

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

In the matter of the Life) CDC Number: K-11650
Term Parole Consideration)
Hearing of:)
)
CHUCK JOHNSON)
_____)

CHUCKAWALLA VALLEY STATE PRISON

BLYTHE, CALIFORNIA

DECEMBER 1, 2009

PANEL PRESENT:

PETE LABAHN, Presiding Commissioner
BRUCE MITCHELL, Deputy Commissioner

OTHERS PRESENT:

CHUCK JOHNSON, Inmate
JIM SKIDMORE, Attorney for Inmate
KAREN SCHMAUSS, Deputy District Attorney
JENNIFER LUNDY, Victim's Next-of-Kin
DARIN RIGGS, Victim Next-of-kin
MARILYN BALDWIN, Victim's Advocate
LYNN STANTON-RIGGS, Victim's Next-of-kin.
JERRY LUNDY, Victim's Next-of-kin
DOROTHY RIGGS, Victim's Next-of-kin
STEPHEN LOPEZ, Victim Support
SANDRA MARZULLA, Support
MICHAEL PAMPLIN, Spousals' Victim
MICHELLE PAMPLIN, Victim of Past Offense
ARMENA ANAYA, CPSP Representative
CORRECTIONAL OFFICER(S), Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

_____ No See Review of Hearing
_____ Yes Transcript Memorandum

RHONDA J. DANIELS, TypeToo Transcription & Billing

I N D E X

	<u>Page</u>
Proceedings	3
Case Factors	11
Pre-Commitment Factors	27
Post-Commitment Factors	32
Parole Plans	55
Closing Statements	97
Recess	138
Decision	139
Adjournment	147
Transcriber Certification	148

P R O C E E D I N G S

2 **PRESIDING COMMISSIONER LABAHN:** It is 14:50
3 hours. This is an Initial Parole Consideration Hearing
4 for Chuck Johnson, CDC Number K-11650. Today's date is
5 December 1st, 2009. We are located at Chuckawalla
6 Valley State Prison. Mr. Johnson was received on June
7 2nd, 1996 from San Bernardino County. The Controlling
8 Offense for which he has been committed is Murder in the
9 First Degree. Case Number FWV02293, one count of Penal
10 Code Section 187. Mr. Johnson has a minimum eligible
11 parole date of January 25th, 2011. This hearing is
12 being recorded and for the purpose of voice
13 identification, each of us will state our first and last
14 name, spelling our last name. Mr. Johnson, after you
15 spell your last name, we'll ask you to give your CDC
16 Number as well. We have quite a few people in the room
17 who we're going to get on the record. One who we will
18 not be getting on the record is our correctional peace
19 officer who is not participating in today's hearing, but
20 is present for security purposes. And we'll move in a
21 clockwise direction around the room. We will ask each
22 of the participants today to identify themselves by
23 first name and spelling their last name as I indicated
24 because we have three rows here. We'll start with the
25 deputy DA and work our way across and then we'll go back

1 over there to you sir, and work our way across and then
2 we'll go to the balcony seats and work our way across.
3 And my name is Pete Labahn, L-A-B-A-H-N, commissioner.

4 **DEPUTY COMMISSIONER MITCHELL:** I'm Bruce
5 Mitchell, M-I-T-C-H-E-L-L, deputy commissioner, Board of
6 Parole Hearings.

7 **INMATE JOHNSON:** My name is Chuck Johnson,
8 J-O-H-N-S-O-N, K-11650.

9 **ATTORNEY SKIDMORE:** Jim Skidmore,
10 S-K-I-D-M-O-R-E, attorney for the inmate.

11 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Karen
12 S-C-H-M-A-U-S-S, deputy district attorney, San
13 Bernardino County.

14 **MS. LUNDAY:** Jennifer Lundy, L-U-N-D-Y,
15 Brittany's mother.

16 **MS. BALDWIN:** Marilyn Baldwin, B-A-L-D-W-I-N,
17 victim's advocate.

18 **MR. RIGGS:** Darin Riggs, R-I-G-G-S, Victim's
19 father.

20 **MR. LUNDY:** Jerry Lundy, L-U-N-D-Y, Jennifer
21 Lundy's husband.

22 **MS. STANTON-RIGGS:** Lynn Stanton-Riggs,
23 S-T-A-N-T-O-N, hyphen, R-I-G-G-S, aunt and godmother of
24 the victim.

25 **MS. RIGGS:** Dorothy Riggs, R-I-G-G-S, Brittany's

1 grandmother.

2 **MR. LOPEZ:** Stephen Lopez, L-O-P-E-Z, victim
3 support.

4 **MS. MARZULLA:** Sandra Marzulla, M-A-R-Z-U-L-L-A,
5 Jennifer Lundy's support friend.

6 **MR. PAMPLIN:** Michael Pamplin, P-A-M-T-L-I-N,
7 spouses' victim.

8 **MS. PAMPLIN:** Michelle Pamplin, P-A-M-P-L-I-N,
9 victim of a past offense.

10 **MS. ANAYA:** Armeda A-N-A-Y-A, CDSP rep.

11 **PRESIDING COMMISSIONER LABAHN:** Mr. Johnson, I've
12 reviewed the 1073 in the DEC System. There's a
13 statement on the table there in front of you underneath
14 your materials. That statement concerns your right to
15 get help with any disability that you may have. And
16 you've reviewed this statement along with a BPT 1073
17 with your attorney. Without reading the statement aloud
18 to the Panel, can you please tell us what it means?

19 **INMATE JOHNSON:** It means I have no -- it
20 pertains to disabilities, I have no disabilities.

21 **PRESIDING COMMISSIONER LABAHN:** Okay. If you had
22 difficulty understanding any of the materials that you
23 needed to read in preparation for today's hearing, would
24 you know who to seek help from within the facility?

25 **INMATE JOHNSON:** Yes, I do.

1 **PRESIDING COMMISSIONER LABAHN:** And who would
2 that be?

3 **INMATE JOHNSON:** That would be the facility MTA.

4 **PRESIDING COMMISSIONER LABAHN:** Do you need any
5 help with any disabilities for today's hearing?

6 **INMATE JOHNSON:** No, sir.

7 **PRESIDING COMMISSIONER LABAHN:** I note you're not
8 wearing any glasses. Do you need glasses for reading?

9 **INMATE JOHNSON:** No, I do not.

10 **PRESIDING COMMISSIONER LABAHN:** Can you see okay?

11 **INMATE JOHNSON:** I see just fine.

12 **PRESIDING COMMISSIONER LABAHN:** Can you hear me
13 all right today?

14 **INMATE JOHNSON:** Yes, sir.

15 **PRESIDING COMMISSIONER LABAHN:** Did you walk down
16 here unaided today?

17 **INMATE JOHNSON:** I did.

18 **PRESIDING COMMISSIONER LABAHN:** And can you read?

19 **INMATE JOHNSON:** I can read.

20 **PRESIDING COMMISSIONER LABAHN:** I note you have a
21 GED. Do you have any learning disability that's been
22 diagnosed?

23 **INMATE JOHNSON:** None.

24 **PRESIDING COMMISSIONER LABAHN:** Have you ever
25 been part of the Mental Health System at CDCR such as

1 CCCMS or EOP?

2 **INMATE JOHNSON:** No.

3 **PRESIDING COMMISSIONER LABAHN:** Are you currently
4 taking --

5 **DEPUTY COMMISSIONER MITCHELL:** I'll just add in
6 there, there is a documentation that says you were
7 priorly at least in the CCCMS program. Was that for a
8 brief time?

9 **INMATE JOHNSON:** It was for a very brief time,
10 yes, sir.

11 **DEPUTY COMMISSIONER MITCHELL:** Do you mind
12 telling us what it was about?

13 **INMATE JOHNSON:** I had trouble sleeping when I
14 first was admitted to CDCR and they gave me some
15 medication to help me sleep better.

16 **DEPUTY COMMISSIONER MITCHELL:** You were under
17 that umbrella program for about a year?

18 **INMATE JOHNSON:** That's textbook for them, yes.

19 **DEPUTY COMMISSIONER MITCHELL:** Okay. Then you
20 have not been back in it.

21 **INMATE JOHNSON:** No, sir.

22 **DEPUTY COMMISSIONER MITCHELL:** No treatment for
23 mental health illness.

24 **INMATE JOHNSON:** Nothing.

25 **DEPUTY COMMISSIONER MITCHELL:** Thank you. Excuse

1 me.

2 **PRESIDING COMMISSIONER LABAHN:** Thank you,
3 commissioner. I did note in the DEC that there was an
4 adjustment period during which time you received some
5 treatment, and that's what we're referring to here,
6 correct?

7 **INMATE JOHNSON:** Yes, sir.

8 **PRESIDING COMMISSIONER LABAHN:** Very good. We've
9 had the opportunity to review your Central File and your
10 prior transcripts. This is an initial hearing. We're
11 going to go into a little more depth than we otherwise
12 might concerning some of the documents that we have
13 reviewed in preparation for today's hearing. You will
14 be given the opportunity to correct or clarify the
15 record as we proceed. Nothing that happens here today
16 will change the findings of the court. The Panel is not
17 here to retry your case. The Panel accepts as true the
18 findings of the court. The Panel is here for the sole
19 purpose of determining your suitability for parole.
20 Mr. Skidmore?

21 **ATTORNEY SKIDMORE:** Yes.

22 **PRESIDING COMMISSIONER LABAHN:** Did you discuss
23 with your client his rights regarding this hearing and
24 the format that we use --

25 **ATTORNEY SKIDMORE:** Yes, sir.

1 **PRESIDING COMMISSIONER LABAHN:** -- in conducting
2 them?

3 **ATTORNEY SKIDMORE:** Yes, sir.

4 **PRESIDING COMMISSIONER LABAHN:** Thank you. And
5 Mr. Johnson, I note that you signed the BPT 1002 Form on
6 August 17th of this year acknowledging that you were
7 given a copy of Your Rights for Lifer Hearings.

8 **INMATE JOHNSON:** Yes.

9 **PRESIDING COMMISSIONER LABAHN:** And also that
10 your correctional counselor went over them with you.

11 **INMATE JOHNSON:** She did.

12 **PRESIDING COMMISSIONER LABAHN:** Did you attorney
13 also review the procedure of how the BPH conducts lifer
14 suitability hearings?

15 **INMATE JOHNSON:** I believe so, yes.

16 **PRESIDING COMMISSIONER LABAHN:** And also your
17 rights and the factors that we consider in order to
18 determine whether you are suitable for parole?

19 **INMATE JOHNSON:** Yes.

20 **PRESIDING COMMISSIONER LABAHN:** Do you have any
21 questions at this time for the Panel regarding your
22 rights, the format of this hearing, or the factors that
23 we will consider in determining your suitability for
24 parole?

25 **INMATE JOHNSON:** I have no questions at this

1 time.

2 **PRESIDING COMMISSIONER LABAHN:** And I am just
3 receiving the hearing checklist, which I passed to both
4 attorneys. They both initialed and dated same,
5 suggesting that they have both received the documents
6 referenced on this form; is that correct?

7 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Yes, I have.

8 **ATTORNEY SKIDMORE:** Yes.

9 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** I was about
10 to call you 'Your Honor.'

11 **PRESIDING COMMISSIONER LABAHN:** Please don't,
12 thank you. Mr. Skidmore, any additional documents for
13 submittal at this time?

14 **ATTORNEY SKIDMORE:** We have submitted additional
15 documents to Mr. Mitchell.

16 **PRESIDING COMMISSIONER LABAHN:** Thank you. And
17 those are parole --

18 **ATTORNEY SKIDMORE:** Parole plans, court letters,
19 et cetera.

20 **PRESIDING COMMISSIONER LABAHN:** Great. Very
21 good. Will you client be speaking with the Panel today?

22 **INMATE JOHNSON:** Yes, I will.

23 **PRESIDING COMMISSIONER LABAHN:** Thank you. Any
24 initial objections, Mr. Skidmore?

25 **ATTORNEY SKIDMORE:** No.

1 **PRESIDING COMMISSIONER LABAHN:** At this time,
2 Mr. Johnson, I'll swear you in. Please raise your right
3 hand. Do you solemnly swear or affirm the testimony you
4 give at this hearing will be the truth, and nothing but
5 the truth?

6 **INMATE JOHNSON:** I do.

7 **PRESIDING COMMISSIONER LABAHN:** Thank you. I
8 will incorporate by reference the facts of the
9 commitment offense as found in the appellate decision,
10 pages 2 and 4. I'm going to read a portion of that
11 document into the record. There's no line numbering.
12 Beginning under the heading Factual and Procedural
13 Background, page 2.

14 " In October of 1993, Jennifer Rethorn
15 and Darin Riggs lived with their
16 3-year-old daughter, Brittany Riggs in
17 a four bedroom house in Montclair.
18 They rented out two extra bedrooms to
19 two men. One of the renters was Steve
20 Lopez, a close friend of Darin Riggs
21 and the other was defendant who worked
22 for Steve Lopez and who had recently
23 been separated from his wife. At about
24 7:30 a.m. on October 10th, Brittany
25 knocked on her parents' bedroom door

1 and entered. Her father told her to go
2 watch cartoons in the living room.
3 Brittany's parents remained in bed.
4 Just before 9:00 a.m., Brittany's
5 parents were awakened by wrestling and
6 banging noises. Rethorn thought
7 Brittany was getting into the bathroom
8 cabinets so she told Riggs to get up
9 and get Brittany out of the bathroom.
10 After Riggs left the bedroom, Rethorn
11 quickly got dressed and as she left the
12 bedroom, she saw her husband going
13 towards the dinette. She heard him
14 asking Steve Lopez if he had seen
15 Brittany. Riggs and Lopez went out to
16 the patio and backyard looking for
17 Brittany, and Rethorn looked around the
18 house. They were all yelling
19 Brittany's name. Riggs stood at the
20 defendant's bedroom window and called
21 out to him. Defendant came to the
22 window and asked what was wrong. He
23 told Riggs that he thought -- he told
24 Riggs that he had seen Brittany on the
25 couch 20 minutes earlier watching

1 television. Rethorn knocked at
2 defendant's bedroom door, defendant
3 called out that he was busy and would
4 be out in a minute. Lopez went out
5 searching the neighborhood, came back,
6 and then went out searching again.
7 Defendant came of his bedroom about ten
8 minutes after the search began and
9 repeated to Rethorn that he had seen
10 Brittany on the living room couch. He
11 said he had given her something to eat
12 and had gone back to bed. Rethorn said
13 she was going to call the police.
14 Defendant began dialing 911 and Rethorn
15 took the phone from him. Later Riggs
16 saw defendant sitting on the floor in
17 the hall and crying with his hand in
18 his face. The police came and began
19 searching. The last place they
20 searched was defendant's room. In
21 defendant's closet, an Officer Kelly
22 found Brittany's body, which had been
23 covered by clothing. The body was
24 still warm and her head was covered by
25 a black plastic trash bag. The two

1 police officers at the house brought
2 the child to an emergency room, but
3 emergency personnel could not revive
4 her."

5 I am also going to read into the record Mr. Johnson's
6 version of the crime and I'm going to be using the 2009
7 board report for that document. And reading from page
8 4.

9 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Which report?

10 **PRESIDING COMMISSIONER LABAHN:** The 2009 board
11 report. Page 4 of that document.

12 "On October 18th, 2009, this writer
13 conducted a face-to-face interview with
14 Johnson at which time he submitted to
15 me his self-typed version of the crime.
16 The following is verbatim of his
17 version. Original is located in the
18 miscellaneous section of the Central
19 File. Every time I look into the past,
20 I see how severely I damaged and
21 destroyed people's lives. With averse
22 shame, I offer a little understanding
23 to what happened on October 9th, 1993.
24 I offer no excuses for anything, just
25 honest facts as I know them. My life

1 was out of control, a mess. I was a
2 drunk. I had little respect for anyone
3 or anything. I was an impatient person
4 and I got annoyed a lot easily.
5 Brittany's death happened from an
6 accident which turned horribly wrong.
7 That morning I was not focused, and ill
8 tempered, and grumpy. Brittany was
9 curious and bored. I was doing
10 something I didn't want anyone to know,
11 drugs, speed. Brittany was continually
12 coming through doors unannounced. I
13 lashed out by pushing the door closed,
14 but caught Brittany. She was there in
15 the way and I caught her head between
16 the door. She began to cry out and I
17 panicked and covered her mouth to keep
18 her from waking everyone up. It failed
19 because Darin and Jennifer got up and
20 started calling for Brittany. I got
21 scared, I stopped thinking and started
22 acting on impulse. I wanted some time
23 to think, but I was selfish. I chose
24 to hide Brittany under some clothes
25 with no real reason I can remember

1 except to find an escape. Those
2 choices I made right then resulted in
3 Brittany's death. After I realized the
4 depth of what I caused, I felt
5 disgraced and shame added to my
6 mounting fears like I've never felt
7 ever in my life. I couldn't look at
8 anyone and I began to cover lies with
9 more lies. I never owned up to any
10 responsibility. I made things so much
11 worse by denying everything and being
12 selfish. It was because of the shame
13 and guilt that I felt."

14 So, Mr. Johnson, I have a couple questions concerning
15 the life crime. The first has to do with what sounds
16 like represented an initial injury to Brittany, that
17 occurring as you attempted to close the door and
18 inadvertently struck her. Can you describe what
19 occurred with that?

20 **INMATE JOHNSON:** Well, I had -- I was out just
21 doing things around the house and I kind of started
22 getting frustrated and wanted to be alone in that room.
23 And she was being energetic, which she usually is, and I
24 finally told her to go watch TV. I put her in front of
25 the TV and I finally went in my room. I shut the door

1 and proceeded to rig up a mirror and everything. And
2 then she, just as I was about to do -- line up the
3 speed, Brittany had came in. And I just -- the TV and
4 stand was right there by the door. And I had leaped up,
5 went to slam the door again, but her head was right
6 there and I hit her on the side of the head. And she
7 started to cry and get loud and I was like, oh, I told
8 her it was going to be all right. I said it was an
9 accident, I'm sorry, I'm sorry. And she's crying and
10 she just kept saying, 'Mom, Mom.' And --

11 **PRESIDING COMMISSIONER LABAHN:** Okay.

12 **INMATE JOHNSON:** -- I put my hand over her mouth
13 so she'd stop screaming. I wasn't in my right mindset.
14 I'd been -- I was already up for like two days.

15 **PRESIDING COMMISSIONER LABAHN:** And when you
16 placed your hand over her mouth at that time was that
17 what --

18 **INMATE JOHNSON:** No.

19 **PRESIDING COMMISSIONER LABAHN:** -- caused her to
20 become unconscious or did she become unconscious later?

21 **INMATE JOHNSON:** Yeah, she fell asleep. She went
22 unconscious, yes.

23 **PRESIDING COMMISSIONER LABAHN:** And it sounds as
24 if your attempt was to keep her from making noise so you
25 would have a chance to decide what to do; is that

1 basically correct?

2 **INMATE JOHNSON:** I didn't know what to do. I
3 just kept thinking, everyone's looking, yelling for her.
4 And I just hurt their daughter. And I had no control
5 over everything. It was all, I never --

6 **PRESIDING COMMISSIONER LABAHN:** Had you used the
7 speed yet, before she came in?

8 **INMATE JOHNSON:** Not that one, no.

9 **PRESIDING COMMISSIONER LABAHN:** Did --

10 **INMATE JOHNSON:** It fell on the floor. I never
11 got to use that. It fell on the floor in front of the
12 TV. After I picked her up off the floor by the door, I
13 lay her in the closet and I just threw clothes on her
14 and I picked up the mirror and razor blade and I put it
15 under -- in between the mattress and the box spring of
16 the bed. And I put a shirt on, put my shoes back on and
17 I finally went out. In the process of this, Jennifer
18 was at the door knocking constantly, so I wasn't
19 thinking straight. I was basically turning in circles
20 trying to find what to do next and I just thought I
21 should go out. Just making it up as I go. I really
22 didn't have a plan, I --

23 **PRESIDING COMMISSIONER LABAHN:** Did you keep your
24 hand over her mouth restricting her breathing until she
25 went unconscious and then place her into the closet?

1 **INMATE JOHNSON:** No. I put my hand over her
2 mouth and I just -- I remember today, I remember looking
3 back, just pressing really hard and I thought this is
4 just getting worse. And then she just kind of like -- I
5 figured she just passed out, like fainted. So I just
6 laid her down on the floor right there and the picked up
7 everything and hid the mirror and proceeded -- and then
8 I picked her body up and just kept talking to myself
9 basically and laid her down out of sight of the door.
10 And threw clothes on her.

11 **PRESIDING COMMISSIONER LABAHN:** You didn't wait
12 to see if she'd start breathing again?

13 **INMATE JOHNSON:** No, I was panicking, I raced --
14 I didn't race, I came out of the room after that and
15 hoping that -- hoping against hope. I really didn't --
16 I really had no plans. I was selfish; I was more
17 concerned about my safety at that time.

18 **PRESIDING COMMISSIONER LABAHN:** What were you
19 hoping?

20 **INMATE JOHNSON:** I was scared.

21 **PRESIDING COMMISSIONER LABAHN:** What were you
22 hoping?

23 **INMATE JOHNSON:** I was hoping that I could get
24 myself out of this without causing too much more --
25 without much more problems.

1 **PRESIDING COMMISSIONER LABAHN:** Were you hoping
2 that Brittany was still alive, or did you pretty much
3 know that she was dead at that point?

4 **INMATE JOHNSON:** I didn't think that she was. I
5 didn't -- death didn't come to my mind at that time. I
6 just ran out the front door, putting up the guise of
7 yelling Brittany's name. I was out front with Darin
8 Riggs and ran back in the house and picked up the phone.
9 Everything was like blurred, everyone's running
10 everywhere. And after the officers go there I took them
11 in the back of the room. This is the back of the house
12 right here, and when the officer was busy looking in
13 another area I went over there to see if she was awake
14 and she wasn't awake and I just walked out. And I
15 walked into the kitchen to where Jennifer was still on
16 the phone and I was just kind of numb and didn't know
17 what to do, I was thinking all right, the officer's
18 going to find her because he saw me look over there.
19 Then briefly after I got in the kitchen I saw the
20 officer run out of the house with her body and I just
21 sat down and I just started breathing, shaking. I was
22 just kind of pretty much feeling sorry for myself at
23 that moment, shamelessly feeling sorry for myself at
24 that moment.

25 **PRESIDING COMMISSIONER LABAHN:** Was this the

1 first act of physical violence involving you and
2 Brittany?

3 **INMATE JOHNSON:** It is the first and only act of
4 violence against her, Brittany.

5 **PRESIDING COMMISSIONER LABAHN:** Tell us about
6 your cocaine use.

7 **INMATE JOHNSON:** It wasn't cocaine, it was
8 methamphetamine.

9 **PRESIDING COMMISSIONER LABAHN:** I'm sorry, your
10 speed use.

11 **INMATE JOHNSON:** I've used it before as a kid and
12 some old friends that I ran into and hung around with.
13 I was using it about a couple years, about a year,
14 roughly a year.

15 **PRESIDING COMMISSIONER LABAHN:** And it sounds as
16 if you were snorting it.

17 **INMATE JOHNSON:** Yes, sir.

18 **PRESIDING COMMISSIONER LABAHN:** Were you smoking
19 it as well?

20 **INMATE JOHNSON:** No, sir.

21 **PRESIDING COMMISSIONER LABAHN:** Just snorting it.

22 **INMATE JOHNSON:** Yes.

23 **PRESIDING COMMISSIONER LABAHN:** Tell us about
24 your alcohol use at that time.

25 **INMATE JOHNSON:** Alcohol, I drank a lot. I

1 thought I was a happy alcoholic, functioning alcoholic,
2 by definition. I drank to make me feel better. I drank
3 to give me energy and to be more positive, but it was
4 blinding me to a lot of stuff. I -- as most people wake
5 up and drink coffee in the afternoon or morning to
6 recharge themselves for the day, I would grab alcohol.
7 At first, it was just beer, occasional hard liquor too.
8 Eventually, it just became a steady flow of hard liquor
9 and beer just to taste the smell of alcohol -- or the
10 beer was just a chaser so everybody would smell beer on
11 my breath and not the hard alcohol. I drank most the
12 day. I drank to come down from the methamphetamine too.

13 **PRESIDING COMMISSIONER LABAHN:** How long had you
14 been living in the home before the murder?

15 **INMATE JOHNSON:** On Exader?

16 **PRESIDING COMMISSIONER LABAHN:** The home with
17 Brittany.

18 **INMATE JOHNSON:** Just a couple months.

19 **PRESIDING COMMISSIONER LABAHN:** I'm sorry, go
20 ahead.

21 **INMATE JOHNSON:** Two months, it was a little over
22 two months. I stayed there briefly before we made the
23 arrangement for me to rent the room because my boss,
24 Steve Lopez understood that my wife and I were split up
25 and I was looking ragged for work so he came up with the

1 idea.

2 **PRESIDING COMMISSIONER LABAHN:** So tell us what
3 your relationship was like with Brittany. I realize she
4 was a small child and you were an adult, just rooming in
5 the home, but tell us what your relationship was like
6 before you killed her.

7 **INMATE JOHNSON:** Brittany was a, like I said she
8 was a very energetic child. It wasn't -- other than a
9 few short conversations with her and question answer
10 type of meeting we really -- I really had no
11 relationship with her at all. When I had my son with me
12 I brought him over and she seemed to be really tickled
13 about that. So I let her play with my son when I had my
14 son over. And when I was doing things like working on
15 my car, writing a letter, moving in, she'd have a lot of
16 questions and typical of a two or 3-year old, you know,
17 why, how come. That would about sum it up for our
18 relationship between her and I.

19 **PRESIDING COMMISSIONER LABAHN:** So distill for us
20 if you could, it sounds as if you've done considerable
21 work on the substance issues. Distill for us if you
22 could, and rank in terms of their causative elements,
23 the injury that she sustained with the door, your state
24 of intoxication, and or use of alcohol and narcotics at
25 the time as they were causative factors in this murder.

1 **INMATE JOHNSON:** I don't understand what you're
2 asking me. I don't understand the question.

3 **PRESIDING COMMISSIONER LABAHN:** There were a
4 number of issues that you have said and the record
5 suggests contributed to this murder. Among them as
6 you've been very clear about stating your selfishness
7 and the state of mind you were in at the time, but you
8 also referenced your substance use and you also
9 referenced the front-end o the incident where Brittany
10 sustained some minor injury. To what extent, I do not
11 know, but it resulted in her crying and created noise
12 that you didn't want. Rank those factors and discuss
13 those factors for the Panel in terms of the degree to
14 which they were causative in the murder.

15 **INMATE JOHNSON:** I had pretty much a personality
16 that was short tempered. I really didn't have a good
17 hold of my thinking of commonsense. And one bad -- when
18 I pushed the door and caused her to yell, cry out, I
19 panicked, I lost all control of common knowledge and
20 rational thinking to where if I was in my right mind, if
21 I wasn't under the influence of something and doing what
22 I was supposed to be doing, I would have been in more
23 control, done the right thing, asked for help, made it
24 known an accident happened and it was just an accident,
25 rather than hiding it and being so selfish.

1 **PRESIDING COMMISSIONER LABAHN:** What do you see
2 looking with the benefit of hindsight, what would
3 Jennifer's reaction have been had you presented Brittany
4 to her with a bump on the head crying and told her what
5 happened? What do you think her reaction would have
6 been?

7 **INMATE JOHNSON:** She would have probably picked
8 her up and panicked like any mother would and ask what
9 happened, what's going on, why. What happened? I'm
10 sure she would just keep repeating, asking me happened,
11 what happened. And the first reaction would be
12 surprise, fear and then anger and would want to seek to
13 make sure her daughter was in good health.

14 **PRESIDING COMMISSIONER LABAHN:** Do you recall
15 whether you noticed any visible injury to Brittany based
16 upon the contact with the door, or the doorjamb?

17 **INMATE JOHNSON:** Any?

18 **PRESIDING COMMISSIONER LABAHN:** Physical injury.

19 **INMATE JOHNSON:** No. I didn't know -- I know she
20 had a bump on her head.

21 **PRESIDING COMMISSIONER LABAHN:** But she was still
22 conscious and crying at the time.

23 **INMATE JOHNSON:** Yes, yes, yes.

24 **PRESIDING COMMISSIONER LABAHN:** When did you
25 start drinking?

1 **INMATE JOHNSON:** I started drinking, steadily or
2 period?

3 **PRESIDING COMMISSIONER LABAHN:** Both.

4 **INMATE JOHNSON:** I started drinking probably
5 around 17 years old.

6 **PRESIDING COMMISSIONER LABAHN:** The record says
7 that the heavier drinking started maybe when you were 19
8 or so.

9 **INMATE JOHNSON:** Yeah, I started drinking more
10 heavier when I left home, went to Colorado.

11 **PRESIDING COMMISSIONER LABAHN:** How about the
12 speed, when did that start?

13 **INMATE JOHNSON:** Other than a few experiments
14 when I was in high school, the speed started probably
15 February of '92, because that's when I ran into an old
16 friend from high school.

17 **PRESIDING COMMISSIONER LABAHN:** When did you
18 first realize that neither alcohol nor speed was a good
19 thing for you?

20 **INMATE JOHNSON:** When I was arrested for murder.
21 When I discovered that, I had no control. I was aware
22 that I messed up. Even that day of October 9th, I
23 really didn't know the extent of how bad I messed up
24 until I had come down off methamphetamine and sobered
25 up.

1 **PRESIDING COMMISSIONER LABAHN:** Had you ever made
2 any attempts at sobriety prior to the life crime?

3 **INMATE JOHNSON:** When I left home and moved back
4 east to help my grandparents and I got away from it so
5 sobriety as far as methamphetamines was a success. I
6 got away from it. The drinking, what meddled out to
7 maybe a beer or two on the weekends with some new
8 friends I met and my grandfather. When I came back to
9 California, I started drinking more and more.

10 **PRESIDING COMMISSIONER LABAHN:** Very limited
11 criminal history at least on the record. Prior to the
12 life crime, I show an arrest it looks like Fontana PD
13 for shoplifting in 1989. Does that ring a bell? Do you
14 remember that?

15 **INMATE JOHNSON:** No, sir, I do not. I don't
16 even think I was -- I didn't come back to California
17 until 1990 or late '89.

18 **PRESIDING COMMISSIONER LABAHN:** The CI&I record
19 provided to me as part of my court packet shows an
20 arrest in July -- on July 11th, 1989 for the Fontana
21 Police Department for shoplifting. How about --

22 **INMATE JOHNSON:** Oh, wait a minute, Fontana
23 shoplifting.

24 **ATTORNEY SKIDMORE:** Yeah, Fontana PD, petty theft
25 retail merchandise. Case was disposed of in September

1 of '89. Does that help you any?

2 **INMATE JOHNSON:** I remember as a kid I stole a
3 B.B. gun from K-Mart in Fontana in the earlier '80s.

4 **PRESIDING COMMISSIONER LABAHN:** Were you arrested
5 for it?

6 **INMATE JOHNSON:** I was arrested. My dad picked
7 me up that evening at the substation.

8 **PRESIDING COMMISSIONER LABAHN:** Could be it. Did
9 you get probation for that?

10 **INMATE JOHNSON:** I don't remember.

11 **PRESIDING COMMISSIONER LABAHN:** The record also
12 shows an arrest by the Upland Police Department for
13 assault with a deadly weapon in December of '92, does
14 that ring a bell?

15 **INMATE JOHNSON:** Yes, it does.

16 **PRESIDING COMMISSIONER LABAHN:** Tell us about
17 that.

18 **INMATE JOHNSON:** I had threw a telephone. Well,
19 I didn't quite throw it. I was arguing with my wife and
20 my mother-in-law and I took the phone off the wall with
21 the intent to throw it, but I didn't throw it. I had
22 the cord in my hand and just swung it in a circle and
23 the handset separated and my mother-in-law got hit in
24 the head with the phone. And she ended up having to
25 have stitches.

1 **PRESIDING COMMISSIONER LABAHN:** Ultimately, you
2 had a conviction for a misdemeanor battery out that and
3 you got 24-months probation.

4 **INMATE JOHNSON:** Yes, I did.

5 **PRESIDING COMMISSIONER LABAHN:** Did you serve any
6 jail time?

7 **INMATE JOHNSON:** I think I did three days, tops.

8 **PRESIDING COMMISSIONER LABAHN:** Were you using
9 meth at that time?

10 **INMATE JOHNSON:** Yes, I was.

11 **PRESIDING COMMISSIONER LABAHN:** It looks as if
12 that may have been rolled into the life crime or perhaps
13 there was another battery after that. Do you happen to
14 know, the record's not clear.

15 **INMATE JOHNSON:** I'm not sure. The police were
16 called one time when I was at my in-laws' grandfather's
17 house and my wife and I got into it. And there was an
18 incident there, but I don't -- the police had shown up,
19 but there was no arrest and I was asked to leave.

20 **PRESIDING COMMISSIONER LABAHN:** It was what?

21 **INMATE JOHNSON:** There was no arrest and I was
22 asked to leave.

23 **PRESIDING COMMISSIONER LABAHN:** Would that have
24 been in Ontario?

25 **INMATE JOHNSON:** That would have been Ontario I

1 believe, yes.

2 **PRESIDING COMMISSIONER LABAHN:** Okay. Very good,
3 that could well be it. So tell us a little bit about
4 growing up for you. What was it like? I'm particularly
5 interested in the issues that you see after the benefit
6 of the reflection, period of reflection that you've had
7 in custody, any issues that you see might have lead you
8 to the path that resulted in Brittany's murder.

9 **INMATE JOHNSON:** Well, I don't see a -- well, I
10 grew up like any other kid, I guess. High school I got
11 average grades and until I quit school in my sophomore
12 year. I just went to work. I attended a weekly --
13 weekend parties all the time. I would play around. My
14 values then were misguided too. My parents seemed to be
15 more important to me in my life than anything else. I
16 wasn't -- I wouldn't say irresponsible totally. I was
17 more spoiled growing up. I never needed for nothing. I
18 had a lot of family back east and wherever I went people
19 generally liked who I was. When -- my behavior was
20 always influenced by people's reactions. The more they
21 smiled, the more I acted. I got to where I was living
22 in a fantasy world where I thought I was all kinds of
23 people. Not crazy like that, but you know, I'd always
24 make a connection with some actor or actress on TV,
25 adopt their phrases, their dress styles. I was always

1 looking to please people because people made me feel
2 good. I was self-motivated, when people smiled and
3 laughed I felt good. When people stopped laughing and
4 smiling I felt either I wasn't doing as good or it was
5 time to leave, so take what I can get. I got greedy. I
6 was a very greedy person. Then I came and helped my
7 grandparents and they instilled a little moral fiber in
8 me. I settled down a little bit and moved back out here
9 to California. And I met some really good people and
10 found that whole cycle back again. These people liked
11 me and they laughed at -- laughed with me, and laughed
12 at my jokes and I was a big hit. So again, they adopted
13 me when I thought I would have to leave California, open
14 their -- a lot of people opened their arms up to me and
15 started spoiling me again. So I had no worries. I
16 really had no responsibility. I never had a plan, I
17 never had a contingency, I just knew somebody would
18 rescue me, which led to my more -- which led to me
19 being more irresponsible and taking advantage of life
20 and people. It was never my first and foremost thing to
21 hurt people. I like people. And it just -- I always
22 graded myself on my intentions rather than always the
23 outcome. But since I just did like that, the outcome
24 was never well thought out and my greed would stick back
25 in and I would be selfish and think of myself and take

1 whatever money I had and start drinking and partying.

2 **PRESIDING COMMISSIONER LABAHN:** Anything else you
3 care to add about your social background, family
4 background?

5 **INMATE JOHNSON:** That would sum it up for me.

6 **PRESIDING COMMISSIONER LABAHN:** Pardon me?

7 **INMATE JOHNSON:** That would about sum it up.

8 **PRESIDING COMMISSIONER LABAHN:** Commissioner?

9 **DEPUTY COMMISSIONER MITCHELL:** Thank you.

10 Mr. Johnson, for this portio of the hearing I reviewed
11 your Central File and your post-conviction progress
12 reports. And that was by correctional counselor,
13 G. Hope, H-O-P-E. I also reviewed the life prisoner
14 evaluation report prepared for the December 2009
15 calendar by J. H. Mendez, M-E-N-D-O-Z-A. I reviewed the
16 documentation hearing that was conducted on February
17 4th, 2003 and the psychological evaluation prepared by
18 Dr. Robin Campbell, C-A-M-P-B-E-L-L, PhD. The interview
19 date was June 4th, 2009. This is your first hearing; is
20 that correct, sir?

21 **INMATE JOHNSON:** Yes, that's a fact.

22 **DEPUTY COMMISSIONER MITCHELL:** Based on that I
23 noted here that you were received by the Department of
24 Corrections on June 20th 1996, and processed at the
25 facility in Tehachapi Reception Center and transferred

1 from there to the Salinas Valley State Prison, then to
2 Corcoran State Prison, onto Wasco State Prison, Avenal
3 State Prison, and arriving here at this facility on
4 February 5th, 2009. Does that sound correct?

5 **INMATE JOHNSON:** That's very correct.

6 **DEPUTY COMMISSIONER MITCHELL:** You have an actual
7 classification score of zero points, which is to your
8 credit for not having a lot of 115s. You have a
9 placement score of 19. That keeps you in a Level-2
10 facility as a life term prisoner without a parole date.
11 You have Medium-A custody, the lowest custody you can
12 have as a life term prisoner again without a parole
13 date. You do have some enemies listed in your
14 confidential file and there's no gang affiliation. You
15 currently are assigned as a clerk; is that still true?

16 **INMATE JOHNSON:** Yes, sir.

17 **DEPUTY COMMISSIONER MITCHELL:** Receive above
18 average ratings from what I can see. You've worked as a
19 cook, above average rating in foods service, above
20 average ratings, painter helper, standard ratings,
21 teachers aide, standard ratings. You worked in the
22 Prison Industries Authority with standard grades. You
23 worked as a rating I should say, you worked as an
24 upholsterer too and you've been on the utility crews.
25 Is that all correct?

1 **INMATE JOHNSON:** Yes, sir.

2 **DEPUTY COMMISSIONER MITCHELL:** I found two
3 different grand point levels; I found a document that
4 said it's 11.4, the psychologist states it's 12.4. Do
5 you know which is correct?

6 **INMATE JOHNSON:** What is it now?

7 **DEPUTY COMMISSIONER MITCHELL:** This is your grade
8 point level. The actual document I found in your files
9 says it's 11.4, the psychologist says it's 12.4. I'd
10 just like it accurate on the record. Do you know if
11 it's 12.4? Have you seen a document that says that?

12 **INMATE JOHNSON:** The last document I got for any
13 tests I got a 12 point something.

14 **DEPUTY COMMISSIONER MITCHELL:** Then that's
15 probably the 12.4 you're talking about.

16 **INMATE JOHNSON:** Yes, sir.

17 **DEPUTY COMMISSIONER MITCHELL:** Very good. And
18 you got your GED on January 19th, 1996.

19 **INMATE JOHNSON:** Yes.

20 **DEPUTY COMMISSIONER MITCHELL:** And you've been
21 attending the Coastline Community College. Are you
22 doing that currently?

23 **INMATE JOHNSON:** Yes, sir.

24 **DEPUTY COMMISSIONER MITCHELL:** And I see that you
25 gave me a transcript of your grades.

1 **INMATE JOHNSON:** Yes, sir.

2 **DEPUTY COMMISSIONER MITCHELL:** You're on the
3 Dean's List, the honor roll.

4 **INMATE JOHNSON:** Yes, sir.

5 **PRESIDING COMMISSIONER LABAHN:** When do you
6 expect to acquire your associate of science, your
7 associate of arts degree?

8 **INMATE JOHNSON:** One more semester in 2010.

9 **PRESIDING COMMISSIONER LABAHN:** Do you have a
10 particular major you're in?

11 **INMATE JOHNSON:** Well emphasis on the social
12 sciences and humanities.

13 **PRESIDING COMMISSIONER LABAHN:** Do you have some
14 long term goals academically?

15 **INMATE JOHNSON:** Well, none withstanding at the
16 moment, no.

17 **DEPUTY COMMISSIONER MITCHELL:** Okay.

18 **INMATE JOHNSON:** I have hopes.

19 **DEPUTY COMMISSIONER MITCHELL:** Do you think you
20 might try to continue once you're released?

21 **INMATE JOHNSON:** Yes, sir, I'd love to.

22 **DEPUTY COMMISSIONER MITCHELL:** Now, you know,
23 while you're in custody, I've had the occasion to run
24 into a prisoner who acquired their PhD, their doctorate
25 while in prison. It can be done so you can continue.

1 If you've got the money you can afford to send for the
2 correspondence. So you may want to keep that in mind,
3 it's to your advantage. Okay. Going on to your
4 vocational training, I see that you completed vocational
5 machine shop with a certificate for 14 units on April
6 25th 2006.

7 **INMATE JOHNSON:** Yes, sir.

8 **DEPUTY COMMISSIONER MITCHELL:** You have a
9 certificate for computer involvement, that's dated June
10 20th 1998.

11 **INMATE JOHNSON:** Yes, sir.

12 **DEPUTY COMMISSIONER MITCHELL:** Did you complete
13 that program?

14 **INMATE JOHNSON:** No, I did not.

15 **DEPUTY COMMISSIONER MITCHELL:** Okay. How far did
16 you get into that program?

17 **INMATE JOHNSON:** I'd say in about another six
18 months I would have got my completion. I had done most
19 of the Windows Excel and Access and computer programming
20 and computer concepts, I had completed most of it.

21 **DEPUTY COMMISSIONER MITCHELL:** Was that tied to
22 the office services program or is that separate?

23 **INMATE JOHNSON:** At that time, it was just a
24 vocational computer class by itself.

25 **DEPUTY COMMISSIONER MITCHELL:** Okay. Are you

1 acquainted with the office services and related
2 technology program?

3 **INMATE JOHNSON:** Yes, I am.

4 **DEPUTY COMMISSIONER MITCHELL:** Have you been
5 involved in that?

6 **INMATE JOHNSON:** I was in officer services at
7 Wasco. I was doing the regular curriculum and our
8 instructor, Ms. Ella Hodge needed a clerk so she hired
9 me as a clerk and I continued with going on until they
10 had shut it -- she went on vacation and then shut it
11 down or she transferred.

12 **DEPUTY COMMISSIONER MITCHELL:** Did you not
13 complete that program?

14 **INMATE JOHNSON:** No, I did not.

15 **DEPUTY COMMISSIONER MITCHELL:** The machine shop,
16 was that a completion?

17 **INMATE JOHNSON:** Yes, it was.

18 **DEPUTY COMMISSIONER MITCHELL:** Very good. I also
19 see you've been assigned to the Prison Industries
20 Authority in general fabrication. And since I saw a
21 work assignment here as an upholsterer, was that part of
22 PIA?

23 **INMATE JOHNSON:** Yes, sir.

24 **DEPUTY COMMISSIONER MITCHELL:** And did you get
25 just on the job training as upholsterer?

1 **INMATE JOHNSON:** I did.

2 **DEPUTY COMMISSIONER MITCHELL:** And you learned
3 enough from that as a skill?

4 **INMATE JOHNSON:** As far as office --

5 **DEPUTY COMMISSIONER MITCHELL:** Can you upholster
6 these chairs?

7 **INMATE JOHNSON:** Yes, sir, I could.

8 **DEPUTY COMMISSIONER MITCHELL:** Car seats?

9 **INMATE JOHNSON:** I've never excelled at that.

10 **DEPUTY COMMISSIONER MITCHELL:** All fabric or any
11 leather, any vinyl.

12 **INMATE JOHNSON:** Some vinyl, mainly fabric.

13 **DEPUTY COMMISSIONER MITCHELL:** About how long did
14 you work in the upholstery portion of it?

15 **INMATE JOHNSON:** Roughly, about 13 months give or
16 take.

17 **DEPUTY COMMISSIONER MITCHELL:** Could we say
18 that's a skill you've learned that you could use in the
19 community?

20 **INMATE JOHNSON:** Yes, you could.

21 **DEPUTY COMMISSIONER MITCHELL:** Okay. And I did
22 look up your involvement with the CCCMS program. It
23 appears that you were placed in the program on July 17th
24 1998 with medication, removed from the program August
25 24th 1999, no longer requires the services. However, in

1 the psychological report I noted a comment pertaining to
2 that you've always been in some kind of treatment. Do
3 you know what the psychologist meant by that?

4 **INMATE JOHNSON:** If it was a comment I made, it
5 was referring to self-help. They have lifer group
6 meetings. One I started at Corcoran, I think it was
7 Corcoran, yeah, Corcoran and then my points dropped and
8 I transferred to a Level-3, which was Wasco. And there,
9 there was self-help classes I was taking as far as anger
10 management, problem shooting skills, life management.

11 **DEPUTY COMMISSIONER MITCHELL:** Well it's stated
12 in the psych report on page number 7 on the top big
13 paragraph, it's simply stated that he has been treatment
14 since he has been incarcerated. He is no longer under
15 the care of CCCMS or the Mental Health Delivery System.
16 Mr. Johnson was originally treated for anxiety and
17 depression and did take psychotropic medication, that's
18 it. So you think the interpretation the psychologist
19 meant was from the different programs you've been
20 involved in, the self-help programs, volunteer.

21 **INMATE JOHNSON:** I believe so.

22 **DEPUTY COMMISSIONER MITCHELL:** Not any formalized
23 treatment.

24 **INMATE JOHNSON:** No, sir.

25 **DEPUTY COMMISSIONER MITCHELL:** Okay. Thank you.

1 With regard to the documentation hearing that occurred
2 on February 4th, 2003, the recommendations that are made
3 by that deputy commissioner that you remain disciplinary
4 free, there be no rule violations, that you participate
5 in some kind of self-help and you upgrade vocationally.
6 You have upgraded vocationally since that date, that's
7 the machine shop, you have been involved in self-help
8 program which I'll detail in a moment, but you didn't
9 quite make it on the disciplinary issue, correct?

10 **INMATE JOHNSON:** No, sir, I failed.

11 **DEPUTY COMMISSIONER MITCHELL:** Right after that
12 actually in May of 2003 you got a rule violation as well
13 as you got a custodial chrono and for the record a
14 custodial chrono, a CDC-128A is not part of Title 15
15 suitability factors for release, but we do recognize it
16 and we do look at it. What about this tattoo that you
17 got on May 18th 2003, right after the documentation
18 hearing?

19 **INMATE JOHNSON:** At Corcoran, it was -- or at
20 Wasco, everybody was into tattoos and I asked for the
21 opportunity to get a tattoo placed on my chest.

22 **DEPUTY COMMISSIONER MITCHELL:** What kind of
23 tattoo did you get?

24 **INMATE JOHNSON:** It's an ocean scene, sharks.

25 **DEPUTY COMMISSIONER MITCHELL:** Is it completed?

1 **INMATE JOHNSON:** No it's not.

2 **DEPUTY COMMISSIONER MITCHELL:** Do you know the
3 risk factors of getting tattoos in prison, or on the
4 streets for that matter too?

5 **INMATE JOHNSON:** It was brought to my attention
6 in medical treatment facility here about hepatitis C.

7 **DEPUTY COMMISSIONER MITCHELL:** Is that your only
8 tattoo?

9 **INMATE JOHNSON:** No, I received one before I came
10 to prison.

11 **DEPUTY COMMISSIONER MITCHELL:** And what's that
12 tattoo?

13 **INMATE JOHNSON:** It's a dragon on my right
14 shoulder.

15 **DEPUTY COMMISSIONER MITCHELL:** Does that have any
16 meaning to it?

17 **INMATE JOHNSON:** Just to -- a steppingstone of
18 life, I just wanted to get one and I got one.

19 **DEPUTY COMMISSIONER MITCHELL:** No more tattoos in
20 prison besides the one we're talking about?

21 **INMATE JOHNSON:** I have another on my arms

22 **DEPUTY COMMISSIONER MITCHELL:** And on your arms,
23 both arms?

24 **INMATE JOHNSON:** Yes, on my forearms.

25 **DEPUTY COMMISSIONER MITCHELL:** And what are those

1 tattoos about?

2 **INMATE JOHNSON:** Those are two names of my sons
3 and their birth date. And I have another one on my
4 right calf and that's it.

5 **DEPUTY COMMISSIONER MITCHELL:** And what's on the
6 right calf?

7 **INMATE JOHNSON:** It's a mermaid.

8 **DEPUTY COMMISSIONER MITCHELL:** Anything else?

9 **INMATE JOHNSON:** That should do it.

10 **DEPUTY COMMISSIONER MITCHELL:** Why all these
11 tattoos?

12 **INMATE JOHNSON:** Like I said, it's just --
13 everyone was -- it was popular, fashions, everybody was
14 doing it at the time and it was free, and --

15 **DEPUTY COMMISSIONER MITCHELL:** You got a free
16 tattoo in prison?

17 **INMATE JOHNSON:** It was kind of a -- yeah, well
18 it was my cellie. It was my cellmate.

19 **DEPUTY COMMISSIONER MITCHELL:** Normally you pay
20 for it in some manner, cigarettes, canteen. He was just
21 a nice cellmate.

22 **INMATE JOHNSON:** Oh well, I was a clerk so I
23 would make copies of patterns and in fair trade he would
24 look out for me.

25 **DEPUTY COMMISSIONER MITCHELL:** Something that's

1 sort of the against the violation or it's a violation of
2 the rules.

3 **INMATE JOHNSON:** Yes.

4 **DEPUTY COMMISSIONER MITCHELL:** Okay. The other
5 115s you got in 1999, you got one for mutual combat,
6 which is usually interpreted as two men I believe a
7 fight. And then on June, pardon me, March 16th, 1997,
8 you participated in a sit-down strike at Salinas Valley
9 Street Prison. What was going on there?

10 **INMATE JOHNSON:** At Salinas Valley, it was a food
11 issue. We were at a yard and everybody was telling
12 everybody don't go in at yard recall, just to walk the
13 track. I had been in the institution less than a year,
14 about less than eight months, I'm sure. And I just kind
15 of went with the flow. The lieutenant and sergeant
16 demanded everybody to sit down along the handball walls,
17 and I was just following suit. When the sergeant made
18 an announcement, those who choose not to be involved go
19 back to their housing unit immediately, at this moment.
20 Anyone who stays beyond this will be in violation of the
21 rule violation -- or will be violating the rules
22 violation. I was told that if anybody gets is going to
23 be dealt with later, so I chose to stay. That would be
24 the better of the -- it would be the lessor two evils at
25 that time. I was still learning how the system works

1 and I chose to stay.

2 **DEPUTY COMMISSIONER MITCHELL:** With regard to the
3 custodial chronos, you have an out of bounds. That's
4 the May 18th, 2003, February 23rd, 1999 work
5 performance, December 9th, 1997, failure to report to
6 work and January 3rd 1997 delaying the feeding process.
7 How did you delay feeding process?

8 **INMATE JOHNSON:** The out of bounds and the
9 feeding process I really do not recall. The rest are
10 accurate. The delaying of feeding process, I don't have
11 it, I didn't see it in my C-File during the Olson
12 review.

13 **DEPUTY COMMISSIONER MITCHELL:** Are you talking
14 about the 128A?

15 **INMATE JOHNSON:** The 128A, yeah.

16 **DEPUTY COMMISSIONER MITCHELL:** I'll just see real
17 quick too. Part of is you only have one Central File,
18 you don't have multiple files. 1997 the information
19 chrono, January 3rd 1997, performing duties as a seating
20 officer. Inmate Johnson delayed feeding process.
21 Inmate Johnson was given approximately 15 minutes to eat
22 his state issued dinner and apparently, you didn't do
23 that timely. You do have the next one, December 9th
24 1997 from R. K. Lusk, L-U-S-K. This is failure to
25 report to assigned area. The next one is February 23rd

1 1999 from a supervisor in vocational computers.
2 Assigned to vocational computers, inmate Johnson failed
3 to report to work on two different dates, February 9th
4 1999 and February 22nd, 1999. Inmate Johnson is warned
5 that continued violation will get a 115. Then the one
6 that's May 18th, 2003, which you say you remember,
7 correct? So they're all here.

8 **INMATE JOHNSON:** Out of bounds.

9 **DEPUTY COMMISSIONER MITCHELL:** Let's see, the out
10 of bounds one was dated 5/18/03 so this says here that
11 while performing my duties as a floor officer I observed
12 inmate Johnson exit out of cell 101, which is currently
13 occupied by inmates Godard and Stanford. That's an out
14 of bounds issue generally.

15 **INMATE JOHNSON:** I do remember, now I do, yes.

16 **DEPUTY COMMISSIONER MITCHELL:** Okay. They're all
17 there.

18 **INMATE JOHNSON:** Yes, sir, I do remember them
19 all.

20 **DEPUTY COMMISSIONER MITCHELL:** You did do your
21 Olson review?

22 **INMATE JOHNSON:** I did.

23 **DEPUTY COMMISSIONER MITCHELL:** Okay. I always
24 recommend that you do an Olson review and make sure
25 there's nothing in the file you don't know about. All

1 right. That takes care of the disciplinaries; takes are
2 of the history within the prison system that I see at
3 this point. That brings me up to the correctional
4 counselor's report. I need to talk about your self-help
5 and the psychology report. As far as self-help the most
6 recent that I noted down, January 20th 2009, anger
7 management, January 24th 2008, 12 months of Alcoholics
8 Anonymous, September 4th 2007, nine months of I think
9 was that Alcoholics Anonymous as well or was that
10 Narcotics Anonymous?

11 **INMATE JOHNSON:** AA, the AA class was full.
12 There was an open position in NA and I took it.

13 **DEPUTY COMMISSIONER MITCHELL:** You went over
14 there.

15 **INMATE JOHNSON:** Yes, sir.

16 **DEPUTY COMMISSIONER MITCHELL:** May 8th 2006,
17 Bible program. Again, May 9th 2006, Bible study
18 program. You had three months in Narcotics Anonymous
19 back in 2005. Are you currently in AA or NA?

20 **INMATE JOHNSON:** I'm in the 12-Step program at
21 the moment because the AA classes are full. There are a
22 lot of people participating.

23 **DEPUTY COMMISSIONER MITCHELL:** How long have you
24 been in the 12-Step program?

25 **INMATE JOHNSON:** Three or four months.

1 **DEPUTY COMMISSIONER MITCHELL:** Okay. I think
2 there may be some laudatory chronos in here pertaining
3 to that. As far as the several months, have you covered
4 all 12 steps?

5 **INMATE JOHNSON:** I've gone over them, only a few
6 maybe stick that I remember that really apply to me
7 really.

8 **DEPUTY COMMISSIONER MITCHELL:** Would you care to
9 share, let's say three of them that you can recall that
10 apply to you?

11 **INMATE JOHNSON:** One and two was, I'm powerless
12 under alcohol, and any narcotic and the second one is
13 there's a power greater than myself. Nine and ten is
14 make a moral understanding, a list of moral -- people
15 I've done wrong.

16 **DEPUTY COMMISSIONER MITCHELL:** Inventory?

17 **INMATE JOHNSON:** A moral inventory, thank you. A
18 moral inventory of --

19 **DEPUTY COMMISSIONER MITCHELL:** It's a requirement
20 that you make a list of the persons you've harmed.

21 **INMATE JOHNSON:** Yes. I have that such list that
22 I've been working on right here in front of me.

23 **DEPUTY COMMISSIONER MITCHELL:** You've got the
24 list where?

25 **INMATE JOHNSON:** This is a list of people I've

1 harmed and --

2 **DEPUTY COMMISSIONER MITCHELL:** Is that a list
3 that's in this packet you gave to us?

4 **INMATE JOHNSON:** No, this is something I've just
5 been working on. I --

6 **DEPUTY COMMISSIONER MITCHELL:** Who have you
7 identified on your list?

8 **INMATE JOHNSON:** I've identified everybody from
9 my father and my mother, to Brittany, Rethorn, and
10 Riggs.

11 **DEPUTY COMMISSIONER MITCHELL:** How about
12 Brittany's family?

13 **INMATE JOHNSON:** Jennifer Rethorn, the Rethorn
14 family, Darin Riggs, the Riggs family, Lloyd Large, Mike
15 Pamplin, Michelle Pamplin, Steve Lopez, a friend of
16 mine, Chris, my sons, my aunt and uncle Dixie and Gene
17 Schroeder, my wife, my mother and father, some friends
18 Jim and Stacy, Tim Weiss, Stacy Lunar --

19 **DEPUTY COMMISSIONER MITCHELL:** Did you make the
20 list?

21 **INMATE JOHNSON:** I did make the list.

22 **DEPUTY COMMISSIONER MITCHELL:** Have you done
23 anything about making amends? That is another step is
24 it not.

25 **INMATE JOHNSON:** Yes it is.

1 **DEPUTY COMMISSIONER MITCHELL:** What amends have
2 you made so far to any of the persons on that list?

3 **INMATE JOHNSON:** Other than making this list I
4 have never, I haven't taken any action to contact. I've
5 been working on letters, but it's harder than --

6 **DEPUTY COMMISSIONER MITCHELL:** Letters to whom?

7 **INMATE JOHNSON:** Well, my first letter I was
8 working on was one to Jennifer Rethorn and Darin Riggs.

9 **DEPUTY COMMISSIONER MITCHELL:** Have you been told
10 that that's okay that you can make contact with them or
11 told you cannot?

12 **INMATE JOHNSON:** I have not that's why I
13 haven't -- my first one I feel I've done a good draft of
14 the letter that I'm comfortable with, I was going to
15 take it to my counselor and get advice and go from
16 there.

17 **DEPUTY COMMISSIONER MITCHELL:** Okay. Strongly
18 suggest that you do not have any contact with any of the
19 family, the next-of-kin involved in this matter unless
20 they invite it through the District Attorney's Office
21 for some reason. If you want, I don't know about the
22 San Bernardino County District Attorney's Office, some
23 times some DA's will take a letter and talk to the
24 family and see if they're interested in reading it. I
25 don't know about San Bernardino, but you can always have

1 a copy of the letter put in your file. It would be put
2 in the miscellaneous section of the file that we can
3 take a look at least during the Board Hearing, see that
4 you have some interest in making contact with family,
5 share your thoughts on paper, and we would welcome that.
6 you can always do that, but you certainly have no
7 restrictions on you in contacting your own family.

8 **INMATE JOHNSON:** My own family I do keep in
9 contact via mail.

10 **DEPUTY COMMISSIONER MITCHELL:** Have you
11 apologized to them?

12 **INMATE JOHNSON:** Yes, I've had conversations on
13 the phone with them.

14 **DEPUTY COMMISSIONER MITCHELL:** Do you know how
15 much damage you've done to your own family?

16 **INMATE JOHNSON:** Everyday I get in line with
17 something else.

18 **DEPUTY COMMISSIONER MITCHELL:** All right.
19 Anything else you want to share regarding the 12 Steps
20 at this point, or should we move on?

21 **INMATE JOHNSON:** The 12 Steps, they're
22 progressively adapting into my life right now and, which
23 his recent.

24 **DEPUTY COMMISSIONER MITCHELL:** What do you mean
25 by recent?

1 **INMATE JOHNSON:** Well, in my Level-4
2 incarceration, my Level-3 it wasn't really out there and
3 part of my life. Since I've come to a -- the lower
4 levels I found that I could become myself and play the
5 prison politics and put on the mask and be one of the
6 regular people on the yards. I've become more myself,
7 which is given me the confidence and opened my eyes and
8 take advantage of a little self-help and I see the other
9 people doing the same thing and connecting with them and
10 relating that we all have the same problems. it helps,
11 but as far as recently me being like two for the last
12 four or five years. That's what I mean by recent.

13 **DEPUTY COMMISSIONER MITCHELL:** I'm sorry, I
14 missed that last.

15 **INMATE JOHNSON:** Since I've been incarcerated in
16 the Level-2 level in prison, I've been taking advantage
17 of self-help and these 12-Steps.

18 **DEPUTY COMMISSIONER MITCHELL:** As far as the
19 laudatory chronos, I should make some notation. October
20 26th, 2009, we have one from L. Anderson, staff sponsor
21 and this is pertaining to your involvement in the
22 Alcoholics Anonymous program, the 12-Step program.
23 Laudatory chrono March 25th 2009 by H. K. Hahn, that's
24 the Catholic chaplain. Talks about your being
25 acknowledged for your participation in a Bishop Catholic

1 Mass. Laudatory chrono December 31st 2008 by R.
2 Ornalis. That's the Catholic chaplain. His involvement
3 in a six-hour spiritual reflection program. December
4 23rd 2008. By the same Catholic chaplain, participating
5 in one day spiritual retreat. August 15th, 2008, W.
6 Compos, that's the education department, Avenal State
7 Prison. it says he became acquainted with you after you
8 registered with the Coastline Community College in the
9 incarcerated youth offenders program here at Avenal
10 State Prison. During the time, he's always displayed
11 interest and diligence in achieving his associate of
12 arts degree. June 23rd, 2008, D. Angulous, correctional
13 officer, Avenal State Prison. States you've been
14 assigned to the facility has a support office since
15 approximately January 2007, so it would be almost a
16 year. I've continually observed him demonstrate
17 upstanding character. He uses his time well by
18 willfully going above in his required duties as a clerk
19 to assist wherever he might be needed. June 25th 2008,
20 S. Burton, Facility I, correctional officer, Avenal
21 State Prison. Inmate Johnson has consistently proven to
22 be a self-driven, well motivated, and well disciplined
23 inmate here on Facility I. March 13th, 2008, by A. B.
24 Featherstone, correctional officer, third watch Crew
25 supervisor. You've been under his direct supervision as

1 a support officer clerk for nearly 11 months. What I
2 can say about Mr. Johnson is that he's taken noteworthy
3 responsibility that fulfills his job obligations to a
4 full capacity. Without hesitation, Mr. Johnson has
5 displayed patience and insight when helping Facility I
6 staff in any project at hand. Another one by the
7 Catholic chaplain, your involvement in Forgiveness to
8 Praise. So it looks pretty consistent to me. 2007 you
9 have laudatory chronos. 2006, Avenal State Prison a
10 number of laudatory chronos in a row here, laudatory
11 chronos in 2005. I'm not finding more past 2005; is
12 that when you started getting these type of chronos?

13 **INMATE JOHNSON:** I should have one in December
14 '03.

15 **DEPUTY COMMISSIONER MITCHELL:** Okay. I may have
16 not gone back far enough, or too far. You said December
17 '03.

18 **INMATE JOHNSON:** Yes, sir.

19 **DEPUTY COMMISSIONER MITCHELL:** That's '02. Here
20 we go. This is from, looks like it's R. Mosley,
21 correctional sergeant. Is this the right one?

22 **INMATE JOHNSON:** Yes, sir.

23 **DEPUTY COMMISSIONER MITCHELL:** It's double
24 signed, also by the program lieutenant as well as a
25 property officer signed it. It's an informative chrono,

1 laudatory in nature as being submitted to augment the
2 quarterly work supervisor report and exceptionally
3 quality of work. His assigned duties include typing,
4 purchase order, supply orders and memos and generally
5 anything that needs to be done. It should be noted that
6 this supervisor requests that all consideration be given
7 for retention of inmate Johnson to his assigned position
8 as Facility A program special purpose clerk at Wasco
9 State Prison. Most importantly, inmate Johnson has
10 demonstrated thorough work performance, excellent
11 attitude towards staff in Facility A. Anything else
12 sir?

13 **INMATE JOHNSON:** Thank you.

14 **DEPUTY COMMISSIONER MITCHELL:** All right. If you
15 think of something, Mr. Johnson you want to get on
16 record, again as was pointed out by the Chairman of this
17 Panel, it's your initial hearing and we want to get
18 everything established we can so it's there on the
19 transcripts, you let me know.

20 **INMATE JOHNSON:** Thank you.

21 **PRESIDING COMMISSIONER LABAHN:** We're going to
22 take a quick recess now.

23 **DEPUTY COMMISSIONER MITCHELL:** Okay.

24 **PRESIDING COMMISSIONER LABAHN:** It's 1552 hours
25 and we will recess for five minutes.

1 (Off the Record.)

2 PRESIDING COMMISSIONER LABAHN: It's 1605
3 hours and all but one party have returned to the
4 hearing room I believe. We'll be joined by the last
5 party momentarily. We'll proceed. Back on the record.

6 DEPUTY COMMISSIONER MITCHELL: I believe I
7 left off where we can start to speak about the
8 correction counselor's report. Does that sound right
9 to you gentlemen? The correctional counselor does go
10 through the history of your adjustment in prison so I'm
11 not going to re-ask that. I've already done that.
12 Counselor talks about your therapy programs, early
13 self-help activities, disciplinaries. Getting down to
14 the release plans, which I haven't discussed yet, under
15 the residence section on page number 8 of 9, states
16 here, Mr. Johnson states he has no family in California
17 at this time. However, they are willing to support him
18 and he says see support letters in the C-File. Under
19 employment, it says Mr. Johnson states he's working to
20 complete his resume and will be contacting prospective
21 employers and concludes the assessment that Mr. Johnson
22 seems to have viable residence plans that can assist
23 him upon release, employment offers should be secure.
24 Now we know you have acquired some documents since
25 then, is that correct?

1 **INMATE JOHNSON:** Yes.

2 **DEPUTY COMMISSIONER MITCHELL:** Okay. With
3 regard to the psychologist report, the psychologist
4 noted under education that you obtained your GED while
5 incarcerated and has attended the Coastline Community
6 College, working on your associate arts degree. That's
7 where I saw the grade point level of 12.4. Notes
8 the -- under parole plans, your plan to -- that you're
9 working with the Catholic church to arrange for
10 residence and says that his parole plans are not yet
11 firm at that time. The contact was Mary's -- sister --
12 they put down hobbies, or hobbies, something like that,
13 but it's actually Hodges, H-O-D-G-E-S. And we have a
14 letter from her of course. We already talked about the
15 CCCMS section. Going down to substance abuse history,
16 under the title of role that drugs and alcohol played
17 in the commitment offense and the inmate's ability to
18 refrain from future use in the free community. States,
19 it appears as if alcohol use played a role in the life
20 crime even if indirectly. The inmate reportedly said
21 that he had been drinking the night before the crime,
22 and after the crime, and drank as well. He has been
23 working on substance abuse treatment and has worked on
24 a relapse prevention plan. He described his commitment
25 to sobriety as solid due to his consequences of the

1 crime and also because of the progress that he's made
2 in treatment while incarcerated. If he has a strong
3 desire to drink, you indicated that you would call one
4 of three people. My three close friends, my sister, or
5 my cousin, I would call a sponsor. He was able to
6 identify triggers for using saying a big gathering with
7 alcohol, a wedding, a big party, maybe New Year's. In
8 regard to managing those high-risk situations, the
9 inmate said he would inform others that he cannot
10 drink. Worse case scenario I would leave. The inmate
11 says he uses the principals of Alcoholics Anonymous and
12 applies them to his life and Mr. Johnson did not blame
13 his behavior during the life crime on drug use or any
14 other external factors. Apparently accepting
15 responsibility for it on your own, is that correct?
16 Now on the alcohol issue there's a mention here about a
17 relapse prevention plan. Do you have one in this
18 packet here?

19 **INMATE JOHNSON:** Oh no, a relapse prevention,
20 I do not. I never --

21 **DEPUTY COMMISSIONER MITCHELL:** Do you know
22 what it is?

23 **INMATE JOHNSON:** I do. I haven't successfully
24 done one, finished one yet.

25 **DEPUTY COMMISSIONER MITCHELL:** Would you tell

1 us what it is?

2 **INMATE JOHNSON:** It's a plan of, well first
3 it's a idea and a knowledge of where all self-help
4 problems are, AA meetings are at, NA meetings are at,
5 self-help meetings are at. City and county facilities
6 are open to check into call friends, a list of friends
7 that are part of a plan, parole officer that would be
8 first and foremost contact. The parole -- the complete
9 idea is what it does, what it's done to me in the past,
10 how it affects a lot of people, behavior
11 characteristics.

12 **DEPUTY COMMISSIONER MITCHELL:** Make a
13 suggestion to you, you mention call your sister, call a
14 cousin, but then you said call a sponsor. I'm
15 presuming a sponsor would be Alcoholics Anonymous or
16 Narcotics Anonymous type sponsor in the community; is
17 that what you mean by sponsor?

18 **INMATE JOHNSON:** It's my plan as far as the
19 first -- one of my first top ten list, is get checked
20 in, just and get familiar with people. Let them know
21 my situation.

22 **DEPUTY COMMISSIONER MITCHELL:** Have you at
23 this time written out to any communities to try to find
24 a location of AA and NA programs?

25 **INMATE JOHNSON:** No, I have not.

1 **DEPUTY COMMISSIONER MITCHELL:** You're going to
2 go to, is it, you have two of these programs going in
3 the community, is that what I read? Prerelease, you go
4 the prep program, that's the one in Los Angeles.

5 **INMATE JOHNSON:** Yes. That's one in the same
6 with Sister Mary Shawn-Hodge.

7 **DEPUTY COMMISSIONER MITCHELL:** Okay. Now with
8 regard to her program that's a live-in program for a
9 period of time. I understand that you get a little bit
10 of pay as well so I'll read that into the record.
11 Since that's in Los Angeles, is that where you plan to
12 live after you get through the program?

13 **INMATE JOHNSON:** At this moment, that is my
14 primary plan.

15 **DEPUTY COMMISSIONER MITCHELL:** Do you know if
16 she allows you to leave the facility to attend any
17 outside AA/NA programs?

18 **INMATE JOHNSON:** I've never discussed it with
19 her.

20 **DEPUTY COMMISSIONER MITCHELL:** Okay. Let's
21 just propose that you can, or let's say you can't. And
22 once you're done with the program, once you go on your
23 own, you're going to need some programs, so you might
24 want to consider if you go through this process again
25 in your relapse prevention, writing out to the areas,

1 trying to get a location of where one might be, and see
2 if you might get a sponsor in advance. I realize
3 getting sponsors in advance is tough. I have found
4 inmates able to come into a hearing and they've got the
5 name, the phone number of an actual sponsor they could
6 communicate with and write to even though it's kind of
7 a top secret thing right, with AA/NA. You don't talk
8 about people's names, but they have acquired them. I
9 can't give you any experience as to how they got that,
10 I didn't really query them, but they wrote out and they
11 got someone to talk with them. I don't know if you can
12 talk to the AA/NA people here, if they could give you
13 any kind of insight or help or if they could contact
14 someone on the street, take advantage of it. You have
15 impressed me that you probably know more about a
16 relapse prevention plan than most of the people I talk
17 with. They have researched and they have looked at it
18 and usually we end up telling them what it's about
19 during the hearing. So it kind of surprises me that
20 you haven't gone the extra step and actually developed
21 one at this point. It sounds like you know what to do.
22 Any reason why you haven't gone that step?

23 **INMATE JOHNSON:** Basically formatting it for
24 the part of the presentation. I want to make sure all
25 my T's are crossed and I.'s are dotted. And addresses

1 and connections by the mail I haven't made that
2 fulfillment yet.

3 **DEPUTY COMMISSIONER MITCHELL:** Well do that.
4 You mentioned the parole division; the parole office
5 also has contacts and resources. You can always
6 contact them. They'll send you back a letter with
7 contacts and resources they have. You can put that in
8 to your release plans as well. Take advantage of
9 anything you can that shows what you've learned, what
10 you can do, and why you'd be a safe risk to be released
11 to the community. That's your job, correct?

12 **INMATE JOHNSON:** Yes.

13 **DEPUTY COMMISSIONER MITCHELL:** Okay. Onto the
14 impulsivity and behavioral control heading. Says there
15 was evidence of behavioral or emotionally instability
16 during the interview. His attitude towards interview
17 was courteous and cooperative. At no time during the
18 interview was he irritable or hostile. Throughout the
19 interview, he was attentive. Notes here under the
20 diagnostic impressions you have an Axis I diagnosis of
21 alcohol dependence is sustained for remission in a
22 controlled environment. You had no Axis II or Axis III
23 diagnosis. And as far as I know they have been advised
24 that Axis IV which just means you're doing a life term
25 of incarceration. The Axis V, which is a Global

1 Assessment of Functioning. They're not going to put
2 them in their reports in the future. They decided
3 they're not something they need to address. Under the
4 remorse and insight into the life crime, it says,
5 Mr. Johnson appears to have regret for his actions and
6 the consequences to the victim. As far as can be
7 ascertained he has gained some insight into the causal
8 factors that lead to the life crime. It should be
9 noted that this opinion regarding his remorse and
10 insight is subjective and not objective in nature.
11 Insight, remorse, or abstract concepts and do not lend
12 themselves to operationalize definition or measurement,
13 however it seems like commonsense that a person who
14 regrets an action or sees their own contribution to a
15 tragic event will be more cautious and less prone,
16 irresponsible, and unconsidered behavior in the future.
17 Do you know what she meant by that?

18 **INMATE JOHNSON:** Not fully.

19 **DEPUTY COMMISSIONER MITCHELL:** I think she's
20 trying to say that even though the terms of remorse and
21 insight are subjective, not objective, they're kind of
22 in the eyes of the beholder. They're not really
23 concrete. If you recognize what you did wrong, you
24 recognize the precursors of what you brought up --
25 brought you to that period in your life, alcohol,

1 disruption, whatever it might be that you can identify
2 those, that by commonsense if those same events were to
3 occur again, you would know before you get into
4 trouble, what to do. You would put into effect that
5 relapse prevention plan. That's just commonsense.
6 Under assessment for risk of violence, states in the
7 present evaluation two separate assessment guides were
8 used to help estimate this individual risk for future
9 violence in the community. The Psychopathy Checklist
10 Revised, that's called the PCL-R and the Historical
11 Clinical and Risk Management, that's HCR-20, in
12 addition, the Level of Service/Case Management
13 Inventory, known as the LSC/MI was utilized for
14 assessment of general risk for recidivism and not
15 violence per se. Mr. Johnson obtained a total score on
16 the PCL-R that places him in the low range of the
17 clinical construct of psychopathy. It seems as if
18 Mr. Johnson has made progress while in custody. He did
19 not present as lacking in empathy or callous. Those
20 factors that increased his score on the PCL-R were
21 primarily due to his history of impulsive behavior and
22 not to the interpersonal factors. The HCR-20 is a risk
23 assessment tool that was developed from a review of the
24 empirical literature concerning factors that relate to
25 violence used to assess risk of violence based on

1 historical and dynamic risk factors, dynamic risk
2 factors are based on clinical and then risk management
3 factors. Now just for thoughts, this broke down into
4 three different sections. Historically you can't
5 change it. So I don't usually get into too much detail
6 because that's the life crime, or prior arrest record,
7 but you have some control over the clinical risk
8 factors and future risk management. So she goes on to
9 talk about here that Mr. Johnson's risk factors are
10 related to his historical items and the inevitable
11 stressors that he'll face when he enters the community.
12 On items tapping into his background history his score
13 was in the moderate range. You can't change. On items
14 tapping into the clinical presentation you scored in
15 the low range. That's because your behavior in prison
16 has been good. On the items tapping into variables
17 related to future risk management you scored in the low
18 range. Again, because you've done something with your
19 life while in prison. It appears that Mr. Johnson has
20 made some progress in understanding those factors that
21 contributed to his life crime. He does not have active
22 symptoms of a mental illness. At this time, the
23 inmate's parole plans appear to be reasonable if
24 lacking in detail. They weren't too detailed at the
25 time he met with the psychologist. Mr. Johnson's

1 overall score as measured on the HCR-20 was in the
2 moderate range for violent recidivism. That's probably
3 driven primarily from your historical factors you can't
4 change. The LS/CMI states your overall score indicates
5 that you're in the low category, the factors that
6 increased your score of recidivism, for having been
7 incarcerated and prior adult convictions. The overall
8 risk assessment after weighing the data from the
9 available records, the clinical interview, and the risk
10 assessment data it's opined that Mr. Johnson presents a
11 low to moderate risk for violence in the free
12 community. The inmate's risk of violent recidivism
13 could be expected to increase if he returned to the use
14 of intoxicating substances associated with antisocial
15 peers, possessed a weapon, found himself without a
16 permanent residence, did not have income sufficient to
17 meet his living expenses or lack social support in the
18 community. On the other hand, you can decrease your
19 risk factors by developing and implementing a relapse
20 prevention plan for criminal behavior, identifying all
21 parole plans, examining and coming to terms with the
22 causative factors surrounding the circumstances of the
23 life crime and developing proactive strategies to avoid
24 those liabilities. Again, the psychologist brought up
25 the issue of the relapse prevention plan. It's always

1 an important issue for you.

2 **INMATE JOHNSON:** I see that.

3 **DEPUTY COMMISSIONER MITCHELL:** That brings me
4 up to the Penal Code 3042 Notices. Do you know that
5 that is?

6 **INMATE JOHNSON:** I'm not familiar with it.

7 **DEPUTY COMMISSIONER MITCHELL:** That's the
8 Penal Code section at which the institution sends out
9 letters to the law enforcement agency that investigated
10 the matter. The district attorney's office, the trial
11 judge, the trial attorney, even the Attorney General's
12 Office, and asks if they have any input regarding your
13 parole suitability. We have response here from the
14 district attorney's office, a representative who's
15 going to make a presentation on behalf of the victim,
16 the victim's family in this matter. Of course we have
17 the victim's next-of-kin here as well that will provide
18 information. And I don't believe we received an actual
19 letter from the DA's office. Did you send one that you
20 know of?

21 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** No, I sent
22 myself.

23 **DEPUTY COMMISSIONER MITCHELL:** Okay. And
24 that's perfectly great. I didn't receive any letters
25 from law enforcement either, or your trial attorney or

1 the trial judge.

2 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** I am the
3 trial attorney as well.

4 **DEPUTY COMMISSIONER MITCHELL:** That's right
5 for the prosecution.

6 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** I was
7 the --

8 **DEPUTY COMMISSIONER MITCHELL:** I was thinking
9 he was a defense attorney instead of the trial
10 attorney.

11 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Okay. And
12 he sends his regards. That would be Mr. Adler.

13 **DEPUTY COMMISSIONER MITCHELL:** Okay. He
14 didn't have any input for the hearing?

15 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** I saw him
16 yesterday. He didn't have any input to the hearing.

17 **DEPUTY COMMISSIONER MITCHELL:** All right. As
18 an officer of the court, you could testify on his
19 behalf, right?

20 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** He says
21 good luck.

22 **DEPUTY COMMISSIONER MITCHELL:** All right.
23 That brings me up to then your prerelease -- or release
24 plans I should say. And as far as release plans are
25 you've got the PREP program I mentioned. The letter is

1 dated October 27th 2009. This is from Sister Mary Jean
2 Hodges, director of Partnership for Reentry program in
3 Los Angeles. I offer a position in the Office of
4 Restorative Justice when he is released. The position
5 is for a clerk in the Partnership for Reentry program
6 PREP, a mentoring program that supports parolees upon
7 release. This position pays ten dollars an hour for 30
8 hours a week, during six months transition period.
9 More time and salary are offered after his initial
10 period. The position would include filing, letter
11 writing, phone calls, computer work, and generally
12 supporting us in our work to reintegrate parolees into
13 society. Additionally PREP works in partnership with
14 Ernest Roberts at the P.B. Jobs and they've got a
15 Website here and also guarantees Mr. Johnson interview
16 with Juan Alvarado, a job developer upon release.
17 Mr. Johnson has learned marketable skills and will
18 enable him to enter the job field. PREP affirms
19 Mr. Johnson in his return to the community of Los
20 Angeles. Through the Partnership Reentry Program, we
21 also support Mr. Johnson's housing at the Francisco
22 Home located in Los Angeles. The Francisco Home is a
23 nine man sober living transitional home that is close
24 to public transportation. We ask for one hundred
25 dollars deposit and five hundred dollars monthly rent

1 adjustable to according to employment. Did you discuss
2 that at all with Sister Hodges as far as you having up
3 front money or needing upfront money? Okay.

4 **INMATE JOHNSON:** We both understand there's
5 a -- I have family and I guess there's a state issue
6 with GATE money, but it's also known that clothes
7 and --

8 **DEPUTY COMMISSIONER MITCHELL:** That's about
9 half of the monthly rent.

10 **INMATE JOHNSON:** All my basic essentials will
11 be taken care of. I have no --

12 **DEPUTY COMMISSIONER MITCHELL:** Does your
13 family have money?

14 **INMATE JOHNSON:** Together, all joined, yes.

15 **DEPUTY COMMISSIONER MITCHELL:** Now that brings
16 me into community support. I have eight letters I
17 would call community support for you. It's more like a
18 petition as such. It's a preprinted statement. It
19 says I support Chuck's release back into the community.
20 Do you know -- did you get a copy of those?

21 **INMATE JOHNSON:** Yes, I did.

22 **DEPUTY COMMISSIONER MITCHELL:** Do you know
23 these people? Raymond Bart -- or Bartlett, what it is?

24 **INMATE JOHNSON:** I don't know him personally,
25 no.

1 **DEPUTY COMMISSIONER MITCHELL:** Okay. Do you
2 know Hilda Harris?

3 **INMATE JOHNSON:** I don't think so.

4 **DEPUTY COMMISSIONER MITCHELL:** Do you know
5 Paul, I don't know if it's Milho, M-I-L-H-O?

6 **INMATE JOHNSON:** No.

7 **DEPUTY COMMISSIONER MITCHELL:** Do you know, is
8 it Casha -- Carissa Sloan, S-L-O-A-N?

9 **INMATE JOHNSON:** I do not.

10 **DEPUTY COMMISSIONER MITCHELL:** Do you know
11 Betty Woods?

12 **INMATE JOHNSON:** I know a Betty, I don't know
13 her last name, but she's part of the Catholic church.

14 **DEPUTY COMMISSIONER MITCHELL:** Okay.

15 **INMATE JOHNSON:** The Archdiocese in LA.

16 **DEPUTY COMMISSIONER MITCHELL:** Hilda, last
17 names looks like it's N-A-C- maybe A-R, can't read it.

18 **INMATE JOHNSON:** No.

19 **DEPUTY COMMISSIONER MITCHELL:** Do you know
20 Ray -- Faye King, K-I-N-G?

21 **INMATE JOHNSON:** I do not.

22 **DEPUTY COMMISSIONER MITCHELL:** Do you know
23 Anita Hall?

24 **INMATE JOHNSON:** No.

25 **DEPUTY COMMISSIONER MITCHELL:** Okay. Probably

1 be beneficial for you when you come into a hearing to
2 find out who these individuals are. If they're just
3 friends of the church, friends of your family, just so
4 you have an idea who is actually offering you support
5 for you. Because I don't know what that support
6 frankly means if you don't even know who those folks
7 are. Make sense?

8 **INMATE JOHNSON:** Well, Amelia, she's part of
9 the PREP program and she helps when she comes as a
10 victim's awareness classes inhere and self-help too.

11 **DEPUTY COMMISSIONER MITCHELL:** How long have
12 you had these letters of support?

13 **INMATE JOHNSON:** I just got these.

14 **DEPUTY COMMISSIONER MITCHELL:** I see October
15 31st on the bottom, October 31st, it looks like they
16 all have the same October 31st date.

17 **INMATE JOHNSON:** November, the second week of
18 November.

19 **DEPUTY COMMISSIONER MITCHELL:** Okay. The date
20 they were written is October 31st. that may not give
21 you a lot of time to correspond back but if it comes up
22 again I encourage you to correspond back with these
23 individuals, find out who they are and what kind of
24 support they're actually offering you. Fair enough?

25 **INMATE JOHNSON:** Fair enough.

1 **DEPUTY COMMISSIONER MITCHELL:** Okay. That's
2 all the support letters I have for you. Now we're
3 going to go into the victim's next-of-kin letters. Now
4 I'd like to ask you, now there's two that I can
5 identify that were family members we have letters from.
6 And then we have a number of ones that I don't know if
7 they're family members or not. Of course we have
8 family here and then we have the petition and the
9 petition, I didn't count up the total number of names.
10 I counted 115 pages if I counted correctly. Okay. So
11 I counted that many anyway and I counted up to 46
12 signatures on each page depending on full pages, not
13 full pages. I didn't plan to read that into the
14 record. I was going to ask the deputy DA or whoever
15 would like to respond to who signed those petitions
16 just for the record, but not right at the moment. Let
17 me go ahead and go through what I've got then you can
18 tell us what you'd like to on the record for that. Now
19 the letters we received from family or not family, I'll
20 read them into the record if you'd like to. Is that
21 what you'd like me to do?

22 **MS. BALDWIN:** Yes, we would, thank you.

23 **DEPUTY COMMISSIONER MITCHELL:** I'll read them
24 in and if I'm missing something on them that you need
25 to advise me of, please let me know. Now the first one

1 I believe just identifies the person as a family
2 member, Dorothy Riggs. And we have Ms. Riggs here.
3 Okay. And this was dated, let's see, I don't know
4 maybe a date actually on it, I've got a stamp date of
5 October 8th, 2009 I believe is what's on top. States
6 here that:

7 "As part of the family the Brittany
8 Lynn, that's Rethorn, Riggs, okay, who
9 was murdered by Chuck Johnson, I am
10 objecting in the strongest possible
11 terms to the parole which has been put
12 before you. And noting here,
13 Mr. Johnson received a fair trial. As
14 you are aware, Mr. Johnson had a
15 history of violence towards family
16 members prior to the murder of Brittany
17 Lynn who was not related to him in any
18 way. It is my belief that
19 Mr. Johnson's case past behavior is the
20 best indicator of a future behavior.
21 It is unfortunate that our correction
22 system seems to focus more on
23 punishment than rehabilitation, but the
24 truth seems to be that rehabilitation
25 is much more rare than recidivism."

1 The next one I have, I'm going to jump one here, this
2 appears to be his grandmother, or the victim's
3 grandmother. And this is written by Michelle Pamplin;
4 is that correct?

5 **MS. LUNDY:** That is not the victim's
6 grandmother.

7 **MS: BALDWIN:** Actually Dorothy Riggs is the
8 victim's grandmother.

9 **DEPUTY COMMISSIONER MITCHELL:** Okay.

10 **MS: BALDWIN:** Michelle Pamplin is a family
11 friend and she's related -- she's his estranged wife's
12 mother-in-law --

13 **DEPUTY COMMISSIONER MITCHELL:** Okay.

14 **MS: BALDWIN:** -- and she's raising his sons.

15 **DEPUTY COMMISSIONER MITCHELL:** Because when I
16 read it says here:

17 "I myself have been the victim of his
18 violence. My entire family has
19 suffered greatly at his hands. My
20 daughter was once married to him.
21 Unfortunately, he's also the father of
22 my two grandsons.

23 That's where I got the grandmother at. So,
24 okay.

25 My daughter was abused throughout the

1 entire relations ship and typical of
2 the battered women's syndrome. He
3 could always talk her out of filing
4 charges. She delivered our oldest
5 grandson with two black eyes and a
6 split lip.

7 I wasn't sure quite what that meant; if you want to
8 address it when you talk about it, you may.

9 She suffered from many bruises and
10 beatings. She was nearly in a car
11 wreck as he tried to I guess wrestle
12 the wheel from her while she was
13 driving. She was pregnant at the time
14 with our youngest grandson. The year
15 prior to Brittany's murder there were
16 six cases of abuse that were never
17 filed or followed through with all due
18 to the fact that he would talk my
19 daughter out of calling and reporting
20 them until I became his next victim on
21 December 4th, 1992. That evening my
22 husband and I received a telephone call
23 for help from our daughter. Chuck was
24 being violent again and thrown and
25 broken things in the apartment and he

1 had our three-week-old grandson, Travis
2 under his arm like a football. He
3 would not surrender the baby to her.
4 Even upon my arrival to the apartment,
5 I asked him to put the baby out of
6 harm's way by giving him to me. He
7 refused and I went to call 911. He
8 followed me out of the -- he followed
9 me out to the phone and pulled the hand
10 receiver of the base unit out of the
11 wire. He swung it around, picked up
12 velocity, and struck me in the head
13 with it. Police and paramedics were
14 then notified of the incident. Upland
15 Police arrested and charged him with
16 assault with a deadly weapon. The
17 injury that I received was a deep
18 contusion, which bled profusely. The
19 injury sustained required medical
20 attention at a local hospital. I
21 pressed charges and the district
22 attorney's office followed through, but
23 at a court, he pleaded down to battery.
24 He was then reprimanded and told to
25 attend a spousal abuse and parenting

1 classes. He was supposed to attend and
2 follow-up with the court regarding his
3 proof of attendance or lose his
4 revocable probation. He failed to
5 comply with the courts orders on
6 attending those classes. Upon calling
7 the court clerk and emphasizing the
8 fact, a bench warrant had been issued.
9 I called the Ontario Police Department
10 to notify them. Upon doing so I was
11 told that the -- by the watch
12 commander -- or was that the watch
13 commander would not just go out and
14 arrest someone upon a bench warrant.
15 Upon doing so I was told that the watch
16 commander would not just go -- it's
17 repeated, the same words. I have had
18 many sleepless nights wondering why the
19 right things weren't done. I had
20 been -- if he had been arrested then he
21 would have been incarcerated and
22 possibly none of this would have
23 happened. If Ontario Police Department
24 had done their job that day you would
25 have had the job before you today. I

1 implore you to put my grandsons -- to
2 not put my grandsons and myself or any
3 of my family in jeopardy again by
4 releasing him. My life has been
5 threatened by him once already. Both
6 my grandsons' chance at a normal life
7 will be threatened if he's aloud out.
8 They have been in counseling on and off
9 since we obtained guardianship in 2002.
10 They have many emotional battles to
11 overcome yet due to Chuck. Please do
12 not give them another. We are in the
13 process of changing their name to ours,
14 Pamplin, as they want to -- as they
15 want no contact with a connection with
16 him whatsoever. They have wanted to do
17 this for some time, but we wanted to
18 make sure that was what they wanted
19 before proceeding. There is a little
20 girl who is forever three years old
21 that begs you go along with me. Do not
22 let Chuck Edward Johnson out of your
23 prison. Keep our children and our
24 family safe. Thank you for giving me
25 the time and opportunity to speak to

1 you today. I know that you will be
2 aware of the fact that his violence
3 tendencies did not begin with
4 Brittany's death, but they will end
5 with it. Signed off, Michelle
6 Pamplin."

7 Now, the next one I have I just identified as an
8 opposition letter. This one's from Sharon N. Powell, a
9 family or is that just opposition?

10 **MS: BALDWIN:** Who is this?

11 **DEPUTY COMMISSIONER MITCHELL:** It's an actual
12 letter --

13 **MS. LUNDY:** A friend.

14 **DEPUTY COMMISSIONER MITCHELL:** Okay. So this
15 letter is not -- it's got a dated handwritten date on if
16 of 9/24/09. It states:

17 "On behalf of the family of Brittany
18 Lynn-Rethorn-Griggs was murdered by
19 Chuck Johnson. I'm objecting as strong
20 as possible to the terms to the
21 parole."

22 We have another of what I termed as an opposition letter
23 from Fister and Dianne Gowan, G-O-W-A-N.

24 **MS. LUNDY:** They actually work with me.

25 **DEPUTY COMMISSIONER MITCHELL:** Okay. So their

1 friends of yours in support?

2 **MS. LUNDY:** Yes.

3 **DEPUTY COMMISSIONER MITCHELL:** Okay. And they
4 stated here: "Please do not parole this child murderer
5 after only 16 years. And they go into detail, do you
6 want me to read the detail in about --

7 **MS. LUNDY:** Yes.

8 **DEPUTY COMMISSIONER MITCHELL:** Okay. This is
9 kind of rehashing, we've already talked about?

10 **MS. LUNDY:** Yes.

11 **DEPUTY COMMISSIONER MITCHELL:** Okay. The next
12 one I identified as a an opposition letter is this is
13 from Nancy, is it V-I-N-H?

14 **MS. LUNDY:** That's a personal.

15 **DEPUTY COMMISSIONER MITCHELL:** Okay. "I am
16 objecting on the strongest possible terms to a parole."
17 We have another one, Janice Kern, K-E-R-N.

18 **MS. LUNDY:** Yes, that's another one of my
19 employees.

20 **DEPUTY COMMISSIONER MITCHELL:** Friends,
21 acquaintances.

22 **MS. LUNDY:** I -- they're close. I work for a
23 nonprofit and all of these people are part of my
24 nonprofit that I --

25 **DEPUTY COMMISSIONER MITCHELL:** Okay.

1 **MS. LUNDY:** -- see.

2 **DEPUTY COMMISSIONER MITCHELL:** Just want to
3 recognize then with a correct kind of a --

4 **MS. LUNDY:** Yes.

5 **DEPUTY COMMISSIONER MITCHELL:** -- decision
6 whether they happen to be a family member or they're
7 opposition friends.

8 **MS. LUNDY:** They know me very close.

9 **DEPUTY COMMISSIONER MITCHELL:** Okay.

10 "Johnson has a violent past. On
11 October 10th 1993, Brittany was home
12 asleep with her mom and dad in the next
13 room asleep. They awoke to a noise
14 that we now know was Chuck killing her
15 and results in that Johnson has earned
16 the right to remain in prison for his
17 full 25 years to life."

18 Next letter, this person is Laura V. Morton, identifies
19 herself that she works and knows you. And says: "They
20 have talked about their deceased sister, Brittany, to
21 me, that someone murdered her. They wondered why this
22 happened." Who was talking to her?

23 **MS. LUNDY:** Those are my four children.

24 **DEPUTY COMMISSIONER MITCHELL:** They were talking
25 with her?

1 **MS. LUNDY:** Yeah. She's our caregiver and I
2 didn't know my children went to her.

3 **DEPUTY COMMISSIONER MITCHELL:** Okay. Very good.
4 "I have noticed that the Lundy children have become very
5 nervous and concerned about this possible release. One
6 should serve one's full sentence especially in this case
7 where a little girl's life was taken." The next one is
8 signed by Stan, last name is O-I-S-H-I, another --

9 **MS. LUNDY:** Another very close person of mine.

10 **DEPUTY COMMISSIONER MITCHELL:** Work person.
11 Okay. Friend of the Brittany family. Says: "I'm
12 objecting as strong as possible terms to the parole,
13 which has been put before you of Chuck Johnson. He
14 received a fair trial, talks about a terrible tragedy."
15 This does not have the date on it. This has a date,
16 it's November 12th 2009, by Craig S. R-E-T-H-R -- O-R-N.
17 That's a grandparent, right?

18 **MS. LUNDY:** No. Does it say grandparent because
19 there are two Craig's --

20 **DEPUTY COMMISSIONER MITCHELL:** It says
21 grandparent.

22 **MS. LUNDY:** -- because one's a brother.

23 **DEPUTY COMMISSIONER MITCHELL:** This one says
24 grandparent.

25 **MS. LUNDY:** Then that's her grandfather, my

1 father.

2 **DEPUTY COMMISSIONER MITCHELL:** Okay.

3 "I strongly oppose to granting of
4 parole date for the convicted murder,
5 Chuck Johnson. Mr. Johnson earned his
6 full sentence of 25 years to life to be
7 imposed by the court -- or was imposed
8 by the court."

9 And then we go into petitions and below the petitions I
10 did find a couple more letters as an opposition letter
11 written by Moria, M-O-R-I-A, last name is spelled
12 G-I-A-M-M-A-T-T-E-O. Is this a family friend?

13 **MS. LUNDY:** Uh-huh.

14 **DEPUTY COMMISSIONER MITCHELL:** Okay.

15 "Regards to the above matter. On
16 behalf of the family who -- Brittany,
17 who was murdered by Chuck Johnson, I'm
18 objecting strong as possible terms to
19 the parole."

20 That's it as far as the individual letters that I
21 received. Anything you think I missed besides the
22 petitions?

23 **MS. LUNDY:** There was a lot that were sent in
24 that were marked confidential, so it would not be
25 released to the defendant.

1 **DEPUTY COMMISSIONER MITCHELL:** Okay. In your
2 file, his Central File that's what's back here is
3 confidential information and you can see the thickness
4 of it here.

5 **MS. LUNDY:** There's a lot of letters --

6 **DEPUTY COMMISSIONER MITCHELL:** Okay.

7 **MS. LUNDY:** -- from family.

8 **DEPUTY COMMISSIONER MITCHELL:** Is it similar
9 information as far as objecting to his release based on
10 the same issue?

11 **MS. LUNDY:** There's grandparents and stuff like
12 that. They're too afraid and lot of people, friends and
13 family that are afraid for him to have their
14 information.

15 **DEPUTY COMMISSIONER MITCHELL:** Didn't want their
16 names and so forth.

17 **MS. LUNDY:** Okay. Then we will look those over
18 if you don't mind during our deliberation and not
19 address them during the open hearing.

20 **MS. LUNDY:** Thank you.

21 **DEPUTY COMMISSIONER MITCHELL:** Okay. Now as far
22 as the petitions as I mentioned, there's about 115 pages
23 with anywhere from half a page of 23 to 46 names on each
24 page. Is there anything that you'd care to discuss or
25 do you want the victim's next-of-kin discuss where these

1 came from?

2 **MS: BALDWIN:** I'll refer to Jennifer Lundy.

3 **MS. LUNDY:** This was something that was reached
4 out to me as an idea for support. I have a lot of ties
5 into what I do. I work with autism and I have for seven
6 years now. And the outpouring, this is what their way
7 was to support, so about, I would say at least 90
8 percent of that are people I know the names. They
9 attend support group meetings and then in the
10 anniversary of Brittany's death this year, it was 16
11 years October 10th, Michelle and I decided to do a
12 petition drive because we felt that where the crime was
13 committed those people needed to know. So we personally
14 set up two locations in Ontario and the mall gave us
15 permission. We were the first people to ever ask a mall
16 to have permission. I manned the booth in the afternoon
17 and we had reaction of people that live in this
18 community where this crime occurred that remembered the
19 newspaper clippings, remembered the pictures, and signed
20 the petition. My children, my four children wanted to
21 make sure this was done and help. They stood there that
22 day at Ontario Mills Mall and told people the story of
23 what he did to their sister to get the signatures.

24 **DEPUTY COMMISSIONER MITCHELL:** Okay. Thank you,
25 Ms. Lundy. At least we have something on the record,

1 know where it came from how it got there. Okay. That
2 pretty well concludes my portion of this hearing at this
3 time. I need to ask Mr. Johnson and Mr. Skidmore if
4 there's anything I have missed at this point that you
5 want me to address?

6 **ATTORNEY SKIDMORE:** Mr. Mitchell, you and
7 Ms. Baldwin covered all the basic areas. We have
8 nothing to add at this point. Thank you. Chairman?

9 **PRESIDING COMMISSIONER LABAHN:** Thank you,
10 Mr. Skidmore. I have very few questions at this point
11 in part due to the rather forth coming nature of the
12 first portion of this hearing with respect to the
13 comments that you had to make, Mr. Johnson regarding the
14 murder and what lead up to it. But I do have a few.
15 You've engaged in a considerable amount of self-help.
16 In fact, you've engaged in more than as you are probably
17 aware frequently occurs with respect to inmates in their
18 first decade of incarceration. I commend you for that.
19 Based upon your -- the insight, which you, I am certain,
20 have gained, during that time what do you see as the
21 biggest change in your basic personality that has
22 occurred during over a decade of incarceration?

23 **INMATE JOHNSON:** My biggest change would be my
24 awareness. I'm more aware of myself, more aware of what
25 people say when they talk and before I was incarcerated

1 I just heard words. Like a reader or someone listening
2 to music, you just hear music. I learned to be a
3 listener. I wasn't that before.

4 **PRESIDING COMMISSIONER LABAHN:** When you are
5 paroled what do you see as the biggest challenge or if
6 you prefer, the biggest two or three challenges that you
7 are likely to face that would prevent you from having a
8 successful parole experience? If you want to tie your
9 triggers that you've probably identified into that
10 that's fine. If you don't want to, that's fine too.

11 **INMATE JOHNSON:** My biggest challenge would be
12 finding my niche in a newer and better life. Getting
13 out and applying everything that I promised to myself.
14 The challenges that will come with the temptations with
15 drinking and backsliding. I think that would be the
16 most treacherous road I have to face at the top of my
17 mind right now. Other than that I think I'm confident
18 enough and self aware enough to succeed without failing.
19 I don't think I'll let anybody down in that respect.

20 **PRESIDING COMMISSIONER LABAHN:** Tell the Panel
21 what you see as your most significant triggers at this
22 point in terms of potential relapse?

23 **INMATE JOHNSON:** Honestly to be utmostly honest,
24 frustration. I mean that may hurt me, but it's the
25 truth. If I get frustrated, I get aggravated and I

1 don't know get violent like I used to, I don't lash out
2 like I used to. But saying something I'll regret,
3 saying something harmful. I think that's my biggest
4 issue I'm still working on today is frustrations and how
5 to overcome them.

6 **PRESIDING COMMISSIONER LABAHN:** I think you
7 referenced that in the psych report as well. I have no
8 further questions. Commissioner?

9 **DEPUTY COMMISSIONER MITCHELL:** None.

10 **PRESIDING COMMISSIONER LABAHN:** Would the
11 district attorney's like to refer any matters to the
12 Panel that we can in turn attempt to obtain
13 clarification from Mr. Johnson?

14 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** I have a few
15 questions that I would ask the commissioners to ask the
16 inmate for clarification based on his statement today.

17 **PRESIDING COMMISSIONER LABAHN:** Please.

18 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Okay. If the
19 inmate could be asked what door is he speaking of when
20 he said that I believe his words were, I shut the door,
21 brought out a mirror, about to line up the speed, I
22 leapt up to slam the door. What door is he speaking of?

23 **INMATE JOHNSON:** The bedroom door exiting the
24 bedroom into the hallway. Brittany had came in and
25 started stepping in.

1 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** So that would
2 be the inmate's door; is that correct?

3 **PRESIDING COMMISSIONER LABAHN:** Was that the door
4 to your room?

5 **INMATE JOHNSON:** Yes.

6 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** How many
7 times did the door hit Brittany?

8 **INMATE JOHNSON:** Just the once.

9 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Okay. I'd
10 like to ask the inmate if he has any idea how Brittany
11 got three contusions on her head as found by the
12 pathologist, one above her left eye, one on the side of
13 her head, and a very large hematoma on the back of her
14 head.

15 **INMATE JOHNSON:** With me slamming the door, I
16 believe that it was between the door -- the door handle,
17 and the door frame on the wall, in between, if that's
18 understood. If I've made it understandable.

19 **PRESIDING COMMISSIONER LABAHN:** Let me try to get
20 some clarification here. Are you suggesting that all of
21 the injuries referenced by the district attorney were
22 sustained to the best of your knowledge by impacts with
23 the door, the doorjamb, the door handle, or other door
24 hardware in one distinct impact incident?

25 **INMATE JOHNSON:** Yeah. Yes, I didn't -- I didn't

1 strike her any other time after that, ever.

2 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** If the
3 commissioner could ask the inmate how did the victim's
4 frenulum, which is the piece of skin that holds the lip
5 to mouth get bruised and torn?

6 **ATTORNEY SKIDMORE:** If you don't have any real
7 idea, don't speculate.

8 **PRESIDING COMMISSIONER LABAHN:** Do you
9 understand; if you don't -- I think you do understand,
10 but if you don't have an answer that comes readily to
11 mind based upon your knowledge of the incident, don't
12 guess, but do you have an idea of how Brittany could
13 have sustained an injury to the inside of her mouth in
14 that area?

15 **INMATE JOHNSON:** When I answer my question -- the
16 DA's questions via the Panel, I do it because I owe that
17 first and foremost to the victim's family. Okay.

18 **PRESIDING COMMISSIONER LABAHN:** Thank you.

19 **INMATE JOHNSON:** The only way that I -- that I
20 believe that that happened or whatever the -- on her
21 mouth was when I was -- had my hand over her mouth
22 trying to keep her quiet. I did -- I remember
23 forcing -- my hand over her mouth pretty hard. I
24 didn't -- I can't imagine that that would cause that. I
25 never read the reports or anything on it, I seen some

1 photos, but my hand, by my hand covering her mouth, I
2 would -- to my recollection; I believe that that's how
3 that happened.

4 **PRESIDING COMMISSIONER LABAHN:** Thank you.

5 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Would you
6 please ask the inmate how hard did the victim struggle?

7 **INMATE JOHNSON:** Well --

8 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Did she fight
9 for her life?

10 **INMATE JOHNSON:** Yeah.

11 **PRESIDING COMMISSIONER LABAHN:** Was the victim
12 struggling while you were attempting to keep her quiet?
13 Was Brittany struggling while you were attempting to
14 keep her quiet?

15 **INMATE JOHNSON:** I imagine she did. I just --
16 I'm much bigger than she -- than her, than Brittany. I
17 don't recall any feeling -- feeling her struggle. She
18 had her hand on my arm, on my forearm but I was, like I
19 said I was not paying attention. I wasn't being
20 considerate to her.

21 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Could you ask
22 the inmate how long did he keep his hand over her mouth
23 obstructing her breathing?

24 **INMATE JOHNSON:** Time is lost again, I have no
25 idea. I can't give an accurate --

1 **PRESIDING COMMISSIONER LABAHN:** I think I recall
2 Mr. Johnson stating earlier in the hearing and I may be
3 mistaking here, but I think he stated that he kept his
4 hand there until she went to sleep. I believe those
5 were his words.

6 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** And if you
7 could ask him was she alive when he hid her in his
8 closet?

9 **INMATE JOHNSON:** I assumed that she had just
10 fainted or passed out, so I just laid her in my closet
11 and threw some clothes on her. I didn't -- death or her
12 dying never crossed my mind.

13 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Okay. So
14 when the inmate told the police officers that he knew
15 she was already dead, when he placed her in the closet,
16 was that a false statement to the officers?

17 **PRESIDING COMMISSIONER LABAHN:** I believe that --
18 and I'm going to interject here, I believe that
19 Mr. Johnson indicated that he was unsure of her status,
20 but that he later went back and checked.

21 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** They're
22 actually very conflicting statements made.

23 **PRESIDING COMMISSIONER LABAHN:** Go ahead, if you
24 care to elucidate.

25 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** If he has any

1 insight on that, maybe. Is he allowed to answer that?

2 **PRESIDING COMMISSIONER LABAHN:** He is allowed to,
3 should he wish to.

4 **INMATE JOHNSON:** Okay. Before I turned around
5 and put on my shirt and put on my shoes, I laid her in
6 the closet, I threw some clothes on her and exited the
7 room. Later after an officer got there, I went back in
8 the room and I kneeled down and I looked down on the
9 floor of my closet where she was -- where I had laid
10 her. I didn't give much thought, she may be dying, I
11 had that -- I just figured she's just sleeping, knocked
12 out, passed out, fainted.

13 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Okay.

14 **INMATE JOHNSON:** I like to believe if I thought
15 maybe that there was a mortal situation, I like to
16 believe I would have done more to it, but I wasn't
17 thinking.

18 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Did it occur
19 to him to get some help for her, call her mother, call
20 her father, call the police, get her any aid?

21 **INMATE JOHNSON:** No, it did not.

22 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** There was a
23 baby blanket that was found under the inmate's bed some
24 days after the murder with blood that turned out to be
25 the baby's -- Brittany's blood on it. Does he have any

1 idea how that came to be?

2 **INMATE JOHNSON:** Yes, I forgot about the blanket
3 until just now. The blanket -- when I was putting my
4 shoes on I saw the blanket there and I just shot it
5 behind me under the bed to get it out of view for when I
6 opened the door.

7 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Where did the
8 blanket come from?

9 **INMATE JOHNSON:** I believe it -- Brittany had it
10 with her, but I didn't see her with it.

11 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Does the
12 inmate --

13 **INMATE JOHNSON:** The first time I noticed it was
14 when I was putting on my shoes.

15 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** -- does the
16 inmate know how her blood got on it?

17 **INMATE JOHNSON:** Probably by my hand.

18 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Finally, if
19 you could ask the inmate, did he have a good
20 relationship with the victim's parents?

21 **DEPUTY COMMISSIONER MITCHELL:** Johnson, please
22 keep your eyes on us.

23 **INMATE JOHNSON:** Yes, sir.

24 **DEPUTY COMMISSIONER MITCHELL:** I don't want them
25 wandering in that direction.

1 **INMATE JOHNSON:** I apologize.

2 **DEPUTY COMMISSIONER MITCHELL:** Excuse me.

3 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Did the
4 inmate at the time up to the time of Brittany's death
5 have a good relationship with the victim's parents,
6 Jennifer and Darin?

7 **INMATE JOHNSON:** I had a good relationship with
8 them. It was social and professional as far as a tenant
9 running around.

10 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Thank you.
11 That's all I have.

12 **PRESIDING COMMISSIONER LABAHN:** Mr. Skidmore?

13 **ATTORNEY SKIDMORE:** Yes. Okay. Had you ever
14 been told that one of the doctors examined the deceased,
15 list the -- noted, "pressure on the neck with some
16 degree of impairment circulation of the head, evidence
17 of strangulation." Had that ever been brought up to
18 you?

19 **INMATE JOHNSON:** No, not --

20 **ATTORNEY SKIDMORE:** Do you have any idea of why
21 he would have been saying that there was evidence of
22 strangulation?

23 **INMATE JOHNSON:** I don't know anything about no
24 strangulation.

25 **ATTORNEY SKIDMORE:** How long before the life

1 crime had a restraining order against you been filed?

2 **INMATE JOHNSON:** I didn't know about the
3 straining -- restraining order until I had talked to the
4 Montclair P.D. They informed me that I had -- on
5 hearing upon that I went to the West Valley Detention
6 Center because it was a weekend, I believe and talked to
7 a deputy there. He said it's just a bench warrant,
8 relax. And just before, I forgot where he told me to go
9 on the following week.

10 **ATTORNEY SKIDMORE:** You weren't told of the
11 restraining order just before the life crime?

12 **INMATE JOHNSON:** I don't know anything about a
13 restraining order. I never received any paperwork on a
14 restraining order.

15 **ATTORNEY SKIDMORE:** Okay. Now one of the
16 positive things you submitted was a, evidence of
17 spiritual activities. Without seeking to violate the
18 seal of the confessional, have you confessed your role
19 in the life crime through the church channels?

20 **INMATE JOHNSON:** I've discussed it with a couple
21 priests, yes.

22 **ATTORNEY SKIDMORE:** I don't have any further
23 questions.

24 **PRESIDING COMMISSIONER LABAHN:** Thank you. In
25 anticipation that there might be one or more people in

1 the room who is due for a break before we conclude, I
2 want to introduce the possibility that a recess now
3 before we begin closing statements, which could be
4 lengthy. Or whether there's any consensus in the room
5 about taking a break after Mr. Johnson has made any
6 closing statements he wishes to make prior to closing
7 statements from other parties. Does anybody feel an
8 urge to take a recess at this particular moment? Please
9 proceed with --

10 **ATTORNEY SKIDMORE:** What order are we going to
11 go?

12 **PRESIDING COMMISSIONER LABAHN:** We're going to go
13 district attorney first and then yourself, Mr. Skidmore
14 and then Mr. Johnson should he choose to speak. And
15 after that we'll move to other parties.

16 **ATTORNEY SKIDMORE:** Thank you. I've not had this
17 many people before, so I needed to ask.

18 **PRESIDING COMMISSIONER LABAHN:** Please.

19 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Do I stand,
20 do I sit?

21 **PRESIDING COMMISSIONER LABAHN:** You're fine the
22 way you are. The one thing I'd suggest is we're
23 microphone challenged here. And these microphones do
24 not amplify. They're merely picking up recording so
25 whenever anyone is speaking, you'll need to speak up

1 pretty much at the mic.

2 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** All right. I
3 won't belabor us with a long discussion of the actual
4 life crime that was committed, although as I believe
5 both you commissioners know, I am the trial attorney. I
6 did try Mr. Johnson; I did receive the conviction of
7 murder in the first degree. And what I'd like to
8 emphasize is that a jury of his peers found him guilty
9 of murder in the first degree, premeditated murder with
10 malice of forethought. His statement today, which is
11 the first time in 16 years that I've heard him admit to
12 killing Brittany, would not be murder in the first
13 degree. And the pathologist testified and I have his
14 preliminary hearing transcript and he stated that the
15 circulation in Brittany's airway and neck were being
16 obstructed for a period of say at least two and a half
17 minutes or so. I'm just using the rule of thumb of
18 three minutes, but somewhere in that neighborhood. At
19 my closing argument in this case I had the jury sit for
20 two and a half minutes with a timer, I used a time-out
21 timer belonging to my own child who was born 11 days
22 after Brittany, and we sat and we sat through those 2
23 1/2 minutes. I won't ask you to do that, you'd probably
24 throw me out of the room. But imagine how long that is.
25 That's how long it took for that child to die. That's

1 how long he kept his mouth or hand or baby blanket over
2 that child's mouth. This was not an accidental murder.
3 This was a planned and premeditated. Not planned as in
4 the sense of today I'm going to get up and kill a 3-year
5 old. But when he put his hand or the blanket and there
6 was blood on the blanket that matched Brittany Rigg's
7 blood. When he put that object over her mouth, she
8 fought like a mad woman. And this is was a robust
9 child. That was the words of the pathologist. She was
10 a strong robust little girl. She was three, but she was
11 the size of a 5-year-old. And she was sturdy. This kid
12 fought for her life. That's why her frenulum was torn.
13 That's why she had, I don't know if her head was banged
14 by him, banging her head while he was suffocating her or
15 because she was fighting him, but she had three distinct
16 hematomas. The one over the left eye, the one on the
17 side of the head and a major hematoma on the back of her
18 head that was visible in the autopsy pictures. So she
19 was severely injured and she fought. That's what the
20 pathologist said. So this was a protracted killing. It
21 was not in the sense that Mr. Johnson has whitewashed it
22 that it was just an accident where I just put my hand
23 over her mouth to get her to be quiet. Now I know that
24 your job is not to reweigh the evidence. Your job is
25 not to find whether he's guilty or not. We assume he is

1 guilty. He is guilty. Your job is, is the defendant
2 still a danger to the community. And that's what you
3 need to look at and why I am here and why all those
4 folks are here is that our answer is he is a danger to
5 the community. Because in order to be safe out there,
6 he would have to accept what he did, look within inside
7 himself to find out what he did, why he did this and
8 what steps has he taken to prove that he will not do
9 this again. And he hasn't taken that first step. First
10 of all, I questioned the "confession", which was written
11 a day after he got notice of this parole hearing. Every
12 lifer knows that you can't walk in here and say I didn't
13 do it like he insisted during the jury trial, that he
14 insisted during hours of interviews with the Montclair
15 Police Department, which apparently he's insisted for
16 the last 16 years. He has to walk in here and tell you
17 guys he did it. But he's not going to tell you what
18 really happened. He's going to tell you it was an
19 accident. Therefore, since he didn't do anything, he
20 didn't do anything wrong, he doesn't need any therapy,
21 he doesn't need any help, he's fine. And what you've
22 got is the exact same person that walked in to these
23 prison doors back 16 years ago or 14 years ago because
24 the trial took two years, that's going to walk out that
25 door again. And he's made some steps to look good and I

1 agree that he's done a lot of the right things. I read
2 his file and he's gone to the NA classes. Anger
3 management, apparently there's one class, I may be
4 wrong, but it looks like he took one class in the last
5 13 years, six weeks or so. So will that solve his
6 problems. he's admitted that frustration is a problem
7 with him and you look at the pattern of behavior of
8 Chuck Johnson. You look at the violence and you look at
9 who is he violent against? Women and children. His
10 victims have been his own wife, which I greatly differ
11 with the psychologist report where, well actually it's
12 Mr. Johnson's own statement, he leads us to believe that
13 he still has a relationship. Angela has nothing to do
14 with him. She just never got around to getting a
15 divorce from him. His children have nothing to do with
16 him. His children don't want anything to do with him.
17 He doesn't have a relationship with them, but his victim
18 he used to beat that poor young woman, his wife. She
19 was his punching bag. When his mom got in the way, her
20 mom got in the way, she was the punching bag, and then
21 ultimately, Brittany was the punching bag. So we've
22 taken him out of a atmosphere, we've taken him out of an
23 environment where he has women and children, although
24 perhaps there's women COs out there, but we don't have
25 them in society where he can lash out against the most

1 helpless. And that would be my fear and I think your
2 fear that if you were to parole this man in the
3 situation he is now, there's no assurance that he won't
4 go back to the behaviors that he manifests prior to the
5 life crime. And alcohol, drugs, he had always denied
6 that drugs were involved. This is new that he's saying
7 that drugs were involved, but speed, methamphetamine is
8 a very dangerous drug. It makes people paranoid; it
9 makes people do bizarre things. And I questioned
10 whether a ten dollar an hour job with Sister Mary is
11 going to keep him out of trouble, is going to keep him
12 away from the stressors that lead to the life crime.
13 And then just to sum up, it wasn't an accidental crime.
14 It wasn't a situation where the rock slipped from my
15 hand. It's a situation where the rock slipped from my
16 hand 20 times. When you think about how she died and
17 what must have been going through his head and it was
18 all over frustration that this little girl just wouldn't
19 leave him alone. He got up, he was trying to do his
20 thing, he's trying to snort his speed, and this kid
21 walks in and she's annoying. Why not, knock, knock,
22 knock, Jennifer, Darin, your kid, you know, she's -- she
23 needs to be watched. At one point, he told the police,
24 I'm not a baby-sitter. At another point, he told the
25 police well I was trying to watch her so they could

1 sleep. He just told us he had a good relationship with
2 them. What he did just defies reason. And it makes him
3 dangerous. It makes him scary, even more scary than a
4 drive by shooter. That we can understand people do
5 that, they drive by and they shoot at each other, gang
6 members. We have a man who killed a little 3-year old
7 girl for no reason. What would have happened if
8 Brittany got a bump on her head, he'd knocked on the
9 door, I'm really sorry, the door accidentally hit
10 Brittany. Darin and Jennifer would have handled it.
11 They had a good relationship. So what he did makes no
12 sense. This case had bothered me for the last 14 years.
13 I've tried many murder cases. I've tried death row
14 cases. I have a guy on death row, but I keep thinking
15 about this case because I never understood why. And I
16 still don't understand why. And I think it would be a
17 terrible thing to put Chuck Johnson in his current
18 situation back on the street. Thank you.

19 **PRESIDING COMMISSIONER LABAHN:** Thank you.

20 Mr. Skidmore?

21 **ATTORNEY SKIDMORE:** This kind of case is
22 particularly difficult from a defense standpoint. As
23 for the offense, I see nothing that contradicts the
24 district attorney's rendition. But we are duty bound to
25 look at improvement if there has been any. And I'm --

1 what has the inmate done since the offense to make the
2 rest of us feel secure that he could either now or ever
3 be let out. And he has -- we have someone who has
4 gotten consistent praise from spiritual guidance people,
5 from working people, and from people in -- who might not
6 have had a work relationship, but have been in the
7 facility, justice system. People who -- and from the
8 academic situation, what goes beyond giving report
9 cards. So he has impressed a number of people with his
10 character responsive to the community and outside
11 pastors. Now I'm concerned as the DA is, which is a
12 reaction to frustration. But certainly in the academic
13 studies on the job s and in relation to various
14 authorities in the institution he must have suffered
15 frustrations and disturbance of some kind. And if he
16 were consistent or likely to fly off the handle or had
17 serious problems with anger, it would seem to me that
18 people would not have been able to submit the number of
19 laudatory chronos and laudatory information from the
20 institution academic areas and so forth. For what were
21 the triggers of this offense, we have the anger
22 management. There's been some anger management classes,
23 but he's gotten older and as I said functioned in the
24 outside humanities that I've noted. Plus he had as the
25 DA recognized, methamphetamine, which aside from making

1 one paranoid, so he's been awake. So we have a lethal
2 combination of alcohol which is a inhibit -- which
3 reduces one's inhibitions. And sleep depravation, which
4 lessens one's ability to out -- to respond rationally.
5 Am I excusing the behavior because of methamphetamine
6 and alcohol? No, I am not. Saying that addressing his
7 substance abuse will a long way to addressing the --
8 this Board's legitimate concerns as will he re-offend.
9 The gentleman has parole plans and it's significant that
10 he's going to a structured community rather than trying
11 to go directly on the outside. I think this is
12 commendable. He's not trying to go back into the same
13 situation. So we have someone with a relatively minor
14 disciplinary record while he's been here. So he has
15 evidenced some degree of ability to cooperate with rules
16 and so forth. This is his initial hearing. I would be
17 remiss in saying that he's ready for parole even though
18 I'm here to advocate on his behalf, but the situation is
19 not as dark as the life offense considered by itself,
20 which suggests and in many areas, Mr. Johnson is on the
21 way out. Thank you.

22 **PRESIDING COMMISSIONER LABAHN:** Thank you
23 Mr. Skidmore. Mr. Johnson, this is your opportunity to
24 address the Panel should you wish to do so, we'd be
25 happy to hear from you.

1 **INMATE JOHNSON:** I wrote a statement prior this
2 week. But due to recent -- due to today's
3 enlightenments and new faces that I haven't seen in a
4 while, I feel there's a lot of doubt that people can
5 change. I've learned as ironic as it would be, in
6 prison no less, that people can change and people can
7 believe in people. The first things I learned in my
8 self-awareness is that people do have compassion.
9 People do have humanity. And it's always stuck with me
10 and it's lead me to believe my motto is actions speak
11 louder than words. Sixteen years ago, I was a totally
12 different person. I took and took. I was spoiled and
13 rarely gave anything back and when I did it was more for
14 the act of doing it. Like a responsibility, like it's
15 my turn. I don't want nothing no more. I want to
16 parole. I've changed my old thinking process. I don't
17 want to be spoiled no more. I want to spoil other
18 people. I want to -- as cliché as it sounds, I want to
19 return what I've taken (sic) away. I can't do that.
20 Nobody can. I'm sorry that it happened. I don't expect
21 to be forgiven. Brittany Lynn Rethorn-Riggs, she was
22 just an energetic child. I remember that she smiled
23 real easy and laughed a lot. And I have a list of
24 people that I've harmed and hurt, destroyed. But
25 October 9th, '93, there was smiles and laughter I took

1 away from everybody forever that anybody possibly could
2 take away from her or anything she could have gave to
3 them, I took that away from them. I've learned that I
4 could be much happier giving to others. It's better to
5 give than receive. That's a cliché, I know I believe
6 it. I believe that giving makes me feel better because
7 it's a selfless act in itself. It makes me feel good to
8 give you something. I've learned and it's a life guide
9 right now that my feelings control my thoughts. My
10 thoughts dictate my behavior. I don't think the same as
11 I did 16 years ago, 17 years ago, 18 years ago. I
12 admit, and I'm not ashamed to admit that I have things
13 to work out. I learn something new by myself everyday.
14 During my education in self-help, I've learned that --
15 I've learned a new insight to life. It's thinking can
16 develop over time, can create bad habits and good
17 habits. I've took a lot of self-help, I'm not going to
18 start bragging on that. I can assure you that if found
19 suitable for parole you won't be -- it won't be a risk.
20 It won't -- you won't regret it. There's -- I've
21 enhanced my communication skills and I can be a people,
22 I can be the person that everybody wants to be. I have
23 a niece who's 19. Brittany would have been the same age
24 as my niece. And everything I see my niece I -- or
25 think of her or write her, I think of Brittany. I think

1 of Brittany a lot. I have trouble forgiving myself for
2 what happened, for what I did. I didn't admit it in the
3 past because I was ashamed. What I did that day in a
4 home of security, a home that's supposed to be safe, I
5 destroyed that. I didn't know what I did then, but I
6 know it now. People can change, I have changed. If I
7 have to I'll prove it to this Panel, I'll prove it to
8 the Board, I'll prove it to people that are interested.
9 I'll prove it to them. I'd like to try. I'm not afraid
10 to try. The only thing I'm afraid of is looking some
11 people in the face, but I want to take away that fear, I
12 want to be able to look at people in the face and like
13 who I am. I don't know how to apologize to somebody for
14 something I did. Some people don't believe, or do
15 believe I'm whitewashing the facts. I'm not
16 whitewashing the facts. I didn't tell the truth because
17 I was under some advice from other people that we --
18 what you haven't said won't hurt you. Just, you're not
19 taking the stand, you just don't -- because you're not
20 going to open the windows. You're not good at this.
21 I'm not afraid to open windows. I'd like to write the
22 DA, Ms. Schmauss and hopefully my letters reach those
23 who I intend to read them and I can rectify some
24 feelings maybe. Help people find closure if anything
25 and that's what means most to me. This parole panel is

1 here about me paroling. But yesterday and today and to
2 me it's been about them, Jennifer Rethorn and Darin
3 Riggs and both families. It has nothing to do with my
4 kids, it has nothing to do with my wife.

5 **DEPUTY COMMISSIONER MITCHELL:** Mr. Johnson, I'm
6 somehow confused about, you're telling us that you're
7 suitable for parole and you're over talking about
8 something totally different.

9 **INMATE JOHNSON:** Yeah, I'm kind of -- there's a
10 lot in my heart and my head right now I want to say and
11 I just -- I'm babbling right now. I've took parenting
12 classes, I've took health classes -- self-help classes
13 and I've took anger management. All these and more,
14 they've all helped me to see some good advantage in
15 life. To take advantage of these, I'm trained my mind
16 to work in different -- to think differently, to think
17 with more philosophically. When I took philosophy in
18 college, for the first time in my life I've been
19 enlightened. There's more than one way to look at a
20 point. We all have the same values. We're all just
21 trying to get to the same goals. So my academic
22 education has helped me grow too. To ensure you that I
23 won't fall in the old same habits, I've committed myself
24 to self-help by changing the thinking process in my
25 mind, which is providing me with more motivation to

1 grow. Grow my awareness about myself, and become able
2 to practice my self-control and deal with both good and
3 bad. I'm not going to let myself down. I'm not going
4 to let you down or I'm not going to let anybody who has
5 faith in me down. I guess that's all I can -- have to
6 say.

7 **PRESIDING COMMISSIONER LABAHN:** Thank you,
8 Mr. Johnson. Who would we like to have go first? Are
9 we still -- is everyone still good to continue? Nobody
10 requesting a recess at this point? While you're
11 electing the person, that's fine. What I'm going to
12 suggest is that our district attorney rep move a
13 little --

14 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Sure.

15 **PRESIDING COMMISSIONER LABAHN:** -- to the east
16 and Jennifer if you move a little bit what I believe is
17 the north, if we move the microphone up there there will
18 be room for us to have someone sitting there with access
19 to the mic. Thank you.

20 **DEPUTY COMMISSIONER MITCHELL:** Then you are
21 speaking to the Panel? Very good.

22 **MS. PAMPLIN:** Yes, I am speaking to the Panel.
23 Good afternoon. Again, my name is Michelle Pamplin,
24 that's P-A-M-P-L-I-N. And if the Panel would be so good
25 if I may read two more letters that were not in the

1 previous readings.

2 **PRESIDING COMMISSIONER LABAHN:** Please.

3 **MS. PAMPLIN:** I have one from my niece, Susan
4 Turner. It says:

5 "I am writing in regard to the above
6 matter on behalf of not only the family
7 of Brittany Lynn Rethorn-Riggs, but my
8 family as well. The members of the
9 Pamplin family have suffered greatly
10 due to Chuck Johnson's erratic and
11 violent behavior. As sad as the loss
12 of Brittany's life has been for
13 everyone, we also have suffered losses
14 of another kind. After marrying him,
15 we watched my cousin Angel's life
16 change from a normal creative talented
17 young lady and loving mother to become
18 a drug addicted homeless woman, not
19 only capable of not being able to care
20 for herself, but for her three children
21 as well. All due to the emotional,
22 mental, and physical abuse suffered by
23 her at his hands. They had two sons
24 while together that as a family we have
25 had to watch suffer many losses. Not

1 only have they had to deal with the
2 fact that their father was a cold-
3 blooded child murderer, but then faced
4 the loss of their mother due to her
5 problems created by the inmate. My
6 uncle and aunt have had guardianship of
7 them since 2002. The two boys have
8 been in and out of counseling since
9 that time and have many issues that
10 need to be dealt with at a professional
11 level. I only hope that with a loving
12 and concerned family standing behind
13 them they will be able to break the
14 abuse syndrome of loss lives. The
15 inmate has impacted several families
16 who will suffer the consequences and
17 losses for the rest of the their lives.
18 Brittany Lynn will never get a second
19 chance. We need your help in making
20 sure that Chuck doesn't get one either.
21 We ask that you please help keep our
22 family safe. His violence didn't begin
23 with Brittany's death, but lets make
24 sure it ends there. Please keep him in
25 prison for the rest of his life. We

1 all know where Brittany will spend the
2 rest of hers, Rose Hills. Thank you
3 for taking the time to read this and
4 considering that the inmate does not
5 warrant or deserve any kindness or
6 parole. Make him serve his full
7 sentence. Respectfully yours, Susan D.
8 Turner."

9 The next letter that I would like to read is
10 from my son, Brent Pamplin.

11 "My name is Brent Pamplin. I am now 24
12 years old and the proud son of Michael
13 and Michelle Pamplin. By legal notary,
14 Chuck Edward Johnson's brother-in-law.
15 I speak on not just the case of little
16 Brittany Lynn, but the overall and
17 everlasting effect that the inmate has
18 left on our community. I have
19 personally seen many terrible situations
20 in my short life, but none can ever
21 shadow the effects that the inmate
22 caused toward my family. His decisions
23 and choices as an individual have put
24 him where he is today. Many people who
25 have had contact with him have become

1 victims. Not just the victim from a
2 physical violence, but mental pain and
3 suffering including one who paid dearly
4 with the cost of her young life. My
5 sister and his wife, Angela N. Johnson
6 have two beautiful sons together,
7 Travis now 17 and Nicholas now 16. On
8 which the day that Travis was born, she
9 delivered with black eyes and bruises
10 and a split lip. Angela who was once a
11 near perfect student had dropped out of
12 school within a year after meeting the
13 inmate. His influence had completely
14 changed who she was. The spiraling
15 downfall of my sister has brought her
16 to the lowest point during those
17 periods that life can never offer.
18 Everything from a job, from drugs,
19 narcotics, living on the streets,
20 having nowhere to go, eating from the
21 garbage and being unable to hold a job.
22 Within the last couple of years, she
23 has begun to stabilize her living
24 condition and is now being able to hold
25 a job for some time. I've seen his

1 explosive anger on many occasions,
2 physically striking and shoving my
3 mother, forcing my elderly grandfather
4 to the ground while kicking and hitting
5 him with both opened and closed fists.
6 Even as far as restraining his wife so
7 she couldn't defend herself while
8 striking her repeatedly while she was
9 pregnant. On one occasion, he had
10 struck my mother with a telephone in
11 which she had suffered a laceration to
12 her head that needed medical attention.
13 I had personally viewed all of this by
14 the time I was eight years old. Both
15 sons, Travis and Nicholas have many
16 personality and emotional and mental
17 disorders, which their psychiatrists
18 have concluded may stem from their
19 father's actions because of what he has
20 done. These two young boys do not know
21 what it's like to have a mother and a
22 father, not even a mother. Their
23 grandparents are pretty much taken over
24 that role. It is very difficult for me
25 to respond to a young child when they

1 ask what it's like for me to have a
2 mother and father in my everyday life.
3 My family has nearly fallen apart on
4 many occasions because of this
5 individual. No family should ever be
6 put through the tears and heartache
7 that these families have went through.
8 There is nothing I can truly say that
9 would come close to expressing the pain
10 and sorrow that the inmate has caused
11 for many families, but let me remind
12 everyone that the reason we are all
13 here today is because one family has
14 paid dearly with the loss of their
15 daughter by the hands of the inmate.
16 It's been 16 years and two months,
17 that's roughly 6258 days since Brittany
18 was murdered. Imagine if the inmate
19 wouldn't have made that horrible
20 choice, Brittany could have had 16 more
21 birthdays, 16 more Christmases, and
22 would have had thousands of memories
23 with her mother and father, instead she
24 had less than four years. If Chuck
25 Johnson is to be released on parole,

1 our families would be constantly
2 looking over our shoulders knowing that
3 because of the life threats toward us
4 before being incarcerated, we amongst
5 others would be living in fear during
6 our daily routines. Knowing that one
7 person can bear a heart so cold to
8 murder a child and then attempt to hide
9 her body. Why would be it be so
10 different do to the same to an adult?
11 I thank you for taking the time to read
12 this letter. I pray the right choice
13 will be made. Sincerely, Brent
14 Pamplin."

15 I thank you again for letting me read those. I want to
16 touch base on my history with the inmate. Actually my
17 family as a happy unit starting falling apart in early
18 of '92. It really started falling apart May 9th, of
19 1992. That's when my daughter married the inmate.
20 Throughout their entire relationship, she had been
21 beaten and hit. She was almost caused to have a wreck
22 and caused bruises. When she was driving a car, he
23 tried to take the wheel out of her hand at the time as
24 she almost had an accident. She again delivered my
25 oldest grandson, Travis, who's 17, with two black eyes

1 and split lips from a beating that he had given her a
2 day or two before his birth. When he hit me on December
3 4th 1992, I had went up, I had received a call from our
4 daughter. My husband was waiting at home because
5 paramedics were on the way to his father's house because
6 of a heart attack. I went up to try and bring her and
7 the baby home to safety and that's when I was struck by
8 the phone. He has threatened my life several times as
9 well as he had threatened my daughter's life. We lived
10 constantly in fear of what was going to happen, not if
11 something was going to happen, but just when it was
12 going to happen. Unfortunately, typical of a battered
13 woman syndrome or being beaten she refused most the time
14 to press charges. He could always talk her out of it.
15 There were within the year preceding Brittany's death,
16 seven counts of abuse against my daughter, not even
17 including my own. Again, the courts seemed to fail us
18 because he got a slap on the hand because it went from a
19 felony to a misdemeanor on my case. And I pray everyday
20 that it could have went differently, that violence could
21 have stopped there with me, rather than with Brittany,
22 had the judge made the right decision, had the courts
23 seen it differently, again had the police department
24 made the right decision, we may not all be here today.
25 It wasn't however, but I implore you that his violence

1 hopefully will stop here. We spoke earlier. I know
2 when you mentioned reading of his life of crime earlier
3 on his life, and you said that you found some records
4 that only went so far back when he was up to a certain
5 age. That might possibly be because his birth name is
6 not Chuck Edward Johnson II; his birth name is Earnest
7 Garfield Riley, Jr. And he changed that legally to his
8 stepfather's name after he turned 18. He himself looked
9 me in the eye in my kitchen one day and wanted to know
10 why I was being nice to him, that he was, 'one mean, no
11 good,' and he wondered why. He says nobody had ever
12 been nice. And he says, 'In a drug deal in Colorado, I
13 slit a kid's throat.' He says, 'And you can be nice to
14 somebody like that?' My daughter tried and tried to
15 make what she thought or dreamed of as a dream marriage
16 work. Again, countless times she pleaded for us to try
17 and forgive and look past the bruises and turn our heads
18 away and allow her to keep her relationship. Not that I
19 would have wished it on anyone, but for the grace of God
20 it could have been either one of my grandchildren
21 because the oldest had been at their home, I believe the
22 week or so before. My youngest grandson, the day the
23 inmate was arraigned for murder turned a month old. I
24 pray that they stay safe. My husband is going to read a
25 letter from the youngest grandson soon. The boys are so

1 confused. They have been in and out of counseling since
2 we've had them. They have so many emotional problems,
3 bipolar, stress disorder, they can't even attend high
4 school on a regular basis. They're on a home study
5 program and an independent study program. My oldest
6 grandson couldn't even write a letter although he wanted
7 to, but his anxiety and his nerve level sends him into
8 high stress disorder and migraines. As far as my
9 daughter, she knows that their relationship was over
10 before he was incarcerated. That's why her and the two
11 babies were living with us. I asked if she would write
12 a letter regarding this parole hearing. And she cried
13 on the phone and she says, 'I can't, Mom. I can't open
14 that door again.' She says, 'I almost didn't survive
15 the last trip through that door with him. My life
16 became hell. I had no life. I lost my kids, I lost
17 myself. I can't go through that door again. The only
18 communication or statement that I want to make is if it
19 can be given to the inmate through his attorney, is my
20 current new address so divorce papers can be sent to
21 that address.' Thank you very much.

22 **PRESIDING COMMISSIONER LABAHN:** Thank you.

23 **MR. PAMPLIN:** My name is Michael Pamplin. I'm
24 Chuck Edward Johnson's father-in-law. I have a letter
25 I'd like to read from my grandson, his youngest son. I

1 would just like to say as a personal, that these two
2 young boys, I've become a mentor towards their lives
3 now, got them involved with scouting and I'm not their
4 father, but I became a dad and tried to carry them as
5 much as possible. Pardon me, my emotions are running a
6 little high here, so I concur with my wife in everything
7 that she has done. She's been a stone, my stone and
8 their stone as well as a solid rock foundation. Now, if
9 I may, I'll read this letter from my youngest grandson.

10 "Dear Commissioners, I'm writing you
11 regard to the parole hearing of Chuck
12 Edward Johnson. My name is Nicholas
13 Johnson. Unfortunately, I am his
14 youngest son. I have never had a
15 relationship with him and I never plan
16 to. All I would like -- I would also
17 like you to know that I'm in the
18 process of legally changing my name
19 from Johnson to Pamplin, which is my
20 grandparents' name. They have
21 guardianship of three kids and they are
22 the reason we are having a normal life.
23 I want to change my name because I
24 don't want any connection to do or
25 anything to do with him whatsoever. To

1 me he's nothing but a waste of a human
2 flesh. He doesn't deserve to be let
3 out of prison. He deserves to rot in
4 his cell for the rest of his life
5 because there was a little girl who
6 never got to live the rest of her life
7 because of him. She never had a chance
8 to have a first day of school, or have
9 a childhood that she deserved. But for
10 the Grace of God, his victim could have
11 been my brother or I instead of
12 Brittany. The day I turned a month
13 old, he was arraigned for her murder.
14 Knowing my birth father is a cold-
15 blooded murder has caused many
16 emotional problems. I have been in and
17 out of counseling for several years,
18 will be for many years to come. One of
19 the biggest things in my life has
20 caused the most emotional damage on me
21 is, 'will he ever get out of prison?'
22 'Will I ever come face-to-face with him
23 ever again?' Please keep him in prison
24 for the rest of his life so he doesn't
25 do any more damage to any other family.

1 I don't want any other family to go
2 through what my family or Brittany's
3 family has gone through. I can't
4 stress this enough. Please, please
5 keep him in prison. Thank you for
6 taking your time to read this.
7 Sincerely, Nicholas Johnson."

8 **PRESIDING COMMISSIONER LABAHN:** Thank you.

9 **MS. RIGGS:** My name is Lynn Stanton-Riggs. I am
10 the Godmother and aunt of Brittany Lynne Rethorn-Riggs.
11 I'm also a college professor who teaches child
12 psychology and has a Ph.D. in human development, but
13 none of that matters here today. I only bring it up
14 because I know a lot about children and families and how
15 violent crime affects families. As I thought about what
16 I wanted to say today, I thought about what I teach my
17 students to help them understand what children need to
18 grow up to be healthy and happy. And there is a theory
19 called Maslow's hierarchy of needs and I want to frame
20 my statement today using that theory. Maslow's first
21 theory is that we all have physiological needs. It's
22 the very basic needs that we all have for food and water
23 and air. The inmate took Brittany's air from her. He
24 took her air. The second level is safety needs. The
25 inmate has taken feelings of safety from all of us for

1 all of these years. I don't know that any of us have
2 felt safe in the same way that we did before Brittany's
3 murder. The third level is belonging needs, or
4 affiliative needs and these are needs for belonging to a
5 group. For most of us that is a family. And the inmate
6 took that from Darin and from Jenny and from all of us.
7 He took from us that opportunity for a life with
8 Brittany. The fourth level is esteem needs, which have
9 to do with feelings of accomplishment and self-respect.
10 And when I thought about 3 1/2-year-old Brittany, I
11 thought about a child who won't have the opportunity
12 learn to play the piano, or play on a soccer field or
13 make her first goal. All of those things were taken
14 from her and from all of us. We won't see her in her
15 first prom dress or see her walk across the stage and
16 receive her college diploma. And the highest level is a
17 level called self actualization. This is where human
18 beings reach their full potential. The inmate has taken
19 not just from the family, not just from all of us, but
20 from the community and in deed the world at large. The
21 potential of who knows what. Brittany could have grown
22 up to be a doctor that cured cancer, a peacemaker, any
23 number of things that would contribute to this world and
24 make it a better place. We have all been robbed of the
25 most precious gift imaginable. A life with our

1 beautiful Brittany. The world has been robbed of the
2 intelligence and the love and the innocence of a child.
3 Please consider giving to Brittany's family the true
4 gift of this season, the knowledge that her murderer
5 will remain behind bars for the duration of his life
6 sentence. Thank you.

7 **MR. LUNDY:** Good afternoon. My name's Jerry
8 Lundy, L-U-N-D-Y, I'm Jennifer Lundy's husband. I have
9 a statement of myself and I also have a statement of our
10 children's that I'd like to read. Let me start off with
11 the oldest. Her name is Caitlin Lundy. This would have
12 been Brittany's sister. This is her statement:

13 "I think that the inmate should stay in
14 prison for the rest of her (sic) life
15 because he may hurt or murder more
16 children if he gets out. He should
17 stay in China because he can't hurt any
18 Americans. I feel that this is a very
19 mean man. I've seen Angel Brittany's
20 grave and it's sad for my mom. Would
21 you please make sure he stays in prison
22 because he does not deserve. I feel
23 that Angle Brittany was a sweet little
24 girl. I wish I'd gotten to know her
25 and had a big sister. I'm scared that

1 he will hurt our family or his sons.
2 It's been very hard for our family
3 thinking of the parole hearing and for
4 Brittany's murder since my mom's
5 birthday in August. When she told me
6 about the parole hearing and Brittany's
7 murder, I felt threatened if he gets
8 out I will be murdered too. It would
9 be better for life and for me and my
10 family that he stays in prison. Would
11 you please wait many years for the next
12 parole hearing? Caitlin Lundy, age
13 11."

14 The second one is our oldest boy, set of twins. Brian
15 Lundy, he's age nine. It says:

16 "Dear Commissioners, do not let Chuck
17 Johnson out of jail. I don't want him
18 near my family. I'm afraid of him and
19 I want him to stay in jail forever."

20 This is from our daughter, McKenzie.

21 "I feel that Chuck Johnson needs to
22 stay in jail because I don't want him
23 to kill anyone else. Everyone will be
24 safe if he stays in jail. If you let
25 him out, make sure that he stays away

1 from us. I feel really sad that my
2 Angel Brittany is not here for us. I
3 miss her and the chance to have a big
4 sister. What he did to Angel Brittany
5 should keep in jail for the rest of his
6 life."

7 The last statement is from our youngest son, Justin,
8 who's age eight.

9 "I feel very sad for my older sister.
10 Angel Brittany died. Can you keep him
11 in jail forever? He did a very bad
12 thing."

13 Three of our children have autism. Our oldest daughter,
14 Caitlin, has high anxiety over this. She's very scared.
15 This weekend we went to Brittany's grave to take her
16 Christmas flowers and it took us over an hour to get our
17 daughter in the car because she was so afraid to go
18 there because she thought she'd die too. This is my
19 statement. I never believed this day would ever come.
20 Jen had always told me that it would, but I didn't think
21 it would. I met Jen 13 years ago. Shortly after, Jen
22 told me the story about Brittany. This has impacted
23 everyday of my life. My birthday is a few days before
24 Brittany's and my Brittany has never been the same
25 since. Jen has always attempted to make my Brittany

1 fun. Most of the time Jen has a hard time having fun
2 when it's around Brittany's birthday. We spend every
3 birthday at Rose Hills visiting her grave. Explaining
4 the pink rose in Jen's wedding flowers on our wedding
5 day and telling what it meant on my wedding day to my
6 family was an uneasy thing to do. Every aspect of my
7 life has a link to Brittany. From the first day my
8 elder kids school, to going to the park and all the
9 holidays. I'm not Brittany's father, but this has been
10 really hard for me. Please keep Chuck in jail for the
11 full term of his prison sentence. Please do not let
12 this child murderer go. Please keep my family safe.
13 His plan for his parole is to be let out into a halfway
14 house in Los Angeles, which what I understand is
15 approximately 18 miles from my home. He was from what I
16 understand today, that he was on parole at the time of
17 this offense. Please do not give him another chance to
18 do it again. Thank you.

19 **MR. RIGGS:** Darin Riggs, R-I-G-G-S. I'm
20 Brittany's father. This is not a day I've been looking
21 forward to by any means. But just to start off, if
22 somebody has quite the remorse that he keeps saying he
23 does, you would think he would have the dates correct.
24 She was killed on October 10th. He said, October 9th at
25 least three times. That just tells me he doesn't have

1 quite the remorse if he doesn't even know what day it
2 actually happened. Sixteen years ago, October 10th, the
3 inmate took the life of my daughter, Brittany Lynn,
4 changing my life and the life of Brittany's entire
5 family and their friends and families forever. The
6 dreams that we had for her were killed on October 10th.
7 Her mother and I did not give -- did not get to take her
8 to the first day of school, help her with homework,
9 study for any tests, advance her through school,
10 practice sports, Girl Scouts, play music, dance, any
11 other numerous activities that we know she would want to
12 do. I did not get to intimidate the first boyfriend,
13 get to know her friends that would love her or give her
14 away at her wedding to the one of her life. I never
15 felt the pride of Brittany graduating from any school,
16 elementary, middle, college, any of that, becoming a
17 proud member of society. The inmate took that on
18 October 10th from all of us. My two children that are
19 alive know that they have a big sister up on heaven and
20 looking over her, but never knew their sister. I have a
21 Thanksgiving card here that my son wrote out, not to my
22 knowledge back in November of '06. This Thanksgiving
23 card was made by my son when he was eight years old,
24 wishing Brittany a happy Thanksgiving with our Lord,
25 Jesus Christ. When I'm asked how many children do I

1 have, I stutter, how do I answer? Do I say I have three
2 children, explain the oldest was murdered, dealing with
3 the horror and dismay and the looks that I get, or do I
4 say I only have two children and feel like I'm
5 neglecting my first child and the love that I have for
6 her. Her grandparents, aunts and uncles, everybody have
7 the same issues, missing her everyday, every year. The
8 children she would have given birth were also killed
9 that day by the inmate. He made the decision to silence
10 my little girl on October 10th 1993 and took all these
11 things away from Brittany's family and friends. Yes, I
12 believe that he made a conscious decision in stopping
13 Brittany from breathing and then trying to conceal it
14 with a -- and had done by doing her body -- burying her
15 body under dirty clothes in his closet. I did not
16 believe that any person that could murder and inmate
17 child -- or could murder a child, an innocent child
18 deserves to be released from prison and have an
19 opportunity to live free in society. The inmate's
20 sentence for 25 to life in prison, not a mere 17 years.
21 If he's released on parole he -- you are saying that his
22 life is more valuable than our daughter's. If released
23 he will have the opportunity to experience all the
24 things with his own children that they -- that he took
25 away from me and my family. Even though he does not

1 physically present in the children's live he is able to
2 see pictures of them growing up. I get to go see my
3 child up in Rose Hills and visit her in the baby
4 section. I pray that the Parole Board not to release
5 this murderer. He took my daughter's life and changed
6 the lives of the family and friends forever. He was
7 convicted of first-degree murder and deserves to stay in
8 prison for the rest of his life because he took
9 Brittany's from her family for the rest of her life. In
10 addition, please set the next eligible parole date for
11 the maximum allowed by law. Also, just his own attorney
12 states that he is not ready to be released at this time
13 according -- in actuality I believe it would be very
14 difficult to find a job in today -- I mean there are
15 many people that can't find jobs that have job skills
16 that don't have the background that he has. I just
17 can't -- as somebody that has to deal with hiring, we
18 don't hire anybody with any kind of a background. And
19 you get a background like his, I just don't see people
20 wanting to hire him. He's not going -- in today's
21 society, too many people with too many job skills that
22 are looking for work. And it's easy to stop drugs and
23 alcohol when you're in an institution where it's not
24 available to you and when it's back out on the street
25 and it's back available to him, how easy is it going to

1 be to get back into it. Knowing -- going through a
2 parent that has gone through alcoholism and watching him
3 fight with a legal drug that he had to fight for and
4 against. I'll give you this letter to read in
5 confidential also. This is a letter that was written
6 and actually by Lynn or Godmother at her funeral and I
7 just -- I'm not up to reading that one right now.

8 **PRESIDING COMMISSIONER LABAHN:** I will be happy
9 to receive that.

10 **MR. RIGGS:** Okay. Thank you.

11 **PRESIDING COMMISSIONER LABAHN:** Thank you,
12 Mr. Riggs.

13 **MS. LUNDY:** Good afternoon. I'm Jennifer Lundy.
14 I'm Brittany's mom. I'm going to start off with how
15 shocked I was to receive the notice for a parole hearing
16 today. Today is 16 year and 49 days since the day he
17 killed her. I knew this day would come. I never
18 expected it this soon. I then had to contact Darin,
19 Brittany's dad. We haven't spoken since the sentencing
20 in 1996. But it was the right thing to do. I've
21 thought long and hard, I've had three months to prepare
22 for this day. The impact that it has had in my life
23 sent me back to counseling. My nightmares are back. My
24 fears are back. I never knew even though I have
25 functioned in life, I have an amazing family, I have

1 moved on, Brittany is with me everyday, in every
2 decision I make, I'm a different person. I'm a
3 different mom. My children don't get to play in the
4 front yard. My children don't get to go to neighbors'
5 house and sleep over. I don't trust my children at my
6 mother's house without me there because I'm in fear of
7 the one thing, their life. I let this inmate end my
8 daughter's life and he took it without reason. It's a
9 really hard thing. It's a really hard thing to sit her
10 and listen and know that this is the same man here today
11 telling you all these wonderful things about how he's
12 changed. I had a conversation with him on October 9th.
13 That's the date before the day before he killed my
14 daughter. I was home, Darin was at work, Chuck was in
15 and out all night. I did not know what drugs were. I
16 did not know what alcohol was. He to me was not
17 impaired that night. I sat down with this man as he was
18 talking to me about wanting to improve his life and
19 prove his relationship with his wife and his two sons.
20 We talked about it. He told me he was impressed on how
21 Darin, Brittany, and I were as a family. He knew we
22 were happy. That same person is sitting here with the
23 same words today. But the next morning Darin and I work
24 up to a noise, but it wasn't a noise of my daughter
25 crying out for help. My bedroom door was right next to

1 the bedroom door he says he slammed her head into. Our
2 closets connected to each other. My daughter never
3 cried. My daughter never yelled for mom. If we would
4 have heard that, maybe we wouldn't be here today. I
5 heard him killing her. I heard the struggle, but we
6 didn't know what it was. I live with that everyday.
7 Sitting here seeing this man today say the things he has
8 said I don't believe him. He wrote that statement after
9 he received the notice of this parole hearing. He's had
10 16 years. He had 2 1/2 years without drug and alcohol
11 while he was incarcerated. He got arrested the day
12 after he killed her. His defense was and he supported
13 his defense attorney was to blame me. I spent 2 1/2
14 years having a defense attorney accuse me of killing my
15 daughter, leaving messages on an answering machine. His
16 mother, his sister, having them give me dirty looks and
17 say things. To this day, this inmate says he has his
18 sister's support. Well, I'll tell you what his sister
19 is saying. She e-mailed Michelle Pamplin when she found
20 out what we were doing in trying to get the family
21 support and everybody's support because of what this man
22 did. She e-mailed Michelle and said, I'm crazy. I'm
23 the one that hurt my daughter and they have proof.
24 Again, and again for the last 16 years until today this
25 man has blamed me. I hid her body, I blamed it on him,

1 I planted the blanket that has her blood that she was
2 killed with. He hasn't taken accountability. He hasn't
3 changed. We trusted him. He was able to come into a
4 room and tell us he's this great guy. Well a great guy
5 doesn't beat his wife. I didn't know. I didn't know he
6 was on drugs. I didn't know he was on alcohol. He
7 didn't act that way. My fear is, you're going to sit
8 here and believe how his self-help has helped him. And
9 he's going to walk out these prison doors and he's going
10 to go back to the life he had. He's going to go back to
11 drugs, he's going to go back to alcohol. If his sister
12 can still e-mail and say that it's my fault her
13 brother's been in prison for his whole life. Where's my
14 safety. He blamed me for so long. Is he coming after
15 me. That's the type of person Chuck Johnson I learned
16 to be. I had to read facts over and over, statements,
17 I've read the whole police file and I reviewed it for
18 today. There are statements there that there were
19 people saying that he's told a cousin that if he was
20 drunk, high one night, they were sitting around, he said
21 if I ever killed a child, I would strangle them. he
22 killed a child. He killed my daughter. And he
23 strangled her. I don't believe him. He could take as
24 many classes as he wants. He can sit here like he
25 snowed us and snow you, but his history and his past

1 shows what type of man he is. He's going to what, a ten
2 dollar an hour job, where is that going to get him?
3 That's not going to pay for rent. What's going to
4 happen. He was in a desperate situation because he had
5 no place to live. That's how he came into our house.
6 And I gave him, we gave him safety, security, a place to
7 live and what's his payment. He kills my daughter.
8 What is he going to do then? What is he going to do for
9 the person that helps him? He's expecting society right
10 now when he gets out to go to a religious Catholic home
11 and put faith in that place to trust him and to give him
12 the new opportunity on life. I gave him that new
13 opportunity on life once. And a 3-year-old child lost
14 it. He can't get out to do it again. I feel for
15 Michelle, her family, his kids. This man won't stop.
16 And the only way he's going to stop is if you keep him
17 here. I think that's all I have to say, but I'm going
18 to leave my statement with you to read, which I had
19 prepared and some pictures of Brittany, to know who she
20 was. This is Brittany at one month of age. And then we
21 had Brittany at six months. This was her first
22 birthday. This was her second birthday. I made this
23 dress. I don't have that opportunity to do that again.
24 I can't make my kids' clothes. I don't sew anymore.
25 This is her last picture. I brought this one because

1 this is the picture that got released to the media.
2 This is the picture that reminds everyone in the
3 community that knows of what this man did, reminds them
4 of my daughter. This is her death picture. This is
5 what she had to become because of him. This should have
6 been a picture we treasured and honored and looked back
7 and embarrassed her by down the road. This shouldn't
8 have happened. But I have all faith that he's not
9 ready. I don't know if he'll ever be ready in my eyes.
10 But I'm going to sit her again and again and watch this
11 man, but this is the man sitting here today that was the
12 man that I trusted in my home. I watched him for 2 1/2
13 years after the trial. We went to every court date,
14 every hearing. He wasn't this nice. He doesn't - I
15 need time. We all need time. Society needs time. And
16 I ask that you really consider hardly how much more time
17 before we go through this again. That's what I ask of
18 you today. Thank you.

19 **PRESIDING COMMISSIONER LABAHN:** Thank you.

20 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** I have a
21 quick question. I notice that the autopsy protocol was
22 not part of the file. It's too late to put anything
23 into the file. What's the --

24 **PRESIDING COMMISSIONER LABAHN:** I have a large
25 chunk of the coroner's report in my Board Report and I

1 did review that prior to this hearing.

2 **MS: BALDWIN:** Okay. So in the future, if there
3 is a future, then I would be sending these to --

4 **MS. LUNDY:** Yes, to (indiscernible).

5 **MS: BALDWIN:** All right. Thank you. That's it.
6 I'm sorry.

7 **PRESIDING COMMISSIONER LABAHN:** Do we have any
8 other speakers?

9 **MS: BALDWIN:** No.

10 **PRESIDING COMMISSIONER LABAHN:** Okay. Very good.
11 With that, it is 18:05 and this Panel will recess for
12 deliberations.

13 **RECESS**

14 **--o0o--**

15

16

17

18

19

20

21

22

23

24

25

26

CALIFORNIA BOARD OF PAROLE HEARINGS**D E C I S I O N**

DEPUTY COMMISSIONER MITCHELL: It's 18:45 hours.

All parties have returned to the hearing room and we are back on the record. Mr. Johnson, the Panel reviewed all information received from the public and all relevant information that was before us today in concluding that you are not suitable for parole because you pose a present risk of danger to society or a threat to public safety if released from prison. The finding of unsuitability is based on weighing the considerations provided in the California Code of Regulations, Title 15. This is a seven-year denial. The first consideration, which weighed heavily against suitability, did have to do with the commitment offense. It was the Panel's judgment, as we believe it was your judgment in your comments today that the motive for the crime was exceedingly trivial in relation to the offense and that which it has spawned in terms of consequences. The Panel took note of your abbreviated adult criminal history. Nevertheless could not avoid taking note also of the fact that the life crime occurred while you were on probation. The Panel believes that particularly for an individual appearing for the first time for a Board

CHUCK JOHNSON K-11650

DECISION PAGE 1 12/1/09

1 of Parole Hearings that you have been able to project
2 and reflect considerable work in progress -- and work in
3 progress. Nonetheless, the Panel believes that
4 there is still some minimization of conduct and while it
5 is not always appropriate or necessary in this venue of
6 the hearing to consider the mechanics of the crime to
7 the nth degree. In fact, at times that is far from the
8 most significant issue to the Panel. Nonetheless, and
9 as difficult as the topic is for anyone to discuss,
10 yourself included, there may be benefit in your working
11 toward reducing some of the clouding, which this Panel
12 noted in your rendition of the acts, which resulted in
13 the murder of this child, specifically your physical
14 actions and the modes of injury which occurred. This
15 Panel acknowledges that this is apparently your first
16 relatively public statement concerning the acts that you
17 engaged in that day. And that may account for some of
18 the lack of detail. That is an area, which you may wish
19 to explore in programming and institution. And if you
20 do so, it may benefit you when you are next considered
21 for parole. This Panel believes that you would benefit
22 also from developing more insight into causative factors
23 of your conduct. Some issues came out today, the
24 district attorney introduced, which may provide some

1 guidance in that respect. The issue of your abuse of
2 alcohol and narcotics continues to be embraced by you in
3 terms of treatment. That needs to continue as you
4 acknowledged, however the issue of a past incidence of
5 acts which either are actually or are very close to
6 domestic violence, which were referenced in today's
7 hearing. Don't know what these occurred, but we do know
8 to a certainty that you have a history of conflict in
9 past relationships. And if that conflict as was
10 represented today ever became physical and was
11 manifested in physical behavior directed towards
12 individuals at a disadvantage relative to yourself in
13 terms of size, strength, ability to defend themselves,
14 there may be parallels with the incident which resulted
15 in the death of this child and if that is the case
16 further exploration on your part would certainly be
17 appropriate. The Panel notes that today in your
18 expressions to the Panel, which provided us with some
19 parameters for understanding the extent to which you
20 acknowledge the impact of this murder on many people
21 from multiple families, did yield some suggestion on
22 your part and openness on your part to some form of
23 communication. And it may well be, I need to caution
24 you that no communication is appropriate, but the

1 Commissioner Mitchell and I believe that the district
2 attorney provided you some contact information and that
3 may be worth exploring. It may not yield actual direct
4 communication and in fact that might not even be
5 productive should it occur. But the fact that you are
6 thinking about that is a positive thing. With respect
7 to the psychological report dated January 25th, by
8 Dr. Campbell, that report is not totally supportive of
9 release. It does contain quite a few positive elements,
10 more so than one might expect or frequently see in a
11 report under these circumstances. Nonetheless, it does
12 accord an overall rating suggesting that you do still
13 represent a low to moderate risk for violence if
14 released today to a free community and was of concern to
15 this Panel. You do have a relative lack of significant
16 documented misconduct during your time in custody. I
17 want to commend you on the fact that it's been over six
18 years since you received any disciplinary action at all.
19 I would also caution you that obtaining tattoos in
20 prison is kind of like committing a violation and
21 immediately advising someone that you have done so. I
22 would encourage you to avoid that in the future.
23 Commissioner Mitchell will speak more to the issue of
24 128s and 115s. Commissioner Mitchell?

1 **DEPUTY COMMISSIONER MITCHELL:** Thank you. To
2 begin with, I do want to commend you for your attitude
3 during the hearing. You were pleasant and respectful to
4 the Panel today. As far as your background, you have no
5 RVRs since 2003, which we already mentioned or do you
6 have any 128s since 2003. You've completed vocational
7 machine shop, you've participated in other vocational
8 programming, not completed. You have a fair amount or
9 considerable amount I might say of self-help
10 programming. You are currently working towards
11 obtaining your associate of science degree or associate
12 of arts degree. I believe you said it's going to be
13 within a month or two you'd have the certificates.

14 **INMATE JOHNSON:** That's right, sir.

15 **DEPUTY COMMISSIONER MITCHELL:** Okay. So thank
16 you.

17 **INMATE JOHNSON:** Thank you.

18 **PRESIDING COMMISSIONER LABAHN:** The Panel finds
19 your parole plans to be largely realistic. I did review
20 in addition to the verbal overview provided by
21 Commissioner Mitchell; I did review the plans you
22 provided today complete with the numerous chronos. I
23 would urge you to based upon comment today consider
24 adding some redundancy to your residential plans so that

25 **CHUCK JOHNSON K-11650 DECISION PAGE 5 12/1/09**

1 you have some flexibility. I'm certain you're aware
2 that you're not limited to one particular county. And
3 you may wish to have backup plans and plans that are
4 backup to your backup. The nature of this murder is
5 clearly one, which can inflame society, and that
6 inflammation can in turn create difficulties and
7 challenges when appropriate residential destinations are
8 sought. That's something that you should work on and
9 strive for redundancy in that area. The Hearing Panel
10 notes that responses to P.C. 3042 Notices were received.
11 The District Attorney's Office of San Bernardino County
12 participated fully in today's hearing and registered an
13 objection to finding of parole suitability. I'd like to
14 also take this opportunity to thank a representative
15 from the San Bernardino County District Attorney's
16 Office who did provide material which was meaningful and
17 helpful to this Panel today. Thank you.

18 **DEPUTY DISTRICT ATTORNEY SCHMAUSS:** Thank you.

19 **PRESIDING COMMISSIONER LABAHN:** The Panel finds
20 clear and convincing evidence pursuant to Penal Code
21 Section 3041(b)(3), after considering the public and
22 victim's safety as well as the parole consideration
23 criteria set forth in Title 15, that you do not require
24 a period of incarceration of 15 additional years before

25 **CHUCK JOHNSON K-11650 DECISION PAGE 6 12/1/09**

1 your next parole hearing because of the positive aspects
2 of your adjustment, which we have listed. Also, you
3 lack of extensive adult criminal history prior to the
4 life crime and the fact that for over six years you've
5 had no misconduct of any kind within the prison system
6 and your entire history of misconduct while incarcerated
7 has been very limited. The Panel has no substantial
8 doubt based on these circumstances that at this time you
9 do not require a 15-year denial. We then considered
10 whether the safety of the public and the victims
11 requires that you remain incarcerated for ten additional
12 years. By clear and convincing evidence, we have no
13 substantial doubt that for the reasons cited before, you
14 do not require more lengthy period of incarceration than
15 the next threshold of seven years. While the Panel
16 wishes to commend you for the positives, on balance, the
17 circumstances that make you unsuitability for parole,
18 which we have already discussed with you, outweigh these
19 positive aspects of your case. After weighing all the
20 evidence presented today, you are unsuitable
21 for parole because you remain a present risk of danger
22 if released and require at least an additional seven
23 years of incarceration. Mr. Mitchell, any comments
24 regarding our decision?

1 **DEPUTY COMMISSIONER MITCHELL:** No.

2 **PRESIDING COMMISSIONER LABAHN:** The Panel's
3 recommendations to you then are that you remain
4 disciplinary free, that you continue to upgrade
5 educationally and vocationally, that you participate and
6 continue to participate in self-help and therapy
7 programming as is available. And that you cooperate as
8 you did with the clinician in the completion of the next
9 clinical evaluation. I wish to join Commissioner
10 Mitchell in commending you for your conduct in today's
11 hearing. This was a tragic -- that's an understatement
12 to call the murder unnecessary, a murder which impacted
13 many individuals and we've certainly gotten a very solid
14 taste of the extent to which that impact lingers and
15 will continue to linger. It is difficult to do what you
16 did today in a room as full as this one. You did so and
17 I think you did a good job. I wish you the best. It's
18 1855 hours and that concludes this hearing.

19 **DEPUTY COMMISSIONER MITCHELL:** Good luck to you.

20 **INMATE JOHNSON:** Thank you.

21 **A D J O U R N M E N T**

22 --o0o--

23

24

25 **CHUCK JOHNSON K-11650 DECISION PAGE 8 12/1/09**

1 PAROLE DENIED, SEVEN YEARS

2 THIS DECISION WILL BE FINAL ON: _____

3 YOU WILL BE PROMPTLY NOTIFIED, IF PRIOR TO THAT
4 DATE, THE DECISION IS MODIFIED.

CERTIFICATE AND**DECLARATION OF TRANSCRIBER**

I, Rhonda J. Daniels, as the Official Transcriber,
hereby certify that the attached proceedings:

In the matter of the Life)	CDC Number: K-11650
Term Parole Consideration)	
Hearing of:)	
CHUCK JOHNSON)	
_____)	

CHUCKAWALLA VALLEY STATE PRISON

BLYTHE, CALIFORNIA

DECEMBER 1, 2009

were held as herein appears. Further, this transcript
is a true, complete, and accurate record, to the best of
my ability, of the recorded material provided for
transcription.

Rhonda J. Daniels

Rhonda J. Daniels
December 17, 2009
TypeToo Transcription & Billing
Copyright 2009/All Rights Reserved by BPH