separate out what was
14 discussed in that conversation from what you discussed
15 in the first?

16 THE WITNESS: Was that the -- the longer
17 conversation after the 40-minute conversation, the
18 first -- which one was that?

19 COMMISSIONER RENNE: It's the second. The first
20 conversation, that extensive conversation on the -- on
21 this schedule.

22 THE WITNESS: What -- what time?

23 COMMISSIONER RENNE: So --

24 THE WITNESS: I don't have anything in front of me,
25 so I don't -- I don't want to misspeak.

1 COMMISSIONER RENNE: You don't have that exhibit in
2 front of you?

3 THE WITNESS: Where? Where would I look?
4 What page are you on?

5 COMMISSIONER RENNE: It's Exhibit 83.

6 THE WITNESS: Okay. So where -- where were you at?

7 COMMISSIONER RENNE: The first conversation that
8 you've described for us took place at 11:18 a.m., the 39
9 minutes and 28 seconds.

10 THE WITNESS: Okay. I don't know if I'm following
11 you. I don't know if I'm following you, but --

12 MR. EMBLIDGE: May I approach the witness to assist
13 her?

14 THE WITNESS: Could you help me?

15 COMMISSIONER HUR: Sure. Please. Thank you,
16 Mr. Emblidge.

17 MR. EMBLIDGE: So when he tells you the time --

18 THE WITNESS: Oh, okay. So which time -- okay.
19 Yeah, we just talked about that. Okay.

20 Okay. So I understand now.

21 COMMISSIONER RENNE: And that's the conversation
22 that you told me that at the conclusion of which you
23 concluded that there had been a domestic violence
24 incident.

25 THE WITNESS: But not a domestic violence cycle.

1 Like my conclusion was that she was not in a cycle of
2 domestic violence, and my conclusion from her own words
3 and from us talking that she was not in danger.

4 COMMISSIONER RENNE: Right.

5 THE WITNESS: And that she was not afraid of Ross
6 for her or for Theo.

7 COMMISSIONER RENNE: Right. But that -- in that
8 first conversation, she relayed to you the events of
9 December 31st, 2011.

10 THE WITNESS: Not all the events. It's everything
11 I just -- I've told you already, the commission as well
12 as everyone. I didn't have all the details.

13 COMMISSIONER RENNE: No, you only had the details
14 that she told you. Right?

15 THE WITNESS: Exactly. Exactly.

16 COMMISSIONER RENNE: And that's what I'm saying,
17 that at the conclusion of that call, you came to the
18 conclusion that there was a domestic violence-related
19 incident --

20 THE WITNESS: Yes.

21 COMMISSIONER RENNE: -- that occurred on
22 December 31st.

23 THE WITNESS: Yes.

24 COMMISSIONER RENNE: And then looking again at that
25 same exhibit, 83, if you go to look at a time period of

1 3:31, 3:31 p.m. -- do you see that? It's on page 2.

2 THE WITNESS: Yes.

3 COMMISSIONER RENNE: All right. And that indicates
4 a conversation of approximately 14 minutes, and I'm
5 asking you as you sit here today, can you separate out
6 what was discussed at that conversation as opposed to
7 what you had discussed with Eliana earlier?

8 THE WITNESS: To my -- the best of my recollection
9 is that that conversation, I bluntly asked her what she
10 needed support in, generally speaking, and also what she
11 needed support from me and like why she called me, what
12 did she need help with from me since I had already given
13 referrals, and she wasn't so interested, although she
14 was appreciative.

15 And she was going -- really kind of talking more
16 about custody issues. At that point, I wanted to make
17 sure. You know, maybe I'm trying to see if there is a
18 cycle of domestic violence or if she needs other help.
19 I'm trying to -- to help her as best as possible, but
20 that's not what she was calling me about. You know,
21 what she was calling me about, it seemed as though from
22 the answer, was that she really wanted to work on her
23 relationship with her husband.

24 She talked about how -- in that conversation,
25 separating it out, she talked about in that conversation

1 that she, you know, loved her husband and she wanted to
2 work it out with him, but she wasn't, you know, totally
3 satisfied in that relationship, that he worked a lot,
4 you know, and that she respected his work. And so she
5 wanted to -- to give it a try and she wanted him to
6 prioritize it, and that's -- that conversation is what
7 she talked about when I had like asked her the question,
8 you know, bluntly, like, "What can I do to support you?
9 Am I really sup- -- you know, being here present for
10 you?"

11 And at that time, she was talking about marriage
12 counseling, but if it didn't work, she wanted to get
13 custody --

14 COMMISSIONER RENNE: So are you saying --

15 THE WITNESS: -- of Theo.

16 COMMISSIONER RENNE: -- as you sit here today, you
17 recall that was the subject matter of your second
18 extended conversation?

19 THE WITNESS: To my best of my recollection, yes.

20 COMMISSIONER RENNE: Okay. Then at 3:56, if you
21 continue on, if you look at 3:56 p.m., there's another
22 conversation of 15 minutes and 36 seconds initiated by
23 you.

24 Now, as you sit here today, can you recall what
25 specifically was discussed in that conversation?

1 THE WITNESS: Actually, I don't recall. I'm sorry.
2 Honestly, I'm starting to get very tired, and I
3 know we're going through it time by time by time, and
4 I'm trying to do the best I can to answer honestly.
5 COMMISSIONER RENNE: I understand.
6 THE WITNESS: But it's -- I'm not -- I
7 don't exactly recall. I can't --
8 COMMISSIONER RENNE: Now, those two --
9 THE WITNESS: I've shared everything with you that
10 I can.
11 COMMISSIONER RENNE: The second and third
12 conversations were initiated by you rather than
13 Ms. Lopez calling. Correct?
14 THE WITNESS: Because she -- because she want- --
15 she had asked me in the previous call --
16 COMMISSIONER RENNE: Right.
17 THE WITNESS: This is really -- she called me. I
18 am not -- she called me and wanted support. And then
19 she would say, "Would you give me a call back?"
20 Or with one of the texts, you know, she wanted to
21 talk, so -- so --
22 COMMISSIONER RENNE: Now, if you would go to page
23 5, I believe it is, it shows another call initiated by
24 you of about five and a half minutes at 5:35 -- 38. Do
25 you see that?

1 THE WITNESS: Yes.

2 COMMISSIONER RENNE: As you sit here today, do you
3 recall what you discussed specifically in that
4 conversation?

5 THE WITNESS: No, I don't recall.

6 COMMISSIONER RENNE: Now, you've used the term that
7 at some point in time, you -- on that day, after the
8 series of conversations, you thought there was something
9 fishy. What do you mean by that?

10 THE WITNESS: I thought there was something fishy
11 from that conversation -- which in fact, I didn't know
12 even Ivory Madison's name for several days after
13 January 4th. And honestly, I didn't even know there
14 was a Callie Williams. I don't -- you know, until
15 later, I saw something in the media.

16 So I thought there was something fishy about Eliana
17 sounding like she's crying and she's saying, you know,
18 "Please help me, help me, help me. This is not what I
19 want. This is not what I want," and this person on the
20 phone that I don't even know who it is saying that "I
21 called the police," and you hear Eliana almost crying,
22 saying, "This is not what I want. This is not what I
23 want," and this person just seemed pretty, you know,
24 just determined of what she was going to do. And yet if
25 they're friends, I thought that there was something

1 fishy with how that was handled.

2 COMMISSIONER RENNE: You mean you think -- your
3 thinking at that time was that for a friend of a victim
4 of domestic -- domestic violence that it's fishy to call
5 the police?

6 THE WITNESS: I -- if -- if the -- if the person
7 who is going through with whatever he or she is going
8 through and a person who's supposed to be a friend just
9 calls the police without any consent or respecting the
10 person's feelings or even exploring if they are in a
11 domestic violence situation where it's a really intense
12 physical situation and they're not doing a safety plan
13 or looking out for their safety or their children, it --
14 it seems a little fishy to me, you know, especially if
15 they're not in the throes of violence where they have to
16 call the police in that moment.

17 Yeah, it just seemed that she wasn't listening to
18 Eliana; she wasn't listening to her friend. That's what
19 I felt was -- wasn't -- was fishy, wasn't lining --
20 lining up. Maybe there's a better word for that.

21 COMMISSIONER RENNE: At that point in time, did you
22 have any information as to for how long a period of time
23 that Ms. Lopez may have been communicating with this
24 woman who you talked to on the phone?

25 THE WITNESS: The woman on the phone said, "I've

1 been talking to her for several days, and I just called
2 the police."

3 And so I mean, if you've been talking to someone
4 for several days -- I don't know. It's just -- and then
5 you're calling -- like if she was so concerned, why
6 didn't she call earlier is what I was thinking. But I
7 didn't know what they talked about, so I was not to make
8 a judgment about that.

9 I just wanted to get off the phone. And I had
10 said, you know, I wanted -- "You should get off the
11 phone. And talk to Eliana, listen to her, and respect
12 her."

13 And that's really what I -- I wanted to
14 communicate. I had no judgment about what she was
15 doing.

16 COMMISSIONER RENNE: I have no other questions.

17 COMMISSIONER HUR: Any other -- Commissioner Hayon.

18 COMMISSIONER HAYON: I realize you're tired, so
19 hopefully this won't take too much longer.

20 THE WITNESS: Yeah. My son's probably ready to eat
21 again.

22 COMMISSIONER HAYON: I think we're all tired.

23 THE WITNESS: Yeah.

24 COMMISSIONER HAYON: I have more general questions.
25 You've been asked about a lot of very specific

1 phonecalls, and I would totally agree with you that to
2 remember, you know, 20 different specific phonecalls
3 from six months ago would be very difficult for any of
4 us.

5 THE WITNESS: Yeah.

6 COMMISSIONER HAYON: However, I think that
7 January 4th must have been a very dramatic and a very
8 memorable day for you. You said that at the end of the
9 day, you were very stressed out. A lot had taken place.
10 So I'm just thinking, you know, if I have a day
11 like that and I'm describing the totality of the day to
12 somebody, how would I describe that? And I guess that's
13 my question to you. I mean, would you -- would the
14 words, you know, "dramatic" apply in terms of all of the
15 events that ensued during the course of that day? Was
16 it dramatic for you or not really?

17 THE WITNESS: I don't know if "dramatic's" the
18 right word, but it was very intense.

19 COMMISSIONER HAYON: And in terms of -- you know,
20 since the word "dramatic" has come up, since I brought
21 this up, would the word "dramatic" or even "hysterical"
22 apply to the tone with which Ms. Lopez spoke to you
23 during the course of the day, perhaps ebbing and flowing
24 and, you know, high points and low points? Would
25 "hysterical" apply at any point? "Overly dramatic"?

1 Anything like that?

2 THE WITNESS: I wouldn't use those words. I would
3 use that she was incredibly stressed and, like I
4 described, you know, sounding like she was crying. You
5 know, about to cry.

6 COMMISSIONER HAYON: And was she crying on that
7 first phonecall when you said "Hello"? Was there
8 somebody at the other end crying or sounding very upset
9 and agitated as you've described?

10 THE WITNESS: No. On the phonecall, she was
11 stressed, but when she sounded like she was about to cry
12 was when the phone -- when she passed the phone off to
13 this -- the female that we now know is Ivory Madison.

14 COMMISSIONER HAYON: One question that has been
15 bothering me a little bit, and this would go to the
16 first phonecall.

17 Given your position as Ross Mirkarimi's campaign
18 manager and you get a call from his wife about these
19 incidents, did you not ever feel that at that moment you
20 should recuse yourself and not involve yourself at all
21 with this woman? I mean, you're in a --

22 THE WITNESS: Yeah.

23 COMMISSIONER HAYON: -- really questionable
24 position. I mean, you're close to Mr. Mirkarimi.

25 THE WITNESS: Yeah.

1 COMMISSIONER HAYON: You ran his campaign. You've
2 acknowledged that you really did not know Ms. Lopez
3 except for, you know, some superficial conversation --

4 THE WITNESS: Yeah.

5 COMMISSIONER HAYON: -- several months earlier, and
6 that while you may have been friendly, you really were
7 not friends or even true acquaintances.

8 THE WITNESS: Yeah.

9 COMMISSIONER HAYON: So why would you feel that you
10 were in a position to continue this phonecall with this
11 woman who was describing this incident of domestic
12 violence --

13 THE WITNESS: Yeah.

14 COMMISSIONER HAYON: -- to you?

15 THE WITNESS: Yeah.

16 COMMISSIONER HAYON: And also, you had not done any
17 domestic violence counseling for quite sometime.

18 THE WITNESS: Yeah. I mean, honestly, like when I
19 got that first phonecall and we were talking, I had to
20 do the right thing. I'm someone who -- social justice
21 is really important to me. It's my main drive in my
22 life. Antiviolence work is -- and building healthy,
23 empowering communities is what I care about. And
24 integrity is one of the most important things to me.

25 So this has been very, very challenging, to have my

1 name drug through the mud, saying that I've covered up
2 and I've lied and -- you know, when integrity is one of
3 the most important things to me, without a shred of
4 evidence or even talking to me.

5 And so when I did have that call, I felt like I was
6 supposed to do whatever I was called to do. And I will
7 just say I'm a spiritual person, and my spirituality is
8 the first and most important thing to me, above
9 politics. And even if you could get benefits in the
10 political world, I want to do what's right. And for
11 people who know me, they know that's what I'm about.

12 And so when she reached out to me, I knew that I
13 had to do the right thing and be there for her. And if
14 that meant -- whatever that meant, that's where I was
15 going to go. And regardless of my professional
16 relationship with Ross Mirkarimi, I was going to
17 stand -- stand by Eliana Lopez and what she needed.

18 Even if that brought conflict to me, I was going to
19 do it. Because why did I get that call on that day? I
20 still don't know. I still don't know. But I did what I
21 felt like I was called to do, and I tried to be
22 supportive of Eliana and, you know, I did my best.

23 COMMISSIONER HAYON: So the idea of a conflict of
24 interest or maybe the need to recuse yourself did not
25 occur to you. That did not seem like the right thing to

1 do for you?

2 THE WITNESS: I guess -- I mean, I thought about
3 it, and that would be the easy thing to do. I don't
4 think in that moment that was the right thing to do.

5 The right thing to do was to -- to be there for
6 Eliana, to support Eliana, whatever that meant, and so
7 that was what I did.

8 COMMISSIONER HAYON: Okay. Later on, of course,
9 there are all these phonecalls that have been referred
10 to in the afternoon, calls that you initiated, calls
11 that you received from Eliana. And somewhere along the
12 line, you also made the decision that she wasn't in
13 danger, this wasn't a domestic violence --

14 THE WITNESS: Yeah.

15 COMMISSIONER HAYON: I forget how you referred to
16 it.

17 THE WITNESS: Cycle.

18 COMMISSIONER HAYON: Cycle, but rather just one
19 incident.

20 THE WITNESS: Yes.

21 COMMISSIONER HAYON: Which you obviously made the
22 decision that it wasn't -- I don't want to say "not that
23 important," but it -- you obviously questioned Ivory
24 Madison's decision to call the police, and --

25 THE WITNESS: I never questioned her. I never

1 questioned her.

2 COMMISSIONER HAYON: No, I know you didn't question
3 her.

4 THE WITNESS: No.

5 COMMISSIONER HAYON: But from what you've described
6 in your testimony --

7 THE WITNESS: When I sat back afterwards --

8 COMMISSIONER HAYON: Yeah.

9 THE WITNESS: -- and I heard Eliana, who's her
10 friend, almost crying in the background, saying, "This
11 is not what I want. This is not what I want," and right
12 before that having a 40-minute conversation with Eliana
13 and pointblank asking, you know, "Did he ever hit you?
14 Did he ever put you down with words?" and going through
15 the -- the whole domestic violence -- kind of going
16 through an assessment, and she was saying, "No, no, no,
17 no, no" at every turn and corner and having open-ended
18 conversations and she's saying no, that that wasn't the
19 situation, it did seem like -- whoa, something's not
20 lining up.

21 COMMISSIONER HAYON: Well, things seemed a little
22 bit out of whack in terms of how they should be going.
23 But I'm sure that in your experience with domestic
24 violence victims -- I'm sure you've encountered total
25 oxymoronic behavior, if you will, where people are

1 saying the exact opposite of what they really want to do
2 or to happen and that people can be very emotionally
3 confused and not making any sense whatsoever. I'm sure
4 that that can occur. I don't know that that's the case
5 here, but, you know, but would you acknowledge --

6 THE WITNESS: Sure, why was she commenting --

7 THE REPORTER: I'm sorry. Ma'am?

8 THE WITNESS: Oh, I'm sorry.

9 THE REPORTER: For the record, you have to speak
10 one at a time, please.

11 THE WITNESS: Okay. Sorry. Sorry.

12 COMMISSIONER HAYON: So but you would acknowledge
13 that that can occur?

14 THE WITNESS: Yes, I -- I acknowledge that. But I
15 still -- why would she seek me out and talk to me about
16 it and then we have this conversation and then, you
17 know, she's letting me know, "No, no, no, no, no," and
18 she wants something kind of different, you know, that
19 she's focused on like wanting to work on her
20 relationship, wanting custody issues. Not excusing what
21 happened.

22 COMMISSIONER HAYON: Mm-hmm. Moving into another
23 direction, you mentioned that you had never even heard
24 of Ivory Madison and you certainly didn't know that it
25 was she with whom you were speaking on that phonecall.

1 However, my understanding is that Ivory Madison had
2 actually hosted a big fundraiser for Sheriff Mirkarimi,
3 and I'm just surprised that, as his campaign manager,
4 you would not have known about it or have heard her name
5 in that context.

6 THE WITNESS: I didn't work on -- like I said, my
7 focus -- I mean, when you have campaign managers,
8 campaign managers in different campaigns can take on
9 different roles. I didn't work on the finances. You
10 know, there was a different person -- I think it was
11 Patricia who was doing the finances, and another person
12 that they had as a treasurer.

13 I was really focused on organizing the volunteers
14 and making sure we had presence, you know, at different
15 events and, you know, getting out the vote. I had a
16 different focus. I didn't -- I didn't -- you know, if
17 someone wanted to give money, I was able to direct them
18 to who was handling the finances, but I never -- I
19 didn't work on the finances.

20 And there was also a campaign coordinator, too,
21 so --

22 COMMISSIONER HAYON: Right. Okay. Well, I can
23 understand that.

24 THE WITNESS: Yeah.

25 COMMISSIONER HAYON: So my last question, though,

1 is then at the end that you've described this day with
2 all these phonecalls and really, you know, quite a bit
3 of drama, really, and stress -- at the end of -- you
4 start out being very concerned for Eliana, but by the
5 end of the day in terms of how you have described it,
6 you were really very concerned for both Ross and Eliana.

7 THE WITNESS: And Theo.

8 COMMISSIONER HAYON: And Theo. So I'm just -- do
9 you see any contradiction in that? Or do you feel that
10 that -- that those feelings really were the result of
11 your being kind of in the middle and being in a
12 conflicted position between these two individuals?

13 THE WITNESS: It may appear that, to be like that,
14 but I also took everything one step at a time. And so
15 meaning that, you know, as a campaign manager, my work
16 was to get him elected, and I did that, you know. And
17 he was down in the polls before I started. And so I'm
18 proud of that. And then after that, my job as a
19 campaign manager, a winning campaign manager, is to help
20 to get inauguration underway. Okay? Right? So that's
21 January 8.

22 I will tell you that, you know, Eliana asked me to
23 continue to support Ross, you know, and to help her
24 husband. So, you know, I checked in with her about
25 that, and she wanted me to help Ross. So --

1 COMMISSIONER HAYON: Thank you.

2 THE WITNESS: Yeah.

3 COMMISSIONER HUR: Any other questions for
4 Ms. Peralta Haynes?

5 COMMISSIONER LIU: I do have a few questions.

6 COMMISSIONER HUR: Commissioner Liu.

7 COMMISSIONER LIU: Good evening, Ms. Peralta
8 Haynes. Thank you for your time tonight. I know it's
9 been a long night. I have -- I do have a few questions
10 for you.

11 THE WITNESS: Okay.

12 COMMISSIONER LIU: You testified that Ms. Lopez
13 talked with you about making the video, the fact that
14 she made the video, and she told you that on
15 January 4th.

16 Okay. So during your multiple conversations and
17 texts with Ms. Lopez during the course of the day,
18 throughout the day on January 4th, did you provide her
19 with any ideas about how to handle or deal with the
20 situation of the video becoming public?

21 THE WITNESS: No. No, I did not.

22 COMMISSIONER LIU: Did you provide her with any
23 ideas about dealing with the situation of the video
24 being turned over to the police?

25 THE WITNESS: No, I did not.

1 COMMISSIONER LIU: And during your multiple -- I
2 think Commissioner Studley had counted, you know, 20 to
3 30 phonecalls and texts with Sheriff Mirkarimi
4 throughout that day. Did you provide him with any ideas
5 or suggestions on how to deal with the situation of the
6 video becoming public?

7 THE WITNESS: No, I did not.

8 COMMISSIONER LIU: Did you provide Sheriff
9 Mirkarimi with ideas of how to deal with the video being
10 turned over to the police?

11 THE WITNESS: No, I did not.

12 COMMISSIONER LIU: Okay. And then you had talked
13 about --

14 Well, let me ask you this: Did Ms. Lopez or
15 Sheriff Mirkarimi ask you for help in that regard?

16 THE WITNESS: No, they did not.

17 COMMISSIONER LIU: Okay. Now, you testified that
18 Ms. Lopez was stressed and on the verge of tears or
19 crying in the background during one of the conversations
20 when you were handed over the phone, the phone was
21 handed to you and you ended up speaking to who you later
22 realized was Ivory Madison.

23 THE WITNESS: Mm-hmm.

24 COMMISSIONER LIU: After that phonecall, during the
25 remainder of the many phonecalls and texts you had with

1 Ms. Lopez, did you provide her with any ideas about how
2 to communicate with people who were causing her stress
3 that day?

4 THE WITNESS: No, I did not.

5 COMMISSIONER LIU: So she didn't ask you for any
6 help in dealing with people who were causing her to be
7 on the verge of tears that day?

8 THE WITNESS: No. No, she did not.

9 COMMISSIONER LIU: Did you ask her about what the
10 situation was with this woman who was causing her to
11 cry?

12 THE WITNESS: No, I did not.

13 COMMISSIONER LIU: And why? Why not?

14 THE WITNESS: My concern was just basically to make
15 sure that they connected, Ross and Eliana, and that I
16 was supporting Eliana emotionally. And after, when it
17 sounded like something wasn't right, just to make sure
18 that they referred to attorneys, individual attorneys
19 that could help them, that they're the experts, and so I
20 just saw my role as kind of emotional support.

21 COMMISSIONER LIU: Okay. Thank you.

22 THE WITNESS: Mm-hmm.

23 COMMISSIONER HUR: Just a couple questions from me,
24 and I'm promise you'll be done.

25 THE WITNESS: Okay. Save the best for last.

1 COMMISSIONER HUR: You haven't heard the questions
2 yet.

3 THE WITNESS: Okay.

4 COMMISSIONER HUR: Between January 4th and
5 January 8th, did you talk to anyone about the physical
6 violence other than Ross Mirkarimi, Eliana Lopez, and
7 Ivory Madison?

8 THE WITNESS: Probably only my wife.

9 COMMISSIONER HUR: Anybody else?

10 THE WITNESS: No, not to my recollection.

11 COMMISSIONER HUR: And remind me. You -- you
12 learned of this on -- it was January 4th --

13 THE WITNESS: Yeah.

14 COMMISSIONER HUR: -- 2012.

15 THE WITNESS: Right.

16 COMMISSIONER HUR: Okay. That's all I have.

17 THE WITNESS: Okay.

18 COMMISSIONER HUR: Okay. Ms. Haynes, thank you for
19 your time. I know it's not an easy time for you, and I
20 appreciate you and your attorney being here.

21 THE WITNESS: Thank you.

22 COMMISSIONER HUR: Mr. Safire.

23 THE WITNESS: Thank you very much.

24 COMMISSIONER HUR: Ms. Canny, maybe you should stay
25 for a moment.

1 MS. CANNY: Okay. I was just going to go get
2 Ms. Lopez.

3 COMMISSIONER HUR: I appreciate that. Ms. Canny,
4 is Ms. Lopez available tomorrow as well as tonight?

5 MS. CANNY: Yes.

6 COMMISSIONER HUR: What is her -- do you -- do you
7 happen to know her preference in terms of when she would
8 like to testify? I think in any event, I understand
9 that the city attorney is going to have at least -- or
10 about a couple hours with her.

11 Is that right, Mr. Keith?

12 MR. KEITH: We'll -- yes. I -- I don't want to
13 make any promises on time, because I'm not sure I'll be
14 able to keep them.

15 COMMISSIONER HUR: Well, don't make any promises on
16 time, because if you tell me it's going to be longer, I
17 may tell you I don't think I can let that happen.

18 MR. KEITH: I don't think -- it's not going to take
19 all of tomorrow evening, but it's going to take most of
20 it.

21 COMMISSIONER HUR: Like how much time do you
22 anticipate needing?

23 MR. KEITH: I think with a lot of the ground that's
24 been covered with Ms. Haynes, I think we can probably do
25 it in about two and a half.

1 COMMISSIONER HUR: Okay. We'll have to talk about
2 whether that's what we -- that's feasible or not, but
3 thank you for the estimate.

4 So Ms. Canny, in light of that, did you have any
5 preference as to how we divide up Ms. Lopez's testimony?

6 MS. CANNY: You know, could I run and ask her?

7 I mean, a couple -- my couple points are that I
8 think it's 11:30 or midnight in Venezuela. She's still
9 on Venezuelan time. And she flew -- you know, it's like
10 a 16- or 17-hour trip. I mean, if we started tonight
11 for a while, that would be okay.

12 But my request was actually going to be that we
13 stop about 9:00 or 9:30, because that's 12:30 her time.
14 She actually goes to bed fairly early, so I hate to --
15 it's really past her bedtime, and it's getting close to
16 past mine, too, so --

17 But I mean, look, I can -- I can handle it. But
18 can I just run and ask her, please? And I'll come right
19 back.

20 COMMISSIONER HUR: Sure.

21 MS. CANNY: Okay.

22 MR. KEITH: Commissioners, before Ms. Canny leaves,
23 there's one other matter that we should decide tonight,
24 which is Inspector Becker, because he is on call for
25 tomorrow.

1 COMMISSIONER HUR: Yeah. Ms. Canny -- we don't
2 need Ms. Canny for that, Mr. Keith.

3 MR. KEITH: Okay.

4 COMMISSIONER HUR: Ms. Canny, please. Thank you.

5 Okay. Let me just tell the commissioners sort of
6 what -- what I was hoping to accomplish tonight was the
7 testimony of Ms. Haynes and the testimony of Ms. Lopez.
8 It sounds like Ms. Lopez is available tomorrow, and I
9 think in any event, some of her testimony will be
10 tomorrow.

11 The other thing I think we needed to decide tonight
12 was whether we need to hear from Inspector Daniele,
13 because if we do, we need to hear from him tomorrow as
14 well. So I -- I do think we need to address that issue
15 of whether we need -- I'm sorry. Inspector Becker.

16 COMMISSIONER LIU: Becker.

17 COMMISSIONER HUR: Becker. So while Ms. Canny is
18 conferring, why don't we -- why don't we take up the
19 issue of Mr. Becker, Officer Becker?

20 Here is my view of the situation: I understand why
21 the mayor wants to have this rebuttal testimony, but I
22 think this rebuttal testimony is completely redundant to
23 what you have in Officer Daniele's declaration. I mean,
24 almost word for word, your proffer is in his
25 declaration, which has been admitted into evidence.

1 So I would be inclined to reject the request for
2 Officer Becker to appear for further rebuttal testimony,
3 but I'll give you a chance to argue it, Mr. Keith.

4 MR. KEITH: Thanks, Commissioners. So I think,
5 Chairman, you are correct that his testimony would be
6 consistent with Inspector Daniele's. But this is --
7 this is a factual dispute where the sheriff has said
8 that he did not make certain statements about --

9 UNKNOWN MAN: Can you speak into the mic, please?

10 MR. KEITH: I apologize.

11 This is a situation where there is a factual
12 dispute, and the sheriff has said he did not make
13 certain statements about his weapons the night he was
14 arrested. And, you know, it seems that if there's two
15 witnesses to dispute what he said under oath, then that
16 would be relevant to resolving that factual dispute.

17 And I -- I think their testimony is consistent, but
18 I don't think that necessarily makes it redundant. I
19 would add also that we're submitting the incident report
20 that was written by Inspector Becker that night, and
21 we're also -- yeah. So we're submitting that as a
22 further statement regarding what happened that night.
23 It is an issue that's in dispute, and we feel that
24 although it's consistent, that doesn't make the
25 redundant.

1 COMMISSIONER HUR: Mr. Kopp or Mr. Waggoner?

2 MR. KOPP: Well, I'd -- I'd --

3 COMMISSIONER HUR: Let me ask you a specific
4 question. Do you have an objection to the exhibits to
5 the incident report and the --

6 MR. KEITH: It was the emergency protective order.

7 COMMISSIONER HUR: -- and the emergency protective
8 order request being admitted?

9 MR. KOPP: I don't have an objection to the
10 emergency protective order. The police report's
11 hearsay. I mean -- and I don't know if you want me to
12 address anything else. I agree with what you said
13 earlier.

14 COMMISSIONER HUR: Well, let's see if there's a
15 dissenting view among the commissioners first.

16 Is there a dissenting view with respect to Officer
17 Becker?

18 COMMISSIONER LIU: No.

19 COMMISSIONER HUR: Okay. Then the request for
20 Officer Becker to appear as a rebuttal witness is
21 overruled.

22 Okay. I see we have Ms. Lopez.

23 Good evening.

24 MS. LOPEZ: Good evening.

25 COMMISSIONER HUR: Ms. Canny, can I have you at the

1 podium, please?

2 MS. CANNY: Yes. I'm just trying to clean up a
3 little.

4 COMMISSIONER HUR: So what is the resolution?

5 MS. CANNY: The preference, Commissioner, would be
6 to start this evening, maybe go for a half-hour or so.
7 Is that okay? Half-hour? Forty-five?

8 COMMISSIONER HUR: Okay. How about if we go till
9 9:30?

10 MS. CANNY: Okay. That's perfect.

11 COMMISSIONER HUR: Is that acceptable to the
12 parties?

13 MR. KOPP: That's fine.

14 MS. CANNY: Is that okay?

15 MR. KEITH: Yes.

16 MS. CANNY: Eliana, is that okay?

17 MS. LOPEZ: Yes. I just need a little bit of
18 water.

19 MS. CANNY: Yeah. I asked somebody to go and get
20 you some water.

21 MS. LOPEZ: Okay. Good. Thank you.

22 MS. CANNY: They'll get you some water.

23 COMMISSIONER HUR: And Mr. Keith -- I want to open
24 this up to the commissioners as well -- but what I would
25 like to do is say I expect in light of the -- what's in

1 these declarations that you should be able to get
2 through this in two hours.

3 I'm not saying that's necessarily a hard stop, but
4 I think it's going to be helpful for us if we can plan,
5 and so I think I would recommend that that be your
6 expectation as to how much time you're going to have
7 with this witness.

8 Is there any objection to that from my fellow
9 commissioners?

10 Okay. Ms. Lopez, before we begin, I have just a
11 couple questions for you. We have on standby an
12 interpreter, a Spanish-language interpreter. Would you
13 like to have the services of the interpreter available
14 to you?

15 MS. LOPEZ: Yes, that would be better.

16 COMMISSIONER HUR: Okay. So where -- where is the
17 interpreter?

18 MS. LOPEZ: Yes. Well, I was thinking someone that
19 maybe if I'm want to speak and I'm confused about
20 something, I can ask for the words, because it's not
21 that --

22 COMMISSIONER HUR: Here is what I would recommend.

23 MS. CANNY: Okay.

24 COMMISSIONER HUR: I recommend we have the
25 interpreter available. If Ms. Lopez feels that she

1 needs the interpreter --

2 MS. LOPEZ: Exactly.

3 COMMISSIONER HUR: -- to understand a question or

4 to provide an answer, then the interpreter is available

5 for your use. But otherwise, you're free to --

6 MS. LOPEZ: Yes. I don't need it all the time,

7 yeah. Okay.

8 COMMISSIONER HUR: Okay.

9 MS. CANNY: What you just said is what I thought

10 we'd asked for the interpreter for, so that's --

11 MS. LOPEZ: Okay. Perfect. Okay. Now I got it.

12 Thank you.

13 COMMISSIONER HUR: Thank you.

14 Will the court reporter swear in the witness and

15 the interpreter, please.

16 (Interpreter and witness sworn)

17 THE INTERPRETER: So am I requested to remain

18 silent --

19 THE WITNESS: Yes, please.

20 THE INTERPRETER: -- and only to speak if I'm being

21 requested to do so?

22 COMMISSIONER HUR: Yes. Thank you very much,

23 ma'am.

24 THE WITNESS: Gracias.

25 COMMISSIONER HUR: Mr. Keith, please proceed.

1 MR. KEITH: Okay. Thank you.

2 THE WITNESS: I'm sorry. I'm so thirsty.

3 ELIANA LOPEZ,

4 having been first duly sworn by the court reporter,

5 testified as follows:

6 ---o0o---

7 CROSS-EXAMINATION BY MR. KEITH

8 MR. KEITH: Q. Good evening, Ms. Lopez. My name
9 is Peter Keith. I'm a deputy city attorney.

10 A. Good evening. Nice to meet you.

11 Q. Nice to meet you too. Now, did you fly in
12 today?

13 A. No, I fly Monday at night, late at night.

14 Q. Okay. Monday night. Okay. And you've been
15 away from the United States since March 25th of this
16 year?

17 A. Yeah, I think that is the right date.

18 Q. Would you mind moving the microphone a little
19 closer?

20 A. Yes. Sorry.

21 Q. Thank you. And when will you be flying back
22 to Venezuela?

23 MR. KOPP: Objection, relevance.

24 COMMISSIONER HUR: Will you be here tomorrow night?

25 THE WITNESS: Yes.

1 COMMISSIONER HUR: Okay. Move on, please.

2 MR. KEITH: Okay.

3 Q. So Ms. Lopez, I'd like to ask you some
4 questions about how your life in Venezuela has been
5 between March 25th and when you just flew back a
6 couple of days ago.

7 Do you still own a home in Venezuela?

8 MS. KAISER: Objection, relevance.

9 COMMISSIONER HUR: Sustained.

10 MR. KEITH: Commissioners -- Commissioners, I -- I
11 request some leave to establish some of the background
12 facts about Ms. Lopez's current situation because it
13 will bear on issues of bias and credibility.

14 COMMISSIONER HUR: What's your proffer?

15 MR. KEITH: Well, my -- it's that Ms. Lopez has a
16 thriving life in Venezuela now and that she is going to
17 want to be careful about upsetting that by doing
18 something to -- to -- doing something that -- that would
19 be counter to the interests of the sheriff. And I --
20 it's -- I think it's going to become clear shortly.

21 COMMISSIONER HUR: Okay. We'll give you a little
22 bit of leeway to get there.

23 MR. KEITH: Q. Ms. Lopez, do you own a home in
24 Venezuela?

25 A. Yes.

1 Q. Is that where -- where you've been living?
2 A. Yes.
3 Q. And do you have family nearby in Venezuela?
4 A. Yes.
5 Q. Your father is close by?
6 A. Yes.
7 Q. Okay. You've been -- you've been spending a
8 lot of time with him?
9 A. Yes. He had a major surgery the last week.
10 Q. And you'll be -- and you'll be going back soon
11 so you can be with him?
12 A. Yes. I was sleeping with him in the hospital
13 for three days.
14 Q. Now, before you came to the United States, you
15 had a successful career as an actress in Venezuela?
16 A. Yes.
17 Q. And since you returned to Venezuela in March,
18 have you worked on any film projects there?
19 A. I start rehearsals, and I'm going to start my
20 shooting the next movie I'm going to do on Monday.
21 Q. Okay. Have you already been working on any
22 movies?
23 A. No.
24 Q. Okay. And --
25 A. No at this moment.

1 Q. Okay.

2 A. Okay.

3 Q. Before the movie that you're going to start
4 work on on Monday, did you work on a different movie in
5 Venezuela since you went back?

6 A. No.

7 Q. Okay. And how long is that project expected
8 to last that's going to be starting on Monday?

9 A. I think it's going to be like 20 days.

10 Q. Okay.

11 A. I don't have all the schedule.

12 Q. And your son, Theo, has been with you in
13 Venezuela since March 25th?

14 A. Yes.

15 Q. Is he in Venezuela right now?

16 A. Mm-hmm, yes.

17 Q. Is he being well-cared for?

18 A. He is with my mom and my dad.

19 Q. You trust them to take good care of him?

20 A. They are better than me.

21 Q. That's how I feel about my parents.

22 A. They are actually right now watching this
23 hearing, even it's midnight there in Venezuela.

24 Q. I don't know my parents are.

25 A. And they don't -- and the nice thing is they

1 don't understand English, so -- that is love and
2 support.

3 MR. KOPP: This two hours is going to go pretty
4 quick if we keep doing this.

5 MR. KEITH: Q. And do you feel that Theo is safe
6 in Venezuela with you?

7 A. I feel now at this moment even that it's an
8 irony, he's safer in Venezuela than in San Francisco.

9 Q. And is it important to have your son with you?

10 A. Absolutely.

11 Q. And one of the reasons you were able to take
12 your son to Venezuela is that your husband gave his
13 consent for you to take Theo to Venezuela; is that
14 correct?

15 A. Yes.

16 Q. And your husband actually signed a document
17 that was filed with the family court --

18 A. Mm-hmm.

19 Q. -- giving his consent for you to take your son
20 to Venezuela?

21 A. Absolutely.

22 Q. And that -- there was a document that he had
23 to sign in March in order for you to leave this country
24 with Theo?

25 A. Yes. We are a family. All the decisions,

1 even -- even that we are apart, we make all the
2 decisions together. Now through lawyers, but we are a
3 family.

4 Q. And then you had to get an extension. You
5 applied to the court to get an extension of time to be
6 in Venezuela with Theo?

7 A. Yes.

8 Q. Okay. And your husband had to consent to that
9 extension of time?

10 A. Absolutely.

11 Q. And then once again in June, you had to obtain
12 a -- the consent of your husband in order to remain in
13 Venezuela with Theo with you?

14 A. Mm-hmm.

15 Q. "Yes"?

16 A. Yes.

17 Q. Okay. Now, currently -- I mean, the court
18 sets these deadlines, and you have a deadline that's for
19 the end of August --

20 A. Mm-hmm.

21 Q. -- for when you have to come back, unless, of
22 course, you obtain another extension. Right?

23 A. Mm-hmm. Yes.

24 Q. Okay. And to stay with Theo further, past
25 August, you'll have to get your husband's consent again?

1 A. Absolutely.

2 Q. And do you have another film project that's
3 lined up for you after the one that's going to start
4 this Monday?

5 A. Not at the moment.

6 Q. Okay. Are you working on lining up another
7 film project?

8 A. Excuse me?

9 Q. Are you working on arranging another film
10 project for you to work on --

11 A. Yes.

12 Q. -- after the current one?

13 A. Well, the situation that we are is that my
14 husband was suspended without pay, so that was one of
15 the reasons that I moved to Venezuela, so I can work,
16 and I have my own home, and to live in Venezuela and
17 have maybe better life than we have here. It's like
18 cost 25 -- 25 percent of the cost here. So we are not
19 like --

20 THE INTERPRETER: It's not a burden for Ross.

21 THE WITNESS: So I am taking care of me and Ross --
22 and Theo, and Ross can be focused in -- in what is going
23 on here.

24 MR. KEITH: Q. Okay. I'm glad that you gave that
25 answer, because these were some questions that I was

1 going to ask you in a couple of minutes.

2 But I want to go back to the question that I asked
3 you, which is do you have an- -- you have this film
4 project starting on Monday that's expected to take about
5 20 days.

6 A. Mm-hmm.

7 Q. "Yes"?

8 A. Yes.

9 Q. And then are you working on lining up another
10 film project to follow that one?

11 A. Well, no, I don't have a new one yet.

12 Q. Okay. Now, up to now, your husband has always
13 given his consent for you to stay with Theo -- stay with
14 Theo in Venezuela?

15 A. Yes.

16 Q. And that consent, as you've just said, allows
17 you to support yourself and Theo in Venezuela?

18 A. Yes, because we don't have any money.

19 Q. Okay. Now, your husband could stop giving
20 that consent at any time.

21 A. How do you know?

22 Q. Are you sure that he's going to give consent
23 next time?

24 A. How do you know? We don't know. We don't
25 know that.

1 Q. Are you sure that your husband's going to give
2 consent in August?

3 A. Of course. We have -- oh, I don't know if he
4 is going to do it. But we will make the decision as a
5 family together --

6 Q. Okay.

7 A. -- what is the best. Maybe at that moment,
8 he's the sheriff again, so I can go -- come back.

9 Q. Okay. So Ms. Lopez, just for your own
10 information, the process will take a little longer,
11 whatever the result might be.

12 A. Well, that means that maybe -- I don't know.
13 We have to wait.

14 Q. Now, Ms. Lopez, you have -- you have in the
15 past considered divorcing your husband?

16 A. No.

17 Q. You've never considered divorcing your
18 husband?

19 A. No.

20 Q. Ever?

21 A. No. Really serious? No. We have been
22 talking about that, but --

23 Q. Okay.

24 A. -- we never make any decision.

25 Q. When you say "we've never made any decision,"

1 what do you mean by that?

2 A. We weren't -- we didn't make any decision
3 about to split or get divorced.

4 Q. Okay. You mean you and your husband together
5 never made any decision about that?

6 A. Exactly.

7 Q. Okay. But I want to -- I want to focus on
8 your own thoughts about whether or not you want to
9 divorce -- whether or not you've ever considered
10 divorcing your husband.

11 And perhaps this is something where the interpreter
12 may --

13 A. No, I can understand everything you are
14 saying.

15 Q. Okay.

16 A. Yes.

17 Q. Okay. Is it your testimony that you've never
18 considered divorcing your husband?

19 MR. KOPP: Well, that's asked and answered.

20 COMMISSIONER HUR: Sustained.

21 MR. KEITH: Q. Have you -- have you seriously
22 considered divorcing your husband?

23 MR. KOPP: Asked and answered.

24 COMMISSIONER HUR: Counsel, I think you have an
25 answer. She said, "No."

1 MR. KEITH: All right.

2 Q. Ms. Lopez, you executed a declaration in this
3 case?

4 COMMISSIONER HUR: Counsel --

5 MR. KEITH: I'm sorry.

6 COMMISSIONER HUR: Hold on one a second.

7 Commissioner Studley, do you guys have something?

8 Commissioner Studley, do you have something to say?

9 COMMISSIONER LIU: I did want to clarify.

10 Ms. Lopez, you -- did you respond that you talked
11 about divorce, but never made a decision about it? Was
12 that your answer?

13 THE WITNESS: Yes.

14 COMMISSIONER LIU: Okay. Thank you.

15 MR. KEITH: Okay. All right. That -- thank you.

16 Q. So you have -- so you have talked -- so you
17 have talked about divorce, but you've -- you haven't
18 made a decision whether to divorce?

19 A. Exactly.

20 Q. Okay. And you've discussed the potential for
21 you divorcing your husband with people besides your
22 husband?

23 A. Again, sir?

24 Q. Have you discussed the possibility of
25 divorcing your husband with friends?

1 A. I think what I did was I -- in which position
2 I am if we decide to get divorced.

3 Q. So you've discussed with your friends what the
4 consequences of a divorce might be?

5 A. If we decide together to get divorced, which
6 one are my rights and how is the legal situation in a
7 divorce? Like looking for information, that was that I
8 did.

9 Q. Okay. So you have looked for information
10 about what -- what would be your rights in the case of a
11 divorce?

12 A. Yes.

13 Q. Okay. And one of the issues that would come
14 up in the case of a divorce from your husband is --

15 A. And actually, I wasn't --

16 Q. Can you let me finish my question?

17 A. I'm sorry.

18 Q. Thank you. One of the issues that would come
19 up in a divorce would be what the custody arrangements
20 would be for Theo?

21 A. Yes.

22 Q. If there were to be a divorce with your
23 husband, the current arrangement you have regarding the
24 custody of Theo would change?

25 A. Sorry. I think I have a little tired. Tell

1 me again?

2 Q. Okay. I'm sorry. If you feel too tired to
3 understand my questions, then that's -- please say so.
4 Okay? And I --

5 A. Okay. Try again, and I will try to respond.

6 Q. Okay. If you were to get a divorce --

7 A. Uh-huh.

8 Q. -- then the arrangement that you have right
9 now where you're in Venezuela with Theo in your custody
10 could change?

11 A. I'm not looking for a divorce right now.

12 MR. KOPP: And I'm going to object that that calls
13 for speculation.

14 COMMISSIONER HUR: I'm going to overrule it.
15 Can the interpreter interpret the question?

16 THE WITNESS: I don't know.

17 MR. KEITH: Q. Okay. So you realize that -- that
18 in the United States when there's a divorce, the family
19 court does make an order regarding the custody of
20 children in the marriage?

21 A. I don't know.

22 Q. You've never --

23 A. I've never been there. We didn't make any
24 decision. I was just looking for information.

25 Q. Have you ever sought out any advice about

1 custody, about the consequences for custody of --

2 A. Yes.

3 Q. -- a child of divorce?

4 A. That was the information I was looking for

5 when I talked with -- we are talking about Ivory

6 Madison, of course.

7 Q. Actually, I'm not. I'm not actually talking

8 about Ivory Madison.

9 A. That is the only friend I was -- friend and

10 lawyer that I know she is a lawyer, so that was the only

11 information I got.

12 Q. Okay. Ma'am, I'm going --

13 A. I was looking for some.

14 Q. Ms. Lopez, I'm going to ask you about your

15 conversations with Ms. Madison later. I just want to --

16 I --

17 A. Maybe we can shorten the period.

18 Q. I just want to get a --

19 A. Sorry. I'm sorry.

20 COMMISSIONER HUR: Ms. Lopez --

21 THE WITNESS: I'm sorry.

22 COMMISSIONER HUR: -- I think that -- we need to --

23 it's question, answer.

24 THE WITNESS: Okay.

25 COMMISSIONER HUR: Thank you.

1 MR. KEITH: Q. You realize that if there were a
2 divorce that the fam- -- that the court would have to
3 make an order about who gets custody of Theo?

4 A. I think so. I don't know.

5 Q. And you in fact have been very concerned about
6 what would happen in the case of a divorce with regard
7 to the custody of Theo?

8 A. Yes.

9 Q. Theo was born here in the United States?

10 A. Yes.

11 Q. And he's an American citizen?

12 A. Yes.

13 Q. Now, you currently do have permanent resident
14 status in the United States?

15 A. Yes.

16 Q. When did you obtain that status?

17 A. January, I think.

18 Q. Okay.

19 A. We start all the process in March the last
20 year, I think.

21 Q. Okay. But you finally got your -- you
22 finally got the --

23 A. My green card.

24 Q. -- the green card --

25 A. In January.

1 Q. -- in January, so after the December 31st
2 incident.

3 A. Yes.

4 Q. Okay. Now, are you still a citizen of
5 Venezuela?

6 A. Yes. You can have both. If I decide to be --
7 I'm not citizen, American citizen, so --

8 Q. Still a citizen of Venezuela?

9 A. Still somewhere citizen, yes, somewhere
10 citizen.

11 Q. Okay. So you are still a citizen of
12 Venezuela?

13 A. Yes, of course.

14 Q. Okay.

15 A. And I will be forever.

16 Q. So you'll never relinquish your Venezuelan
17 citizenship?

18 A. Never.

19 MR. KOPP: Objection, relevance.

20 COMMISSIONER HUR: Sustained.

21 THE WITNESS: I'm assuming you can have both, two
22 or three citizenships. Mm-hmm.

23 MR. KEITH: Q. Now, if there were a divorce
24 between you and your husband, do you expect your husband
25 to consent to you having custody of Theo in Venezuela?

1 MR. KOPP: Objection, calls for speculation.

2 MR. KEITH: It goes -- it goes to state of mind and

3 bias.

4 COMMISSIONER HUR: Overruled.

5 THE WITNESS: I don't know what his position could

6 be in that situation.

7 MR. KEITH: Q. I'm -- I'm not asking about what

8 his position is. I'm guessing -- I'm asking --

9 A. What I would like?

10 Q. What -- what your expectation is about. Would

11 you ex- -- based on what you know about your husband --

12 A. No, I think --

13 Q. -- would you expect him --

14 A. No, I think --

15 Q. -- to agree to that?

16 THE REPORTER: I'm -- I'm sorry.

17 COMMISSIONER HUR: Okay. One at a time.

18 MR. KEITH: Okay.

19 COMMISSIONER HUR: So Ms. Lopez, if you could just

20 wait for the question.

21 And then Mr. Keith, wait for her to finish before

22 you start your next one.

23 MR. KEITH: Okay.

24 COMMISSIONER HUR: Thank you.

25 MR. KEITH: Q. So Ms. Lopez, based on all the

1 arguments, discussions, conversations you've had with
2 your husband in the past, would you expect him to
3 consent to you having custody of Theo in Venezuela in
4 the event that you divorced?

5 A. I think we have to work on -- on that. If we
6 get divorce in a year or if we get divorce in 25 years,
7 I don't know. It's completely different. I don't know.

8 Q. Well, if you get divorced --

9 A. Maybe in 25 years if we get divorce, I'm
10 working here and I don't need to go back to Venezuela.
11 I don't know.

12 But -- but I think your point is like in the same
13 way, I do not want to take my son away of his dad if we
14 get divorce at some point, hypothetical point, the same
15 way, of course, I don't want anyone taking Theo away
16 from me. So as a family, always, we have to be
17 together, making the decisions together, and looking
18 always for the best for Theo. And I'm sure I will
19 expect and I'm sure Ross will agree with me.

20 Q. Now, your husband has told you in the past
21 that -- that he thinks that you're trying to take Theo
22 away from him?

23 A. Yes.

24 Q. And you are concerned that your husband is a
25 powerful man who's powerful enough to take Theo away

1 from you?

2 A. I think that after all the research I've been
3 doing -- I think that he, being an American, and me
4 being not American, being an immigrant, he's in a better
5 position than me to gain if he oppose, if I have to
6 travel. I don't know. I think he's -- in this country,
7 I think he's in a better position than me.

8 Q. Okay. Now, but what you've just said now
9 really pertains to your husband's status as an American
10 citizen.

11 A. Yes.

12 Q. Okay. Was there a time when you thought that
13 his status as the sheriff of the City and County of
14 San Francisco made him powerful such that he could take
15 Theo away from you?

16 A. Are you asking me if there was a moment that I
17 thought that?

18 Q. Yes.

19 A. No.

20 Q. You've never thought that?

21 A. As a sheriff? No. As an American? Yes.

22 Q. Okay. So you never thought that your
23 husband's status as an elected official --

24 A. No.

25 Q. Let me finish my question. I'm sorry.

1 A. Oh, I thought you finished.

2 Q. I -- you never thought that your husband's
3 status as an elected official gave him power that he
4 could use to take Theo away from you?

5 A. No.

6 Q. He's said that to you, hasn't he?

7 A. No.

8 Q. Now, you in fact told Callie Williams that
9 your husband told that you he's a very powerful man and
10 can take Theo away from you. You said that to Callie
11 Williams, didn't you?

12 A. Yes.

13 Q. Okay. Were you lying to Callie Williams?

14 A. No.

15 Q. Okay.

16 A. The problem is that -- is I had this
17 conversation -- it's not that we discussed every day
18 that we are going to get a divorce. We have -- we had
19 that conversation twice. One in March 2011. And that
20 conversation, we were talking about -- sorry -- divorce
21 and the laws and how he being American and how my
22 position could be, and all the conversation was around
23 45 minutes.

24 And so my conclusion after all that conversation
25 was that he's powerful than me. So when I said he said

1 he is powerful than me, it was my conclusion in one
2 sentence of all that conversation.

3 Q. So you were expressing to Callie Williams your
4 conclusion --

5 A. Mm-hmm.

6 Q. -- that your husband was a powerful man and
7 could take Theo away from you?

8 A. Yeah.

9 Q. Okay.

10 A. And that was not a nice conversation, and I
11 got scared.

12 Q. I'm sorry? You got --

13 A. Scared that maybe I can lose the custody.

14 THE INTERPRETER: Scared.

15 THE WITNESS: Yes, scared.

16 MR. KEITH: Q. Okay. Thank you. Now, you also
17 told Ivory Madison that your husband told you he's a
18 very powerful man and can take Theo away from you?

19 A. It was exactly the same thing --

20 Q. Okay.

21 A. -- my conclusion of that conversation. I'm
22 not going to explain the 40 minutes' conversation, but
23 my conclusion is like he said he's powerful than me.
24 He's in an absolutely better position in this country
25 than me.

1 I just saw a court, a family court here in
2 California, ruling against a woman in Puerto Rico,
3 taking the son away from her, four years old, because
4 the courts say that Puerto Rico is dirty and unsafe, so
5 it's better to be here in California. So it doesn't
6 matter if to be with your mother is better or not. So
7 how I feel, I feel so scared.

8 Q. So even now, you feel scared that --

9 A. Absolutely.

10 Q. -- that you would lose custody of Theo?

11 A. It's why I'm in Venezuela, because I am so
12 scared of all this madness.

13 Q. Okay. So even now, you're scared that you
14 would lose custody of Theo in case of a divorce?

15 A. No, no, no, in this moment about custody. I
16 am scared about all this process against us. And it's
17 the same thing I'm saying about the court taking a boy
18 away of his mom because California court thinks that
19 Puerto Rico is a no-good place for a boy. That puts
20 every person from other country in a horrible situation,
21 and that is scary.

22 Q. So I want to make sure that I have a clear
23 understanding of how you came to this -- to this
24 conclusion that you expressed to Callie Williams and
25 Ivory Madison that your husband was a powerful man who

1 could take Theo away from you. Was part of that power
2 because he was an elected official?

3 MR. KOPP: That's asked and answered.

4 COMMISSIONER HUR: Does any -- do any of the
5 commissioners feel they need to hear the answer to this
6 question?

7 COMMISSIONER STUDLEY: It appears to me the witness
8 wanted to answer it.

9 COMMISSIONER HUR: I think the witness has answered
10 it, but let's allow it.

11 THE WITNESS: That conversation happened in
12 March 2011. He was not even thinking to run for sheriff
13 at that point.

14 MR. KEITH: Q. Ma'am, I wasn't asking about the
15 conversation. I was asking about your conclusion about
16 the power that your husband has.

17 A. That was more than a year ago, so he was not
18 even thinking of running for sheriff.

19 Q. He was a member of the -- he was an elected
20 member of the Board of Supervisors at that time?

21 A. Yes, and he lose the president of the -- he
22 was not in his best moment in that moment.

23 Q. Okay. I don't understand.

24 A. He lose -- he was not the president of the
25 Board of Supervisors. So there was all this movement

1 around, so it was not like, "Oh, I'm so powerful and I'm
2 going to take Theo away from you." It was not in that
3 context.

4 Q. Okay. So didn't you in fact think as of
5 January 1st that as both an American and a politician,
6 your husband is a powerful man, and if he wanted, he
7 could take custody of Theo?

8 MR. KOPP: Objection, compound.

9 COMMISSIONER HUR: Sustained.

10 MR. KEITH: Q. As of January 1st, wasn't it your
11 view that your husband is a powerful man and could take
12 custody of Theo if he wanted to in the case of a
13 divorce?

14 A. That was my conclusion for the conversation in
15 March 2011.

16 Q. Okay. Was that your view also on
17 January 1st?

18 A. As an American, he's in a better position, how
19 I already said.

20 Q. Now, what about as a -- as an elected
21 official?

22 A. No.

23 MR. KOPP: Objection, it's asked and answered.

24 MR. KEITH: So Commissioners, I -- I -- I'd just
25 like to read as a prior inconsistent statement from

1 Ms. Lopez's declaration, page 2 of the declaration.

2 COMMISSIONER HUR: Tell me what part.

3 MR. KEITH: Paragraph 7.

4 COMMISSIONER HUR: Line numbers?

5 MR. KEITH: Well, the -- the inconsistent statement
6 would be on lines 13 to 15. I can read -- I'm happy to
7 read the whole paragraph so you know the date that we're
8 talking about.

9 MR. KOPP: That's -- that's not --

10 COMMISSIONER HUR: I'll hear argument.

11 MR. KOPP: That's just not how you impeach a
12 witness. So the proper way -- I mean, I don't feel like
13 I'm in a position of teaching this gentleman how to
14 properly impeach a witness. Ask her if she made that
15 statement. Show it to her. You don't read it out loud
16 like this.

17 MR. KEITH: I'm quite aware of how to impeach a
18 witness, and this is the right way to do it.

19 COMMISSIONER HUR: Can I have the last question and
20 answer?

21 (Record read as follows:

22 "Q Now, what about as an elected
23 official?"

24 "A No.")

25 THE WITNESS: I'm so dizzy. Okay.

1 COMMISSIONER HUR: I think you should establish
2 more foundation, Mr. Keith.

3 MR. KEITH: Okay.

4 COMMISSIONER HUR: More directly.

5 MR. KEITH: Q. Ms. Lopez, on January 1st, you
6 had a conversation with Ivory Madison about what might
7 happen regarding the custody of your son in the event of
8 a divorce?

9 THE INTERPRETER: What is the date again?

10 MR. KEITH: Q. On January 1st. Do you have it?

11 A. Yes, that was the beginning of our
12 conversation here. I was looking for advice what is my
13 situation if I -- if we're getting a divorce.

14 Q. Now, your conclusion after that conversation
15 with Ivory Madison on January 1st and your own
16 experience was that as an American and a politician,
17 your husband is a powerful man, and if he wanted, he
18 could win custody of Theo?

19 A. Oh, yes. When I went to talk with Ivory, I
20 was scared about losing -- how is my situation if we get
21 divorced? What is my rights and what is my position,
22 and how is in a family court that?

23 And what -- after our conversation, she made me
24 feel even more scared because she also say as a sheriff,
25 this is an old -- she used the word "old boys' network,"

1 and they will, you know, cover each other, and so you
2 have to make an evidence and you need something to -- to
3 protect yourself and fight in case you get in a custody
4 dispute. So she told me that of course I have to be --
5 my concern was right, and she used that word, "old boys'
6 network."

7 MR. KEITH: I'll move to strike everything after
8 "yes" as nonresponsive.

9 COMMISSIONER HUR: Overruled.

10 Please. We need to keep it down in here. Thank
11 you.

12 MR. KEITH: Q. Your husband has told you that he's
13 a powerful man more than once?

14 MR. KOPP: I think that's been asked and answered.

15 COMMISSIONER HUR: Overruled.

16 THE WITNESS: Are you asking me if he say that --

17 MR. KEITH: Q. Yes.

18 A. -- more than once?

19 Q. Yes.

20 A. No.

21 Q. So you --

22 A. Actually, he never said that. That was my
23 conclusion of our conversation. He never said, "I am a
24 powerful man."

25 Q. So he --

1 A. I -- the conclusion of the 40 minutes'
2 conversation was that he said he is a powerful --
3 powerful than me. He's a powerful man. But that was my
4 conclusion. He never said, "I am a powerful man." Like
5 a sentences? Sentence? No.

6 Q. Did he ever say that he's very powerful?

7 A. No.

8 Q. You said in the video that you made that he
9 said that he's very powerful.

10 A. Yes.

11 Q. Okay. You don't want your husband to take
12 Theo away from you?

13 A. I don't want Ross taking my son away from me
14 in the same way I will never take Theo away from him.

15 Q. Do you have concerns for Theo's safety and
16 welfare with your husband being the primary caregiver?

17 MR. KOPP: Objection, relevance.

18 COMMISSIONER HUR: Sustained.

19 MR. KEITH: Q. Have you made any agreement with
20 your husband about what would happen regarding the
21 custody of Theo in the event of a divorce?

22 A. Never.

23 Q. Okay. Now, on December 31st, 2011, your
24 husband offered to take you and Theo out to lunch, for
25 pizza?

1 A. It was not that he offered. That was the
2 plan. I didn't want to cook on December 31st.

3 Q. So you went --

4 A. I said, "I'm not going to cook. We'll have to
5 go out for lunch."

6 Q. Okay. So are you saying it was your decision
7 to go out to lunch that day?

8 A. Yes.

9 Q. Okay. Now, everybody got into the van?

10 A. Yes.

11 Q. Okay. And while in the van, you tried to have
12 a civil discussion with your husband about going to
13 Venezuela?

14 A. Yes.

15 Q. And the discussion you wanted to have was
16 about you visiting Venezuela with Theo?

17 A. Yes, of course.

18 Q. And you tried to be polite and respectful in
19 bringing up that subject with your husband?

20 A. Well, I'm -- I'm not sure if I was trying to
21 be polite. I was not trying; I was just saying what I
22 wanted.

23 Q. Were you -- and at the time that you raised
24 this issue of bringing Theo to Venezuela, you knew that
25 that was a sensitive subject for your husband?

1 A. Yes.

2 Q. And when you raised that issue, your husband
3 was not polite and respectful in response?

4 A. No. He was nervous, yes.

5 Q. In fact, he started yelling at you?

6 A. Yes, a little bit.

7 Q. He started --

8 A. Well, for Ross to yell is not too -- his voice
9 is so strong and big, so he doesn't have to do too much
10 to -- immediately, you feel like, "Okay. You are too
11 loud all the time," so --

12 Q. You've had the experience of someone yelling
13 at you in an angry way before?

14 A. And I don't think he was yelling. I think he
15 was -- he was not -- he was not happy with that.

16 Q. Okay. So your husband -- so your husband was
17 not yelling --

18 A. No --

19 Q. -- at you in the car?

20 A. -- he was talking with his voice, which is so
21 big and strong.

22 Q. So --

23 A. But I think he -- he was -- yeah, he was not
24 happy at all.

25 Q. So you told Ivory Madison that your husband

1 startled yelling profanities at you in the car, didn't
2 you?

3 A. Yes.

4 Q. Okay. Isn't that what happened in the car?

5 A. Yes.

6 Q. So in fact, he was yelling profanities at you
7 in the car?

8 A. Well, I don't -- how I recall is that he say
9 profanities.

10 Q. Yeah, for --

11 A. But just one thing. One thing was the only
12 thing he said. And I said, "Don't talk to me that way."
13 And then he apologized, but he was not happy.

14 Q. Okay. And this was happening with your son in
15 the car as well?

16 A. Yes.

17 Q. Okay. What did -- how did your husband's
18 yelling in the car affect your son?

19 MR. KOPP: Objection, relevance.

20 COMMISSIONER HUR: Relevance objection is
21 overruled.

22 THE WITNESS: I have to answer?

23 COMMISSIONER HUR: If you know.

24 THE WITNESS: Yes. Theo was -- at that point, was
25 almost 1:00 p.m. His nap time is at 1:00. His

1 lunchtime is at noon. So he was almost sound asleep in
2 the car, in the car seat, and I do not recall he was
3 crying in the car until the very end, because we were
4 having a discussion, but it was not that he was yelling
5 or -- we were having a discussion, but in a not friendly
6 way. But he was watching the -- through the mirror. He
7 was fine.

8 MR. KEITH: Q. So your son did cry during that
9 discussion, but just not until the end of it?

10 A. During all the discussion, he didn't cry.

11 Q. He never cried in the car?

12 A. No.

13 Q. So when you told Ivory Madison -- so you told
14 Ivory Madison, though, that he cried in the car?

15 A. Well, he cried after he grabbed my arm.

16 Q. After your husband grabbed your arm?

17 A. Yes.

18 Q. Okay.

19 A. And then I got so angry, and I said, "Stop!"

20 And was my reaction --

21 Q. Did you know that there --

22 A. -- which scared my son.

23 COMMISSIONER HUR: Ms. Lopez, please.

24 THE WITNESS: I'm sorry.

25 COMMISSIONER HUR: Answer the question, and he'll

1 ask another one.

2 THE WITNESS: Okay. At this point in the car, he's
3 not crying.

4 MR. KEITH: Q. Okay. And so it's your tes- -- so
5 did you ever say to your husband during the course of
6 this, this discussion, argument, whatever you want to
7 call it on December 31st, "Stop! Look what you're
8 doing to our son. Do you know what this is going to do
9 to him? Please stop for our son"?

10 Did you ever say anything along those lines to your
11 husband?

12 A. Not in the car. We are now in the car.
13 Right?

14 Q. In the whole --

15 A. At this moment --

16 Q. The whole fight.

17 A. -- he is not crying, and I didn't say that.

18 Q. Okay. So in the course of the entire fight
19 with your husband, you never said those words?

20 A. When he grabbed my arm, I said, "Stop" in a
21 very hard way. And when he -- we came inside at home, I
22 said, "Stop right now. I'm going to cook lunch for
23 Theo."

24 And -- and he was crying because Theo'd react when
25 I yell at him, and I said, "Stop." And he apologized

1 was -- was when Theo almost wake up and cried.

2 Q. Okay. So your testimony is that Theo --

3 A. And then I went inside, and he was trying --

4 Q. I really -- I'm sorry, Ms. Lopez. If you just
5 let me ask my questions --

6 A. Of course.

7 Q. -- and if you'd answer them, this will
8 actually be over a lot sooner.

9 So you testified that you told your husband to
10 stop. What I want to know is did you tell your husband,
11 "Look at what you're doing to our son" in the course of
12 this, in the course of this argument you had with him on
13 December 31st?

14 A. Yes, but the context is --

15 Q. I --

16 A. No, it's absolutely different if you put that
17 words in another context.

18 COMMISSIONER HUR: Ms. Lopez, your -- the sheriff's
19 lawyers will have a chance to ask you questions as well.

20 THE WITNESS: Okay.

21 COMMISSIONER HUR: So please just answer
22 Mr. Keith's questions --

23 THE WITNESS: Okay.

24 COMMISSIONER HUR: -- and then there will be an
25 opportunity for other questions from the other side.

1 THE WITNESS: Okay.

2 MS. CANNY: You know what? It's 9:30.

3 MR. KEITH: It's fine with us to start tomorrow
4 again.

5 COMMISSIONER HUR: Okay. Let's take a break.

6 Ms. Lopez, let me remind you that you are still
7 under oath, and I'd advise you not to talk to anybody
8 between now and when you appear again tomorrow about
9 your testimony.

10 THE WITNESS: Good.

11 COMMISSIONER HUR: Thank you.

12 THE WITNESS: Thank you. Thank you for being
13 patient.

14 COMMISSIONER HUR: Okay. Let's excuse the witness.
15 Counsel, is there anything else we need to talk
16 about tonight?

17 MR. KOPP: I don't think so.

18 COMMISSIONER HUR: Mr. Keith?

19 MR. KEITH: No.

20 COMMISSIONER HUR: Commissioners?

21 Okay. Here is my -- my plan for tomorrow. I'd
22 like to finish with Ms. Lopez.

23 I'd like to finish with Ms. Lopez. We need to talk
24 about the Lemon declaration. We need to talk about the
25 mayor's rebuttal exhibits, and we have to talk about the

1 sheriff's request for rebuttal witnesses to impeach the
2 mayor's testimony.

3 Anything else beyond that?

4 Oh, what is the Flores testimony? My understanding
5 is that, Mr. Kopp, you said you want to make oral
6 objections to the Flores testimony?

7 MR. KOPP: Yes. That shouldn't take very long.
8 I'm not going to go through it line by line. It's going
9 to be a sort of all-encompassing objection.

10 COMMISSIONER HUR: Okay. We can deal with that
11 tomorrow as well.

12 Other than that, are there any other issues that we
13 need to address tomorrow? Ms. Kaiser?

14 MS. KAISER: In regards to -- just in regard to the
15 Flores testimony and the objections --

16 COMMISSIONER HUR: Yeah, we'll address it tomorrow.

17 MS. KAISER: I'll put the procedural question
18 aside, but it would be helpful if -- I would at least
19 like some notice of what the objections are going to be
20 if they're going to be entertained.

21 COMMISSIONER HUR: Can you all meet and confer
22 about that tonight?

23 Okay.

24 MS. KAISER: Thank you.

25 COMMISSIONER HUR: Ms. Ng, was there anything that

1 you wanted to point out?

2 MR. EMBLIDGE: No, you covered it.

3 COMMISSIONER HUR: Okay. Great.

4 Okay. Thank you very much. The meeting --

5 Do we need to do the interim vote?

6 Okay. With that, the meeting is adjourned until
7 tomorrow evening.

8 (Proceedings adjourned at 9:33 p.m.)

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CERTIFICATE OF REPORTER

I hereby certify that the foregoing proceedings in the within-entitled cause took place at the time and place herein stated and were reported by me, MARLENE PUAOI, a Certified Shorthand Reporter and disinterested person, and were thereafter transcribed into typewriting;

And I further certify that I am not of counsel or attorney for either or any of the parties nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my signature this 24th day of July 2012.



MARLENE PUAOI, CSR, RPR
California CSR No. 7370