Witness: Steven P. Jacobson

Date: 2004-08-25

Proceedings held August 25, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – Rick Distaso (continued from previous day); Cross – Mark Geragos

Day 2 of 4 for this witness

Court: San Mateo County Superior Court, Redwood City (People v. Scott Peterson)

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August 25, 2004

DISTASO: Thank you, your Honor.

DISTASO: Investigator, when we left off, you were kind of talking about how wiretaps work and that kind of thing. And once the wiretap is authorized by the judge, what happens? You get a piece of paper from the judge that says you can start a wiretap, right?

JACOBSON: Yes, sir.

DISTASO: What happens next?

JACOBSON: Basically that information then goes to the telecommunications service provider, such as, in this case, it was AT&T Wireless.

DISTASO: Let me stop you. It could be anybody, right? If it's a Verizon phone, it could go to Verizon. If it's a Sprint phone, it could go to Sprint. Here it went to AT&T?

JACOBSON: Correct.

DISTASO: Okay. What happens next?

JACOBSON: What happens is, then we have this database, this computer, or this collection server that I was explaining yesterday, that's in the actual wire room itself. It's in that physical location. That computer is configured with a system with AT&T Wireless so that we become basically a passive third party in the communication, so we can receive these telephone calls, both the incoming and outgoing calls to that particular phone; or, in this case, those phones.

DISTASO: And let me stop you. So if, in this case the phones that you were wiretapping belong to Mr. Peterson?

JACOBSON: Yes, sir.

DISTASO: And so if a call comes in to Mr. Peterson, it gets routed through your computer, so you are listening to it also?

JACOBSON: I'm listening live, yes, sir.

DISTASO: Okay. And the same thing if a voicemail comes in to Mr. Peterson's phone, you can hear those voicemails?

JACOBSON: Yes.

DISTASO: And same thing, if the defendant makes a phone call, you can hear him dialing, and then you can hear the call?

JACOBSON: Yes, sir.

DISTASO: And, finally, if he checks his voicemail, if he dials his voicemail and listens to it,

GERAGOS: Objection. Leading.

JUDGE: It is.

DISTASO: Okay. If the defendant dials his voicemail and listens to it, can you hear that?

JACOBSON: Yes, sir, I can.

DISTASO: Can you also hear when that happens on an open phone line, and hear things that are going on on his side of the phone?

JACOBSON: You can hear background noise, yes.

DISTASO: If the person who is checking their voicemail talks or says something, you can pick that up as well?

JACOBSON: Yes, sir.

DISTASO: Now, when you are doing a wiretap, are you permitted, or are the officers permitted to listen to every single call all the way through from start to finish?

JACOBSON: No, sir.

DISTASO: The law is kind of restrictive in regards to the wiretaps?

JACOBSON: Yes, sir.

DISTASO: And what is it called when the monitors stop recording or get off the phone?

JACOBSON: It's a term that we use called minimization, or minimize a particular portion of a phone call.

DISTASO: What does that mean? I mean tell the jury what that means.

JACOBSON: Basically what it means is that the monitors stop recording that portion of the phone call.

DISTASO: And,

JACOBSON: They don't listen or record that portion of the call.

DISTASO: And why does somebody minimize a call?

JACOBSON: They can minimize it for various reasons. Obviously, the first one being that if it is a conversation which we're not entitled to listen to.

DISTASO: Let me stop you. What would be an example of that?

JACOBSON: An example would be where a client is talking with his attorney about privileged communication regarding the case at hand, or he's talking to his parishioner, or clergy, or other entitled privileges that are allowed.

DISTASO: There is some privileged calls that law enforcement is not permitted to listen to?

JACOBSON: Yes, sir.

DISTASO: And without getting too technical in that regard, there is some checks that you are permitted to do in the law when that's happening, right?

JACOBSON: Yes, sir.

DISTASO: Okay. But, for the most part, you get off the call, and then you get back on the call when that,

GERAGOS: Objection. Leading.

DISTASO: I'm just trying to lay some foundation, judge.

GERAGOS: Well foundation has been laid yesterday.

JUDGE: Try to do it without leading questions. Otherwise we'll get these interruptions, take forever. Just try to eliminate the leading questions.

DISTASO: That's fine.

DISTASO: For privileged calls, use attorney calls. There some procedure that the law allows you to check the call occasionally to make sure it's still a privileged call?

JACOBSON: Yes.

DISTASO: And can you just tell the jury what that is, real quick?

JACOBSON: It's basically called a spot check, where the monitor is able to listen to up to thirty seconds of a conversation to determine the nature of that conversation, to see if that conversation is a privileged conversation. And if it is a privileged conversation, the law mandates that the agent stay off the phone for at least two minutes.

DISTASO: And this is a human being, does a human being have to actually sit and monitor each call?

JACOBSON: Yes, sir.

DISTASO: The computer can't minimize or do these actions by itself?

JACOBSON: No, sir.

DISTASO: So at some level there is some subjective judgments on the part of the human being who is listening to the call?

JACOBSON: Yes, sir.

DISTASO: Okay. Other than privileged calls, are the monitors permitted to listen to every single call, even if, as long as it's not privileged?

JACOBSON: Are they permitted? Repeat that question one more time for me.

DISTASO: Let me make it clear. Can the monitors listen to every single call in its entirety as long as it's not privileged?

JACOBSON: The monitors are instructed that if a call does not contain pertinent information to go ahead and minimize that call. And when I used the term pertinent information, it's going to be something that's relevant to the case. If the particular person is on the phone with Domino's Pizza, and he's ordering pizza, he's put on hold for thirty minutes waiting to make the order of his pizza, the monitors are probably not going to stay on the line. They are probably going to minimize that call, possibly minimize the call for the entire duration of that call.

DISTASO: Let's use an example in this particular case. If the defendant was speaking to Amber Frey, those calls were general listened to completely?

JACOBSON: For the most part, yes.

DISTASO: Some were minimized at certain portions?

JACOBSON: Yes.

DISTASO: And if the defendant was on like a business call, for example, were portions of business calls minimized?

JACOBSON: Yes.

DISTASO: So those are the kinds of things, the kind of judgments that the monitors have to make while this is going on?

JACOBSON: Yes, sir.

DISTASO: What does it sound like in the recording when a call is minimized? It's like you hear talking, right?

JACOBSON: Yes, sir.

DISTASO: Then you hear kind of a blip?

JACOBSON: You will hear like of a "kaplunk". Be like, it will be, usually it will be something that you will recognize on the call when you are listening to it on a playback. And then you will hear it start back up again, also. You will hear it start back up, a "kaplunk" as well.

DISTASO: And that means that for whatever portion of that call the monitor decided not to listen to or record the call?

JACOBSON: Yes, sir.

DISTASO: Now, other than voice data, this voice data that comes through to the wiretap computer, and this information is collected in the computer and stored.

JACOBSON: Yes, sir, it is.

DISTASO: And it can be put on a CD disk, correct?

JACOBSON: Yes, sir, it can.

DISTASO: Basically every call that is stored can be downloaded on to a disk, distributed wherever it needs to go?

JACOBSON: Yes, sir.

DISTASO: You were the one who was responsible for doing this?

JACOBSON: Yes, sir.

DISTASO: Other than voice data, what other data does the wiretap collect?

JACOBSON: General data for the phone call, such as the duration of the call, cell site information, system identities or switch information, the numbers of the digits being dialed, or the incoming number coming in if it's known.

DISTASO: So, basically, the data from AT&T records data also comes with the call and gets stored in the computer?

JACOBSON: Yes.

DISTASO: And you can print that out,

GERAGOS: Objection. Leading.

DISTASO: Okay. Let me ask,

JUDGE: Why just leave the "and" out.

DISTASO: Can you print that data out and make it available?

JACOBSON: Yes, sir.

DISTASO: Let me just show you a couple of exhibits here. This is 203,

JUDGE: For the record, these are, in case the jury has forgotten, these are these some of the fraud records that was referred to by Miss Anderson when she testified.

DISTASO: It is. It includes some other stuff as well.

JUDGE: There is other stuff. This was generally the area.

DISTASO: 203F, is that a printout of the data of, the Call Record Data that came with the wiretap?

JACOBSON: Yes, sir, it is.

DISTASO: Okay. And it's called the, it has kind of a name that you use to refer to; is that right?

JACOBSON: Yes, sir.

DISTASO: What name is that?

JACOBSON: It's basically what we refer to as CALEA data.

DISTASO: And that basically just means Call Record Data?

JACOBSON: It basically means it's the data that we received from the telecommunications service provider, such as AT&T Wireless in this case.

DISTASO: And this is the data that is collected and stored in the computer as the wiretap is going on?

JACOBSON: That's correct, sir.

DISTASO: Now, that data that comes in from AT&T, it, does it come in in the kind of AT&T code form?

JACOBSON: Yes, sir, it does.

DISTASO: That means that it comes in as numbers and letters, and then you have to go to these conversion tables and figure out what all that means?

JACOBSON: Yes, sir.

DISTASO: And the conversion tables that you use,

JUDGE: 204?

DISTASO: 204 and 205.

DISTASO: These conversion tables are the same ones that you use for the CALEA data; is that right? Take a look at them.

JACOBSON: Yes, sir, they are.

DISTASO: And as far as using this particular, these particular books, it's the same, you use the book the same for the wiretap data as you do for regular AT&T records data?

JACOBSON: Yes, sir.

DISTASO: Did you, did you use those conversion tables to look up some cell site information for the defendant?

JACOBSON: Yes, sir.

DISTASO: And did you do that from some of the records that you received from AT&T, as well as the data that you obtained off of the wiretap?

JACOBSON: Yes, sir, I did.

DISTASO: Your Honor, I'm going to mark another binder.

JUDGE: That will be 207.

DISTASO: 207.

JUDGE: People's 207.

DISTASO: Should be A.

JUDGE: A through what?

DISTASO: A through F. And includes a number of subparts. Do you want me to give you all the subparts, judge?

JUDGE: Yes.

DISTASO: A has A1 through A14. B has B1 through B2. C has C through C5. And D is D through D20.

JUDGE: D20.

DISTASO: Un-hun. E is E through E8. And F is through F5.

JUDGE: Okay. Binder and Contents marked as Exhibit 207A-F5 for identification.

GERAGOS: I'm sorry, are you going to play one of these now?

DISTASO: I'm going to start it.

GERAGOS: Start with, I won't hold you up.

DISTASO: Investigator Jacobson, you, some of this cell site information that you looked up, did you look up the cell site information for the defendant's phone on December 24th of 2002?

JACOBSON: Yes, sir, I did.

DISTASO: And did you look at that for the entire day?

JACOBSON: I did.

DISTASO: And did you make a slide that kind of, that visually depicts where that, where those cell sites were being activated throughout the day?

JACOBSON: For a portion of that day, yes.

DISTASO: Specifically I guess from 10:08 in the morning to 5:44 in the afternoon?

JACOBSON: You are correct.

DISTASO: One thing I forgot to ask you about the wiretap data. Time zones change in these records. What time zone does the wiretap data come in?

JACOBSON: It would come in Pacific Standard Time.

DISTASO: The time when was the call is actually made?

JACOBSON: Yes, sir.

DISTASO: Let me show you 203C, and ask you if, is that a slide that you made that depicts the cell site information?

JACOBSON: Yes, sir, it is.

DISTASO: Okay. And do you have that, do you have that in your computer there?

JACOBSON: I do, yes, sir.

DISTASO: Let me just put it up. You went through the records. Let's just kind of go through there, throughout the day. The first call we have heard a lot of testimony about the last two days that was at 10:08 a.m.?

JACOBSON: Yes, sir, it was.

DISTASO: And the cell towers that it activated were 1250 Brighton and 10th and D in Modesto?

JACOBSON: The originating cell site location was 1250 Brighton Avenue. Terminating cell site at 10th and D Street, downtown Modesto.

DISTASO: And there was an incoming call from a phone that was subscribed to who at 11:44 a.m.?

JACOBSON: The phone is actually subscribed as an AT&T Wireless phone. It's actually subscribed to Miss Jacquelyn Peterson. But I know that phone to be used by Mr. Lee Peterson.

DISTASO: And how is it that you know that phone is used by Mr. Lee Peterson?

JACOBSON: During the course of the wiretap, and also from notes that I have seen in this investigation from the defendant as well.

DISTASO: And so that a call came into the defendant's phone at 11:44?

JACOBSON: Yes, sir. But this record doesn't show on his particular phone records. This record comes from Mr. Lee Peterson's phone records.

DISTASO: Okay. The third call was an outgoing to a voicemail, and that was at 2:12 p.m.

JACOBSON: Yes, sir, it was.

DISTASO: This period of time from 10:00 to 2:00 o'clock, other than these calls that you were able to, these three calls, did you find any other activity on the defendant's phone from that, from those periods of time?

JACOBSON: Other than this 11:44 call that came in through Lee Peterson's phone records?

DISTASO: Un-hun.

JACOBSON: No.

DISTASO: You have looked at the defendant's phone records, all the records you were able to gather in this case?

JACOBSON: Yes, sir.

DISTASO: And did you look at your, you are familiar with the records of the wiretap?

JACOBSON: Yes, sir, I am.

DISTASO: And is this period of time in the morning where there is very little activity on his phone?

GERAGOS: Objection. Assumes facts not in evidence. Argumentative.

JUDGE: Sustained.

GERAGOS: It's leading.

DISTASO: This period of time where there is only, from ten, activity on the defendant's phone from ten to two, those are the, that's the only activity in that time period, is that consistent with the rest of the defendant's phone usage?

JACOBSON: For weekdays, no.

DISTASO: And on weekdays, what type of usage did you typically see in the records or during the wiretap usage on the defendant's phone?

JACOBSON: Mr. Peterson was very active on his phones.

DISTASO: Kind of throughout the day, during most of the weekdays?

JACOBSON: Yes, sir.

DISTASO: At 2:14 there was an outgoing call to his home telephone?

JACOBSON: Yes, sir.

DISTASO: And that cell tower that was activated was 2600 10th Street in Berkeley?

JACOBSON: Yes, sir.

DISTASO: Both of these call at 2:12 and 2:14 are cell towers in Berkeley, correct?

JACOBSON: Yes, sir, they are.

DISTASO: Do you know if those cell towers are the ones that service the Berkeley Marina?

JACOBSON: Yes, they do.

DISTASO: The fifth call at 2:17, kind of just going across counterclockwise, was also at a cell tower in Berkeley?

JACOBSON: Yes, sir, it was.

DISTASO: And the sixth call was, activated a cell tower where?

JACOBSON: It was at 9500 Sterns in the City of Oakland.

DISTASO: And the seventh call?

JACOBSON: The seventh call was at 20103 Lake Chabot in Castro Valley.

DISTASO: Does it appear from this activity that the defendant is traveling eastward?

JACOBSON: Yes.

DISTASO: And the next call, the eighth call?

JACOBSON: The eighth call at 2:45 p.m. was an outgoing call that Mr. Peterson made to Lee Peterson, at which time it used the 6390 Grassland, Castro Valley, cell tower.

DISTASO: And that's still going in an easterly direction?

JACOBSON: Yes, sir.

DISTASO: These two calls, they were calls to Lee Peterson on that particular day?

JACOBSON: Yes, there were.

DISTASO: And then there was a ninth call that you were not able to obtain cell site information for?

JACOBSON: That's correct.

DISTASO: And where the you find this call?

JACOBSON: This call came from Mr. Peterson's records.

DISTASO: And the tenth call, that had cell site information attached?

JACOBSON: Yes, sir, it did.

GERAGOS: Could I just ask, as a point of information, from which Mr. Peterson's records? He's mentioned two.

JUDGE: My understanding, it's from the father's record.

GERAGOS: No, I don't think so. If it was, they would say.

JUDGE: Then what, would you clear that up?

DISTASO: I'll clear that up.

DISTASO: The ninth call was in whose records, the defendant, or,

JACOBSON: The defendant's records, sir. Sorry for that.

DISTASO: No problem. The tenth call was a cell tower where?

JACOBSON: At was serviced by the cell tower at 4959 South Front in Livermore.

DISTASO: And, again, that's traveling in an easterly direction?

JACOBSON: Yes, sir, it is.

DISTASO: And 5:44 p.m., looks like there is a call at the 1250 Brighton tower back in Modesto?

JACOBSON: Yes, sir.

DISTASO: Now, the next slide, 203B, is that a slide that you prepared?

JACOBSON: Yes, sir, it is.

DISTASO: Is, can you just throw it up on the screen just very quickly? We have already seen it. And this is a slide that you prepared that depicted the information that was contained in the records of the call at 10:08?

JACOBSON: Yes, sir.

DISTASO: You can move on to the next slide. That's 203D. And let me ask you, did you prepare this particular slide as well, 203D?

JACOBSON: Yes, sir, I did.

DISTASO: Did you perform some kind of test where you made some phone calls from the defendant's residence and, with an AT&T Wireless phone that was on the same network that the defendant used to determine what cell sites were activated when you made particular calls?

JACOBSON: Yes, sir.

DISTASO: And when did you do that? What date was it?

JACOBSON: It was in the month of June of 2004.

DISTASO: And what were, well, let's just start from the very beginning. What's the first thing you did when you were doing this test?

JACOBSON: The first thing that I did was, I had to locate an AT&T Wireless phone that was on the same network that was being used by the defendant in this case.

DISTASO: Did you do that?

JACOBSON: I did.

DISTASO: And let me show you this record. This record, 203E, is this the record you received, the cell site data for your test calls?

JACOBSON: Yes, sir.

DISTASO: Okay. You can go ahead and have a seat again. Once you obtained that phone, what's the next thing you did?

JACOBSON: The next thing that I did was, I coordinated with the person who actually owned that phone to actually sit by, basically be a stopwatch for me as I performed this test.

DISTASO: And the call that was at 10:08 lasted for how long?

JACOBSON: The call from Mr. Scott Peterson's records lasted one minute, 21 seconds.

DISTASO: And so you take this phone. Where did you go?

JACOBSON: I took the phone, and I went over to his residence at 523 Covena, at this location here.

DISTASO: Let me give you that laser pointer. This might make it a little clearer.

JACOBSON: I'm not that educated. Try to figure this out.

DISTASO: Okay. So you started at his residence in the driveway?

JACOBSON: Yes, sir.

DISTASO: What is it that you did?

JACOBSON: The first call that you see right here is the test number one. I went north on Covena where, near where it deadends. And I made a westbound turn on to Edgebrook. I followed Edgebrook all the way down here to La Loma, until the other lady on the line told me it was basically time.

DISTASO: So you made a call to her; is that right?

JACOBSON: Yes. I continued to stay on the phone for the minute and 21 second duration that I perceived, as well as her telling me that my time was up.

DISTASO: Okay. Then what did you do?

JACOBSON: Okay. Then I went back,

DISTASO: Stop. After she said okay, it's time, what did you do?

JACOBSON: I hung up the phone.

DISTASO: Okay. And did you, when you obtained the records of these tests, what cell site did you start out, and what cell site did you finish at?

JACOBSON: Test number one, I started out at the cell site which covers this particular residence, at 1250 Brighton Avenue, and when I ended a minute 21 seconds later, my last originating cell tower location was 10th and D Street in the line 18 City of Modesto.

DISTASO: And is that consistent with the record of the call that Mr. Peterson made to check his voicemail at 10:08?

JACOBSON: Yes, sir.

DISTASO: What did you do for the next call?

JACOBSON: Test number two that I outlined here, I did the same thing. I got back into his driveway. I pulled out of his driveway. I made the phone call to the lady who owns this particular phone. She started the timer. This time I chose a different direction to head westbound on Encina, another way that you can leave this house, and being in a southwest direction. About a minute and 21 seconds later, it put me at the intersection of La Loma. So I noticed, really wasn't much of a difference between taking Edgebrook west on Encina. Six of one, half dozen of the other. Didn't make a difference.

DISTASO: Let me stop you. And then did you hang up the phone then?

JACOBSON: Yes, sir, I did.

DISTASO: And when you got the record back from AT&T, which cell site did you start out, and what cell site did you finish at?

JACOBSON: Once again, my originating cell site location was 1250 Brighton Avenue. My termination cell site location was 10th and D Street.

DISTASO: Again, that was consistent with the call that Mr. Peterson made?

JACOBSON: Consistent with his records, yes, sir.

DISTASO: And, finally, did you do, did you try a third test call in a different direction?

JACOBSON: Yes, sir, I did.

DISTASO: What was the third one?

JACOBSON: The third call, I left his driveway. I made the phone call. I headed south this time on Covena, which last, which terminated at the intersection of Miller and Covena.

DISTASO: And you did the same thing. You made the call, minute 20 seconds, hung up?

JACOBSON: Yes, sir.

DISTASO: When you got the records back, were the cell towers consistent? You started at 1250 Brighton, you ended at 10th and D?

JACOBSON: Yes, sir.

DISTASO: Did you also make some test calls from the defendant's business at 1027 North Emerald?

JACOBSON: Yes, I did.

DISTASO: Can you go back to the previous slide? For the record, this is 203B. And this depicts kind of a rough approximation where the business is, right?

JACOBSON: Yes, sir, it does.

DISTASO: And what did you do in this particular instance? Where did you do these calls from?

JACOBSON: These calls I performed at his business in the same fashion that I performed at the residence at 523 Covena.

DISTASO: And did you leave his business and drive a minute and 21 seconds?

JACOBSON: I left his business. I drove south from his business a minute and 12 seconds away from the business.

DISTASO: And what cell tower was activated during that call?

JACOBSON: My originating cell site location was at 929 Woodland Avenue. My ending cell site, a minute 21 seconds, was still at 929 Woodland.

DISTASO: Did you try it again in a different direction?

JACOBSON: No. I used, I went the same direction, in a south direction again.

DISTASO: You, so you did that same thing two times?

JACOBSON: Yes.

DISTASO: And both times did you start and end at the 929 Woodland tower?

JACOBSON: Yes, sir, I did.

DISTASO: During the course of the wiretap, did you, when did Wiretap Number 2 start, again?

JACOBSON: Wiretap Number 2 was signed by the judge on January 10th of 2003.

DISTASO: And when did you actually start recording information?

JACOBSON: Oh, I recollect it was either toward the very latter portion of the 10th or early morning on the 11th. And we finally worked out the handshake with AT&T basically,

DISTASO: Let me show you this binder.

JUDGE: 207.

DISTASO: This is 207.

DISTASO: Take a look at this binder, and let me ask you if you prepared the information that's contained in there. Just take your time.

JACOBSON: Yes, sir, I did. I prepared that.

DISTASO: You can just hand that to the judge. The 207A-1, is that a slide that depicts the defendant's wiretap and cell site location for January 11th?

JACOBSON: I don't have the number, sir. But,

DISTASO: Let me,

JACOBSON: I know what.

JUDGE: Do you want me to give this back to him?

DISTASO: He has it on the computer. He doesn't know the numbers. That's all right. Go ahead and put that slide up on the screen. For the record, we're looking at 207A-1.

DISTASO: And you also prepared a, for all these slides that we're going to listen to, you prepared CDs of those as well; is that right?

JACOBSON: Yes, I made, go ahead. I made CDs.

DISTASO: Those are in the binders and marked as part of the exhibits?

JACOBSON: Yes, sir. I saw them in there, yes.

DISTASO: On the morning of January 11th, are you aware of what the Modesto Police Department was doing at the Berkeley Marina?

JACOBSON: Yes, I was.

DISTASO: What was that?

JACOBSON: The Modesto Police Department was, with the aid of law enforcement agencies in the area were searching The Bay.

DISTASO: And they had a sonar hit that they wanted to investigate, correct?

JACOBSON: Yes.

DISTASO: Do you know whether or not it had been reported that they were potentially looking for a body?

JACOBSON: As early as January 9th, the media and the organization of the media, had witnessed law enforcement out in The Bay. They also purported that the information that we believe at the time was that there was an accurate sonar hit of an object in The Bay, which we believed may be that of a human.

DISTASO: Let's go through the, what the records show on this particular day. On these records, now, for the record, what we are looking at on the slide here, 207A-1, are from the wiretap information?

JACOBSON: Yes, sir. The information came from the wire intercept.

DISTASO: Okay. And a call started, looks like incoming from SDEA at 6:18, with the cell tower of 1250 Brighton. What does that mean?

JACOBSON: That means at 6:18 in the morning on January 11th, we put in a test call to that phone and hung up, to see whether that telephone actually was on that morning.

DISTASO: So you and the wire room were testing the system?

JACOBSON: We basically did a prank call.

DISTASO: Okay. At 9:37 there were a couple of calls, seconds apart, that the wiretap information shows from the slide accessed from the Concord 3 switch?

JACOBSON: Yes, sir, that's correct.

DISTASO: And you drew the boundaries of the Concord 3 switch there on the slide; is that right?

JACOBSON: Yes, sir, I did.

DISTASO: So at 9:37, 9:38, and 9:47, this Concord 3 switch was servicing the defendant's cell phone?

JACOBSON: Yes, it was.

DISTASO: At kind of going around. Now, is this every single call that was made at this time? Or is this just a snapshot of calls?

JACOBSON: For this particular day it's a snapshot of calls placing the defendant at specific locations.

DISTASO: And at 10:13, based on the slide, there was an incoming call that accessed the Concord 2 switch?

JACOBSON: That's correct.

DISTASO: And, again, you put boundaries of the Concord 2 switch up there on the slide?

JACOBSON: I did, yes, sir.

DISTASO: And just so we're clear, these two switches are nowhere near Fresno, or Bakersfield, or Button Willow; is that right?

JACOBSON: Oh, no, sir.

DISTASO: At 10:37, again, another call to the Concord 2 switch?

JACOBSON: Yes, sir.

DISTASO: And the Concord 2 switch is the switch that services the Berkeley Marina?

JACOBSON: It is.

DISTASO: At 10:40, again a call at the Concord 2 switch?

JACOBSON: Yes.

DISTASO: And at 10:48, an incoming call from the defendant's mother at the Concord 2 switch?

JACOBSON: Yes, sir.

DISTASO: And was that call actually recorded?

JACOBSON: Yes, it was.

DISTASO: And did the defendant tell his mother where he was, where he said he was during that particular call?

GERAGOS: Objection. Hearsay.

JUDGE: Well, why is it being offered?

GERAGOS: For the truth of the matter.

DISTASO: It's the defendant's statement, your Honor. I'm going to play the call.

GERAGOS: Let him play the call.

JUDGE: Well, this incoming call from Jackie Peterson. I'm asking. Jackie Peterson?

DISTASO: I'm asking what the defendant told her.

JUDGE: Overruled.

DISTASO: Where did the defendant say that he was at that time?

JACOBSON: Mr. Scott Peterson stated that he was in West Fresno, or in Fresno.

DISTASO: And you have that information, you have that call prepared to be played?

JACOBSON: I do.

DISTASO: Your Honor, I'm going to hand the transcript out to the jury on that.

JUDGE: We'll distribute these transcripts to the media also so you can follow what we're doing here. This is, and did you mark the transcript the same number?

DISTASO: Transcripts are marked in the binder individually.

JUDGE: 207A-1 in the binder is the,

DISTASO: Transcript of this particular call is A3.

JUDGE: All right. All right. It's A3 in the binder.

DISTASO: Your Honor, for the record, the jury is getting all the transcripts for what's in the binder A, B, and C.

JUDGE: You are going to play A through, you are going to get over to B and C?

DISTASO: I'll let you know when we get to B.

DISTASO: Now, on the screen, Investigator Jacobson, you put up another slide that depicts the distance from the Concord 2 switch to where the defendant stated that he was?

JACOBSON: Yes.

DISTASO: Go ahead and play that call. (RECORDING) You can switch over to the next slide.

GERAGOS: What did the previous slide have to do with that phone call?

JUDGE: Mr. Geragos, you got,

GERAGOS: We are showing a slide that purports to relate to this.

JUDGE: You are commenting on the evidence now.

GERAGOS: I understand, judge. But we're showing a slide to the jury, if he can show the previous slide, had nothing to do with this phone call. Go back to the previous slide.

JUDGE: I think the other slide shows where,

DISTASO: This one does, but not the previous that was up there.

JUDGE: That's okay. You can ask him about that on cross. He's showing where Scott Peterson's actual location was in Oakland or Berkeley. And he purported to say he was in Fresno.

GERAGOS: I understand that. The previous slide, that's not what was up.

JUDGE: But this is the slide. He had this up before, right?

GERAGOS: Okay.

JUDGE: Go ahead.

DISTASO: Were there, were there other calls in the afternoon where the defendant, the cell phone information gave one location, and the defendant was stating that he was in a different location?

JACOBSON: Yes, sir.

DISTASO: Go to the next slide. This is 207A-4.

JUDGE: All right. Then the tape is on right after you have got it in your book.

GERAGOS: That I have got. I'm fine. I just want to make sure when we are showing a slide, it's the same slide. I don't think that's commenting on the evidence. I think that that's an exhibit.

JUDGE: I think it was. You started saying what this relates to.

GERAGOS: I think that's a valid point.

JUDGE: Get on with it. Go ahead.

DISTASO: At some point in the day on January 11, did the Modesto Police Department call various family members and tell them that they had actually not found a body?

GERAGOS: Objection. Leading. Hearsay.

JUDGE: Sustained.

DISTASO: Did you hear on the wiretaps Modesto Police Department making any comments to anyone about what they actually found at the Marina?

JACOBSON: If I understand your question correctly, you are asking me if I heard over the wiretap the Modesto Police Department communicating with Mr. Peterson over what they found in the bay?

DISTASO: Let's go there first. Did you ever hear them call him?

JACOBSON: No.

DISTASO: Did you hear Sharon Rocha call and leave a voicemail for the defendant saying what they found at the Marina?

JACOBSON: Did I hear that voicemail left by Miss Rocha?

GERAGOS: Judge, maybe it would be simpler because I don't want to keep interrupting. But if we are going to just eliminate hearsay, he can testify to anything that's on the wiretaps. If we are, I won't make the objection any more then.

JUDGE: The question is, you are offering this not for the truth, but to the reasonableness of his conduct afterwards?

DISTASO: Of that, your Honor, and as well as for the defendant's reaction to when he gets this information.

JUDGE: You are asking for what Sharon Rocha, he heard from Sharon Rocha, and you are offering this not for the truth, but offering to explain his conduct as a result of what information he received?

DISTASO: And to explain, right, why he kept listening, and why they kept calling, this train of evidence on the tap.

JUDGE: Then it's overruled. It's not coming in for the truth. It's coming in to explain this officer's subsequent conduct.

GERAGOS: The jury will be admonished as to,

JUDGE: I just said that, I thought.

GERAGOS: It's not being offered for the truth of what is said.

JUDGE: I thought I just said that.

GERAGOS: Okay.

JUDGE: Okay.

DISTASO: Okay. Go ahead, detective, play the particular call from Sharon Rocha when she is leaving this voicemail.

(RECORDING)

DISTASO: Did you hear on, in that particular call, did you hear some noise or some statement, something from the person listening to the voicemail?

GERAGOS: Objection. Leading. Argumentative. Document speaks for itself.

JUDGE: Sustained.

GERAGOS: I'll also object to, you know, I have got the transcript here where they have got the Scott Peterson whistle. I think that's argumentative in and of itself.

JUDGE: I'm going to let it in now. It's too late to redact it now. You know, I have said this before, the best procedure is for the Court to individually listen to all these. My understanding, again, this morning there was no problem with any of these tapes.

GERAGOS: That isn't what was said, judge.

JUDGE: I know,

GERAGOS: In an effort,

JUDGE: I assume that includes the whistle, Mr. Geragos. They have it in their hands. I can't redact it now.

GERAGOS: I'm not asking you to redact it. I'm just saying, when I'm given this stuff last Sunday, and I'm doing witnesses, and everything else, I can't, and I don't want to hold up the jury. They want to get this over with. I want to get this over with. But at the same time, I think that they should be admonished that,

JUDGE: I'll ask them to ignore the whistle, because that's an opinion and conclusion of whoever typed up the transcript. You have heard the tape. You know you can hear. There is nothing better than your ears. Okay, go ahead.

DISTASO: Was there, then after this call that we just heard, was there a call between the defendant and Sharon Rocha where they speak?

JACOBSON: Yes. Just a few seconds later, as you can see on the timeline on the chart.

DISTASO: So the voicemail was left at 12:55.

JACOBSON: He listened to it at 12:55.

DISTASO: Listened to it sat 12:55. At 12:56:43 there is an outgoing call to Sharon Rocha?

JACOBSON: There is an attempt prior to that. But there was a problem with the handshake of the phones. And then he was able to go through on this, a second call.

DISTASO: And my, okay, am I standing in your way? I'm sorry. Let me move back. By listening to the calls, are you familiar with Mr. Peterson's voice?

JACOBSON: I am, very much so.

DISTASO: You have heard, you know, probably a couple thousand calls at this point; is that right?

JACOBSON: Not at this point, no. But I'd heard some audio prior to this.

DISTASO: What I mean was from listening to the wiretaps, you heard numerous calls of the defendant speaking?

JACOBSON: Yes, sir.

DISTASO: Let's go ahead. And if you could go to the next slide. That would be A6. And during this particular call between the defendant and Mrs. Rocha, does the defendant give a location where he says he is?

GERAGOS: Objection.

JACOBSON: Yes, he does. I'm sorry about that, sir. Go ahead.

GERAGOS: You have got the call. That's the best evidence.

JUDGE: I think so.

DISTASO: That's fine. We'll just play it.

DISTASO: Before we play it, did the wiretap information give you cell site location the for the defendant, where the phone was being serviced by?

JACOBSON: Yes, it did.

DISTASO: Where was where was that?

JACOBSON: For which call?

DISTASO: For the one that we're looking at the slide right now?

JACOBSON: A7.

DISTASO: A7?

JACOBSON: I don't know the slide, but, the number of the slide. The site handling it is 5755 Rossi Lane in the City of Gilroy.

DISTASO: A6 is the slide, A7 is the transcript. Would you go ahead and play that call?

(RECORDING)

JUDGE: All right. So A3, A5, and A7 may be admitted in evidence, along with the disk. Go ahead.

DISTASO: Going back to A4, Investigator Jacobson, continuing through the afternoon. And, again, these calls in the afternoon, are these every call, or a snapshot of the calls?

JACOBSON: It's a snapshot of the afternoon for that particular day, sir.

DISTASO: After that call to Mrs. Rocha, looked like there is an outgoing call to voicemail. And that was the same cell tower in Gilroy?

JACOBSON: Yes, sir, it was.

DISTASO: And then at 1:01 there was an outgoing call that, actually completed call to defendant's father?

JACOBSON: Yes. Mr. Scott Peterson called his dad Mr. Lee Peterson.

DISTASO: And that was at 1:01 p.m.?

JACOBSON: Yes.

DISTASO: And what was the cell tower information that came across the wiretap for that particular call?

JACOBSON: This particular call, the call originated at 8435 San Ysidro in the City of Gilroy.

DISTASO: And do you have that call on a slide?

JACOBSON: Yes, sir, I do.

DISTASO: This would be A8. Do you have that call available to be played?

JACOBSON: Yes, I do.

DISTASO: This would be at A9 in the transcript. Go ahead and play that.

(RECORDING)

JUDGE: Going back to A4, with the afternoon. Calls continued; is that right?

JACOBSON: They, yes, they continue.

DISTASO: And there was an outgoing to, at 1:09:22. And the cell tower for that call was 1194 West Dunne in Morgan Hill?

JACOBSON: Yes, you are correct.

DISTASO: And another call at 1:09:33?

JACOBSON: Yes, sir.

DISTASO: A call at 1:11, cell tower in Gilroy?

JACOBSON: Yes, sir.

DISTASO: Call at 1:17, cell tower at 5755 Rossi in Gilroy?

JACOBSON: Yes, sir.

DISTASO: And then there was another call, completed call to a Guy Miligi. And that was at 5755 Rossi in Gilroy as well?

JACOBSON: Same, yes, on Rossi Lane, yes.

DISTASO: Do you have a slide that depicts that call?

JACOBSON: Yes, sir, I do.

JUDGE: This is what, A10?

DISTASO: This is A10. And did you, would you play that call for us, please? This is A11, the transcript, your Honor.

(RECORDING)

DISTASO: Go back to A4. After that call there is a series of outgoing calls to voicemail, I mean leaving messages for Mike Richardson; is that right?

JACOBSON: Yes, sir.

DISTASO: And were you able to get cell site information for those calls?

JACOBSON: Yes, sir, I was.

DISTASO: Don't play that yet. Looks like it was 8635 Lovers Lane in Hollister for all three of those?

JACOBSON: Yes, sir.

DISTASO: The voicemail is very short. And this was, this call, the call that Guy Miligi was at 1:21:19. And then the outgoing call to voicemail was at 1:25, to Mike Richardson?

JACOBSON: Actually an outgoing call to Mike Richardson's voicemail actually occurred nine seconds after the duration or termination of the last call.

DISTASO: Okay. The 1:21:19 is the start of the call with Mr. Miligi?

JACOBSON: Then, I believe, if I'm not mistaken, that call goes for three minutes and 54 seconds. And so now it brings us to this outbound call to Mike Richardson's voicemail.

DISTASO: Nine seconds later you got this call to voicemail, and you are able to get some cell site data?

JACOBSON: Yes, sir.

DISTASO: Just play that call. It's very brief. A12.

(RECORDING)

DISTASO: You go back to A4. After that call, you actually intercept a call where the defendant spoke to Mike Richardson?

JACOBSON: Yes, sir, I did.

DISTASO: And were you able to get actual cell site location for that information?

JACOBSON: Not the actual cell site location, but the switch location.

DISTASO: So you just got switch information for that call?

JACOBSON: Yes, sir.

DISTASO: And do you have a slide that depicts the location that we have just been talking about?

JACOBSON: Yes, sir, I do.

DISTASO: And if you could play that call between Mr. Peterson, and just so we're clear,

JUDGE: Which one are we referring to?

DISTASO: We are at A14, your Honor.

JUDGE: A14. And A13 precedes A14?

DISTASO: A13 is what's on the screen right now.

JACOBSON: Sorry, do you want me to play that call?

DISTASO: Don't play it yet. This is, the call is actually between Mr. Peterson and what parties?

JACOBSON: Mike and Heather Richardson.

DISTASO: Go ahead and play the call.

(RECORDING)

DISTASO: Finally, in this group of calls, did you intercept a call from Robert Weaver that plays, that used a cell site in San Jose?

JACOBSON: Yes, sir. He received an incoming phone call. And at the time that he received the phone call, the cell site serviced that particular call was 3751 Polton Place in the e 23 City of San Jose.

DISTASO: And that call was at 2:02, thirty minutes after the call we just heard. This is A15. Go ahead, play that. This is A15.

(RECORDING)

JUDGE: For the record, we should admit then A1 through 14, including the disks and the transcripts. A1 through 14.

CLERK: 15.

GERAGOS: 15 was the,

JUDGE: It was identified as A through 14, but there is an additional one.

GERAGOS: I think on the record you identified it as 14.

JUDGE: There is 15, so it's A through 15. Thank you. All right. Exhibit 207A1-15 admitted in Evidence.

DISTASO: Also, as part of the wiretap, did you listen to a call between Scott Peterson and Brent Rocha where Mr. Peterson talks about making the cement anchor?

JACOBSON: Yes, sir.

DISTASO: And do you have a slide that depicts that?

JACOBSON: I do.

GERAGOS: And I have an objection to it. I believe it's argumentative. You can take a,

JUDGE: I will look at it.

GERAGOS: It's right there in, I think in front of you.

DISTASO: For the Court's information, exhibit number B2.

DISTASO: No, yeah, it's B1.

JUDGE: But the transcript is B2.

DISTASO: I think he's objecting to the slide.

GERAGOS: I'm not objecting to B2. I'm objecting to B1.

DISTASO: The exhibit number is on,

JUDGE: I think we already had testimony on B1.

GERAGOS: I understand that. It's just the slide is what I'm objecting to. They want to use that in closing, that's fine. It's not appropriate at this point.

JUDGE: Do you want to step up here, show me what the,

GERAGOS: Yes. (SIDEBAR)

JUDGE: Objection is overruled. All right.

DISTASO: You can go ahead and pull that slide up, investigator. This call took place between Scott Peterson and Brent Rocha on January 16th?

JACOBSON: Yes, sir, it did.

DISTASO: What time?

JACOBSON: At 1:46 p.m.

DISTASO: The portion that we are going to play, B2, is just a small little section out of that, out of a fairly long call.

JACOBSON: Yes, it is.

DISTASO: And it only deals with the defendant's statements regarding the making the anchor?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that.

GERAGOS: Objection. 356.

JUDGE: Overruled. You can play the rest of it if you want, Mr. Geragos.

GERAGOS: That's why I'm preserving it, so when I get up, I can do,

JUDGE: You can play the rest of it. You are entitled to under 356.

GERAGOS: Thank you.

DISTASO: We're having technical problems, obviously.

JUDGE: Actually, check this,

GERAGOS: Try the, Mr. Jacobson, try the brown box.

DISTASO: Your Honor, we can fix this at the break. We'll move on.

JUDGE: Why don't you skip that now, go on to the transcription.

DISTASO: We'll just do another one.

GERAGOS: The computer sustained the objection that you overruled.

JACOBSON: Yes, it did.

JUDGE: The computer doesn't count, does it?

GERAGOS: Well, they said artificial intelligence.

DISTASO: Okay, let's,

JACOBSON: I'm sorry about that. That's my fault. I checked my things.

GERAGOS: That's where he's trying to, they are trying to.

DISTASO: Trying to play B2. It's not, we'll fix it at the break. I'll move on to another one.

JUDGE: Do you want to go on to C then?

DISTASO: That's fine.

JACOBSON: Sorry about that.

DISTASO: No problem.

DISTASO: Did you also intercept some calls between the defendant and a realtor in town, Brian Argain?

JACOBSON: I did.

DISTASO: And did the calls deal with the defendant wanting to sell his home?

JACOBSON: Yes, they did.

DISTASO: When did the calls start, what day?

JACOBSON: This would just be off my recollection. I don't have the slide in front of me. But I believe they started around the 22nd of January. But I could flip to the slide and confirm that.

DISTASO: Go ahead and pull up C1, the slide.

GERAGOS: Wait one more time. For the record, I'd like to object that it's argumentative. I think you have it in front of you if you want.

JUDGE: I do have it in front of me.

GERAGOS: If you want to approach,

JUDGE: I think it's a recitation. You prepared this. You prepared this, Mr. Jacobson?

JACOBSON: Yes, sir, I did.

JUDGE: You prepared this?

JACOBSON: Yes.

JUDGE: This is a resume, on the bottom, this is a resume of what the tape says about what took place?

JACOBSON: Yes, sir.

JUDGE: Okay. Overruled.

JACOBSON: It's frustrating. I won't give up on it, though.

JUDGE: Skip over for the time being.

DISTASO: Just hold on. Before you play it, this realtor is a friend of the defendant, Brian Argain?

JACOBSON: Yes, he is a friend of Mr. Scott Peterson's.

DISTASO: You heard them speaking on the wiretap on a number of occasions?

JACOBSON: Yes, sir.

DISTASO: But first, the first call that you intercepted that involved the defendant in the sale of his house, is the slide correct is it 1-22 at 5:39?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that call. This is C2?

JACOBSON: I have my fingers crossed on that one now.

JUDGE: You know what, being a judge, I can figure it out. It's probably time for a recess. So we'll take a recess until quarter to eleven and get the kinks out.

JACOBSON: Sorry about that. I'll get this figured out. Doesn't like something.

<morning recess>

DISTASO: Investigator Jacobson, before we leave and go back to that cement slide, the, I wanted to ask one question, one more question about the slides dealing with Bakersfield and Gilroy, and what not. Throughout the day, or in the afternoon, from, like, 12:00 o'clock on, did the defendant receive any calls from law enforcement dealing with this particular issue?

JACOBSON: No, sir, he didn't.

DISTASO: All right. So the, not from the police, the chief, or Ron Cloward or anybody?

JACOBSON: No, sir, he didn't.

DISTASO: All right. And do you have the cement slide that we were kind of working on before we had the problems?

JACOBSON: Yes, sir, I do.

DISTASO: The, that is?

JUDGE: B 2.

DISTASO: B 2. There it is. The slide is B 1 and the transcript is B 2. And you can go ahead and play that now.

(Recording)

DISTASO: Now, we had left that slide and we had gone to a slide regarding the defendant's and, selling his home in January; is that right?

JACOBSON: Yes, sir.

DISTASO: Okay. Can you pull that slide up? The slide is C 1 and the transcript would be, start of the transcript would be C 2. Do you have that?

JACOBSON: Yes, sir, I do.

DISTASO: The first call that you intercepted that dealt with this issue, was it January 22nd, 2003?

JACOBSON: Yes, sir.

DISTASO: At 5:39?

JACOBSON: Yes, sir.

DISTASO: Can you go ahead and play that call now.

(recording)

DISTASO: And was there another call on the 23rd at 5:42 where the defendant again calls and talks about wanting to meet regarding selling the house?

JACOBSON: Yes. He left a voice mail message on Mr. Argain's phone, yes.

DISTASO: Go ahead and play that call. This is C3.

(Recording)

DISTASO: And then was there another call where Mr. Argain called the defendant back and again talked about selling the house?

JACOBSON: Yes.

DISTASO: And that was on the 27th of January?

JACOBSON: Several days later, yes, sir.

DISTASO: 2003 at 5:41?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that call. This is C 4.

(Recording)

DISTASO: And, finally, on the 29th at 3:32, was there a discussion again between the defendant and Brian Argain about the house?

JACOBSON: Yes, sir, there was.

DISTASO: And during that call, well, let's go ahead and play the call. C 5.

(Recording)

DISTASO: Your Honor, I'm going to play D, which is a series of calls.

JUDGE: All right.

DISTASO: So we've got to pass out the transcripts now.

JUDGE: Yes. You may want to play the rest of B?

GERAGOS: Yes.

JUDGE: She was asking whether we were going to, we're not going to move B.

DISTASO: Starting with D 2.

JUDGE: We can move in C to C 5. Take the same number.

JUDGE: Ready?

DISTASO: I'm ready.

JUDGE: Okay.

DISTASO: Hold on one second. Pull up that slide.

DISTASO: Was there, Investigator Jacobson, was there a series of calls over the course of a few days regarding a purported sighting of Laci Peterson in Washington state?

JACOBSON: Yes, there were.

DISTASO: And did you intercept those calls as they came in to Mr. Peterson?

JACOBSON: Yes, sir, I did.

DISTASO: When was the first call that you intercepted on the wiretap that dealt with this particular issue?

JACOBSON: The first intercepted and monitored conversation concerning the tip up in Longview happened on January 30th at 2109, or 9:09 p.m., whereas, as you see on the screen, Miss Rita Cosby called Mr. Scott Peterson.

DISTASO: Okay. Go ahead, and that was a short conversation about the tip?

JACOBSON: Yes, sir.

DISTASO: Okay. Go ahead and play that. This is D 2.

(Recording)

DISTASO: The, from the wiretap records, was that the first information that you had about this particular tip coming in to Mr. Peterson over the phones?

JACOBSON: That was the first call that we intercepted and were able to monitor that, that, basically the notification of Mr. Peterson.

DISTASO: And did you intercept another call, between that call at 9:09 and then a call at 9:18, did Mr. Peterson, according to the wiretap records, make any call to the Longview Police Department?

JACOBSON: No, sir.

DISTASO: Did you intercept another call at 9:18 that dealt with this same issue?

JACOBSON: Yes, sir.

line DISTASO: And who was this particular call to?

JACOBSON: This time it was an incoming call to Mr. Peterson from Heidi and Aaron Fritz.

DISTASO: Go ahead and play that call.

(Recording)

DISTASO: The next day, did you intercept a call between the defendant and another reporter who was calling in about this information?

JACOBSON: Yes, sir, I did.

DISTASO: Okay. Go ahead and play that call.

JUDGE: D 4, right?

DISTASO: This is D 4. (Recording)

DISTASO: A few minutes after that call, 8:32, did you intercept the defendant's mother leaving a message for the defendant, talking about this tip?

JACOBSON: Yes, sir.

DISTASO: And did she, well, basically in her message, you know, say what, kind of what's going on about this, do you want to fly up there, do you want to look into it, that kind of thing?

JACOBSON: Yes, sir.

DISTASO: And then did you also intercept, a few minutes after that, the defendant listening to her message?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that call.

(Recording)

DISTASO: At 9:28 on the,

GERAGOS: Judge, this is just, it really is outrageous. The, I'm objecting to it. I'm not going forward another minute until I have a hearing on the what I think are editorial comments.

JUDGE: The Ha Ha Ha.

GERAGOS: Yeah. It's just, it's not there.

JUDGE: The Ha Ha can go out. And, ladies and gentlemen of the jury, you can come to your own conclusions as to what you heard on the tape, and you can disregard the interpretation on the tape. It's up to you to decide if there was any laughter, okay? All right? Proceed.

DISTASO: The, on the, later that morning at 9:28, did you intercept a call from the defendant and his mother talking about this?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that call.

(Recording)

JUDGE: Just admonish the jury, I told you this about a week ago before they played those other tapes, that these transcripts are only to be guides for you. It's what you hear on the tape that's important, and that's the best evidence of what was said. Any of these, any of these editorials that somebody was laughing or something, that's up to you to decide, based on what you hear.

DISTASO: The, it looks like on that particular call, was that a call that the wiretap lost? Or was this just a portion that we played?

JACOBSON: The latter part of that conversation was lost on the wiretap.

DISTASO: Okay. And that happens throughout the wiretaps; is that right?

JACOBSON: Yes, sir.

DISTASO: It will be, you'll have the information, be listening, and, all of a sudden, gone?

JACOBSON: Sometimes the call will cut out.

DISTASO: Okay.

JACOBSON: And you'll lose the remainder of the conversation.

DISTASO: Up to this point, when, that call at 9:28 on the 31st, had you intercepted any calls where the defendant had called up to the Longview Police Department and asked them about this tip?

JACOBSON: No, sir.

DISTASO: At 10:02 did you intercept a call where the defendant dialed Information and asked for the Longview Police Department number?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that call. January 31st at 10:02.

(Recording)

DISTASO: Other than getting the little traffic primer there at the end, did the wiretap lose the call at that point?

JACOBSON: Basically there was another call. You heard the beeping through the conversation? Another call came in from Mr. Ted Rowlands, and it disconnected me.

DISTASO: The wiretap left this call, and did it go to the other call? Or did it just disconnect?

JACOBSON: It disconnected this call to field the new incoming call, so I basically lost the remainder of this conversation.

DISTASO: At 10:11 did, was there another conversation about this issue between the defendant and his mother?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that call. This is D 8.

(Recording)

DISTASO: Investigator Jacobson, the, on the slide, the location information that you, that you have given us there, is that from cell site data that came across in the wiretap?

JACOBSON: I don't understand that question. One more time.

DISTASO: Okay. When we look at the slides when we're playing these calls, it has Scott in Livermore, Scott at Bay Bridge. Is that location information from cell site information that came

across the wiretap?

JACOBSON: Yes, sir, it is.

DISTASO: So those are the cell sites that are servicing these calls?

JACOBSON: Yes, sir.

DISTASO: Did you intercept the call at 11:23 where,

GERAGOS: Once again I'd object. The slide is argumentative. We've already had testimony from the people that said you can't use this for specific locations. This slide says Scott in motel, Scott in San Francisco, Scott at Bay Bridge.

JUDGE: He can have him explain the slide for the jury so the jury understands. The objection's overruled. Okay. Next one.

DISTASO: Did you intercept a voice mail message from Rita Cosby calling back to the defendant and asking to interview him to get this information about Longview out to the public or out on the air?

JACOBSON: Yes, sir.

DISTASO: And that was at 11:23?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that call. This is D 9.

(Recording)

DISTASO: Did you intercept a call between Eric Olson on the 31st and Mr. Peterson where they again discussed this particular sighting and what the defendant's been doing or plans are?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that call. This is D 10.

(Recording)

DISTASO: Did, at 4:09 on the 31st, did you intercept the defendant checking his voice mail where there were a number of media personnel calling him, asking him if he was going to be doing anything, anything additional to get the word out or,

GERAGOS: Objection. Leading.

JUDGE: Sustained.

DISTASO: Did you intercept some media personnel calling him on that day and leaving messages for him?

JACOBSON: I believe there were media voice mail messages left.

DISTASO: And was there also a message from his mother, Jackie Peterson, about this Longview, Washington site?

JACOBSON: I believe there was a couple of them, yes, sir.

DISTASO: Go ahead and place those.

GERAGOS: Weren't these the subject of a 402?

DISTASO: I thought that was on the other,

JUDGE: I thought the 402 was going to have to do with stuff played at the end of this examination.

GERAGOS: Not on Jackie's, on the others.

JUDGE: Pardon me?

GERAGOS: Not on Jackie's, on the others.

JUDGE: You want a 402 hearing on this right now?

GERAGOS: No. No. But the ones that they're going into.

JUDGE: All right. I don't understand your objection, Mr. Geragos.

GERAGOS: I said not on this particular one, but the ones that we're going into.

JUDGE: The ones that he's going to be playing near the end.

GERAGOS: Right.

JUDGE: I'm aware of that.

GERAGOS: Okay.

JUDGE: Go ahead.

DISTASO: That's fine. Go ahead, play that call.

(Recording)

DISTASO: The, did you also on January 31st intercept a couple calls between Amber Frey and Scott Peterson dealing with this particular issue?

JACOBSON: Did you say a couple?

DISTASO: I think,

JACOBSON: I think there's only one on this slide, yes, sir.

DISTASO: One on 1938. Go ahead. D 12.

(Recording)

DISTASO: Now, that was a small portion of a call that dealt with just this issue?

JACOBSON: Yes, sir.

DISTASO: Okay. The next day, on February 1st, did you intercept a call where they again talk about the defendant going to Washington?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that section of call, D 13. (Recording)

DISTASO: And then later in the day, at 10:55, did, again on February 1st, did they talk about this again?

JACOBSON: Yes, sir.

DISTASO: And from the cell site information, did it appear that the defendant was traveling to Southern California?

JACOBSON: He's in Fresno.

DISTASO: Go ahead and play that. (Recording)

DISTASO: And then at 1:06 did they again speak about this particular incident in Washington?

JACOBSON: Yes, sir.

DISTASO: Go ahead and play that call. It's D 15. (Recording) Investigator, on the 2nd of February, did you get indications on the wiretap that the defendant was in Southern California with his family?

JACOBSON: Yes, sir.

DISTASO: And did you intercept a voice mail that he left for his sister?

JACOBSON: Yes, sir.

DISTASO: What time was that?

JACOBSON: The one, the next call on the slide is at 3:54 p.m. on the 2nd.

DISTASO: Go ahead and play that, D 16.

JUDGE: There's a reference to a whistle. Again, it's what you hear, not, what the tape says, not what the transcript says. Go ahead.

DISTASO: Go ahead. (Recording) At, later that day at 5:03 did the defendant get a call back from his sister?

JACOBSON: Yes, sir, he did.

DISTASO: Go ahead and play that call, D 17. (Recording) The next day, did the defendant receive some additional calls from, one from Rita Cosby and one from a woman named Joan Faria.

JACOBSON: Yes, sir.

DISTASO: Have you listened to a voice mail from Joan Faria that occurred some days prior?

JACOBSON: I'm not quite sure. I have to check the records on that. I know that she had called prior to that, yes.

DISTASO: Okay.

JACOBSON: Whether the whole conversation was monitored, I'm not sure, without looking at the records.

DISTASO: But do you remember that there was a call from her,

GERAGOS: Objection. Leading.

JUDGE: Sustained.

DISTASO: Was there a call from her?

JACOBSON: Yes.

DISTASO: Some days prior to this?

JACOBSON: Yes, sir.

DISTASO: How, how many days?

JACOBSON: All I could do is as I say off the top of my recollection,

GERAGOS: Objection. Asked and answered.

JACOBSON: I can look at the --

GERAGOS: Objection. Asked and answered.

JUDGE: I don't think so. Overruled.

GERAGOS: He can't answer without looking at the records.

JUDGE: Overruled. Go ahead.

DISTASO: Do you have the summary of calls right there in front of you?

JACOBSON: Yes, sir, I do.

DISTASO: Go ahead. You can look at that to refresh your memory.

JACOBSON: It appears there was a phone call from Miss Faria, at least on the 1st.

DISTASO: On February 1st?

JACOBSON: On February 1st, and possibly a few more.

DISTASO: All right. And did you intercept a number of calls from her throughout the course of the wiretap?

JACOBSON: Yes, sir, I did.

DISTASO: And was she someone who was a supporter of the defendant or was helping the defendant?

JACOBSON: Yes, sir.

DISTASO: The, up to this point we've heard these series of calls from the 31st to the 2nd. Let's even go back a couple days, on the 27th. Did you have any problem intercepting calls from the defendant from, let's say, the 27th to the 3rd? What I mean by that is were you getting calls?

JACOBSON: Certainly, yes, sir.

DISTASO: That you were intercepting?

JACOBSON: Certainly, yes, sir.

DISTASO: And did it appear that in this time period the defendant was able to use his phone successfully?

JACOBSON: Oh, yes, sir.

DISTASO: If you could play the first call from Miss Cosby on February 3rd at 9:08? (Recording)

And later that day, on the 3rd, did you intercept a voice mail that the defendant left for Miss Faria?

JACOBSON: Yes, sir, I did.

DISTASO: And go ahead and play that call.

(Recording)

And, finally, on this particular slide, at 1449, 2:49 on the 3rd, did the defendant again call up to the Longview Police Department?

JACOBSON: Yes, sir. This is the second call.

DISTASO: And in this period of time, was, the wiretap intercepted how many calls between the defendant and the Longview Police Department?

JACOBSON: Like I stated, sir, this is the second call to the Longview Police Department.

DISTASO: Go ahead and play that call.

(Recording)

JUDGE: Maybe this would be a good time to take the noon recess.

DISTASO: That would be fine.

(Noon recess)

JUDGE: Before we go any further, I'm going to admit into evidence, A through A14 that's been done. B1 and B2 not yet, because Mr. Geragos may want to play an additional portion of that tape. C to C5, and D all the way through D20, including the discs, may be admitted into evidence. Exhibit 207C-C5 & 207D-D20 admitted in Evidence. Okay, go ahead.

DISTASO: Thank you, your Honor.

DISTASO: As part of your investigation, Investigator Jacobson, did you also review phone billing records for Scott Peterson and Amber Frey?

JACOBSON: Yes, sir, I did.

DISTASO: And did you look at as many records as you could to just try to document where one number would show up on somebody else's phone bill?

JACOBSON: Yes, sir, I did.

DISTASO: And does that mean that you documented, or you got a handle of every single contact between these people?

JACOBSON: No, sir.

DISTASO: Why is that?

JACOBSON: Well, I know of additional calls that were made that I was unable to find in phone records, and things such as that.

DISTASO: So if a pay phone number, or some number that you were able to recognize either party, Amber Frey or Scott Peterson, used, you wouldn't be able to document that as a call between them?

JACOBSON: That's correct, sir.

DISTASO: Did you prepare some charts that listed the phone contacts that you were able to document?

JACOBSON: Yes, sir.

DISTASO: And when was the first time you were able to document a phone call between them, the first day?

JACOBSON: The first date was November 19th of 2002.

DISTASO: When was the last phone contact that you were able to document between those two people?

JACOBSON: I believe it was February 19th of 2003.

DISTASO: And how many phone contacts were you able to document between those two people?

JACOBSON: At least 250 calls.

DISTASO: And this is calls between Miss Frey calling the defendant, or Miss Frey's number calling numbers that you had somehow associated with the defendant?

JACOBSON: Yes, sir.

DISTASO: And this is Scott Peterson calling numbers that you were at least able to associate with Miss Frey?

JACOBSON: Yes, sir.

DISTASO: That's the total number between both of them?

JACOBSON: Yes, sir.

DISTASO: Let's see. Did you make some calendar exhibits that kind of listed by day the phone contacts between these people?

JACOBSON: Yes, sir, I did.

DISTASO: Let me see,

GERAGOS: I didn't mark the ones I was using.

DISTASO: You didn't?

GERAGOS: I did not.

DISTASO: I think they are in the binder. Can I take a look? F. Let me see.

DISTASO: Let me show you F1 through F5. Are these the calendars that you made that show those calls?

JACOBSON: Yes, sir, they are.

DISTASO: And the F5 was, is just a legend listing the phone numbers that you were able to take a look at?

JACOBSON: Yes, sir.

DISTASO: Could you pull up the first calendar. What month was that?

JACOBSON: November of 2002.

DISTASO: This is F1. And this shows some calls that we see between those parties. And the calls in blue are when Amber Frey calls the defendant?

JACOBSON: That's correct.

DISTASO: And the calls in red are when you were able to document that Scott Peterson called Miss Frey?

JACOBSON: Yes.

DISTASO: Go to F2. December. And December, again, shows a number of calls between these parties?

JACOBSON: Yes, sir, it does.

DISTASO: And, again, the calls in red are from Miss Frey, I mean Mr. Peterson. Calls in blue from Amber Frey?

JACOBSON: That's correct, yes, sir.

DISTASO: And go to next call calendar. January, I mean. January.

GERAGOS: Is this F3?

DISTASO: This is F3.

JUDGE: F3.

GERAGOS: Thank you.

DISTASO: And this chart, again, shows a number of calls between these two parties?

JACOBSON: Yes, sir, it does.

DISTASO: Looks like in the month of January, the predominant numbers of calls from, were from Mr. Peterson?

JACOBSON: Appeared that way, yes, sir.

DISTASO: And go to February. And February looks like there were a number of calls between the parties, starting with the first, and then ending there on the 19th.

JACOBSON: That's correct, yes, sir.

DISTASO: And the phones that you were looking at were the majority of the calls, let me put it this way, were between the cell phones of these two individuals?

JACOBSON: That's correct.

DISTASO: And does that include the two numbers that were subject to the wiretap from Mr. Peterson?

JACOBSON: Yes, sir, it does.

DISTASO: And it also includes Amber Frey's cell phone?

JACOBSON: Yes, sir, it does.

DISTASO: Now, were you also asked to investigate a phone that was found in the defendant's possession when he was arrested on April 18th?

JACOBSON: Yes, sir, I was.

DISTASO: And what was the phone number of that particular phone?

JACOBSON: Was a 415 area code. I believe was 415-990-1817, I believe. There is a binder I prepared for it.

DISTASO: I was going to say, I was looking for it. Here it is.

JUDGE: Has that been marked already?

DISTASO: It has, your Honor.

DISTASO: 415-990-1817?

JACOBSON: That's correct, yes, sir.

DISTASO: And who was the, who was that, what name was this phone subscribed do? Who took this phone out?

JACOBSON: It was a prepaid cellular telephone through AT&T Wireless. And the subscriber name was listed, was California Latham, L-a-t-h-a-m.

DISTASO: And, finally, let me show you 203G. Did you prepare this document?

JACOBSON: Yes, sir, I did.

DISTASO: On this document you listed a number of calls, or calls between December 23rd and the 26th in Eastern Standard Time?

JACOBSON: Yes, sir.

DISTASO: And based on the defendant's records, did you put the cell site information for those calls?

JACOBSON: Yes, sir.

DISTASO: On the document as we have it here, did you list the calls that were voice message retrievals, or where the defendant was checking his voicemail?

JACOBSON: I didn't distinguish between voice in general, or the retrieval of the voicemail. I believe I just put voicemail.

DISTASO: What I'm going to have you do is take a look at the invoice records here. And, if you could, just jot down next to each entry where there is a,

JUDGE: What document are you referring to now, Mr. Distaso?

DISTASO: This is 203G.

JUDGE: 203G.

DISTASO: I'm having him refer to the invoice call records 203A-1.

JUDGE: All right.

GERAGOS: Objection. There is no foundation. If he wanted to do this, he should have done it through Mary Anderson.

JUDGE: He asked him the questions. Maybe he can lay a foundation.

DISTASO: Well, investigator, these records have already been testified to by Mary Anderson. And do these records list the messages retrieved?

JACOBSON: Yes, sir, they do.

DISTASO: Go ahead, by each entry, if you can put, just put "VM" and then "RT" for voicemail retrieved.

GERAGOS: Same objection. There is no foundation.

JUDGE: Overruled.

GERAGOS: I asked if he just crossed it out. Did you make a mistake. Apparently he just crossed it out.

JACOBSON: Doubled it out.

GERAGOS: This couldn't have been done at lunch so that I would have a chance to look at it?

JUDGE: I'll give you an opportunity. I'll take a recess so you can take a look. And, if not, I'll continue to tomorrow morning.

GERAGOS: I don't want to take any more recesses.

DISTASO: For the record, your Honor, the problem is, it was a marked document already, in the Court's possession.

GERAGOS: I have copies of it. I could have handed it to him.

DISTASO: Okay, judge, we're ready.

DISTASO: Okay. Investigator Jacobson, I had you go through and quickly write down the voice message retrievals that were listed in the invoice records?

JACOBSON: Yes, sir, you did.

DISTASO: And on your report, your report was based off of the fraud records?

JACOBSON: Yes, sir, it was.

DISTASO: And so it's in Eastern Standard Time?

JACOBSON: Yes, sir, they are.

DISTASO: And those particular calls in front of you, those are in Pacific Standard Time?

JACOBSON: Yes, sir, on the invoice.

DISTASO: On the invoice.

JACOBSON: Yes.

DISTASO: Let me just show you some calls. On the 24th, on the 24th there were a number of calls where the defendant was known to be at his house, and he's accessing the 1250 Brighton tower. Do you see that?

JACOBSON: I see that, yes, sir.

DISTASO: And there is four calls here that are from the record, show they are straight, coming to voicemail; is that right?

JACOBSON: That appears so, yes, sir.

DISTASO: And then the next call here where the cell tower is registering at his home, there is a voice message retrieval?

JACOBSON: That's correct, yes, sir.

DISTASO: And the call at 10:08 in the morning is also a voice message retrieval?

JACOBSON: Yes, sir, it is.

DISTASO: And the call from, it would be 2:12 Pacific Time from Berkeley was also a voice message retrieval?

JACOBSON: Yes, sir, it was.

DISTASO: I'm not going to go through every date. But I had you put them on the dates from the 23rd all the way to the 26th, correct?

JACOBSON: Yes, sir.

GERAGOS: Are you done with it?

DISTASO: Not yet.

DISTASO: On the 26th at looks like 1:15, should be, I'm sorry 10:15 a.m., down to 12:00 p.m., it looks like all the calls there, except for one, register on the 1250 Brighton tower. One of them registered on the 10th and D and 1250 Brighton?

JACOBSON: That's what it appears, yes, sir.

DISTASO: Three of those calls are voice message retrievals?

JACOBSON: Yes, sir.

DISTASO: Nothing further, your Honor.

Cross Examination by Mark Geragos

GERAGOS: Good afternoon, investigator.

JACOBSON: Good afternoon, Mr. Geragos.

GERAGOS: How are you doing?

JACOBSON: Doing fairly well, for the most part.

GERAGOS: Your involvement in this case started on approximately what date?

JACOBSON: I guess it would depend upon what determines involvement.

GERAGOS: Who is, when is the first time you did something on this case? How is that?

JACOBSON: Probably the first time that I did anything on this case is when your client called me at home.

GERAGOS: Okay. What day was that?

JACOBSON: That was Christmas.

GERAGOS: Now, first time you prepared, you, Mr. Distaso asked you about these affidavits, you said you were an affiant, right?

JACOBSON: Yes, sir, I was.

GERAGOS: Now, you started to explain what an affiant was to the jury. That's somebody who fills out an affidavit, correct?

JACOBSON: Yes, sir.

GERAGOS: And you fill out that affidavit so that you can get a search warrant, correct?

JACOBSON: Yes, sir.

GERAGOS: And in this case, you were looking for, your specific role was to get a search warrant for the phone records, correct, in the wiretap?

JACOBSON: The wiretap, yes, that's correct.

GERAGOS: Okay. And you explained to the jury what these phone records were. In basic simple terms, it's, you get from the phone company two different sets of data, right?

JACOBSON: That's correct.

GERAGOS: One is the voice that comes in, which is whatever is being carried over the broadband lines. The other is the call data that shows the time, the numbers and cell sites, things like that, correct?

JACOBSON: Basically, yes, sir.

GERAGOS: Okay. And when those two get to the computer, to the software that this these guys in Nebraska developed, the software merges the two of these in the server, and they, you are able to listen to this as kind of a coherent set of data, right?

JACOBSON: Yes. It marries it up and sends the call to the monitoring work stations.

GERAGOS: Now, in this specific case, you used some software that was from where?

JACOBSON: From Pen-Link, or the Lincoln Server, which, as you indicated, was from Nebraska.

GERAGOS: Okay. And then you had problems with this, didn't you?

JACOBSON: I did.

GERAGOS: One of the problems was that you weren't trained adequately on it; isn't that correct?

JACOBSON: Well, I don't believe that's,

GERAGOS: You wanted more training, didn't you?

JACOBSON: I did want more training, yes, sir.

GERAGOS: They wouldn't give you $700 to go get more training, would they?

JACOBSON: I don't think that's the proper format to be discussing it with my employers.

GERAGOS: You asked specifically to go to a class to get proper training, correct?

JACOBSON: I asked to go, I asked my administration to go to, I asked them if I could have some money or fees to go get additional training.

GERAGOS: 700 bucks and change, right?

JACOBSON: I don't remember what the exact amount was.

GERAGOS: Okay. You remember it was less than a thousand, don't you?

JACOBSON: I believe so, yes, sir.

GERAGOS: And you didn't get it, correct?

JACOBSON: No, sir, I didn't.

GERAGOS: So you did something, right? You made a phone call to the people in Nebraska, right?

JACOBSON: Yes, sir, I did.

GERAGOS: And you made that phone call, because you wanted to get, see if you could get some more training, to figure out exactly how to operate this thing, and make sure that you were

getting all of the phone calls that go into the server, right?

JACOBSON: I wanted to make sure that you had complete discovery, and that your client had complete discovery on everything.

GERAGOS: Okay. At that point, I mean I understand the noble aspect of this. But you also wanted to make sure, if there was anything there, that you are going to turn it over to the DA?

JACOBSON: Most definitely, yes, sir.

GERAGOS: So you weren't out to safeguard our due process rights at that point. You were there to make sure that everything that was there you got, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, when you made that call, some kind of arrangement was done whereby the gentleman from Nebraska who was involved with the company was going to come and take a look at the servers, correct?

JACOBSON: Yes, sir.

GERAGOS: And when we talk about servers, we're talking about actually a computer that is set up in that wire room, and in that computer server the information goes in, it gets married up, then you listen to it, correct?

JACOBSON: Yes, sir.

GERAGOS: There is something called a buffer, correct?

JACOBSON: Yes, sir.

GERAGOS: And can you tell the jury what a buffer is?

JACOBSON: Basically it's a storage or a memory for that particular system. And, as Mr. Geragos stated, the call audio comes in and the call data comes in, and it comes in through two different sources. So the information is temporarily stored in this computer on this hard drive until the information can be married and send out to the work stations.

GERAGOS: Now, specifically in this case, when that gentlemen came out to look at the server, something happened, didn't it?

JACOBSON: Yes, sir.

GERAGOS: What happened?

JACOBSON: He discovered that there were audio calls that had not been properly linked up with data, thus had not been out to the work stations, or it hadn't been turned over to the prosecution or to the defense.

GERAGOS: That's correct.

JUDGE: Can I interrupt for a second? Can you explain to the jury the difference between audio and call data? I'm not sure,

GERAGOS: I'll lead him through it, if I could.

GERAGOS: The audio is when you, actually when you play these calls for the jury, you play any of these calls we have heard today, that's the audio portion, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, for any of these, when we show the records themselves, and you have a kind of a sheet, a log sheet of information?

JACOBSON: Yes, sir.

GERAGOS: That you title Central Valley HIDTA. That looks like this, correct?

JACOBSON: Yes, sir.

GERAGOS: And most of the stuff just, for example, comes back and looks like what we have got here, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. And,

JACOBSON: That's the way it's printed out on the format.

GERAGOS: Got the time zone on it, you have got the date, the time. You go across, you see the number, you see the subscriber, correct?

JACOBSON: Yes, it is.

GERAGOS: And then over to the right there is a spot on the top for synopsis, correct?

JACOBSON: Yes, sir.

GERAGOS: You call in your Central Valley HIDTA, and it's a report name called database listing, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. You have got a run date. That isn't the date that you are actually listening. That's the date you are printing it out on the computer, right?

JACOBSON: That's correct.

GERAGOS: Then the synopsis here. That's all the way to the right. That's somebody that, computer doesn't do that. Somebody who is working the wire room types in on the computer when they are listening to the call what is transpiring?

JACOBSON: That's correct, yes, sir.

GERAGOS: Now, specifically when the person came out who developed the software, they went to the computer, and they discovered that there was at least a hundred, what, 44 calls?

JACOBSON: 176.

GERAGOS: An you have 176 calls that had been received that there was actually no record of, correct? Kind of lost in the buffer, right?

JACOBSON: No. Some of those were duplicate calls that, there was data for most of those calls. Just the audio didn't properly marry up with the data to be sent to the work station.

GERAGOS: Duplicates didn't total that many?

JACOBSON: Duplicates did not.

GERAGOS: Duplicates were just a handful, weren't they?

JACOBSON: You would have to go to my report for the breakdown on that.

GERAGOS: I saw your report. Your report seemed to indicate it wasn't very much at all.

JACOBSON: I don't remember how many on the breakdown. But I remember, as you stated, it wasn't all that many.

GERAGOS: Right. Now, in the vast, the overwhelming majority of the calls that were stuck in the buffer that we had no records of at the time, were not duplicate calls; is that a fair statement?

JACOBSON: Some of them had, most of them had data. It's just the audio did not get married up with that data. So a large percentage of those, or a vast majority of those calls actually did have data, except no audio.

GERAGOS: Right. But the vast majority, in fact, all of those calls you hadn't heard, correct?

JACOBSON: No, that's not true.

GERAGOS: Well, you hadn't, you tested one, didn't you? You, turned out it wasn't something you were familiar with, correct?

JACOBSON: That's what I previously alleged. But then I was mistaken when I heard it. That was one call that I had heard.

GERAGOS: So the first time that you listened to this call that was supposedly stuck in the buffer, it was your belief that it wasn't, that you had never heard it before?

JACOBSON: That's correct.

GERAGOS: Then later on you came to the belief that you had heard it?

JACOBSON: Yes, sir.

GERAGOS: Now, as you sit here today, how many of those 176 calls were in the buffer that you had never heard?

JACOBSON: I don't know specifically.

GERAGOS: Do you have a report you can look at?

JACOBSON: Yes, I do.

GERAGOS: Can you look at it?

JUDGE: Mr. Geragos, you guys are overlapping. The Court Reporter is not going to be happy. So let him finish before you ask the next question.

JACOBSON: I would like to break down. I have the report in front of me now. I'm ready.

GERAGOS: Does that refresh your recollection?

JACOBSON: It does.

GERAGOS: Okay. Now, the total number of calls that were discovered in the buffer was how many?

JACOBSON: 176.

GERAGOS: Okay. Out of that 176, how many of those calls did you, well, break it down for me.

JACOBSON: 95 of those .wav files out of the 176 were attached to existing call data that did exist. So a vast majority of those calls had call data. And we just simply had to link the audio with the call data to complete the call.

GERAGOS: That was 95 out of 176?

JACOBSON: 95 out of 176.

GERAGOS: How about the others?

JACOBSON: Four of the .wav files were not heard live during the course of the intercept, and were ultimately never attached to a call record.

GERAGOS: What does that mean?

JACOBSON: The call data had to be recreated for those four calls.

GERAGOS: Which means there were calls that were made that were never heard, correct?

JACOBSON: Yes.

GERAGOS: Okay. And there was no record editing, or Central HIDTA at that call database, correct?

JACOBSON: That's correct.

GERAGOS: Now, for the 95 previous calls that you just mentioned, were those ever, were those ever listed at the time in real time.

JACOBSON: I didn't understand that question.

GERAGOS: Well, you have a call data sheet?

JACOBSON: Yes, sir.

GERAGOS: The one I just put up there?

JACOBSON: Yes.

GERAGOS: For the 95 calls, did you go back, did you see whether or not those calls were listed in your database?

JACOBSON: Yes.

GERAGOS: And were they?

JACOBSON: I stated that the 95 out of the 176 were attached to the existing call data, so they did have the call data. You had to link or marry up the audio with the data.

GERAGOS: Which meant that if the, before this guy went and found the stuff in the server, in the buffer,

JACOBSON: Yes.

GERAGOS: if you wanted to access this call on the right, you couldn't do it, because you couldn't play the audio?

JACOBSON: That's correct.

GERAGOS: Okay. So you had 95 calls that you had information on, synopsis of information, but no audio.

JACOBSON: You had 95 calls that had data, such as a phone number, an incoming call, a date and time, but you did not have any audio associated with that call data.

GERAGOS: So you had this information, just showing the jury.

JACOBSON: Yes, sir.

GERAGOS: But you couldn't, if, for instance, I said go to January 11th, at whatever time, and it was one of those calls, and play that call right now, you couldn't do it?

JACOBSON: That's correct.

GERAGOS: Okay. Now, out of the remainder of the calls, the 176 minus 95, how many of those you had no call data, so that there is no record? Just the four?

JACOBSON: In addition to, there is some more. As you go down the list here for the proper breakdown,

GERAGOS: You have four that there was no, calls that weren't listened to that had no call data?

JACOBSON: Then 30 of those calls, 30 additional calls out of 176 had no audio at all. They were like random signals from AT&T. Basically just dead air time. Ten of those calls had short, unintelligible audios, like dial tones, stuff like that. Two of the .wav files were busy signals and the computer didn't reset itself. 23 of those .wav files were voicemail hangups, ringing, or immediate hangups but no audio. So they got his voicemail, but didn't want to leave a message, and the computer didn't reset itself.

GERAGOS: With or without call data?

JACOBSON: With call data.

GERAGOS: Okay. So you could tell a, specifically somebody called on this date, got voicemail, didn't want, and they hung up?

JACOBSON: Yes, sir.

GERAGOS: And then the remainder?

JACOBSON: Remainder 12 were what we call off-hook, or dead air time. Just basically the computer didn't reset itself, and the phone line just remained open.

GERAGOS: Okay. Now, when you got this affidavit, the, specifically you were looking at what you call target phones, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. What were the target zones?

JACOBSON: As I stated to the District Attorney, the target phones for the first wire intercept was Area Code 209-505-0337. And the second target phone associated with the first wiretap intercept was 209-499-8427.

GERAGOS: Specifically you were looking for calls, and wanted to monitor calls between Amber Frey and Scott Peterson, correct?

JACOBSON: That was in the plans, yes, sir, as a part of that wire intercept.

GERAGOS: Was more than in the plans. It was in your affidavit, correct?

JACOBSON: They were listed as interceptees, that's correct.

GERAGOS: What's an interceptee?

JACOBSON: An interceptee is who somebody who we planned on intercepting during the course of this wire intercept, as in hearing the audio between these subjects.

GERAGOS: Okay. And, specifically, you wanted to, at that point, you told the magistrate the reason you needed the wiretap, specific reason you needed the wiretap, you believed it took more than one person to commit this crime, correct?

JACOBSON: I didn't specifically tell him that. I'm not quite sure. I have heard that in the media. I have heard it elsewhere. I'm not quite sure where you are getting that at. If could you maybe show me in a report or in the affidavit itself, I did a conspiracy theory with the affidavit. I'm not quite sure.

GERAGOS: Did you testify in this courtroom on February 19th of this year?

JACOBSON: I believe so, yes, sir.

GERAGOS: Did you just say that you don't know where somebody got that from?

JACOBSON: No. I'm just saying if you have that, if you could direct my attention to that.

GERAGOS: Sure. I'll show you page 964 of your testimony on February 19th of this year in this courtroom.

JACOBSON: Yes, sir. Kind of jumped that first paragraph there.

GERAGOS: I'm asking you about it. I'm going to ask you about it right now. One of the reasons you wanted to get a wiretap is because you believed that there may be co-conspirators in this case?

JACOBSON: Yes, sir.

GERAGOS: Okay. That's what I asked you back in February, and that's what you answered then?

JACOBSON: Yes, sir.

GERAGOS: And I said that was because you did not believe that this could have been accomplished by a single person; is that correct? Isn't that what I asked you?

DISTASO: Objection. It's argumentative.

JUDGE: Overruled. Is that what he asked you?

JACOBSON: I believe so. If I could look at your transcript on that.

GERAGOS: I'm going to ask you, before I refresh your recollection, wasn't that one of the reasons that you sought the wiretap?

JACOBSON: Yes, sir.

GERAGOS: Because you believed that this could not have been accomplished, that the abduction of Laci Peterson could not have been accomplished by one person, correct?

JACOBSON: I believe that there could possibly be more than just one person involved in Laci's disappearance, yes.

GERAGOS: Well, you testified, and I felt that based on my experience in law enforcement that this, I felt this was carried out by more than one person, correct?

JACOBSON: Yes, sir.

GERAGOS: That was your, that was your feeling then. That's why you got the affidavit. That's why you signed it under penalty of perjury, correct?

JACOBSON: Yes, sir.

GERAGOS: Now, specifically, you also, I asked you, and you believed that, based on your experience, and based on what happened here involving Laci Peterson's disappearance, is that one person, I asked you, is that one person could not have accomplished that. Isn't that a fair statement? Do you remember what your answer was?

DISTASO: Objection, your Honor. It's been asked and answered.

JUDGE: Not that. Do you remember your answer, Mr. Jacobson?

JACOBSON: I think, I believe I said for the co-conspirator or conspiracy portion of this affidavit, I felt that there was more than one person involved.

GERAGOS: That's not, you believed that when you wrote this application that more than one person was perhaps responsible for this crime?

JACOBSON: That's what I just stated that.

GERAGOS: No. You said when you wrote the conspirator portion of it, you said,

JUDGE: Jury has heard what he said.

GERAGOS: Okay. Now, specifically I also asked you whether or not you felt that the Modesto PD and law enforcement was getting adequate cooperation from the witnesses. Do you remember that?

JACOBSON: Yes, sir.

GERAGOS: And what was your answer when I asked you whether they were?

JACOBSON: If they were getting adequate cooperation from the witnesses? I believe we went into specific witnesses.

GERAGOS: Okay. Didn't I ask you specifically if you believed that Amber Frey, as of January 10th, was cooperating?

JACOBSON: Yes, sir.

GERAGOS: And wasn't your answer, I was suspect of some of the cooperation from witnesses, or a witness, and that I did not believe that more, and I did believe that more than one person could be responsible for this crime?

JACOBSON: Yes, sir.

GERAGOS: Okay. And I asked you who was the witness that you were suspect of?

JACOBSON: Yes, sir.

GERAGOS: And who was that?

JACOBSON: I believe I responded that I was suspect of Amber Frey's cooperation.

GERAGOS: And the reason you were suspect of Amber Frey's cooperation was?

JACOBSON: Was because I had had some conversations with some detectives from the Modesto Police Department, and we had conversed regarding whether or not Amber had communicated with Scott at different periods of time. And I was told information that which basically contradicted what I believed at the time with what the wire intercept was showing me, and the toll records.

GERAGOS: Okay. When you wrote the affidavit on the 10th, so that we have got it correct, if I understand correctly, and I believe that I do, the wire intercept starts up, meaning you are getting wiretap information starting either late night January 10th or early morning January 11th, correct?

JACOBSON: Yes, sir.

GERAGOS: So prior to that, you don't have, you don't have wiretap records, right?

JACOBSON: No, sir.

GERAGOS: So you can't hear what's being said on the phone, right?

JACOBSON: That's correct.

GERAGOS: Okay. You know, by January 6th, 7th, and 8th that Miss Frey is cooperating with Buehler, and to a lesser degree Brocchini and Hagan from Department of Justice, correct?

JACOBSON: Not the third person that you mentioned, but the other two.

GERAGOS: Hagan?

JACOBSON: Yes.

GERAGOS: You know you are talking about Buehler, right, Detective Buehler?

JACOBSON: I talked with either Detective Buehler, Detective Grogan, or Detective Brocchini.

GERAGOS: Okay. Now, when you are talking to them, they are telling you, they are giving you information as to her reports on whether or not she is making calls to Scott Peterson?

JACOBSON: Yes, sir.

GERAGOS: After the 8th, or during the entire, is it basically during the entire time?

JACOBSON: Yes, sir. It's during the entire scope of the wire intercept as well.

GERAGOS: You have already received a search warrant, or somehow obtained the toll records for Miss Frey and for Mr. Peterson, correct?

JACOBSON: Yes, sir, I had.

GERAGOS: So before the 10th, before you are actually doing the wiretap, you can see when they are making calls back and forth?

JACOBSON: Yes, sir.

GERAGOS: And based upon what you can objectively see in the toll records, and what Miss Frey is telling the officers, it is your belief that she is not giving forth all the information as to the contacts she is having; is that correct?

JACOBSON: I believe that was after the 10th, sir. I believe I might have been mistaken earlier on. But I believe, when you sent that question to us, I believe your date was January 13th.

GERAGOS: Yes.

JACOBSON: So I believe this was after the course of that intercept, after the first couple of days.

GERAGOS: Okay. So is it a fair statement that by the 13th or 14th of January, you now have got three or four days worth of wiretap intercepts, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. So now, differentiated from the toll records, you actually can hear conversations, correct?

JACOBSON: Yes, sir.

GERAGOS: And based upon the conversations that you can hear, you physically, well, physically in the wire room, number one, you can listen to them as they are coming in in real time, correct?

JACOBSON: Yes, sir.

GERAGOS: If the call comes in, if Amber Frey is calling Scott Peterson on the 12th at 11:30 at night, and somebody is manning the wire room at 11:30 at night, they can hear the call?

JACOBSON: Yes, sir.

GERAGOS: You also have the capability, as long as it doesn't get lost in the buffer, to retrieve that audio at some later time, correct?

JACOBSON: Yes, sir.

GERAGOS: So your information is, after the 10th, that you are already suspicious on the 10th. That's why you fill out an affidavit for the wiretaps, because you don't believe that one person could have committed this crime alone, correct? Under your conspiracy theory, correct?

JACOBSON: Yes, sir. I believed that more than one person could have been involved in this case.

GERAGOS: Okay. So that's your belief. Then moving, I want to get pre the 10th, and after the 10th, so we don't mix it up. Before the 10th, that's your working theory, correct? One of your working theories?

JACOBSON: One of my working theories was to find every aspect to any possible leads, to see if we can develop any further co-conspirators, whether they were known or unknown.

GERAGOS: But the, specifically, specifically, you were, one of your the witnesses that you were specifically focused on was Amber Frey, correct?

JACOBSON: She was listed as an interceptee. We believed we were going to be intercepting her communications with Scott. And I felt it was very important that we listen to these phone calls separately and apart from what Miss Amber Frey was doing. She had no idea that we were going up on a wire intercept. Felt it was important to either corroborate her statements that she was making to the police; or if she wasn't being truthful to the police, to start looking in that area as well.

GERAGOS: And you believed, within three to four days, that she wasn't being truthful with the police; isn't that correct?

DISTASO: Objection. Asked and answered.

JUDGE: I don't think so, no. Overruled.

GERAGOS: You believed within three or four days of that suspicion, that she was not being truthful with the police, correct?

JACOBSON: I had believed that, yes, sir. But as I look back on it now, after talking with John Buehler, going over your question that you had, law enforcement was mistaken. And we were operating under a, not a valid concern there.

GERAGOS: Well, let me just take you back. Let's go step-by-step through this. As of February of this year, you believed that, correct, that she was not being truthful?

JACOBSON: February?

GERAGOS: February is when you,

JACOBSON: February of this year.

GERAGOS: February this year, when you testified before Judge Delucchi, and I was asking you questions, February 19th of this year, I asked you specifically, easy for me to say, as to whether or not you were suspect of, or you said you were suspicious of the cooperation, right?

JACOBSON: Yes, sir.

GERAGOS: I also asked you, is it a fair statement that she was telling her handler, Detective Buehler, one thing, and you had toll records which revealed another? Is that a fair summary? And your answer was, I'm not calling the lady a liar. I'm just saying I was suspect in the fact that some of my information that I had didn't quite jibe with the information that was being told to me by the detective.

JACOBSON: That's correct, yes, sir.

GERAGOS: And I said to you, did it appear that, to the detectives at least, that they were telling you that Amber Frey appeared to want to have a relationship with Scott, and appeared to be, for lack of a better word, if not lying, working the detectives? And your answer was, that's correct. And I asked you specifically, do you remember, was that Detective Buehler who was telling you that? And you said, yes, sir. Correct?

JACOBSON: Yes, sir.

GERAGOS: Now, specifically what happened was, if I understand correctly from the records, that in January, on the 10th, you fill out this toll or the, not the toll, but the based upon some of the records you had and your suspicion, you get a warrant. You get the wiretap information. At that point, you have got the 11th, 12th, and 13th, and the wiretap is up and running?

JACOBSON: Yes, sir.

GERAGOS: You intercept some calls from Amber Frey to Scott Peterson?

JACOBSON: Yes, sir.

GERAGOS: You then get information that Amber Frey is apparently saying she's had no contact with Scott Peterson?

JACOBSON: That's correct.

GERAGOS: You, and Detective Buehler, and who else, Grogan, go back to the wire room and listen to some tapes?

JACOBSON: Yes, sir.

GERAGOS: You listen to some tapes and you see that, in fact, she has been talking to Scott Peterson, correct?

JACOBSON: I'm not sure about the dates when they came and listened, or not. I believe was like on the 13th.

GERAGOS: That's what I said.

JACOBSON: Yes.

GERAGOS: I assume it was on the, you, and who was it, Buehler and Grogan, all go to the wire room on the 13th?

JACOBSON: I think Detective Brocchini might have been there as well, with a couple of people from SDEA where I'm at as well.

GERAGOS: SDEA?

JACOBSON: Stanislaus Drug Enforcement Agency.

GERAGOS: All of you get together, all of you listen to these tapes. All of you come to the conclusion that you are getting at least bad information from Miss Frey, based upon what you are hearing on the tapes and what she's telling the detectives at the time; is that right?

JACOBSON: Yes, sir.

GERAGOS: And then when I asked you about this in February of this year, before Judge Delucchi when we were doing the hearing, you reiterated that again; is that correct?

JACOBSON: Yes, sir.

GERAGOS: Today you are saying that after you have had some more discussions with Detective Buehler, by the way, when were those discussions?

JACOBSON: The day that you sent that note with the question on it.

GERAGOS: Last week?

JACOBSON: Yes, sir.

GERAGOS: Okay. So last week I asked Buehler, where is that call that you claim Miss Frey didn't tell you guys about, correct?

JACOBSON: Yes, sir.

GERAGOS: And you remember specifically, I went outside here last week, and I asked Mr. Buehler, you guys say Amber Frey didn't tell you the truth. You say there was a call on either the 12th or the 13th that's on the wire intercept, and you were standing out there in the hall so you could hear me, couldn't you?

JACOBSON: No, sir. I wasn't out in the hallway.

GERAGOS: Okay.

JACOBSON: But I got the message. Looked like your handwriting, or someone's handwriting on there. And Detective Buehler went to me,

GERAGOS: And I specifically said, wait a second, I don't see this call that you guys, you are talking about. Where is this call, right?

JACOBSON: I don't remember the exact wording that you asked of the question. But it was something similar to that. What date and time was the call that you guys were suspect of Amber not cooperating with law enforcement?

GERAGOS: Right. So up until that time, everything that I have just gone through with you was your mindset, correct?

JACOBSON: Yes, sir.

GERAGOS: So then I asked you where is this call that you guys, you, Brocchini, Buehler, Grogan, three guys from SDEA, listened to on the 13th together?

JACOBSON: At least, yes, sir.

GERAGOS: And all seven of you came to the conclusion that Amber Frey must have been working it, lying. You didn't want to call her a liar?

JACOBSON: No, I don't want to do that.

GERAGOS: Didn't want to call the lady a liar. You were saying that she, we're at the point with making her a co-conspirator, weren't we?

JACOBSON: I don't know if I would label her a co-conspirator. I said I was very suspicious of her cooperation. I wanted to listen to more of their communications. I wanted to basically hear it for myself.

GERAGOS: And when you, that was on the 10th. Once you got to the 13th, by the time you got to the 13th, you were starting to go down that path, right?

JACOBSON: I was, yes, sir.

GERAGOS: Okay. And up until the time I said where is this call, nobody bothered to come up with any analysis of it to determine what it was; isn't that correct?

JACOBSON: That would be a fair statement, yes.

GERAGOS: Okay. So last week for the first time, somebody goes back and takes a look and, lo and behold, turns out you guys were wrong, all seven of you; is that right?

JACOBSON: I don't know if I would say wrong.

GERAGOS: You just changed your mind?

JUDGE: Wait a minute.

JACOBSON: I don't think so.

JUDGE: Stop. Stop. Let him finish the question. Let him finish the answer before you ask the next question. Finish your answer.

JACOBSON: Yes, sir, I don't think it's a matter of who is wrong and who is right. I think it's a matter of the timing of that particular call and how this whole thing got started. If you would like me to elaborate and explain.

GERAGOS: I'll ask you,

DISTASO: Let him finish his answer.

GERAGOS: He wanted to elaborate. It's non-responsive when he goes on in the speech.

JUDGE: It's cross. When you take him back on directs, you can have him elaborate. All I'm asking, Mr. Geragos, let him finish.

GERAGOS: I will, judge.

JUDGE: Ask the next question. I have a court reporter here that's going to be very upset with me and you. Next question.

GERAGOS: Now, you then write up, or not you, but Buehler writes up, Buehler writes up a two-page analysis of what he thinks actually transpired; is that right?

JACOBSON: I believe it was analysis of what we believed, collectively.

GERAGOS: Well, and you saw this. This was, it's dated August 17th, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. And that's whose handwriting is that?

JACOBSON: That's Detective Buehler.

GERAGOS: Did you review this?

JACOBSON: I don't believe I read it verbatim; but I was there when he wrote it out.

GERAGOS: Okay. Thank you. I'd ask if this is a good time to take the afternoon break. Or do you want me to just keep going?

JUDGE: Well, you folks want to break now? Okay. Court reporter needs a break. We got to switch reporters. We'll take until 3:15. Bring you back here, try to get through this today.

<recess>

GERAGOS: Investigator, the, do you have your, what I call the Central Valley HIDTA records with you?

JACOBSON: Which ones, sir?

GERAGOS: I showed you the example of, I guess would be, what do you call them, the call data records?

JACOBSON: Call database listing or summary sheet?

GERAGOS: Summary sheet.

JACOBSON: I have an extra defense copy right there in my binder for you.

GERAGOS: Thank you.

JACOBSON: I'd like it back, though.

GERAGOS: I'll give it back. The, do you have also up on your computer the calls, I'm going to ask you a question, and I don't know if you can answer it. Do you know the charts that you had that we looked at on direct for the calls from Amber to Scott, back and forth?

JACOBSON: Yes, sir.

GERAGOS: Can you pull up November?

JUDGE: Okay, are you talking about F, Mr. Geragos?

GERAGOS: I believe so, Judge.

JUDGE: F 1 through 5.

DISTASO: You have to hit the input.

GERAGOS: Hmm?

DISTASO: You have to hit the input.

GERAGOS: Okay. The, the way these calls are, here on the 24th there's only one, it's kind of blocked a little bit.

HARRIS: There's a binder in the way.

GERAGOS: Okay. This is for November, and what you did, if I understand correctly, is if it's a red call, that means Scott's making it, outgoing from his phone?

JACOBSON: Yes, sir.

GERAGOS: Okay. A blue call means Amber's,

JACOBSON: Yes, sir.

GERAGOS: isn't that right? Okay. Now, the, then you've got this little legend here next to it. I assume that means, for the blue, that it's, that would be a call by Amber to Scott's business; is that right?

JACOBSON: Yes, sir, that's a correct assumption.

GERAGOS: And Cell 1 would be a call by Amber to Scott's cell number 1, which would be that 505-0337?

JACOBSON: Yes, sir, that's correct.

GERAGOS: Now, am I also right, at least in November, the only cell phone that Amber had was whatever, what's the number of that, that cell one?

JACOBSON: (209) 505-0337.

GERAGOS: No, that Amber had that she used.

JACOBSON: Oh, her cell phone.

GERAGOS: A call in red is a call by Scott to Amber?

JACOBSON: Yes, that's correct.

GERAGOS: Okay. And that is, what is Cell 1?

JACOBSON: That means that is a call from Scott Peterson's Cell 1 to Amber's cellular telephone.

GERAGOS: Okay. Does that mean, she's only got at that point one cell phone, correct? Or you're identifying her one cell phone as Cell 1?

JACOBSON: No, sir.

JUDGE: From Scott Peterson's cell phone number 1.

JACOBSON: Yes, sir.

GERAGOS: That's what I'm asking here. You've got "business," which is all in blue, to Amber Frey. That doesn't mean from Amber's business, right?

JACOBSON: No, that blue call reflects that Amber called Scott's business.

GERAGOS: Business, TradeCorp?

JACOBSON: So B-U-S is Scott's business.

GERAGOS: Yes, that's what I'm trying to establish.

JACOBSON: Yes, sir.

GERAGOS: Right here, if it's in blue, that means Amber's calling Scott?

JACOBSON: That's correct.

GERAGOS: And then after, if it's in blue, that's the location that she's calling, right?

JACOBSON: That's correct.

GERAGOS: Scott's business?

JACOBSON: Yes, sir.

GERAGOS: Scott's first cell phone, which is the 0337?

JACOBSON: You're correct, yes, sir.

GERAGOS: Now, red is Amber calling Scott?

JACOBSON: Yes, sir.

GERAGOS: That's Amber calling Scott on Scott's cell phone 1, right?

JACOBSON: That's correct.

GERAGOS: Okay.

JACOBSON: Yes, sir.

GERAGOS: So it wouldn't be Amber calling on, I mean you're, what you're doing is this is the destination; this is the receiving call, right?

JACOBSON: Yes, sir.

GERAGOS: Now, so all, as far as you can tell, if it wasn't on a pay phone, these are all the calls in November between the two of them, correct?

JACOBSON: All the records that I could find for the month of November which would indicate to me that they had some conversations are on that chart.

GERAGOS: Okay. Now, do you have records that reflect whether or not they actually talked on these calls?

JACOBSON: No, sir, I don't.

GERAGOS: And the reason for that is because you didn't have a wiretap then, right?

JACOBSON: That's correct; yes, sir.

GERAGOS: You can make some assumptions, though, can't you, that if you take a look at the call records, you could take a look for how long the call was, right?

JACOBSON: I could look and see the duration of those calls, yes, and form some conclusions.

GERAGOS: Okay. Do you have those call records?

JACOBSON: I do.

GERAGOS: Would you pull those out for November. These three calls on the 19th, do you have those?

JACOBSON: Yes, sir, I do.

GERAGOS: Okay. What are the duration of those three calls?

JACOBSON: The first one indicated there at 4:24 p.m. to the business.

GERAGOS: Right.

JACOBSON: Shows one minute.

GERAGOS: Okay. So we're assuming that's a, leaving a voice mail?

JACOBSON: It's certainly, it all depends whether he had an answering machine there at the business or not, but it is a short duration call, so that could be a correct assumption.

GERAGOS: 4:27?

JACOBSON: 4:27 p.m. shows a four minute duration.

GERAGOS: Okay. So more likely to be either a long message or a conversation?

DISTASO: Objection. Calls for speculation.

JUDGE: Overruled.

JACOBSON: It could either be a long voice mail message or a short conversation, you're correct.

GERAGOS: 10:00 p.m.

JACOBSON: 10:00 p.m. indicates two minutes.

GERAGOS: Okay. Now, go to the, and those are the only three that you were able to find, right?

JACOBSON: Those are the only three on the records, yes, sir.

GERAGOS: Now, if I understand correctly from the records and, looking at the records and also talking to you outside the courtroom, a number of these records don't show, for instance, if you take a look at some of the wiretap records, the wiretap records, as we've talked about before,

there are a number of calls that didn't get initially picked up, correct?

JACOBSON: Can you,

GERAGOS: There's a hundred and whatever?

JACOBSON: A hundred and 76 audio buffered calls.

GERAGOS: There's also, if you take a look at the fraud usage billing records and compare those calls to the wiretap, you can see there's more calls on the fraud usage than there is on the wiretap, correct? Have you ever done that comparison?

JACOBSON: I have looked at the comparisons between the two.

GERAGOS: And it appears that the wiretap's not picking up all the calls, correct?

JACOBSON: It all depends if there's a problem with the wiretap or if there's some problems with AT&T or RVPN or,

GERAGOS: Right. I'm not asking you what the reason is.

JACOBSON: Right.

GERAGOS: I'm just saying if I lay out, if the jury were to take a look, they go back and take a look at the fraud billing records, and then they take a look at your HIDTA records, and just lay them off, one next to each other, you're going to be able to see that there's entries on any particular date that don't show up in the wiretap that do show up in the fraud usage, correct?

JACOBSON: Yes, sir. And vice versa as well.

GERAGOS: Right.

JACOBSON: Yes.

GERAGOS: And the same thing goes for, for instance, if you, when you subpoenaed some of Amber Frey's records, there are phone calls that are not shown on there between her and Mr. Peterson, Scott Peterson, that are shown on his records, correct?

JACOBSON: Yes, sir.

GERAGOS: And there are some records, for instance, between Lee Peterson and Scott Peterson, which don't show up on Scott's phone bills, correct?

JACOBSON: Yes, sir.

GERAGOS: Which do show up on Lee's phone bills?

JACOBSON: Yes, sir.

GERAGOS: Okay. So is it a fair statement that what you've done with whatever the world of data, universe of data that you have, you tried to put this together, but, like with all things involving these phones, a lot of times the phone calls don't get picked up on the billing records, correct?

JACOBSON: That's correct.

GERAGOS: And a lot of times they didn't get picked up on the fraud usage records, correct?

JACOBSON: It can happen, yes, sir.

GERAGOS: And they didn't get picked up on the wiretaps, correct?

JACOBSON: Not in this period of time, no, sir.

GERAGOS: You didn't have wiretaps then.

JACOBSON: No.

GERAGOS: But I'm talking generally later on during that one month, or less than a month period, right?

JACOBSON: You would have to be more specific as to what period of time calls didn't get picked up.

GERAGOS: I'll go through tomorrow and show you some by example, or you can take a look and compare. If you take a look, if you would do me a favor, just take a look overnight and look at January and see, between fraud usage and the wiretap, whether there's ones that are missing. What's on that 20th, how long is that call?

JACOBSON: The one on the 20th at 1:46 p.m., looks like that's an 11 minute duration.

GERAGOS: Okay. The next day, the, and that's a call by Scott to Amber's cell phone?

JACOBSON: Yes, sir.

GERAGOS: You found that on Scott's phone records?

JACOBSON: It's on Scott's. And you can see the corresponding incoming with Amber's Sprint records as well.

GERAGOS: Good. The next day.

JACOBSON: The next day at 11:44 a.m. It appears on the Sprint records that it was an eight minute duration call.

GERAGOS: Okay. The next day, on the 22nd? Once again, if it's red it's Scott calling her, so we've got an eleven minute, an eight minute, 11 on the 20th, eight minute on the 21st, right?

JACOBSON: Yes, sir.

GERAGOS: And the 22nd?

JACOBSON: I would have to go, if you give me a second, I have to switch records between Scott Peterson and Amber Frey.

GERAGOS: With the records that you have right there, are you able to take a look at the 24th and tell me what those are?

JACOBSON: The 24th?

GERAGOS: Looks like there's an 11:43 that's a Peterson call. On a 12:17 it's an Amber Frey.

JACOBSON: The call on the 24th at 11:43 appears to be six minutes, according to the Sprint records.

GERAGOS: Right.

JACOBSON: And the call at 12:17 appears to be 18 minutes, according to Sprint records.

GERAGOS: So total of how many minutes that day?

JACOBSON: That would be about, what, 24?

GERAGOS: 24 minutes total. And then you have to switch before we leave November to tell me total time on the 22nd?

JACOBSON: Okay.

GERAGOS: If you keep the other records out, because I'm going to move to December after you finish with the 22nd.

JACOBSON: Would you be so kind as to get me the 505?

GERAGOS: Yes.

JACOBSON: records? The first one at 12:30 appears to be a two minute duration.

GERAGOS: Okay. That's from Scott to Amber?

JACOBSON: Yes, sir; you're correct.

GERAGOS: Second?

JACOBSON: And the second one appears to be four minutes in duration.

GERAGOS: Okay. So we've got about six minutes there, and whatever you said, 20 some-odd minutes there?

JUDGE: 24.

GERAGOS: 24.

JUDGE: Mm-hm.

GERAGOS: Okay. So for the, in November, whether the one minute calls are messages or not, total minutes charged by the phone company that you could find is about 49 minutes in November?

JACOBSON: It's about there, yes, sir.

GERAGOS: Okay. Can you move it to the next exhibit? I think that was, was it F 2?

JACOBSON: Please don't, please don't make me do this one.

GERAGOS: December. Start with --

JACOBSON: Oh, no.

GERAGOS: the 2nd one.

JUDGE: Can I make a suggestion? Maybe he can add these all up over the, over the night and tell you how many minutes' worth.

GERAGOS: Well, I'd like, part of it is, and I want the jury to see --

JUDGE: See who called whom.

GERAGOS: Yes. At least, at least through the 26th. That's all I'm going to do. I just want to show how many of them are one minutes. I think we've got a pretty good idea the duration after that.

JACOBSON: Okay. Sir, the first one on December 2nd.

GERAGOS: Yeah.

JACOBSON: That's 11:39 a.m?

GERAGOS: 11:30 a.m.

JACOBSON: It appears it's a two minute call, sir.

GERAGOS: Okay. Tuesday?

JACOBSON: Appears it's a two minute call, sir.

GERAGOS: On Tuesday at 4:00?

JACOBSON: That's Tuesday at 4:00 p.m., yes, sir.

GERAGOS: Okay. Another two minute call. The 6:25?

JACOBSON: It appears it's a one minute duration call.

GERAGOS: Wednesday?

JACOBSON: It appears it's a two minute duration call.

GERAGOS: Thursday?

JACOBSON: It appears it's a two minute duration call.

GERAGOS: Saturday? So 1:23.
JACOBSON: Two minute duration call.
GERAGOS: Okay. Now, on the 9th, you have those records in front of you? Start with the 12:44.
JACOBSON: 12:44 is three minutes.
GERAGOS: 1:20?
JACOBSON: One minute.
GERAGOS: 9:00 o'clock?
JACOBSON: Two minutes.
GERAGOS: 9:05?
JACOBSON: That's Amber Frey's, right?
GERAGOS: Right. Both the 9:05 and 9:14 are her.
JACOBSON: One minute, sir, on 9:05.
GERAGOS: Okay. And 9:14?
JACOBSON: And 9:14 is eight minutes.
GERAGOS: Okay. And then going back to, what is it, 10:46?
JACOBSON: 10:46 for Mr. Peterson?
GERAGOS: Right.
JACOBSON: 112 minutes.
GERAGOS: How long?
JACOBSON: Shows a hundred and twelve minutes, sir.
GERAGOS: Okay. That's on the 9th, right?
JACOBSON: That's on the 9th at 10:46 p.m.
GERAGOS: Got it. Move to the 10th.
JACOBSON: That's his call on the 10th at 2:30. That's two minutes, sir.
GERAGOS: And the next one?
JACOBSON: 5:11, that's three minutes.
GERAGOS: And then the 5:20 is her phone?
JACOBSON: Six minutes.
GERAGOS: Okay. The next day?
JACOBSON: The next day is the 11th?
GERAGOS: Right.
JACOBSON: At 11:19, eight minutes.
GERAGOS: And then the, what is that, a 2:46 call?
JACOBSON: Yes, sir. Two minutes.
GERAGOS: Next day, the 12th?
JACOBSON: That's his phone.
GERAGOS: Right. 6:51?

JACOBSON: Three minutes.
GERAGOS: And the 14th?
JACOBSON: One minute.
GERAGOS: Okay. You're in the home stretch. Eleven more days. The 15th?
JACOBSON: At 12:12 p.m. is two minutes.
GERAGOS: The next one?
JACOBSON: One minute.
GERAGOS: Okay. The 12:16 is a minute?
JACOBSON: Yes, sir.
GERAGOS: The 12:34, that's from her?
JACOBSON: 12:34 on the 15th, three minutes.
GERAGOS: Okay. The next day, the 16th?
JACOBSON: That's his phone again. 5:42, two minutes.
GERAGOS: The 7:23 and 7:32?
JACOBSON: Three minutes.
GERAGOS: The next one?
JACOBSON: Five minutes.
GERAGOS: Next?
JACOBSON: Ten minutes.
GERAGOS: Okay. What day are you on?
JACOBSON: Did the, I kind of got lost on that one.
JUDGE: I believe the last one you said, the 8:53 p.m. call, was ten minutes.
JACOBSON: I skipped 7:32.
GERAGOS: Right.
JACOBSON: 7:32 was two minutes.
GERAGOS: Okay. Now, the 17th?
JACOBSON: The 17th for 11:32. Two minutes.
GERAGOS: And 1:57?
JACOBSON: Thirteen minutes.
GERAGOS: 3:35?
JACOBSON: Two minutes.
GERAGOS: And 8:49?
JACOBSON: Twenty-one minutes.
GERAGOS: Okay. And the next day, there's a 4:35 and a 4:36. I assume the 4:35 is a minute?
JACOBSON: Yes, sir, it is.
GERAGOS: 4:36?
JACOBSON: Three minutes.

GERAGOS: Okay. The next day, the 19th?

JACOBSON: Four minutes.

GERAGOS: Okay. And that's the 9:20?

JACOBSON: 9:20 a.m., sir, on the 19th.

GERAGOS: The 10:20?

JACOBSON: 10:20 is two minutes.

GERAGOS: 11:40?

JACOBSON: One minute.

GERAGOS: 1:17? Another minute?

JACOBSON: One minute.

GERAGOS: 1:21, is that another minute?

JACOBSON: Twenty-three minutes.

GERAGOS: Okay. 9:50?

JACOBSON: Two minutes.

GERAGOS: And 9:54 and the 10:01?

JACOBSON: One minute and one minute.

GERAGOS: Okay. The next day, on the 20th, you've got those two calls. One at 12:35 and the 5:26 (sic)?

JACOBSON: Six minutes and three minutes.

GERAGOS: Okay. That takes us to the 21st?

JACOBSON: Yes, sir.

GERAGOS: Two calls. Now, here, this is the first time we've got Cell 2 and Cell 1; is that right?

JACOBSON: That's the first time Cell 2 comes into the picture.

GERAGOS: So does, 11:21 means that that's a call by Amber to this other phone, the 499?

JACOBSON: That's correct. The 499-8427.

GERAGOS: Okay. And how long?

JACOBSON: One minute.

GERAGOS: Okay. And the 1:11?

JACOBSON: Three minutes.

GERAGOS: Okay. Takes us to the 22nd.

JACOBSON: One minute apiece.

GERAGOS: Okay. The 23rd?

JACOBSON: Four minutes.

GERAGOS: Okay. No calls on the 24th?

JACOBSON: Not that I could find, no, sir.

GERAGOS: Okay. The 25th?

JACOBSON: Five minutes. 8:32 is one minute.

GERAGOS: Five minutes there at the 8:23. One minute at the 8:32?

JACOBSON: Yes, sir.

GERAGOS: Okay.

JACOBSON: And 9:08.

GERAGOS: 9:08 is a call by Scott to Amber?

JACOBSON: That's to his other cell phone. Would you be so kind as to hand me the 499-8427, see if I can make some room up here. Ten minutes.

GERAGOS: Okay. And the, what is it, 6:14?

JACOBSON: Is that where we're at? 6:14 on the 25th?

GERAGOS: Back to Cell 1.

JACOBSON: One minute.

GERAGOS: 7:41?

JACOBSON: One minute.

GERAGOS: And the last two there?

JACOBSON: 8:20 is six minutes, and 8:26 is 23 minutes.

GERAGOS: Okay. Now, you're in the last furlong here. The 26th. What have you got there?

JACOBSON: 3:04 p.m. is two minutes. 5:32 is one minute. 5:37 is one minute. 5:48 is two minutes. 5:50 is one minute. 6:55 is one minute. 6:57, two minutes. 7:18 is one minute. 7:19 is one minute. 7:34 times two by one minute.

GERAGOS: Is that, both of those read 7:34. Are those two calls that are just placed,

JACOBSON: Back to back, yes, sir.

GERAGOS: Okay. So even though they read one minute apiece, for billing purposes, they're probably somebody makes, she makes the call, it goes to voice mail or something, clicks off and calls again?

JACOBSON: Probably shorter than a minute, yes.

GERAGOS: Okay.

JACOBSON: 7:36 is one minute.

GERAGOS: Okay.

JACOBSON: 8:16 is one minute.

GERAGOS: I assume 8:20 and 8:21,

JACOBSON: 8:20 is one minute. 8:21 is one minute.

GERAGOS: Okay. 9:53?

JACOBSON: Is that 9:33? 9:33, 17 minutes.

GERAGOS: Got it. Okay. Now, the, Mr. Harris is going to add it, but he takes a while. The, the calls that you went through there, that was based, I mean the jury can see what you're doing. You're taking basically the billing records, or how you assembled this is to take the billing records that are labeled, for instance (209) 499-8427 is 206 B, right?

JACOBSON: Yes, sir.

GERAGOS: So you take the phone 206 B, which is the (209) 505-0337, and then you use, you've got the search on the records for Miss Frey sometime that first week of January, right? Or the

last week of December?

JACOBSON: Yes, sir.

GERAGOS: Okay. You took all those together and then assembled this chart here, correct?

JACOBSON: That's correct, yes, sir.

GERAGOS: Okay. Now, when you did that, did you also compile, at the same time that you were doing that, calls or, do you know what the expression "turning calls" is?

JACOBSON: No, I'm not familiar with that.

GERAGOS: Where you take phone numbers and you turn them to find out who either are, to a reverse directory or something, whose calls they are or whose phone they are?

JACOBSON: Yes, I'm familiar with the concept that you're talking about.

GERAGOS: Okay. Did you do that, at least, on Miss Frey's call to begin with?

JACOBSON: Did I check other numbers besides --

GERAGOS: Yes.

JACOBSON: the known numbers she was calling with Scott Peterson?

GERAGOS: Yes.

JACOBSON: Yes, I did check a few.

GERAGOS: Okay. When did you do that?

JACOBSON: During the course of receiving these records and --

GERAGOS: Okay.

JACOBSON: throughout, you know, several months.

GERAGOS: Okay. The, did you do investigation in connection with the calls that were being made back and forth, as to who the various people were?

JACOBSON: I would see things in the media that was being, that would be reported, and I would check their accuracy and basically see sometimes how they may have received that information, and I would go back and research different numbers to see if I could find subscriber information for those, those numbers that the media were reporting.

GERAGOS: Okay. Now, the total number of calls, let's see, I won't count them up here, but I would assume for the end of December and then for the first ten days of January, you did not have any wiretap information, correct?

JACOBSON: That's correct.

GERAGOS: Okay. Now, starting January 10th? Or is it January 11th in the morning, on the a.m.? Is that when you had the first test call?

JACOBSON: The test calls were going throughout the night on the 10th and into the morning of the 11th, yes.

GERAGOS: Okay. How many calls, how long was this first wiretap that you call Stanislaus County number 2, how long was that actually up and running?

JACOBSON: It was running from January 10th, or January 11th through February 4th.

GERAGOS: Of 2000 and 3?

JACOBSON: 2000 and 3, yes, sir.

GERAGOS: How many total calls were intercepted from January 10th, nighttime, to the morning of the 11th, through February 4th?

JACOBSON: The total number of intercepted calls, calls that were not necessarily monitored, but I believe the total number of calls was over 3,000.

GERAGOS: Okay. Now, when you say intercepted calls, what this means is that every call that comes in, hopefully, at the end of the day you're hopeful that you got them all, or at least the call data on them, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. You may not have captured the audio and in some cases you may have lost the call data through AT&T or something, but you had at least 3,000 calls, correct?

JACOBSON: At least, yes, sir.

GERAGOS: Okay. Now, out of that 3,000 calls, you have to do a report back to the judge in connection with the wiretaps; is that correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. What is that report called? Well, we used to call it a 72 hour report because we had to report to the judge within every 72 hours of the wire intercept, but now it's been changed to a six day report, based on the changes within the legislation?

GERAGOS: Okay. Now, the report or the basis for making this report is because this is an intrusion on someone's privacy, the law looks or frowns upon it, basically, and so they try to keep a tight leash on you, correct? Is that your understanding of why you do these reports?

JACOBSON: I don't necessarily believe in the way that you articulated that the courts frown upon the use of this.

GERAGOS: It's an,

JACOBSON: I would say and agree with you that it is quite an intrusion upon somebody's privacy and, because of that, the courts want to maintain strict control over it, yes.

GERAGOS: Okay. It's also you understand that it's supposed to be, at least conceptually, an investigative means of last resort, correct?

JACOBSON: Generally what you try to do is exhaust the necessity, to show the necessity for the wiretap, to exhaust the normal course of investigations or the normal investigative tools that you have.

GERAGOS: Okay.

JACOBSON: So generally it is considered a tool of last means, so to speak, but it doesn't necessarily have to be that way.

GERAGOS: Okay. Well, the, one of the requirements is that a necessity?

JACOBSON: Yes.

GERAGOS: The word you used, the legal term is necessity. You have to say that you have exhausted all our other reasonable other alternative ways of investigating and that's why we need the wiretap, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay.

JACOBSON: Or at least you have to show that, if those were to be carried out, they would be likely to fail. So you don't necessarily have to exhaust it but just to articulate the fact, that if you were to do those means, you probably wouldn't have much of an outcome.

GERAGOS: Okay. And at the end of the day you came to a conclusion about the wiretaps; isn't that correct?

JACOBSON: Yes, sir.

GERAGOS: Wiretap number 1, and that conclusion was that there had been, you didn't seek to renew it after February 4th; isn't that correct?

JACOBSON: That's correct.

GERAGOS: And the reason was that you gave to the judge was what?

JACOBSON: The reason that I gave to the judge is that I felt that Mr. Peterson had left the country on one occasion, on February 4th, and I also believe that he, through his knowledge and understanding of what was going on at the period of time, caught on to the fact that his phones were being intercepted.

GERAGOS: Okay.

JACOBSON: So it was a two-fold reason. First, he was leaving the country, and the second part was I believe that he believed that his phones were being tapped or bugged, so to speak.

GERAGOS: Okay. And you also made a report to the judge as to what you garnered in terms of evidence? You have to do that, correct?

JACOBSON: Yes. You have to show him or show the magistrate a portion of what you've gained during that course of the intercept, yes.

GERAGOS: Okay. Do you have that report with you?

JACOBSON: The final report? Is that what you're,

GERAGOS: The one, the final report as to Stanislaus County number 2, which is the first wiretap?

JACOBSON: Yes, sir.

GERAGOS: Can you pull that up? If I could just take it out for a second, if that's okay.

JACOBSON: Are you going to walk away with it?

GERAGOS: I will, but I'll let you refresh your recollection if you need to. Now, what is the, what is your understanding of the purpose of this report?

JACOBSON: The purpose of that report was to inform the magistrate that, the status of the wire intercept. And at that point in time I asked the judge to voluntarily terminate the wire intercept.

GERAGOS: Okay. Now, when you say you asked to voluntarily terminate, what does that mean?

JACOBSON: That means that instead of waiting for the judge to basically make the order to terminate the wire intercept, I was asking him to terminate the wire intercept.

GERAGOS: Okay. Now, did you come to any kind of a, or did you make a conclusion at any point as to what you felt the wiretap had garnered ultimately?

DISTASO: Objection, your Honor. Calls for his opinion. It's not relevant.

JUDGE: Well, he's testified he asked the judge to terminate the wiretap voluntarily, so I think that's fair game. What reasons did you come to the conclusion that you asked the judge to voluntarily terminate the wiretaps?

JACOBSON: Mr. Peterson had made some conversations with his sister, Janey Peterson, that he believed that his phones were being tapped. He believed that he wasn't the only one on the line, and that was on the 505-0337 number. So basically he told his sister that he was at an undisclosed location. Because I've been around wire intercepts for quite some time, we have to

remember that when you're up on a wire intercept, it's the perception of the individual who is having his phones tapped, if he believes he's being intercepted or not. And if the individual believes or perceives that he's being intercepted, most likely, in the drug organizations, those phones are floating in the Bay really quickly, or they're given down to other family members who may be using them to distance themselves from the original person that was using the phone. I believe based on Mr. Peterson being able to put together a few things, you know what I'm talking about, being able to put together a few things in that conversation with his sister-in-law, that he believed that his phone was being tapped or bugged, and I didn't feel at that point in time that any further evidence or admissions or confessions would be solicited from Mr. Peterson.

GERAGOS: Right. You came to the conclusion that he thought that Modesto PD was tapping his phones, right?

JACOBSON: That's what I said, yes, sir.

GERAGOS: All right. I understand what you were saying; but that was your conclusion, that he had figured out that, based upon the things that were happening, the Modesto PD obviously had tapped his phone, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, out of the 3,000 phone calls, over 3,000 phone calls that you intercepted, there were no admissions or confessions by Scott Peterson, correct?

DISTASO: Objection, your Honor. It calls for a legal conclusion.

JUDGE: Sustained.

GERAGOS: I'll withdraw, I'll withdraw that.

GERAGOS: You didn't receive, you didn't receive out of those 3,000 phone calls, well, let me put it a different way. Were you also at the same time intercepting calls between Scott and Amber Frey?

JACOBSON: Yes, sir.

GERAGOS: Okay. So were you able then to compare the calls that you were intercepting with the calls or the tapes that she was supplying to Detective Buehler?

JACOBSON: At that time I wasn't able to make a comparison between the tapes and the wiretap calls, but I was at a later date able to go back through and make some sense of the actual recordings that Amber had provided to law enforcement.

GERAGOS: Okay. Well, but did you at the time, I think we went over it before the break. At the time you and a number of the other detectives had gone back to the wire room to do some comparisons, correct? At least on the 13th, I think you wrote, I don't know if you wrote a report, but Buehler wrote a report, right?

JACOBSON: I'm aware of his report, yes, sir.

GERAGOS: Okay. And that was done to basically test whether or not the tapes that she was providing or the conversations that she was relating to Buehler were one and the same with what the wiretap would intercept, correct?

JACOBSON: That's correct. It's, it wasn't the tapes, it was the conversations at that period of time.

GERAGOS: Okay. When you say it wasn't the tapes, it was the conversations, it's whether she's having the conversations? Or what, the substance of what she's reporting back, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, the conversations with Mr. Peterson in Longview that you went through this morning; do you remember what --

JACOBSON: Yes, sir.

GERAGOS: we talked about that this morning? Specifically there was a first conversation that you intercepted, correct?

JACOBSON: Which conversation are you alluding to?

GERAGOS: To Longview where he talked to somebody named Randy, I think?

JACOBSON: Rendy, yes, sir.

GERAGOS: Rendy. Okay. Do you have that on your computer?

JACOBSON: I do.

GERAGOS: Would you punch that up for a second.

JACOBSON: Okay.

GERAGOS: Can you go specifically to that call? You have it in a synopsis form?

JACOBSON: As a transcript or,

GERAGOS: Either as a transcript or the way you've got it on your HIDTA sheet?

JACOBSON: I have a transcript of it, yes.

GERAGOS: Do you have that handy on the computer? Or do you want me to grab the hard copy?

JACOBSON: I don't have it in a way that I could project right now.

GERAGOS: Okay. If you can't project it, I'll just pull it out of here and have a hard copy. That conversation, if I understand it the way you were trying to explain it this morning, you intercept the conversation, correct?

JACOBSON: Yes, sir.

GERAGOS: Now, the intercept is on the 505-0337 number, correct?

JACOBSON: And the 499-8427.

GERAGOS: Okay. But on that particular call you're intercepting 505?

JACOBSON: Yes, sir.

GERAGOS: And as you're intercepting 505, if I understand correctly, there's a call waiting that comes in, right?

JACOBSON: Was it,

GERAGOS: Was it that one, the one where you said Ted Rowlands calls in?

JACOBSON: You know, to be honest, Mr. Rowlands called in quite, quite a bit.

GERAGOS: He was a pain, wasn't he? He was a real pain?

JACOBSON: He made things difficult on occasions.

GERAGOS: Yes. Let me show you this, I think this was the one, was it January 31st at 10:02? Does that look like, does that refresh your recollection that that was the first intercept?

JACOBSON: Yes, sir.

GERAGOS: And if I'm not mistaken, wasn't this the one that you said that you thought that Ted Rowlands clicked in at the end on this?

JACOBSON: Sir,

GERAGOS: Isn't that what you said this morning?

JACOBSON: You've walked away with my copy of that.

GERAGOS: I thought you said this was the defense copy?

JACOBSON: Well, it's a copy of the defense copy, but I've already given you one, so that's mine and it needs to return home.

GERAGOS: What's this one?

JACOBSON: Those are copies of the other phones.

GERAGOS: Oh, okay. Take a look. Tell me if it's January 31st at 10:02?

JACOBSON: Okay. I see it.

GERAGOS: Okay. Is this the one, and I'm going to show you, I'm going to put you on page two of two of the transcript. You had the whole recording, the traffic information, and then is that when you say you get another call that comes in?

JACOBSON: You can hear it during the course of the conversation, where the beeping take place? That's the incoming call. And according to the records, that is Mr. Rowlands is placing that incoming call.

GERAGOS: Mr. Rowlands; is that correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, the call, it looks like he's saying Rendy, hey, Rendy, my name is Scott Peterson. That's all that you were able to get off of that recording, correct?

JACOBSON: I believe the jury's read both pages.

GERAGOS: I'm just asking you, that's all you were able to get off of that particular intercept, correct?

JACOBSON: Nothing else I was able to get, outside of the Longview Police Department telling us about parking on the wrong side of the street being a violation.

GERAGOS: Right. When it, what I'm asking you is when this transcript ends here, if we had another transcript of Ted Rowlands' call, that's the next thing you would have intercepted?

JACOBSON: Yes, sir.

GERAGOS: That doesn't mean that this call hung up?

JACOBSON: No, sir.

GERAGOS: Means that he's still, arguably, or your understanding is, he's still talking on this other call, correct?

JACOBSON: Possibly, yes, sir.

GERAGOS: Okay. Well, then when you, we get to the February 3rd, 2000 and 3 call to Longview PD, it says: You've reached the Longview PD. If this is an emergency, please hang up. And then specifically it appears that the, the phone call, or the caller, which in this case is Scott Peterson, apparently is using his dial tone, or the push buttons, to punch out Dan Jacobs, correct?

JACOBSON: He was the detective sergeant, yes.

GERAGOS: Okay. So somehow between that first call, when the last thing we see, or was intercepted was somebody by the name of Rendy, to February 3rd, he had obtained the information that the detective who was handling this was named Jacobs and was able to punch that in as he called, correct?

JACOBSON: It wasn't, he wasn't necessarily the detective handling it. He was the detective sergeant who was putting out all the press releases.

GERAGOS: Okay. Well, he had obtained that name somehow; is that correct?

JACOBSON: Yes, sir, he had.

GERAGOS: Okay. And we don't know, as we sit here, from the intercept how that took place, because Ted Rowlands in his pesky calls came in and cut us off; is that correct?

JACOBSON: I don't have the remainder of that first conversation, yes.

JUDGE: I'm going to cut you off now, okay? All right. Ladies and gentlemen it's time for evening recess. Remember the admonition. You're not to discuss this case among yourselves, or with any other person, nor form or express any opinions about this case. You're not to listen to, read, or watch any media reports of this trial, nor discuss it with any representatives of the media or their agents. We'll reconvene tomorrow morning at 9:00. I'm going to ask counsel to be here tomorrow morning at 8:45, okay? 8:45 tomorrow.

DISTASO: That's fine, Judge.

GERAGOS: Mr. Naljian said he was going to be here earlier.

JUDGE: Right, but I want to let you know my ruling.

GERAGOS: Okay. Got it.

JUDGE: Okay. We'll see you at 9:00 o'clock, and we'll pick up with Inspector Jacobson.

(Evening recess)