Witness: Steven P. Jacobson

Date: 2004-08-26

Proceedings held August 26, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Cross – Mark Geragos (continued from previous day)

Day 3 of 4 for this witness

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

Source: https://pwc-sii.com/CourtDocs/Transcripts/Jacobson-Trial.htm

Page/line: not available (source HTML has no page or line markers)

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August 26, 2004

JUDGE: All right, this is the case of People versus Scott Peterson. Let the record show the defendant is present with counsel, and these proceedings are taking place out of the presence of the jury. And we have had another discovery issue that I think has been sorted out here. Can you sort of give me, what's the sum total of this meeting now? What's going to happen? Are we going to finish with this witness today, Mr. Geragos?

GERAGOS: I have made my record as to the records that have now been turned over.

JUDGE: Right.

GERAGOS: I obviously am going to need to deal with that, and possibly, with when Investigator Jacobson, with Investigator Jacobson. So I will continue the cross examination that I can do with him today. Then I would ask to just defer him until Monday, then we'll go on to Wall.

JUDGE: Okay. We can to Wall today also?

GERAGOS: Yes. I'll do as much of Wall as I can today.

JUDGE: And we'll, do you have, you don't have any more. This is just cross? Got to do as much cross, will be there be any redirect on Wall?

D. HARRIS: Yes.

JUDGE: I want to use the whole day as best I can.

D. HARRIS: We're set, ready to go for that. With respect to, just for the record, then,

JUDGE: It is proposed under 356, I'm going to let the prosecutor play the remainder of the Rocha tape. I gave it to Raffi now. What's the date on that, Raffi?

NALJIAN: January 16th, 03.

JUDGE: I asked him to take out that portion of the Dempewolf testimony. Raffi is going to deal with that. Then if, when you get that redacted, if you give it do Mike, and Mike will have all the copies run off. And then I'll leave it up to you to take see if you can get it out of the disk.

D. HARRIS: Just for the record, I think you might have said the prosecution could play.

JUDGE: The defense can play.

D. HARRIS: All right.

JUDGE: Defense can play it. And the Court will permit it under 356. The Court is of the opinion 356 permits the remainder of the statement to be played by the opposing party, in the event one

party only plays a portion of it. With respect to the other issue, with respect to the other tapes, Amber Frey, of Amber Frey, since they postdate the date when the,

GERAGOS: I didn't look at that. Can we defer, since he's coming back on Monday, let me look at that. I believe that there is some other tapes.

JUDGE: I'll reserve a ruling on it. I gave you my tentative ruling in chambers.

GERAGOS: And I understand what you are saying. I'll go back, I'll take a look. I think that there is some tapes, and I think that they can come in. But let me go and look at that.

JUDGE: You will have to persuade me. It's, like I said, it postdates the comment. Okay?

GERAGOS: Right.

JUDGE: And I have the, I have the tapes already. They are, already have the copies all prepared. Now, can I bring the jury in now so we can get going?

GERAGOS: Yes. Yes, please.

JUDGE: Do you want to bring the jury in, please?

GERAGOS: Why don't we decide me we will take the break.

JUDGE: I want the jury for at least an hour before we take a recess. I'm going to just take how about 11:15, approximately.

GERAGOS: You can take at 11:15.

JUDGE: Yeah, until around 11:30.

GERAGOS: Just do it at 11 to 11:15. I'll do 45 minutes. So I will do one for an hour and ten. Hour and ten, and then take it and then.

JUDGE: We'll do it do it at eleven then. I should state for the record, since it was a discovery issue, I have to further indicate that the DAs are blameless on this one.

GERAGOS: Department of Justice isn't.

JUDGE: I don't want to point the finger at anybody. (JURORS ENTER THE COURTROOM)

JUDGE: All right, let the record show now that the jury is present in the jury box, along with the alternates. Ladies and gentlemen of the jury, I want to apologize to you again. I sound like a broken record, I know that. But there are cases, and then there are cases. And this is the one of those cases. So I have to deal with this stuff out of your presence. And it's a recurring problem, so I hope you will indulge us until we get through this thing. Okay? So I'll appreciate that. Okay, Mr. Geragos, do you remember where you left off?

GERAGOS: No. I'll just wing it.

JUDGE: That shouldn't stop you. Go ahead.

GERAGOS: Okay. Good morning, Investigator Jacobson.

JACOBSON: Good morning, Mr. Geragos.

GERAGOS: I think one of the questions I asked you yesterday is, I'm sure the jury remembers, these what we keep calling the Fraud Billing Records.

JACOBSON: Those records that you are holding up are the AT&T billing records.

GERAGOS: Now, the billing records, yesterday I was asking you about the difference between the billing records. And they show quite a few calls. And I asked you before they came out, you can see it if I put it up here. I asked you yesterday if you would compare the wiretap records, and that's the HIDTA, that Central Valley HIDTA Call Log; is that correct?

JACOBSON: Called Database Listing, yes, sir.

GERAGOS: Yes. The one that required me to go get these so I could read it the, small print ones.

JACOBSON: Unfortunately it is a small font, yes.

GERAGOS: Now, I asked you yesterday if you would compare those records to the billing records that were marked, or that had been marked as 206B. Did you do that?

JACOBSON: Yes, sir, I did.

GERAGOS: Okay. The question I was asking you yesterday is, you get quite a few calls,

JUDGE: Get the lights, Mike.

GERAGOS: on here show incoming, incoming, all the way down.

JUDGE: It's better with the light on.

GERAGOS: The listing of the calls and then the times. And it was just my observation at least when I looked at it compared to your HIDTA records, there is a lot more activity in the billing records than there is on the wiretap. Did you compare that last night?

JACOBSON: I did compare it last night.

GERAGOS: Did you make the same observation?

JACOBSON: Are you referring to that sheet, or just a general observation?

GERAGOS: Not that particular sheet. I'm just using that as an example. I'm asking you, when you looked through all of these pages here,

JACOBSON: Right.

GERAGOS: of the records, it looks to me, just by shear numbers, that it's pretty obvious that from January the 10th or the morning of the 11th, through February 4th that there is a lot more calls, substantially more calls in the billing records than there are on the wiretap.

JACOBSON: I wouldn't agree with that. Not substantially, no.

GERAGOS: What would you, did you,

JACOBSON: I would say that the records do differ, but not substantially.

GERAGOS: How many, did you count?

JACOBSON: No. I didn't tally them up, no, sir.

GERAGOS: Ten percent, 20 percent?

JACOBSON: I wouldn't go that high. No, sir.

GERAGOS: When you made that comparison, did you take a look at, for instance, the days that we were talking about yesterday, the DA asked you about the 11th, and then we had some testimony about the 29th, 30th, 31st, going to February 3rd; correct?

JACOBSON: It was January 11th, then the 30th through February 3rd, I believe on the Longview slide.

GERAGOS: Did you take a look at, let's start with the Longview slide, which is the, starts with the 30th, correct?

JACOBSON: Started with the evening of the 30th, yes, sir.

GERAGOS: Okay. Now, the evening of the 30th, what was the first call that was, give me the times of the first call on your slide?

JACOBSON: The first time on the slide I believe was at 2109 hours or, 9:09 p.m. That was the notification that I had with Miss Cosby.

GERAGOS: You didn't, I think Mr. Distaso had made it quite clear yesterday, you guys were calling it a snapshot. You just kind of culled out couple of, some of the calls?

JACOBSON: Yes, sir.

GERAGOS: There is a lot more calls that are there on the 30th, correct?

JACOBSON: Yes, sir.

GERAGOS: Now, starting on the 30th, can you take a look, I'm on page 81 of the Billing Usage Records. Can you take a look and tell me if the calls that are listed on there, if all those calls on the 30th were intercepted by the wiretap?

JACOBSON: From what period of time, sir at 9:09 p.m. onward, or for the full day.

GERAGOS: You started with 9:09 p.m. I want you to start, there is a reference to Mr. Peterson, Scott Peterson saying yesterday that he heard about this Longview, Washington, sighting at around, I think, 3:00 o'clock. Isn't that what it said on one of the intercepts?

JACOBSON: I believe he stated that it went out over the AP wires at about 3:00 o'clock. I don't believe that he said he specifically heard it at that time. But that was something that he stated to somebody else.

GERAGOS: Okay. So when you have, you weren't talking to him. You were intercepting the wire?

JACOBSON: Yes, sir, I was.

GERAGOS: Okay. Do you want, I can put it up here. Do you have, I can blow it up, you can tell me if you have got all the dates. Would you do that?

JACOBSON: Sure.

GERAGOS: On all of these calls on the wiretap. And then let's start from about, well, is this Eastern or Pacific?

JACOBSON: Those billed records would be Pacific Standard Time.

GERAGOS: Okay.

JACOBSON: Ought to be. I haven't had a chance to look those over.

GERAGOS: First one would be on the 30th. Is this 2:42, right here?

JACOBSON: Okay. That's where you want to direct me to, 2:42 in the afternoon on the 30th?

GERAGOS: Do you have that on the wiretap?

JACOBSON: 2:42, yes.

GERAGOS: Go through the next page.

JACOBSON: You are going downward, sir. You are going to the 29th now.

GERAGOS: Got it. 2:19:43?

JACOBSON: Yes, sir.

GERAGOS: Got it?

JACOBSON: Yes, sir.

GERAGOS: Keep going. Next? Use whatever is the easiest way for you to reference it.

JACOBSON: Probably just if you keep your pencil up there on the screen as a pointer, I'll just go right on down the list. Sometimes I have to use the numbers as well.

GERAGOS: Okay. 2:47?

JACOBSON: Yes, sir.

GERAGOS: 2:50?

JACOBSON: Yes, sir.

GERAGOS: 2:51?

JACOBSON: Yes, sir.

GERAGOS: Next one which is, looks like a 3:41? 3:41?

JACOBSON: You say 3:41? Yes, sir.

GERAGOS: 3:43?

JACOBSON: Did you say 3:43?

GERAGOS: 3:41. I'm sorry. 3:41?

line JACOBSON: Yes, sir.

GERAGOS: This one, 4:20?

JACOBSON: 4:20, yes, sir.

GERAGOS: 4:44?

JACOBSON: Yes, sir.

GERAGOS: 4:47?

JACOBSON: Yes, sir.

GERAGOS: 4:47?

JACOBSON: Did you say that was two for 4:47? I believe that's an AT&T Direct Connect. That's one call.

GERAGOS: Now, where was that, what was that call right there?

JACOBSON: That was a 4-1-1 call where Mr. Peterson called Information, and then there was a Direct Connect to information.

GERAGOS: To where?

JACOBSON: Doesn't list the "Where".

GERAGOS: Okay. Do you have,

JACOBSON: It's a three-minute duration call.

GERAGOS: Right. So do you know where that call, when somebody calls a Directory Assistance, you say it's a Direct Connect. Is that reflected in this? What they have got in here to Direct Connect, is that a Direct Connect charge? This is one of those things?

JACOBSON: Similar to that.

GERAGOS: When you make the call, if you press "1", they will connect it for a buck, or something like that?

JACOBSON: I don't know what their terminology is; but I would assume it's something similar to that.

GERAGOS: Did you intercept, now these are, when I'm asking you if you have got it,

JACOBSON: Okay.

GERAGOS: That means you got it on the call record?

JACOBSON: I have it on the call record. Did you want to distinguish when I have the audio for that?

GERAGOS: My next question was going to be, so when I say do you have it, you are looking at your HIDTA record. And on the HIDTA record, you have got, went over this yesterday with the jury, but I'll just do it one more time. We have got, you have got one portion comes in, which is the call data, which saying your phone number, the duration, what the cell site information is, right?

JACOBSON: Yes, sir, that's correct.

GERAGOS: You have got the audio that comes?

JACOBSON: Yes, sir.

GERAGOS: Which is what you would actually play here in court if you had it?

JACOBSON: Yes, sir.

GERAGOS: And then they marry it together in the software?

JACOBSON: Yes, sir.

GERAGOS: Now, when I'm asking you if you have got it, you say you have got it on the call data?

JACOBSON: Yes, sir.

GERAGOS: Now I'll go back. Do you have all the audio on all of those calls so far that we have gone through?

JACOBSON: Ones that we have, I don't know through, from 2:42 on the previous page.

GERAGOS: Right.

JACOBSON: Not every one of those calls has audio.

GERAGOS: Okay. Now, the, specifically this one, which is, looks like a 4:47, which is a Directory Assistance, and then a charge for three minutes. You have the audio for that?

JACOBSON: No, sir, I don't.

GERAGOS: Okay. Now, you played yesterday the, one of those calls that you culled out was a Directory Assistance call. Do you remember that one?

JACOBSON: I do. Would it be more helpful if I showed the slide?

GERAGOS: If you can, no. If you can just tell me the time. If you have got it on your computer, just call it up on your computer, tell me the time of that one.

JACOBSON: The first call that he made to Longview, Washington.

GERAGOS: The first one you intercepted.

JACOBSON: First one I intercepted, that was at 10:02 a.m. on the 31st.

GERAGOS: 10:02 a.m. on the 31st. What does it look like at 10:02 a.m. on the 31st when he calls Longview, Washington? Is that it right there?

JACOBSON: Yes, sir, it is.

GERAGOS: Okay. And does it show the same entry, this 999-411-0000, as the one I just pointed out that took place on the 30th?

JACOBSON: Dependent on the previous one.

GERAGOS: Like that?

JACOBSON: Yes, it is one and the same.

GERAGOS: One and the same, correct?

JACOBSON: Yes, sir.

GERAGOS: I have laid these two pages up next to each other, make it a little easier. It looks like the one that you did intercept on the 31st, you got the call data, and you got the audio?

JACOBSON: Yes, sir.

GERAGOS: Okay. And the audio was Scott Peterson calling Longview.

JACOBSON: Calling Information, being directly connected.

GERAGOS: Doing this Direct Connect charge, correct?

JACOBSON: Yes, sir.

GERAGOS: And then this is what we call, has got the same thing here. It is right here. You have got this Direct Connect charge and five minute call, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. You got audio for that one. But on this one, the 999-411-0000 on the 30th, we did not get the audio on that one the day before?

JACOBSON: That's correct.

GERAGOS: Okay. Now, have you ever called Longview, Washington?

JACOBSON: Yes, I have.

GERAGOS: Okay. Do you have any report that you prepared in connection with Longview? Did you ever prepare a report?

JACOBSON: I don't believe I prepared a report, but I have verbally told the District Attorneys before my findings about talking with the detectives up there.

GERAGOS: When did you do that?

JACOBSON: It was probably about a year ago, or so.

GERAGOS: Okay. Now, the next call, so we don't have audio there on these on this Direct Connect. Now, the prior calls that we have here, right before, and this is on the 30th, the call right before the Direct Connect on the 30th, you see that one?

JACOBSON: Which one are you pointing out?

GERAGOS: 209-575-4844. And that call was at 4:44.

JACOBSON: I see that. Yes, sir.

GERAGOS: Okay. And that was a three minute call, correct?

JACOBSON: Yes, sir, I see it.

GERAGOS: Okay. Can I take a look over your shoulder there?

JACOBSON: Certainly can.

GERAGOS: Now, do you want to point out that specific call? And both of those were, or that one was not monitored at 4:44, either call; is that correct?

JACOBSON: That's correct.

GERAGOS: How long were those calls? They weren't monitored, so you don't have any audio. So is it a fair statement you don't know?

JACOBSON: I can see by the duration that's listed in the report; but I didn't monitor the audio, so, no, I can't confirm the amount of audio versus what it states in the report.

GERAGOS: Okay. That call right before the Direct Connect charge on January 30th, the one that immediately precedes it lists here on the billing usage records is a three-minute call, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. That call is to who?

JACOBSON: That call is to Kirk McAllister.

GERAGOS: Who did you know Kirk McAllister to be?

JACOBSON: Kirk McAllister is a criminal defense attorney in the City of Modesto.

GERAGOS: On January 30th who did Kirk McAllister represent?

JACOBSON: Kirk McAllister represents your client there, Scott Peterson.

GERAGOS: So right before he calls the Direct Connect which is the same as the Direct Connect, that he does the following day, goes to Longview, Washington, he's talking to his lawyer, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, did you get, see this call right before at 3:41?

JACOBSON: Yes, sir.

GERAGOS: What is that, NACN?

JACOBSON: I'm not quite sure of the complete acronym. And it's an acronym used by AT&T. It goes something like through National something Cellular Network.

GERAGOS: Okay. Do you know whose call that was?

JACOBSON: Basically what that is is that, it's a call that's used when the individual is roaming. It's not necessarily a call itself. It attaches to that call up above.

GERAGOS: Now, the call before was immediately before that 3:41 call?

JACOBSON: Yes, it was.

GERAGOS: You have got that; is that correct?

JACOBSON: Yes. That was made by Jody Fernandez, and I have that call.

GERAGOS: Okay. And that's one in which, in which she's talking about the hard time she's getting, or something to that effect?

JACOBSON: Yes, sir.

GERAGOS: She also asks about his whereabouts; is that right?

JACOBSON: You are referring to the synopsis at all? Maybe that would help me out. She does ask about his whereabouts.

GERAGOS: In the synopsis, doesn't she say she is asking about the whereabouts?

JACOBSON: Yes. Says it's not for her to know. Yes, sir.

GERAGOS: Okay. And then the call ends shortly thereafter; is that correct?

JACOBSON: Yes, sir.

GERAGOS: Now, what are the previous calls that you don't have the audio on,

JACOBSON: Did you want to go all the way back up through it, or just,

GERAGOS: Just the ones we're talking to. For instance, give you an example. You have, on the 30th, we have a 2:42 call and a 2:43 call; is that correct?

JACOBSON: Yes, sir.

GERAGOS: Now, that, both of those calls, the 2:42 and the 2:43, are also, are they on, can you see them on here?

JACOBSON: I think the one up at the very top, I believe, is that, that's 2:43 on the first page that you have down. And then I think you might have to go to another page for the 2:42.

GERAGOS: Who is the,

JACOBSON: The previously page.

GERAGOS: Who is the 2:42 call?

JACOBSON: The 2:42 and the 2:43 are the same individuals.

GERAGOS: Who is that?

JACOBSON: One again it's Mr. Peterson's attorney, Kirk McAllister.

GERAGOS: That call is not monitored because that's his lawyer, correct?

JACOBSON: It's monitored and minimized.

GERAGOS: Meaning that you go on, you realize it's the lawyer's office, and you go off?

JACOBSON: Yes, sir.

GERAGOS: Okay. And that was, that's part of what your instructions are, marching orders were, correct?

JACOBSON: Yes, sir.

GERAGOS: Now, the, can you tell me, as we are looking at it, what, which other of these calls did not have the audio attached? At least prior to these, to this directory call on the 30th at 4:47, going on up?

JACOBSON: You just want to point out each call?

GERAGOS: This one, 2:43, is the lawyer. You are not monitoring. It would be,

JACOBSON: Yes, sir.

GERAGOS: The one right here?

JACOBSON: Are you at 2:47?

GERAGOS: Yes.

JACOBSON: Yes, I have audio.

GERAGOS: This one, the 2:50 call?

JACOBSON: No audio.

GERAGOS: Do you know whose number that is?

JACOBSON: I do.

GERAGOS: Whose?

JACOBSON: It's Grimbleby Coleman, CPA, there in Modesto.

GERAGOS: The incoming at 2:51?

JACOBSON: No audio.

GERAGOS: Okay. Same phone number?

JACOBSON: Yes, sir.

GERAGOS: Okay. And the 661 number at 3:41?

JACOBSON: The 3:41, did you say 3:41?

GERAGOS: Right there where I have got my pen.

JACOBSON: I have that. And that's the Jody Hernandez call.

GERAGOS: One we just talked about?

JACOBSON: One we just talked about. I have the audio on that.

GERAGOS: And, obviously, because we talked about it?

JACOBSON: Yes, sir.

GERAGOS: As we are going down here on the 30th, the calls that they come up after the Directory Assistance calls?

JACOBSON: Yes, sir.

GERAGOS: Can you tell me, have you captured these calls? Do you want to go through them one-by-one? Did you capture this one right here, you,

JACOBSON: Are you looking at 4:50?

GERAGOS: Yeah.

JACOBSON: Yes, sir.

GERAGOS: Okay. 4:51?

JACOBSON: Yes, sir.

GERAGOS: 5:01?

JACOBSON: Yes, sir.

GERAGOS: 5:10?

JACOBSON: 5:10. I have a 5:11 incoming. Might be one and the same. Then you have a 209.

GERAGOS: I have got that. What's your incoming number?

JACOBSON: I don't have an incoming number. It's just like that. But it's, perhaps it's a different,

GERAGOS: Do you have a 5:11 call?

JACOBSON: I have a 5:11. I don't see a 5:10.

GERAGOS: There is a 5:10, right? Do you see where I'm pointing to you? There is a 5:10.

JACOBSON: Reason that, 5:10, I don't have that. If you go over to your left, you have, you will see it's the same NACN. It's not a separate call. It's attached to that previous call.

GERAGOS: You don't have it?

JACOBSON: No. I have that call, yes. Those two records are one record.

GERAGOS: Okay. Now, how about this one?

JACOBSON: 209-756 at 5:11?

GERAGOS: Yes.

JACOBSON: I have it.

GERAGOS: Incoming, Modesto, 1-30 at 5:46?

JACOBSON: 5:46. I have an incoming at 5:47.

GERAGOS: What's the number you have got at 5:47?

JACOBSON: Incoming to Scott's mobile. And it doesn't have a number with it.

GERAGOS: Do you have audio?

JACOBSON: No.

GERAGOS: Okay. How many are, how many of those that we went through do you have audio for?

JACOBSON: None of those.

GERAGOS: You don't have audio for any of these calls?

JACOBSON: No, sir.

GERAGOS: Also, how about this Directory Assistance call at ine 3 5:48?

JACOBSON: 5:48? No, sir.

GERAGOS: You don't have that call?

JACOBSON: I don't have that call listed here, no, sir.

GERAGOS: Okay. And obviously you don't have the call, you don't have the audio?

JACOBSON: That's correct.

GERAGOS: How about the one at 5:49?

JACOBSON: No, sir.

GERAGOS: You don't have that call? You don't have the audio?

JACOBSON: No, sir.

GERAGOS: Okay. How about the Kingsburg call that's listed at 5:43?

JACOBSON: No, sir.

GERAGOS: You don't have that call? You don't have the audio?

JACOBSON: No, sir. That's correct.

GERAGOS: Okay. Is the, you know there is a space right there. You see that on the billing?

JACOBSON: I do.

GERAGOS: And this shows incoming 1-30 at 6:14? That's an incoming call?

JACOBSON: That appeared to be so.

GERAGOS: Do you have that call at 6:14?

JACOBSON: Yes, I do.

GERAGOS: Do you have the audio?

JACOBSON: No, sir.

GERAGOS: Incoming, the Modesto call at 6:15?

JACOBSON: I have it, yes, sir.

GERAGOS: Do you have the audio?

JACOBSON: No, sir.

GERAGOS: Okay. 6:22 incoming call, do you have that?

JACOBSON: Yes, sir.

GERAGOS: Do you have the audio?

JACOBSON: No, sir.

GERAGOS: 6:24, that is the Del Mar number. And it's a four-minute call. Do you have that audio?

JACOBSON: I have a 6:24 with no audio.

GERAGOS: No audio?

JACOBSON: No audio.

GERAGOS: Four-minute call. Looks like, do you know whose number that is, that 509-0026?

JACOBSON: Do I know whose number that is?

GERAGOS: Do you recognize that number?

JACOBSON: I recognize that number. I believe it's cell phone from AT&T subscribed to Jackie Peterson.

GERAGOS: Got it. How about this incoming at 6:48?

JACOBSON: 6:48 incoming. I have that.

GERAGOS: Do you have the audio?

JACOBSON: No, sir.

GERAGOS: How about this incoming at 7:35?

JACOBSON: 7:35? I have that.

GERAGOS: Got the audio?

JACOBSON: No, sir.

GERAGOS: How about 7:38? Got that call?

JACOBSON: No, sir. I have the call, yes, but no audio.

GERAGOS: Okay. How about the incoming at 8:29?

JACOBSON: I have the call, but no audio.

GERAGOS: Okay. And this incoming at 7:38, that's Eastern Standard Time?

JACOBSON: Excuse me.

GERAGOS: Is that Eastern Time or Pacific Time?

JACOBSON: On the billing records it's Pacific Standard.

GERAGOS: Okay. Seven minute call, no audio?

JACOBSON: Yes.

GERAGOS: The incoming at 9:10, five-minute call?

JACOBSON: 9:10. Do not have that.

GERAGOS: So we don't have, you not only don't have this five-minute call in terms of the call record, you don't have the audio to it either?

JACOBSON: That's correct.

GERAGOS: And six minute call at 9:18.

JACOBSON: I have that, yes, sir.

GERAGOS: Do you have the audio?

JACOBSON: Yes, sir.

GERAGOS: Got it. Who is that?

JACOBSON: You said at 9:18. It's Aaron and Heidi Fritz.

GERAGOS: Okay. And then you have got that 800 call 10:57. Do you have that?

JACOBSON: Yes, sir.

GERAGOS: And do you have the audio?

JACOBSON: Yes, sir.

GERAGOS: Got it. Incoming 1-31, at 7:40 in the morning, the one-minute call.

JACOBSON: Yes, sir.

GERAGOS: You have call data and the audio?

JACOBSON: I have the call data, no audio.

GERAGOS: No audio on that. The next page, which goes, just put the 31st up there. Do you have that in front of you?

JACOBSON: I do.

GERAGOS: Run you through and tell me which of those calls you have. First, the call data starting at the top? Do you have the,

JACOBSON: I have it.

GERAGOS: 8:07?

JACOBSON: Is the data and audio.

GERAGOS: 8:28?

JACOBSON: Data, audio.

GERAGOS: 8:35?

JACOBSON: Data, audio.

GERAGOS: 9:28?

JACOBSON: 9:28, data and audio.

GERAGOS: 9:29?

JACOBSON: 9:29. See what you are looking at there. That's one and the same call. Again that's one of the NACN calls.

GERAGOS: Same with 9:36?

JACOBSON: 9:36, yes, I have both.

GERAGOS: And the incoming, is that one and the,

JACOBSON: That's correct. It's one and the same.

GERAGOS: 9:37 is one and the same. Then this two incoming here?

JACOBSON: Yes, sir.

GERAGOS: 9:50, 9:54, you got those?

JACOBSON: Yes, sir.

GERAGOS: And the ones right here I'm pointing to, 10:02, that are the ones you played yesterday?

JACOBSON: Yes, sir.

GERAGOS: That's the Longview, correct?

JACOBSON: Yes, sir.

GERAGOS: Now, the audio that you played yesterday on Longview, you said that when another call came in you lost the end of the call, correct?

JACOBSON: That's correct.

GERAGOS: Okay. Did you compare or follow up, well, let's move forward for a second. There was a second call that you did capture from Longview, right?

JACOBSON: Yes, sir.

GERAGOS: What date was that?

JACOBSON: That was, I believe, on February 3rd at 2:49 p.m.

GERAGOS: Okay. Now, on February 3rd, 2:49?

JACOBSON: Yes, sir.

GERAGOS: Okay. And that call was the one to Detective Jacobs, correct?

JACOBSON: Yes, sir.

GERAGOS: You had no information that you intercepted between January 31st and February 3rd that allowed you to at least piece together from the wiretap how Scott Peterson got Detective Jacobs' number, correct?

JACOBSON: That's correct.

GERAGOS: Or name.

JACOBSON: That's correct.

GERAGOS: Okay. Now, the, if I understand correctly, you were asked yesterday about the wiretap, and there were, which phones were intercepted. It was the 505-0337, which was Scott's cell phone, correct?

JACOBSON: Yes, sir.

GERAGOS: A second cell phone that Scott had, that what is a 499 number?

JACOBSON: 499-8427 was the second number with the same area code. That's correct.

GERAGOS: Now, did you get a wiretap on his home phone?

JACOBSON: No, sir.

GERAGOS: And that was what number?

JACOBSON: That was area code 209-524-2049.

GERAGOS: Okay. Did you subpoena or apply for a search warrant to get the home phone records for that period of time, the same period of time?

JACOBSON: I believe,

GERAGOS: Only from December; isn't that correct?

JACOBSON: I think we went beyond December into February. I'd have to look at the record to be specific.

GERAGOS: Do you have the records here? Have you reviewed them to see if there was any calls made to Longview from the home phone?

JACOBSON: I know I have reviewed the records. I don't recall seeing any Longview calls on there. But I don't have the record with me to confirm that. So I think, right now, I would be speculating without seeing the actual records.

GERAGOS: Okay. Do you have the, did you get a target intercept on the work phone for TradeCorp?

JACOBSON: I did not have an intercept on the TradeCorp phone, or the business phone that you are referring to, no, sir.

GERAGOS: Okay. Do you know who the woman by the name of Ann Bird is?

JACOBSON: I do, yes, sir.

GERAGOS: Is that Mr. Peterson's, Scott Peterson's sister?

JACOBSON: Yes, sir.

GERAGOS: Have you reviewed her records to see if there is any calls on those records to Longview, Washington?

JACOBSON: I don't believe I have reviewed any phone records from Ann Bird, no, sir.

GERAGOS: So you are speculating as to whether or not you reviewed the records on the house, correct?

JACOBSON: No, I have reviewed the records on the house. I don't remember seeing any Longview calls. But at this time I don't have the folder in front of me. I don't want to bear false witness.

GERAGOS: Maybe at the break you will pull out those records and take a look?

JACOBSON: It might be right there in that.

GERAGOS: Which binder would it be?

JACOBSON: It's, I created a separate binder just for that home phone; and if it's not there, I know the District Attorney has it.

GERAGOS: Okay. We'll get it at the break. I'm not going to hold you up now. Did you look to the TradeCorp records?

JACOBSON: I have looked at the TradeCorp as well.

GERAGOS: Now, the intercept you did not have an intercept on the home phone, didn't have an intercept on the TradeCorp phone?

JACOBSON: I did not, no, sir.

GERAGOS: You didn't have an intercept on Jackie Peterson's phone; is that correct, on the Wiretap Number 2, which was the first one?

JACOBSON: The first wiretap concerning Scott Peterson, I did not a have a wiretap on any phone subscribed to Jackie, Miss Jackie,

GERAGOS: Obviously we went through. There was at least in excess of fifteen calls where you either had call data, no audio, or no call data, no audio?

JACOBSON: How many did you say, sir?

GERAGOS: About fifteen.

JACOBSON: About fifteen.

GERAGOS: For the period of time that we ran through?

JACOBSON: I think that's fair to say, yes.

GERAGOS: Now, the calls that were made from that cell phone, or from the, that show on the cell phone that are incoming, is there a way for you, if you didn't intercept them, to see who they were coming from?

JACOBSON: No, sir.

GERAGOS: Okay. Why is that?

JACOBSON: Basically AT&T, on their phone record, doesn't put the incoming digits for an incoming phone call.

GERAGOS: Okay. So as we sit here, to have the billing usage record and the wiretap, it's a fair statement that if you don't capture on the wiretap, you don't know whose phoning, who is doing the phoning; is that correct?

JACOBSON: That's correct.

GERAGOS: Now, the, after that February 3rd call at 2:49,

JACOBSON: Yes, sir.

GERAGOS: That was the one where Scott called Longview PD; is that correct?

JACOBSON: Yes, sir.

GERAGOS: It was played yesterday. And to summarize, Detective Jacobs told Scott that she was not in there, correct?

JACOBSON: That she was not up in Longview. That Laci was not the same lady, that's correct.

GERAGOS: That she was not on the videotapes at all, correct?

JACOBSON: That's correct.

GERAGOS: And Scott asked if there was a pregnant woman in there at all?

JACOBSON: Yes, sir.

GERAGOS: And Jacobs said that there was one, but didn't look like her?

JACOBSON: That's correct.

GERAGOS: Okay. Now, he said not even close, but you will have to contact Modesto PD if you want further information, basically?

JACOBSON: Yes, sir.

GERAGOS: What was the very next call that you intercepted?

JACOBSON: Modesto Police Department.

GERAGOS: Who called Modesto Police Department?

JACOBSON: Your client, Mr. Peterson.

GERAGOS: Okay. And who did he reach?

JACOBSON: He left a voicemail message, I believe, for Lieutenant Joe Aja.

GERAGOS: Okay. And who is Lieutenant Joe Aja?

JACOBSON: I believe is now a Captain. And he is in charge of the Detective Bureau, Modesto Police Department, or answers to the Captain, or something similar to that.

GERAGOS: Okay. The call to Jacobs was at 2:49 and four seconds; is that right?

JACOBSON: Yes, sir.

GERAGOS: That was about the call was what a little over two minutes in length?

JACOBSON: Yes, sir.

GERAGOS: The officer, last thing that Jacobs said, after Jacobs looks at the video, it is not your wife. She's not on the tape. It's not even close. I'm going to send the tapes down to Modesto PD. If you have got any other requests call Modesto PD?

JACOBSON: That's correct, yes, sir.

GERAGOS: Very next call at 3:00 o'clock was a voicemail message where Scott, in the voicemail, starts off the call, the next call he makes is to Modesto PD?

JACOBSON: Yes, sir.

GERAGOS: He talked to a woman by the name of Juliana?

JACOBSON: Yes, sir.

GERAGOS: And asked to speak with Detective Aja?

JACOBSON: Yes, sir.

GERAGOS: And left a message that, do you have that tape?

JACOBSON: I do.

GERAGOS: Can you play that? It's a very short tape, isn't it? If the judge will indulge me, I don't have a transcript of this. But it's not more than a minute.

JUDGE: All right. The Rules of Court require a transcript. If you play a tape, required a transcript. This tape is only a minute long.

DISTASO: I have no objection to no transcript, your Honor.

GERAGOS: Investigator, you hooked up for sound?

JACOBSON: I'm going to be hooked up in just a second. I don't want to send that shock noise throughout the Court. I will find it real quick, sir. I took it out of the directory. Okay.

GERAGOS: Is that the call?

JACOBSON: That's the next call.

JUDGE: Can you turn up the volume?

GERAGOS: Yes, sir. I'll plug in. I just have to find that call, sir. I had them in a different directory. Okay, I'm ready.

GERAGOS: Okay. (RECORDING PLAYED)

GERAGOS: Thank you.

GERAGOS: That call was intercepted and reported by you on the wiretap, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, switch gears a little bit and talk about some of the other exhibits that you spoke about yesterday with Mr. Distaso. Okay? The first thing I wanted to ask you about were these test calls that you did with AT&T. Do you remember testifying about that?

JACOBSON: When you stated the test calls on the 11th, or, I don't understand.

GERAGOS: No. June 14th of this year after we had started trial.

JACOBSON: Correct, yes, sir.

GERAGOS: You went and did some test calls; is that correct?

JACOBSON: Yes, sir, I did.

GERAGOS: Now, you used a phone, you borrowed a phone in order to do that; is that correct?

JACOBSON: Yes, sir, I did.

GERAGOS: Okay. Whose phone was that that you borrowed?

JACOBSON: Her name was Carolyn Ward.

GERAGOS: You mentioned yesterday that in one of, you wanted to find one that was on the same network; is that right?

JACOBSON: Yes, that's correct.

GERAGOS: And did you also talk to AT&T about whether or not there has been changes in the network since the time that, since you did these test calls on June 14th of 2004, correct?

JACOBSON: I believe that's the correct date.

GERAGOS: Okay. Now, is, June 14th, 2004, do you know what day of the week that is?

JACOBSON: June 14th, which day that was?

GERAGOS: Yes.

JUDGE: I can take judicial notice it was a Monday.

GERAGOS: Thank you.

GERAGOS: And do you know if that was the day before a holiday?

JACOBSON: I'm not sure. Maybe the Court can take judicial notice of that for me again.

JUDGE: That is, it was not the day before a holiday. Next day was June 15th, and I don't know if that's a holiday.

JACOBSON: I don't know as well.

GERAGOS: I think the jury can take judicial notice that they were sitting here that day. June 15th and June 14th were not a holiday time of year, correct?

JACOBSON: That's my belief.

GERAGOS: You did this, you tried replicate that day what was happening on December 24th; is that correct?

JACOBSON: I performed those tests to see whether or not I could have the same results of what happened on that particular day.

GERAGOS: Okay. Now, the, you know, after talking with, you spent a lot of time going back and forth with AT&T on this, didn't you?

JACOBSON: I think we both have at this point.

GERAGOS: Okay. And you, AT&T, the information that you have received from them has flip-flopped back and forth; isn't that a fair statement?

JACOBSON: That's a fair statement.

GERAGOS: Okay. At one point they were telling you, do you have the records that you were going off of? Was that the billing usage records? Is that what you were looking at initially?

JACOBSON: No, sir.

GERAGOS: For the, initially when you, before you decided to do this experiment, you took the December, if I understand correctly, I'm sure you will correct me if I misstate it, but the 24th, the date of the 24th, you took a look at these calls on the billing usage records; is that right?

JACOBSON: Yes, sir.

GERAGOS: Okay. When you looked at the calls on the 24th, you specifically wanted to take a look at this call that was at 10:08; is that right?

JACOBSON: Yes, sir.

GERAGOS: Now, the call that was at 10:08, the one, is it the one I'm pointing to right here?

JACOBSON: Yes, no. Go up one more. It's the highlighted one that you have.

GERAGOS: Right up there?

JACOBSON: Yes, sir.

GERAGOS: Correct? Now, you also had some other records that you looked at in order to try and interpret what was going on with that call; is that right?

JACOBSON: Yes, sir.

GERAGOS: What was the other records that you looked at?

JACOBSON: The fraud records that you have up there.

GERAGOS: Right.

JACOBSON: And also those invoice records that Mr. Distaso showed me yesterday.

GERAGOS: Okay. Now, the invoice records, different binder. Let me pull them out. The invoice records,

DISTASO: 203.

GERAGOS: That's the last piece that we got, invoice records, were these here?

JACOBSON: I think you were right the first time.

GERAGOS: You didn't have these. You only got these recently; isn't that correct?

JACOBSON: I got them when you got them, sir.

GERAGOS: Which is this week, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. I'm talking about, in addition to that record that's up on the screen, the fraud billing record, didn't you have another record that you were looking at?

JACOBSON: Are you referring to the conversion charts, cell sites locations?

GERAGOS: No, the, when you were, you have had discussions on and off with people at AT&T in Florida, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. And the people that you conversed with back at AT&T were giving you conflicting pieces of information, right? Is that right?

JACOBSON: At which period of time?

GERAGOS: Well, when you first, during the entire period of time. Isn't that a fair statement?

JACOBSON: Well.

GERAGOS: I mean you have received, is it a fair statement that they have, in talking to the people at AT&T, throughout the course of this investigation, that they have given diametrically opposed information as to what these records mean?

DISTASO: I object to that. That's argumentative.

GERAGOS: Diametrically opposed.

JUDGE: I believe he knows what that means.

JACOBSON: No, your Honor.

JUDGE: Can you answer that?

JACOBSON: I'm not that intelligent.

JUDGE: Rephrase the question.

GERAGOS: Isn't it a fair statement that at one point that this call, you were told that this call right here was a voicemail call; is that correct?

JACOBSON: I was told, I think I understand what you are getting at now. I was told at one period of time that was an incoming call to voicemail. And then we were both told, together, that, we were both told together that, we were both told together that it was a message retrieval at voicemail.

GERAGOS: Now, when you say we were both told together that was an incoming call, to voicemail, the way it was explained to us was somebody had called on to the, or on to this phone number, correct?

JACOBSON: Yes, sir.

GERAGOS: When they reached this phone number, the phone was on, but it was not answered, correct?

JACOBSON: That's correct.

GERAGOS: Then it went into voicemail itself, correct?

JACOBSON: Yes, sir.

GERAGOS: And that was the reason that it was reflected the way it was reflected, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. Then when we, the two of us started questioning how those records looked, didn't make a whole lot of sense the way that they were talking about it. It was told to us by, it was Mr. White that he didn't really understand what was going on at that point, correct?

JACOBSON: That's correct.

GERAGOS: And specifically you and I talked about your theory that there were, if there were three records that showed on the phone bill, that that meant to you voice message retrieval. He was telling you, no, that wasn't the case. Isn't that correct?

JACOBSON: I had been told that, previous to all this, that,

GERAGOS: By somebody else?

JACOBSON: By somebody else, that a three-record entry on the phone records indicated a message retrieval.

GERAGOS: Do you have a copy of the, so the jury knows what we're talking about, of that sheet of paper that has the three records on it?

JACOBSON: It's right there in your fraud records that you had up earlier.

DISTASO: It's part of that one.

JUDGE: It's 203A, I think.

DISTASO: He's got it right in front of him.

GERAGOS: I believe that it is 203A-1.

GERAGOS: If I'm not mistaken, isn't this the document that Mary Anderson says that she got faxed on Monday morning of this week?

JACOBSON: That's correct.

GERAGOS: That's not the one that we were talking about with Mr. White, correct?

JACOBSON: That's correct.

GERAGOS: Okay.

DISTASO: It's 203A, judge. It's right in front of him.

JUDGE: 203A. That is what you said.

GERAGOS: You have got it in front of you? Pull it up.

DISTASO: It's in the front of the binder there.

GERAGOS: Now, this was, originally you had subpoenaed, some time in January of 2003, these records, correct?

JACOBSON: I don't know if they were subpoenaed at that time, or pursuant to a court order. But they were obtained lawfully.

GERAGOS: Says Subpoena Response Cover Sheet. You are a good investigator. What does,

JACOBSON: But we had, they used those forms blanketly to respond to search warrants and subpoenas. I understand. I believe that was a search warrant request.

GERAGOS: Now, on page, I just got marked with a paper clip on this page, specifically when we talked with Mr. White, three records that we were talking about, was if there were three times here that were all the same,

JACOBSON: Yes, sir.

GERAGOS: It was his theory that the, that because of the three records together, that if a phone call came in, that meant that it was an outside phone call coming in, correct?

JACOBSON: You know, to be honest, Mr. Geragos, I don't understand, I didn't understand much of what he had to say with those fraud records.

GERAGOS: With Mr. White?

JACOBSON: Mr. White.

GERAGOS: Okay. And he had another theory that he was telling us, kept showing him up here, where there were, see this 9:20 call?

JACOBSON: Yes.

GERAGOS: Forty seconds?

JACOBSON: Yes, sir.

GERAGOS: He pointed out, at least last week, that when there wasn't a phone number in this blank space, that that meant that it was an outside call. Isn't that what he told us in the room next door?

JACOBSON: I think what you are trying to get at was, the next call up was the one that had the different numbers right there, but yet all one call. He was trying to say that that was two calls, and I was saying it was one call. And then you were telling me to get out of the room, basically.

GERAGOS: Right. I told you to not even that nice.

JACOBSON: No. You were a little upset.

GERAGOS: Yes. And then you pointed him to this call, didn't we?

JACOBSON: We pointed him up above, yes.

GERAGOS: You just kept getting out of your chair, didn't you?

JACOBSON: Like I said, I was told the one thing earlier on. I was sticking by that.

GERAGOS: Then when we come back on Sunday, by the time we're done with him, you and I are yelling at each other in the room, and he's giving us four different interpretations of what these

records are. He finally just said, look, I don't know what the heck I'm talking about, so you go find somebody else, in essence, didn't he?

JACOBSON: He basically said, I'm not your man to interpret these fraud records, he said.

JUDGE: That took care of Thursday. That's why you weren't here.e GERAGOS: Then you guys imported Mary Anderson, correct?

JACOBSON: The District Attorney got on the phone, and I had Mary Anderson, I think, Monday.

GERAGOS: Then when we get Mary Anderson out here, you and I have nothing better to do on Sunday afternoon than come over here and show her these same records, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. When we show her these same records, then she tells us that if there is no number here, that that means it's an outside call coming in, correct?

JACOBSON: Boy, you know, when we first talked to her, I didn't quite understand what the theory was on that.

GERAGOS: That's, but that's what she said, right?

JACOBSON: She said something similar to that. She said that was,

GERAGOS: She what is adamant about that, wasn't she?

JACOBSON: Yeah.

GERAGOS: She wasn't backing down on that, correct?

JACOBSON: No, sir, she wasn't.

GERAGOS: Okay. Then she came up with on Monday the records that I just showed you, which are these, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. And she changed once again, correct? And said that now it was her belief that it was voice message retrieval, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, when you did your test in June on the, I guess you did, what, nine tests total? You didn't testify to all of them, but you did nine runs, right?

JACOBSON: Something similar to that.

GERAGOS: And you did not, I mean we didn't hear about all of them yesterday.

JACOBSON: No, sir.

GERAGOS: But you did about nine of them. At that point you didn't know, let me, nobody knew, in fact I don't know if anybody does know what,

DISTASO: Objection, your Honor. That's argumentative.

JUDGE: It's commentary. Jury can ignore it. Go ahead.

GERAGOS: Whether or not, or what that phone call was, correct? I mean all you knew, it was a phone call back in June when you did it, correct?

JACOBSON: Back in June I was relying on the first bit of information that I received from AT&T that it was a voicemail retrieval. That it was an outbound call to voicemail, checking voicemail.

GERAGOS: Okay, now, did you, when you the your test, and I guess, if I understand correctly, what you did is, you started at Covena, and then you drove in two different directions, took you towards the Emerald Avenue warehouse?

JACOBSON: I drove actually three different locations, but all going south and southwest.

GERAGOS: Okay. But what you did is, you called somebody, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. And so you were testing it when you were making a call to another cell phone.

JACOBSON: No. I was making a call from that cell phone to an SBC land line.

GERAGOS: Okay. I'm sorry. You are making a call from a phone to a phone?

JACOBSON: Yes, sir.

GERAGOS: Okay. You did not test voicemail retrieval.

JACOBSON: No, sir, I did not.

GERAGOS: Okay. So the best test, wouldn't you say, if you wanted to actually test what's going on with those cell phone towers there, would have been to have done that same test, both at the shop, the warehouse, and at the house using the phone and doing voicemail retrieval; isn't that correct?

JACOBSON: I would disagree with you on that.

GERAGOS: Okay. You and I will just stay there and disagree. But you didn't do a voicemail retrieval?

JACOBSON: I did not do a voicemail retrieval, no.

GERAGOS: Okay. And the voicemail retrievals, you weren't in here for Miss Anderson's testimony as to voicemail retrievals, correct?

JACOBSON: I was not in here, no.

GERAGOS: Just leave it at that. The tests that you conducted at the warehouse, they also, and there was nine of these tests that you ran e 26 through. How many at the house?

JACOBSON: Three at the house, sir.

GERAGOS: And how many at the warehouse?

JACOBSON: I believe four.

GERAGOS: Okay. And fair statement that none of those were voicemail retrievals?

JACOBSON: None of those calls were voicemail retrievals, no, sir.

GERAGOS: Did you use, I assume the police took as evidence, the 505-0337 phone?

JACOBSON: I believe the Modesto Police Department has that phone.

GERAGOS: In evidence?

JACOBSON: I believe so. I haven't seen it personally, but that's, my belief is that, yes, they have that phone.

GERAGOS: Did anybody try to, best of your knowledge, you or anybody else, take that phone that they have in evidence, and ask AT&T to activate it, and then do the test using his phone from his warehouse, or from his house?

JACOBSON: No, sir.

GERAGOS: Did anybody do that on, or did anybody do any kind of test, or any kind of examination on his phone, the 505-0337 cell phone, that you are aware of?

JACOBSON: Do any kind, type of examination as to test calls to see which cell towers, et cetera.

GERAGOS: Yes.

JACOBSON: No.

GERAGOS: Okay. Now, specifically, the tests that you did, you had, you, if I understand correctly, you were leaving the house, you were having somebody time you for about a minute 21; is that correct?

JACOBSON: Yes, sir.

GERAGOS: And that was, with the minute 21, that starts when you pressed the, "Go", basically or when you press the connect on the phone?

JACOBSON: Actually the other party to that call was timing.

GERAGOS: Okay. And, also, I assume, I don't want to belabor it. But that if you are not doing the test call to voicemail, you don't know how long it takes on the phone at that point to actually connect up with the voicemail?

JACOBSON: That's correct.

GERAGOS: Did you do the, or do you know if anybody from AT&T did any analysis to see whether or not, or have the technology to see whether or not there were existing voicemails that had gone through the trunk that had not been retrieved on the morning of the 24th?

JACOBSON: One more time on that question, please.

GERAGOS: Did anybody at AT&T do any kind of analysis or testing to see if there were voicemails on that phone at the time on the 24th?

JACOBSON: They would not have been able to retrieve any audio that had been left on that voicemail.

GERAGOS: Did anybody do any analysis of the phone records to see whether or not there were, you can tell from the phone records, the ones that you had up, I had up there a minute ago, when somebody leaves a voicemail, can't you?

JACOBSON: No, you can't tell, if you are referring to a duration of a call.

GERAGOS: No. I'm saying you can tell if somebody reaches a line 7 voicemail from outside?

JACOBSON: I see what you are suing.

GERAGOS: At least we think we can right now, unless somebody comes out from AT&T tomorrow and changes their mind.

DISTASO: Objection.

JUDGE: Sustained rephrase the question.

GERAGOS: We believe that there is a way that you can tell if somebody is calling from outside and leaving a voicemail, correct?

JACOBSON: Yes, sir.

GERAGOS: As we sit here, we think right now that it's a theory, if it's you retrieving a voicemail, or if it's somebody calling from outside leaving one, right?

JACOBSON: Yes, sir.

GERAGOS: Have you analyzed the records, the phone records, to see if anybody on an outside call had made phone calls into the voicemail? Do you understand? You got me so far?

JACOBSON: Yes.

GERAGOS: After the last time that there were voicemail retrievals there, from presumably Scott Peterson?

JACOBSON: After the last time on that particular phone? At which period of time? I'm kind of getting lost there.

GERAGOS: Yeah. Yesterday Mr. Distaso, remember, asked you to write down VMRT on the phone?

JACOBSON: Yes.

GERAGOS: Correct?

JACOBSON: Yes.

GERAGOS: Do you remember doing that?

JACOBSON: Yes.

GERAGOS: That means Voicemail Retrieval, correct?

JACOBSON: Yes.

GERAGOS: Okay. Specifically you can tell the last time he retrieved his voicemail, right?

JACOBSON: Yes, sir.

GERAGOS: You can then look for the next time that somebody on an outside call called in to leave a voicemail, couldn't you?

JACOBSON: Yes.

GERAGOS: Did you, or anybody else from AT&T, analyze whether or not, between what you think is a voicemail retrieval at 10:08 and the previous voicemail retrieval, whether or not there was an outside call leaving voicemails?

JACOBSON: The previous one to December 24th at 10:08?

GERAGOS: Exactly.

JACOBSON: I believe I have looked at those records, yes.

GERAGOS: How many voicemails were left between the two?

JACOBSON: I don't recall. I can take some time and look at it if you like.

GERAGOS: Now, at the break I'd ask you to do that if you would.

JACOBSON: Okay.

GERAGOS: When you did your test, you produced a record; is that correct? You called it a snapshot, again, I guess? Something similar to that.

JACOBSON: That was a record sent to me by AT&T.

GERAGOS: Okay. Now, when that record was sent to you by AT&T, did you ask them if this was what kind of format it was in?

JACOBSON: I didn't ask them, no. I saw that format.

GERAGOS: Okay. And did that look the same to you as the format that you have in 203A-1?

JACOBSON: Not looking at that, I would say that it looked like the fraud records.

GERAGOS: Okay. Did not look like what was in 203A-1, correct?

JACOBSON: It's not complete like this one.

GERAGOS: Okay. When you say not complete like this one, what we have got is, do you have the marked copy of this marked exhibit of this? Do you know what number it is?

DISTASO: It's in the binder.

JACOBSON: Let me see that one more time.

GERAGOS: Sure.

JACOBSON: I think it's just a condensed version of that.

GERAGOS: That's what I'm going to show you right now.

JACOBSON: Just looks like a condensed version.

GERAGOS: This is the way that it comes out on the fraud billing record, correct?

JACOBSON: Yes, sir.

GERAGOS: And this is 203E, the way that you got it; is that correct?

JACOBSON: Yes.

GERAGOS: Did you ask them on the test records to send you, it's like there is just one entry, is that correct, for each of the calls?

JACOBSON: What was that question again, sir? Please repeat that.

GERAGOS: Looks like there is just one entry, as opposed to here we have got three, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. Did you ask them to send you, you called this a condensed, meaning this right here, a condensed version, right?

JACOBSON: It looks like that contains most of the information on your first, looks like contains most of the information there on your first sheet except for it doesn't have the second part of the call.

GERAGOS: Doesn't have the expanded version?

JACOBSON: And the reason why is because I never called voicemail.

GERAGOS: Right. So you don't know, as you sit here, I mean the problem with what we got is it's really comparing apples and oranges, isn't it?

JACOBSON: No.

GERAGOS: The fact of the matter is, you don't call voicemail, you are not going to, in order to do a test record, you are never going to be able to get these kinds of records which would then tell you whether or not your test is accurate; isn't that correct?

JACOBSON: That's not correct.

GERAGOS: Well, do you know that the, both Miss Anderson and Mr. White told both you and me on both occasions that these cell phone records, and the, what they call the Fraud Billing Records, were not to be used, and were not designed to be used to identify locations; isn't that correct?

DISTASO: Objection, your Honor. It calls for hearsay. It's not inconsistent with the expert testimony.

JUDGE: You can ask. Overruled.

JACOBSON: They told me that, yes, sir.

GERAGOS: Okay. Mr. White told us, when we were in the room over there, and Miss Anderson when we were over at the hotel, correct?

JACOBSON: I believe they reinstated that as well.

GERAGOS: Okay. Now,

JUDGE: I think there was testimony to that effect here in the courtroom, too.

GERAGOS: Right. As prior consistent statement.

DISTASO: Well, actually, your Honor, I can just make the record a prior inconsistent statement would mean that it would have to be attacked. They weren't.

GERAGOS: That's not correct. That's not correct.

JUDGE: Go ahead. It's overruled.

GERAGOS: The January 11th analysis that you did, and move to that if I could.

JACOBSON: Sure. Certainly.

GERAGOS: Now, that was, specifically you are trying to identify Scott Peterson's location; is that correct?

JACOBSON: The slide that I presented on January 11th?

GERAGOS: Yeah. The one that you did up on January 11th, which I think is marked as,

JUDGE: Do you want to explain, if you would project it, it would be helpful.

GERAGOS: I'll put it up. I was going to. 207A-1.

GERAGOS: Do you want to project it? Can you see it if I do it from here?

JACOBSON: Either way.

GERAGOS: Okay. Okay. Now, this slide you did using cell phone records; is that correct?

JACOBSON: Yes, sir, I did. And wiretap records.

GERAGOS: Okay. And the cell phone records and the wiretap records, you, there was also, I believe, surveillance of Mr. Peterson at that time, was there not?

JACOBSON: My understanding is that in the morning there was surveillance of Mr. Peterson.

GERAGOS: Okay. When you say in the morning, were you aware that there was apparently surveillance throughout the day?

JACOBSON: My understanding is that, if this is the day I'm thinking of, is that they had tried to surveil him. They surveilled him. I believe they had lost him. I might be mistaken. I never seen any surveillance reports.

GERAGOS: Okay.

JACOBSON: You want to give me the surveillance reports, I will be glad to take a look and answer those questions.

GERAGOS: I don't think I can give them to you if you don't know. So you haven't talked to anybody about surveillance of him, have you?

JACOBSON: I have.

GERAGOS: Okay. Who did you talk to?

JACOBSON: I talked to the lead detective at the time, Detective Grogan.

GERAGOS: Okay. When you talked to Detective Grogan about surveillance, did he tell you that the Department of Justice had Mr. Peterson under surveillance on January 11th?

JACOBSON: I don't know if he used the term, that it was law enforcement officers from the Department of Justice or not. But he told me that Mr. Peterson was under surveillance for a portion of that day, or something similar to that.

GERAGOS: Now, have you reviewed any of the surveillance reports?

JACOBSON: I have not.

GERAGOS: Okay. And is it your testimony that at, get another slide here, that specifically at 10:48, you made one individual slide which was A2. That's yours, right?

JACOBSON: Yes, sir, it is.

GERAGOS: At 10:48, on the morning of the 11th, continues, actual location was right here, which is right next to Berkeley, right?

JACOBSON: Concord 2 switch, yes, sir.

GERAGOS: Now, when you say the Concord 2 switch, did you have a cell site?

JACOBSON: No, I did not have a cell site for that particular switch at that time.

GERAGOS: Okay. And then stated location, you said, was over here, West Fresno, something like that?

JACOBSON: I believe that's where Mr. Peterson stated, told his mother that he was at.

GERAGOS: Now, were you aware, or are you aware that there are surveillance notes from the Department of Justice that show him at his house at 11:00 o'clock?

JACOBSON: I'm not aware.

DISTASO: Objection, your Honor. That misstates the one, misstates what's in the note.

JUDGE: He's never seen the notes.

DISTASO: Third, he's never even seen the notes.

JUDGE: Sustained.

GERAGOS: Have you asked anybody in regards, while you were preparing these, whether or not the surveillance corresponded to the cell phone?

JACOBSON: I had asked Detective Grogan about the surveillance on that particular date. And I believe he told me that they had surveilled him for a period of time, then had lost him, or something similar to that.

GERAGOS: Okay. Did he tell you that they had lost him at approximately, did he tell you what time?

JACOBSON: No, he did not. I believe he said something about maybe early in the morning, or early in the morning, before the afternoon.

GERAGOS: Okay. Now, it was your information that one of the other officers has testified to this from Modesto PD. Were you aware that the police had put out an advisory that they were, that something had been identified by sonar in January, on the 9th?

JACOBSON: My understanding was that the media had circled around them out in the Bay and had found out that they were searching the bay at that period of time. And so the Modesto Police Department had put out something.

GERAGOS: Okay. I believe I'll have my Mr. Harris look for it. I believe Modesto PD did put out an advisory at some point in time?

JACOBSON: I believe so. I believe you are correct on,

GERAGOS: Is it your, be fair to stay the Modesto Bee was covering this at this point?

JACOBSON: Modesto Bee performed a lot of coverage.

GERAGOS: Police are going to put out an advisory, they were going to be out there, that would have been printed in the Modesto Bee?

JACOBSON: Yes, sir.

GERAGOS: The location where Mr. Peterson was at 10:48, how close, you don't have a cell site. All you can do is put Concord area?

JACOBSON: I didn't have a particular cell site, so all I could put is the actual switch in which he was at.

GERAGOS: Okay. You put it what looks like here, see if I can zoom it in. We lose a little bit of clarity.

JUDGE: Do you want to go ahead and project it?

GERAGOS: I wanted to kind of just zoom there for a second. Right here if I could.

GERAGOS: Is this right here the Concord switch area?

JACOBSON: Yes, sir, it is.

GERAGOS: That white line that's right there.

JACOBSON: I believe you need to continue up north. There you go.

GERAGOS: Up here?

JACOBSON: Yes, sir.

GERAGOS: So he was, that includes Berkeley, correct?

JACOBSON: Yes, sir.

GERAGOS: Now, on the --

JUDGE: Mr. Geragos, probably good time to take the morning recess for the reporter.

<recess>

GERAGOS: I think where I left off, I was going to ask you, I found what we previously marked as Exhibit L1. Do I have to, Did you switch it back over?

JACOBSON: Switch it back over.

GERAGOS: Would this have been the press advisory for, that we were talking about before? Can you see that? Or do you want me to zoom it in?

GERAGOS: This went out, apparently, on the 9th or night of the 9th, so it would have been printed on the 10th, if the reporters picked it up?

JACOBSON: I've never read that, but, as I stated, I was well aware the media had access to something like that, because it was well reported.

GERAGOS: I'm going to showed you two articles that I printed off of ModBee dot com. Does that look, three articles, actually. Does that look familiar of the kind of coverage that was going on back then?

JACOBSON: Yes. It looks familiar, from what I recall from that period of time.

GERAGOS: All right. Mark these defendant's next in order. Whatever number. Glad to make it 1, 2, 3.

JUDGE: Yeah. D 5 R 1, 2 and 3.

GERAGOS: While Marylin's marking that, the, the number of calls we discussed yesterday that were on the wiretap, you estimated in excess of 3,000 and change, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. Did you ever break that down as to how many of those were media?

JACOBSON: I think we talked about that once before with media-related calls. I don't know if I gave a number before, but I said a large percentage of those, after a certain period of time, like January 16th on, a lot of calls from the media.

GERAGOS: Looking at the, without having to go through all of them, I picked out some pages. And it looks like to me as many, sometimes you would get twelve calls an hour. Is that unusual?

JACOBSON: That's not, not an unusual statement to make, or it's a fair statement.

GERAGOS: And these are from media, we talked yesterday about Ted Rowlands, who must have him on speedy dial for the number of times that he called. You virtually have every single media outlet calling him repeatedly over the course of the day; is that a pretty fair statement?

JACOBSON: I don't know about every media outlet, but I believe the media was properly represented by the,

GERAGOS: Yeah. They weren't shy in this case.

JACOBSON: No, sir.

GERAGOS: Okay. And the calls that were being made, I think yesterday Mr. Distaso was asking you about the cell phone usage by Mr. Peterson. Now, I'm going to, and I think specifically he was asking you about the 24th and how much, how many calls he made that day; is that correct?

JACOBSON: Between the calls between him and Amber Frey?

GERAGOS: No, just on the 24th of December. Do you remember, didn't he ask you yesterday about the cell phone usage, how often would he make calls during the day?

JACOBSON: Oh, yes, sir. Yes, sir.

GERAGOS: Do you remember that?

JACOBSON: That was specifically between 10:08 and 2:12 p.m.?

GERAGOS: Yes.

JACOBSON: Yes, sir.

GERAGOS: Now, that was the day before Christmas, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. And I think Mr. Distaso asked you how many calls were made on, or I guess the way he phrased the expression, without pulling out the transcript, was it unusual that there wasn't that many calls made that day for his cell phone usage? Do you remember that?

JACOBSON: I think what Mr. Distaso was trying to say, if he didn't say it, was that was it unusual for Mr. Peterson not to have activity between 10:08 a.m. and 2:12 p.m.

GERAGOS: Okay. And you said that you thought that was unusual, correct?

JACOBSON: With the exception of December 24th, yes.

GERAGOS: Okay. Now, I'm going to show you the day before Thanksgiving, and I think, if you'll accept my representation of that, I think that year, 2002, Thanksgiving was the 28th of November.

JACOBSON: Yes, sir.

GERAGOS: There's not a whole lot of activity on either the 26th, which is, what, two days before, or the 27th. There were how many calls on the 27th?

JACOBSON: On the 27th there were how many calls? One, two, three, four, five, six, seven calls.

GERAGOS: Total. That was about the same that you have on the 24th before Laci goes missing?

JACOBSON: About that.

GERAGOS: About seven. And on the 26th how many calls?

JACOBSON: No calls.

GERAGOS: Around the holidays, just picking out at least Thanksgiving, it doesn't appear his usual cell phone activity stays the same; is that correct? Based on that?

JACOBSON: That's correct. And I believe I testified it was from November 29th to January 7th, the time on the phone records.

GERAGOS: Right. The 29th being the day after Thanksgiving?

JACOBSON: Yes, sir.

GERAGOS: Okay. The records I showed you include, looks like it starts on the, sometime the beginning of November? Yeah, November 1st?

JACOBSON: November 1st, I believe so, yes, sir.

GERAGOS: So the two major holidays that are at least covered there on these billing records, at least, show that on the days surrounding at least Thanksgiving and Christmas is his cell phone usage goes down?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, the, is there a reason, I was going to ask, you said that in trying to, I said, actually, on A2, which is this, this incoming call from Jackie Peterson to Scott that we heard yesterday; do you remember that one?

JACOBSON: Yes, sir.

GERAGOS: Do I switch back, camera off?

JACOBSON: Uh, input.

GERAGOS: Okay. Now, the, is there a reason that you know of, there's a reason you couldn't get a cell site on that day?

JACOBSON: Yes, sir, there was a reason for that.

GERAGOS: Do you know what it was?

JACOBSON: Yes, I do.

GERAGOS: Which is?

JACOBSON: At that particular time in the morning of the 11th we weren't provisioned for those switches, which meant that we weren't able to receive any specific cell site information. It wasn't until I called AT&T, when I figured out that I was only getting Incoming calls, what the problem was. I hadn't expected Mr. Peterson to go to the Bay on that particular day.

GERAGOS: Well, the, that was the, if I'm not mistaken, that's, what, you were up and running about 12 hours since you had gotten the tap?

JACOBSON: Yes, sir.

GERAGOS: Okay.

JACOBSON: And I was provisioned in the specific areas in the State of California, and I wasn't provisioned in these two Concord switches.

GERAGOS: Okay. Now, the next, I've got A, A 1, which is this chart. Can you put that up?

JACOBSON: Which chart are you,

GERAGOS: That's it. That's it.

JACOBSON: Okay.

GERAGOS: I just want to see if I've got this right in terms of the sequence. You've got, you've got a, what looks like, the first call, do you have the 10:58 on here? Okay. You've got some, so this is the one, this is the call that you make, your test call?

JACOBSON: Yes, sir.

GERAGOS: Okay. And when you make your test call, you are, are you the one who actually made the call?

JACOBSON: I believe I was, yes.

GERAGOS: Okay. And where were you when you made the call?

JACOBSON: In Modesto.

GERAGOS: Where in Modesto?

JACOBSON: It's in a confidential location, but it's northeast, it's northwest Modesto.

GERAGOS: Okay. So you make that, and is the, when you say confidential, I don't want you to reveal it, but is it in a location where, near the wire room? Or is this a separate location?

JACOBSON: No, this is a wire room separate from law enforcement agencies.

GERAGOS: Okay. So you make that call, and then the next one is the incoming from Mike Richardson? Is that the next call that actually registers, if I've got it right?

JACOBSON: Like I stated before, those are snapshots to show a particular, where Mr. Peterson was on that particular day. If I could look at the records --

GERAGOS: Sure.

JACOBSON: and see if that was the exact, in the sequence of calls.

GERAGOS: Sure. Do you have that out?

JACOBSON: I do.

GERAGOS: Okay. Do you have, you're looking at the HIDTA records, right?

JACOBSON: I am.

GERAGOS: Okay. So that's not going, that's not going to give us the information as to cells or anything else, right?

JACOBSON: It will not give me cell site locations, but I can tell you if 9:37 was the exact call preceding on 6:18.

GERAGOS: You mean the subsequent?

JACOBSON: The subsequent sounds good, yes. Sorry about that.

GERAGOS: Is it?

JACOBSON: No, it's not.

GERAGOS: Okay. Let's just see if I've got it right. The, does your call show on the billing records?

JACOBSON: I can looking at the billing records, if you provide me with that binder again.

GERAGOS: Sure. I pulled out a copy from,

JACOBSON: Or I can look on the HIDTA records.

GERAGOS: I don't see it on the billing, do you?

JACOBSON: The hang-up test call?

GERAGOS: Hang-up test call.

JACOBSON: It is not on the billing records, no.

GERAGOS: Okay. Then the first one that I see is a mobile incoming at 8:47; is that right?

JACOBSON: Yes, sir.

GERAGOS: Okay. Do you have any idea where that location is, the cell?

JACOBSON: That incoming is a, incoming call that, checking voice mail.

GERAGOS: Okay. And what, what cell site?

JACOBSON: It doesn't list a cell site.

GERAGOS: No cell site?

JACOBSON: It doesn't list a cell site.

GERAGOS: And that's at 8:47 in the morning?

JACOBSON: That's at 8:47 in the morning.

GERAGOS: Is that a voice mail retrieval?

JACOBSON: Yes, it's a voice mail retrieval.

GERAGOS: With no cell site location?

JACOBSON: We probably have to look at the CALEA data. I think it's probably in here.

GERAGOS: When you say the CALEA data, is that, are you referring to what Mary Anderson had faxed up?

JACOBSON: No, this is People's 203 F.

GERAGOS: You show at 8:47 where it was?

JACOBSON: It doesn't show.

GERAGOS: Okay. So once, there's at least one example of a voice mail retrieval that doesn't go to a cell site, or at least doesn't have the location, right?

JACOBSON: It doesn't show in the system I have on this.

GERAGOS: Now, you've got two calls at 9:37, at least on the billing records. Is that the same call? Or two separate calls?

JACOBSON: If you see on the billing records it has the NACNs again?

GERAGOS: I show two Oaklands and two NACNs?

JACOBSON: Yes. Those are two separate calls.

GERAGOS: Two separate calls?

JACOBSON: But four records.

GERAGOS: This and this?

JACOBSON: Yes.

GERAGOS: And that's in Concord, right?

JACOBSON: Concord 3 switch, yes.

GERAGOS: It's over by Berkeley, right?

JACOBSON: Yes, it is.

GERAGOS: Okay. And then what I just marked as the exhibit is the Modesto Bee articles which, on the 9th and the 10th, one is Object Spied in the Bay, and the other is Divers Set to Renew Search in San Francisco Bay, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. And both of those are the articles, well, the first one says, the one that's on the 10th says: Divers plan to return to San Francisco Bay today to determine if the object found two days ago is a body, correct?

JACOBSON: Yes, sir.

GERAGOS: And Modesto police said they put off the object's retrieval to today to give divers a rest and let stormy weather pass?

JACOBSON: Yes, sir.

GERAGOS: The, so if the announcement was on the 9th and they put it off a day, it didn't go out the 10th, they would have set, the morning of the 11th the Modesto Bee is printing: The divers are going to go back out on the Bay?

JACOBSON: Yes, sir.

GERAGOS: Okay. And presumably Scott Peterson's got the phone at 9:00, that's 9:37 Pacific Time, correct?

JACOBSON: Yes, sir.

GERAGOS: He's out there in the Concord switch area, presumably somewhere near the Berkeley Marina, right?

JACOBSON: I can't say specifically where he's at, but I can tell you that he's within the white boundaries of that Concord 3 switch.

GERAGOS: Okay. Now, at what point do you know that the, I'm not going to ask you for the intercepts, but you personally, what time does law enforcement and the media start reporting that it's an anchor?

JACOBSON: I believe they started reporting it right before lunch.

GERAGOS: Okay. And do you know what time the, the divers actually came up with the anchor or determined, I don't think they brought it up, but they just determined it; isn't that what happened?

JACOBSON: You know, sir, I wasn't watching it. I was, like I stated, stuck in a little bit, and...

GERAGOS: In that confidential location?

JACOBSON: In that confidential location.

GERAGOS: Right. Now, the, so you've got these calls. All of them are the Concord switch up until 9:47, correct?

JACOBSON: In the Concord 3 switch, that's correct.

GERAGOS: Okay. Now, the Concord 3 and the Concord 2 are right next to each other?

JACOBSON: Yes, sir, they are.

GERAGOS: Berkeley overlaps both of them; is that correct?

JACOBSON: Actually, I don't know if Mr. White covered it, but the switches do have a little bit of an overlap between the 2 and the 3, and,

GERAGOS: Mr. White said that, in order to, I assume this is your understanding, that there's, it's not the same kind of overlap you've got with the cell phone sites when you've got all these

circles kind of laying on top of each other, but at the boundaries they overlap so you've got coverage from one switch to another. Is that your understanding as well?

JACOBSON: That's what I've been told, yes, sir.

GERAGOS: All right. Now, the next call, all of these what we've got here are the Concord 2 or the Concord 3 switch; is that right?

JACOBSON: Yes. Are they all from the Concord 2? Those are a snapshot representative of the Concord 2 and 3.

GERAGOS: Okay. Now, these incomings from Mike Richardson and an outgoing to voice mail, and an incoming from Jackie, and an incoming from Ted Rowlands, once again I'm going to ask you, are there other calls that are in this sequence that are not on this chart?

JACOBSON: I believe so, yes.

GERAGOS: Okay. From the billing, do you have the billing records in front of you?

JACOBSON: I do.

GERAGOS: Okay. And you have your HIDTA records in front of you?

JACOBSON: I do.

GERAGOS: Okay. Does it look like at 9:45 there's an incoming, or an outgoing, I should say, to a La Jolla?

JACOBSON: Yes.

GERAGOS: Okay. Did you capture that?

JACOBSON: This is on the billing at 9:48, or 9:45?

GERAGOS: 9:45 to a La Jolla number, which I know to be Jackie Peterson. 232 number?

JACOBSON: You know, these billing records don't show the 10:48 call to Jackie, but it does show the 9:45. So I'm not quite sure if this was an AT&T kind of,

GERAGOS: Glitch?

JACOBSON: glitch.

GERAGOS: They do show, so we're both looking at the same thing. They both, they do show that there's a 9:45 call to Jackie Peterson, correct?

JACOBSON: Yes.

GERAGOS: And then it shows that there's a 10:41 incoming call from Modesto, correct?

JACOBSON: Yes.

GERAGOS: Did you capture that, the audio on that?

JACOBSON: Like I stated, I believe this is one and the same with the 10:48 call, because if you go down you'll see it at 10:48. So these billing records really,

GERAGOS: What I'm asking you, see, what I'm asking is see this incoming that's got a Modesto call location? Incoming?

JACOBSON: At 10:41?

GERAGOS: 10:41.

JACOBSON: I have a 10:40:47.

GERAGOS: You don't have the 10:41 incoming from Modesto; is that correct?

JACOBSON: Yeah, I don't have a 10:41. I have a 10:40:47, but I think these billing records have an anomaly to them.

GERAGOS: Okay. The, if I can just go down here to, to try and lead you through here until noon on the records, before noon, which is just the next link. Seven or eight entries?

JACOBSON: Yes.

GERAGOS: There's a call to San Francisco, a 415 number. Did you capture that?

JACOBSON: Yes. I believe so. That was, that shows a 10:48.

GERAGOS: Once again, it looks like it doesn't jive with the HIDTA records, does it?

JACOBSON: Yeah, there's,

GERAGOS: There's something wrong. And then on, looks like on the, see this incoming, this is an NCN?

JACOBSON: NACN. That's attached to the call record up above.

GERAGOS: Right. Does that come in, that doesn't come in, does it?

JACOBSON: The NACN above, below that is actually attached to the 415 number.

GERAGOS: Right.

JACOBSON: And that call may or may not be somehow related to that 9:45 call. It just doesn't show your client's mother's number on that one.

GERAGOS: Right. We would just be speculating as to what that is?

JACOBSON: Exactly.

GERAGOS: Okay. And then the next, looks like one, two, three, four, five, six calls before noon. Did you capture the audio of those? I'll give you a hint. It doesn't look --

JACOBSON: Yeah, it's not,

GERAGOS: It doesn't look like, at least on the 11th, which is maybe the first day, maybe there was a glitch or something, but it's clear that there's something wrong between the records, the billing records, correct?

JACOBSON: Yes.

GERAGOS: For, from AT&T?

JACOBSON: Yes.

GERAGOS: And the wiretap, correct?

JACOBSON: Yes.

GERAGOS: Okay. Because as we go through this and we're comparing, and, if I could, I'm going to switch to the camera so that I can show the jury what we're talking about. Can I borrow your billing records for a second, just that one page so I can show it? The 11th shows, starting from right up, we started talking about right here; is that correct?

JACOBSON: I think you said 8:47. The billing records don't show the test calls or those calls prior to that.

GERAGOS: Right. And then almost all of these calls don't show up on the HIDTA, correct?

JACOBSON: Well, they, they show up, but my records are at different times.

GERAGOS: Yeah, different times, and the numbers don't correspond to the times that you have got on the wiretap, correct?

JACOBSON: That's correct.

GERAGOS: Okay. Whether that's, if I could just, I know I took this from you yesterday. I'm just going to put this up so they can take a look. I'll hand it right back. When you're looking at the HIDTA records and you compare these to these, and you look at them, and you're looking here, at the times and the phone numbers and comparing them, and then comparing them here, what we're saying is that the numbers aren't, they don't correspond, correct?

JACOBSON: Well, the phone numbers may correspond, but the times don't correspond.

GERAGOS: Okay. Now, that, and as we indicated, and I suppose it would be speculation, but we do know for a fact that on that date, that's the first twelve hours that you're up and running, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. So it's quite possible that what's going on is that the numbers, and I used this before, garbage in, garbage out. Maybe the AT&T, when the call records are getting sent, that the call records that are being sent are not marrying up correctly with the audio, or maybe there's some kind of a problem between the billing usage and the wiretap; is that correct?

JACOBSON: I would say there's probably a couple different systems being used by AT&T. Of course, we know that the billing records are separate from the invoices. The invoices are separate from the fraud records. And then I'm getting this information which there may be a problem with the data, the time that I'm getting it.

GERAGOS: Okay. So at least on the 11th, as we're comparing here, the 11th before noon, there's an obvious disconnect, correct?

JACOBSON: There's a discrepancy with the times.

GERAGOS: Okay. Now, the, the, specifically, if I can go back, turn it back off, the camera, and go back to putting it back up for a second? Okay. So what we've got are some, the phone calls, at least I assume, you correct me if I'm wrong, these calls that you've got on this chart are all taken off of the HIDTA records, not off of the billing usage records?

JACOBSON: That's correct.

GERAGOS: Okay. And based upon what you know, the more accurate records in terms of time, capturing the time of the call, would be the billing records, would it not?

JACOBSON: I don't believe so. I believe my records would probably be, well, I guess we're going to get into a feud between AT&T and me, but,

GERAGOS: I betcha AT&T would give the opposite response.

JACOBSON: These records and these times I believe are accurate.

GERAGOS: But they don't seem to jive with the billing usage records, do they?

JACOBSON: No, they don't.

GERAGOS: Okay. Now, the calls that you took out and that you put on this chart, were you able to capture all of the audio on these?

JACOBSON: I believe most of the audio, yes.

GERAGOS: Okay. Any of those that you didn't capture the audio of?

JACOBSON: I'm not quite sure. Maybe, maybe one.

GERAGOS: Okay. And then we've already established at least the billing records reflect those number of calls that either are missed time or weren't captured or we don't know; we would just be speculating, right?

JACOBSON: Yes.

GERAGOS: Okay. Now, do we know specifically, as you sit here, what, when the first time that you have got a record that shows, by the way, this is all on the 505-0337 phone?

JACOBSON: That's correct.

GERAGOS: Okay. When is the first time that you see the 505-0337 phone leave either the Concord 2 or the Concord 3 switch? Do you know what I'm saying?

JACOBSON: Right. When does it head back down south into the Gilroy area?

GERAGOS: Right. What time is that?

JACOBSON: I think it's, I think it's, well, it's definitely after that 10:58 call from Ted Rowlands.

GERAGOS: Right.

JACOBSON: I think the next one is the Heidi and Aaron Fritz call at 11:53 a.m.

GERAGOS: Okay. And that call at 11:53, you've got that, you had that HIDTA thing in front of you, because I gave it back to you, that call shows what switch?

JACOBSON: It doesn't actually show the switch or the cell site. I'm just going off my recollection, but I believe the 11:53 was, or I can go to the CALEA data.

GERAGOS: Right. Can you take a look at that?

JACOBSON: At 11:53:10?

GERAGOS: 11:53:10, correct.

JACOBSON: It shows him in the Santa Clara switch.

GERAGOS: Okay. And the Santa Clara switch would be,

JACOBSON: Just south.

GERAGOS: Just south. And that's roughly the exact time that it started being reported that it was not a body, that it was an anchor, correct?

JACOBSON: I believe that's the time when the reports were coming out, right before lunch.

GERAGOS: Okay. And so that I'm clear, it's not on here, is it, the Santa Clara switch? Do you have it marked,

JACOBSON: Actually, I have those cell sites for the Santa Clara switch showing there. San Jose, Morgan Hill, Gilroy.

GERAGOS: Right in there?

JACOBSON: Right.

GERAGOS: Which is the switch?

JACOBSON: Oh, actually, I don't have the definition of the switch, like you see in the Concord 2 and the Concord 3. I just have individual cell sites that are listed in that same switch.

GERAGOS: Okay. If I understand correct, that's Oakland there?

JACOBSON: Yes.

GERAGOS: Okay. And the, roughly the Concord switch comes like this, where I'm pointing to?

JACOBSON: Right. The Concord 2 and 3 are up north there, and the Santa Clara switch would be where you're pointing at and south.

GERAGOS: And south?

JACOBSON: All the way down, past Gilroy.

GERAGOS: Okay. So it would appear, at least in the morning, whoever's got that phone would be in the switch area for Berkeley, and then shortly before noon, roughly at the same time it's being reported that it's not a body, the person is heading south through that Santa Clara area; is that correct?

JACOBSON: Yes, sir, that's correct.

GERAGOS: Now, the afternoon, you have that afternoon slide up?

JACOBSON: It's on the screen right now for us all, sir.

GERAGOS: Thanks. Now, that, you've got a little blue arrow there that says "start counter-clockwise," right?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, the, what you've done here is, for instance, right here, this cell tower, Rossi in Gilroy, is somewhere in this area is what you're saying?

JACOBSON: Yes, sir.

GERAGOS: And how far is this from the Berkeley area, do you know?

JACOBSON: I don't think in terms of mileage or time. It's just in a different switch. So obviously it would be quite some distance, because the switch areas cover a substantial area of terrain.

GERAGOS: Okay. Now, the, the next one you've got, you go to the A 6, which is the outgoing call?

JACOBSON: The next outgoing?

GERAGOS: Well, you've got one says outgoing call. There you go.

JACOBSON: Which one are you looking at?

GERAGOS: That one right there.

JACOBSON: Miss Rocha?

GERAGOS: Yes.

JACOBSON: Okay.

GERAGOS: Now, that is, once again you've got this call, and the, you've got an arrow pointing, but I assume that this white area is the switch area?

JACOBSON: No, that's actually a combination of the cell sites within that switch.

GERAGOS: You don't have information as to a specific cell site for that,

JACOBSON: I do. It's right up on the header there. 5755 Rossi Lane.

GERAGOS: Okay. So what's the point of this right here?

JACOBSON: The point of that is to show that in that slide, all of those cell sites combined don't exceed outside of that radius.

GERAGOS: Okay. So are you saying that the person, even though they're using the Rossi Lane cell site, literally all of these surrounding sites are potential cell sites that they may be operating off of? Or potential --

JACOBSON: Hand offs.

GERAGOS: that's the boundary that they could be, as far as away as they could be and still be using that cell site?

JACOBSON: That's my understanding, yes, sir.

GERAGOS: Okay. The, do you know what those boundaries are?

JACOBSON: I do.

GERAGOS: Approximately what are they?

JACOBSON: For each cell site?

GERAGOS: No. Actually, just give me what the total circumference of that, kind of looks like a circle with a, something on it.

JACOBSON: I would, I would have to give you exact radiuses of each cell site. I, I could look up there and see,

GERAGOS: Are you talking is this thing, I just need an approximation. Are you talking ten miles across? Are you talking 20 miles across?

JACOBSON: If I remember correctly, it's more than ten miles but under 20.

GERAGOS: Okay. And the next call, by the way, is there a call before that that you didn't, you know, we talked about culling these out. Pulling them out.

JACOBSON: Right.

GERAGOS: Is there one before that?

JACOBSON: I believe so. We just talked about that. The Aaron and I think it was Heidi Fritz at 11:53.

GERAGOS: So that was the one, the one previous call?

JACOBSON: Yes.

<Noon recess>

GERAGOS: Thank you, your Honor.

JUDGE: By the way, did Raffi finish that little project I gave him?

GERAGOS: No, he didn't. In fact, working on it as we speak. Probably be Monday morning.

JUDGE: Okay. Fine.

GERAGOS: Investigator Jacobson, I was going to ask you for, you got A. We were on A4. You call up, bring up A4 again.

JACOBSON: I don't have the numbers.

GERAGOS: Afternoon. Previous one. Exactly. On this, starting here, and then going down, we already established these two are the ones that you took out of order in order to play here, correct? Took out of order since you didn't take every successive call?

JACOBSON: That's correct, sir.

GERAGOS: Okay. As you are going down here, and you are picking these spots, the Gilroy, Gilroy, Gilroy, are those all on the Rossi tower?

JACOBSON: No. As you can see, as you are heading counter clockwise, that next one there is Periwinkle and Reservoir D, short duration.

GERAGOS: Short duration. It's one of these, what they call these hand-offs that goes from one to the other?

JACOBSON: I believe the duration on that was less than about three seconds. I could look at the records. But it's a real quick call that didn't go through. So he went ahead and redialed.

GERAGOS: Okay. So could you tell, if you put in here outgoing to Sharon Rocha. I assume that's the same phone has the same, hits it again, and apparently, on the cell site, for whatever reason,

cell tower at Periwinkle doesn't work. The next time the cell phone finds the Rossi cell tower, and that one works, and the call connects?

JACOBSON: Yes, sir.

GERAGOS: That's what you are assuming, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. And then we stay at the Rossi. So basically for a five minute period of time, we're over in Gilroy somewhere, and in this little white circular area?

JACOBSON: I think the time was even beyond that, because, as we had brought up earlier, there is an 11:53 call found him also down in the Gilroy area. So I would be safe to say that, within that hour, he is at the Rossi cell tower there in Gilroy.

GERAGOS: The 11:53, does that have a cell tower on it?

JACOBSON: The call at 11:53, I believe it had the switch showing the Santa Clara switch.

GERAGOS: Do you have that in front of you?

JACOBSON: I need that. Maybe I got the binder right here.

GERAGOS: I think you do. If you don't, I'll grab it for you. You don't need the cell site locations book?

JACOBSON: No, sir.

GERAGOS: You can do it straight from there?

JACOBSON: Just has the switch. Doesn't have the cell site location listed on that at 11:53.

GERAGOS: And the switch again?

JACOBSON: So within that period of time he's within that Santa Clara switch.

GERAGOS: Okay. And that's the one that's immediately south, correct?

JACOBSON: Yes, sir.

GERAGOS: And then the, what calls do we have from here? This outgoing to the voicemail, 12:55, you got the Sharon Rocha right? Another outgoing voicemail, outgoing. Hasn't any other calls interspersed between the Lee Peterson and the disconnected number?

JACOBSON: No calls between Lee Peterson and the disconnected number at 1:09.

GERAGOS: And then the next thing you have got going is the outgoing to 4-1-1, right?

JACOBSON: Yes, sir.

GERAGOS: Now, do you capture the audio on that?

JACOBSON: Yes, sir.

GERAGOS: And what's the audio on it?

JACOBSON: Do you want me to explain?

GERAGOS: Do you have the,

JACOBSON: Synopsis of it.

GERAGOS: No. Do you have the, you got the HIDTA there? Just point to me where the 4-1-1 is one these call connects.

JACOBSON: Yes.

GERAGOS: Okay. And on the call connect that comes in, there is basically a somebody in the San Luis Obispo area?

JACOBSON: That he is searching for, yes.

GERAGOS: And then presses the button again, and gets the, I guess they do whatever it is. He got the answering machine?

JACOBSON: Just, boom, it goes.

GERAGOS: You press the button once, he gets the number. It goes to voicemail, it gets the answering machine?

JACOBSON: Got the answering machine for Mark and Barbara Sharpe.

GERAGOS: And then what's the next call after that?

JACOBSON: 1:09:33. Still at that same location.

GERAGOS: Do you capture audio on that?

JACOBSON: The first one, 1:09:22, that is a disconnected number where the audio said that, sorry, the number was disconnected. And then 1:09:33, underneath that is the 4-1-1 call we just talked about.

GERAGOS: Now, the next call that you capture is the 1:11:17 for information again. Now, on that, I apologize. I thought that was the 1:11. I gives the way to distinguish it is, there would be a 1:11. This one says No Name, then Uno, and then Gilroy. This 1:11 call?

JACOBSON: Yes, sir.

GERAGOS: What does that mean?

JACOBSON: That's the name of the cell tower, believe it or not. No Name Uno.

GERAGOS: Do you capture any of the audio on the No Name audio?

JACOBSON: I don't get the audio.

GERAGOS: That's why they call it No Name Uno. The next call that comes up?

JACOBSON: Is the 1:17: call there to Mike Richardson.

GERAGOS: To Mike and Heather Richardson. He gets the voicemail again?

JACOBSON: Yes.

GERAGOS: And then looks like he redials again?

JACOBSON: Yes, sir. There is a couple more trying to get Mike Richardson.

GERAGOS: Using different numbers?

JACOBSON: Yes, sir.

GERAGOS: Okay. Then looks like there is a call at 1:21. You don't have it up there. You have got Guy Miligi. But there is another one between that, right?

JACOBSON: Jody Hernandez placed an incoming phone call.

GERAGOS: So as he's calling out to these people, at the same time one of these things you tend to have a lot, here which is media calling, correct?

JACOBSON: Yes, sir.

GERAGOS: Now, you have got Guy Miligi, and we heard that tape, correct?

JACOBSON: Yes, sir.

GERAGOS: Then you have got, again, Jody Hernandez, three straight calls?

JACOBSON: Yes, sir.

GERAGOS: 1:21, 1:22, 1:23?

JACOBSON: Yes, sir.

GERAGOS: Okay. Then a call to Mike and Heather, right?

JACOBSON: Yes, sir. That's the 1:25:22. That's the first one. The white box that you see up above Guy Miligi's.

GERAGOS: And as we're going outgoing to voicemail, that means the 1:26, right?

JACOBSON: Yes, sir.

GERAGOS: And then after that, we have got two more to Mike and Heather Richardson?

JACOBSON: Yes, sir.

GERAGOS: Okay. Are those both reflected in the 1:26 and 1:31?

JACOBSON: Yes, sir.

GERAGOS: And then you have got this Robert Weaver call. We heard that?

JACOBSON: Yes, sir.

GERAGOS: And then another Robert Weaver call, which is not on there, right?

JACOBSON: It's, actually that's one and the same call.

GERAGOS: Okay. You had it as two on your call record; is that correct?

JACOBSON: It shows two on the call records. But if you look at the duration the times, it's actually one call.

GERAGOS: Okay. Okay. And then you have got the call to Jackie. Looks like there is another call, 4:16. What is that?

JACOBSON: That is actually a serving system message that's put out by AT&T. Not an actual call.

GERAGOS: At that point at 2:02, that Robert Weaver call, other than that AT&T service message, service system message, the next one you get is the 4:49?

JACOBSON: Yes. Where he reaches the AT&T recording.

GERAGOS: Okay. Now, the cell phone usage that day, that's, as we indicated, that was the first day of the wiretap. Did you calculate how many calls there were to be picked up on the wiretap for that day?

JACOBSON: No, sir, I did not.

GERAGOS: Okay. Now, going forward from there. The 12th. Were you still manning the wire room at that point?

JACOBSON: Yes, sir I was.

GERAGOS: Okay. Now, as you were manning the wire room on the 12th, can you explain a little bit, I guess you have got a confidential location. There is people sitting there. Give me just a little bit more detail. When somebody is actually in the, you have more than one person who monitors the wire room?

JACOBSON: Yes, sir.

GERAGOS: Okay. And how many, normally how many people normally are in the wire room?

JACOBSON: Normally there are two monitors who sit at the work stations and a supervisor.

GERAGOS: Okay. And are there set hours when you do the monitoring?

JACOBSON: Yes, sir.

GERAGOS: What are the hours for the monitor?

JACOBSON: It varied in this investigation.

GERAGOS: Is it, is the way that the wiretap works, that if there is no monitor that you don't get the call? You don't record the call?

JACOBSON: If there are no monitors that are there at the computer, that are able to minimize the conversation, you will, we turn the machine off. Basically do not get the audio. But you will still receive the call data. So actually continues on with the Pen Register registering the data. We are not able to get the audio.

GERAGOS: So just go through this for a second. Do you have set hours, you do nothing at that point, at least on the 11th, correct, and the 12th? You don't show up at the monitor. I mean at that point it's not a situation where you, as the supervisor, or any of two other supervisors, people who acted as wire room supervisors?

JACOBSON: Yes. Wire room supervisors, yes.

GERAGOS: It's not something that people show up at eight in the morning and then leave at 5:00 o'clock?

JACOBSON: No, sir.

GERAGOS: Okay. It can be sporadic as well. If we look through the HIDTA records, you could show up at ten in the morning, could show up at noon, you could go until midnight. You could go to two in the morning, correct?

JACOBSON: That's correct, yes, sir.

GERAGOS: And if you are not there, meaning if that wire room is not open, then the only information you would get, if I understand correctly, would be switch to the camera. The records themselves, the call data, is that's on the left here, correct?

JACOBSON: Yes, sir, it is.

GERAGOS: Okay. So the wiretap software would still capture this information on the left, correct?

JACOBSON: Yes, sir.

GERAGOS: But the synopsis portion, which is over here on the right, is not captured when there is nobody in the wire room?

JACOBSON: That's correct.

GERAGOS: Okay. And the reason for that is, that because of the way that wiretap warrants are, and the wiretap law is written, that if there is not a human being there at the time who can do minimization, turn it off if it's a non-pertinent call, or minimize, or hang it up, not capture it if it's a privileged call, the lawyer, your doctor, your priest, then you, the law does not permit you to grab the wiretap or audio content, correct?

JACOBSON: Correct.

GERAGOS: There is no prohibition under the law from capturing the call data, which would be the, what I just showed the jury to the left, correct?

JACOBSON: Exactly, yes, sir.

GERAGOS: When you say Pen Register, that's another term of art for the call data, right?

JACOBSON: Yes, sir.

GERAGOS: So the calls that you hear, or that get intercepted here, either on the 11th or on the 12th, or going forward through February 4th, to some degree are dependent on when the wire room is in operation correct?

JACOBSON: That's correct, yes, sir.

GERAGOS: One of the reasons, one of the explanations why the AT&T billing form that we were showing the jury this morning may capture calls that we don't have audio on, for instance, where we only have call data, one of the explanations for that would be the wire room may have just been shut down at that point. You may have the call data that shows the calls there, but you are not going to have the audio?

JACOBSON: That's a possibility, yes, sir.

GERAGOS: How many hours, on average, from the 11th to February 4th, would you say the wire room was in operation?

JACOBSON: On average?

GERAGOS: On average.

JACOBSON: I would probably say at least maybe sixteen hours a day.

GERAGOS: Okay. And would the start time and end time vary? Or was there a rough time that you normally would start?

JACOBSON: It all depended on what the events were taking place on a particular day, or what we could foresee as an event that we wanted to be up on earlier. So I would say anywhere between maybe 7:00 o'clock in the morning to sometimes, as you stated two, three in the morning. But generally the wire wasn't monitored around two in the morning until about six, seven.

GERAGOS: And most of the time you would say, after midnight it's not monitored?

JACOBSON: Yes, be a fair statement to make.

GERAGOS: Okay. Leaving the wire for a second. Then there is other surveillance that was also in place. I mentioned before we talked, before the break, there was surveillance that was conducted by the Department of Justice, correct?

JACOBSON: Yes, sir.

GERAGOS: In addition to that, you had some involvement in setting up a pole camera, or obtaining a pole camera for the,

JACOBSON: Oh, no, sir. You brought that up at the preliminary hearing, but I didn't have involvement in that.

GERAGOS: Didn't you, were you aware of the pole camera being set up across the street?

DISTASO: Objection, your Honor. Goes beyond the scope of direct.

JUDGE: I think so. Sustained.

GERAGOS: The surveillance, would the surveillance that's being used by the pole camera,

DISTASO: Objection.

JUDGE: Haven't heard the rest of the question.

GERAGOS: The poem camera surveillance, I know you are indicating you didn't have any direct involvement in it, but does that surveillance, would that be relayed back to the wire room for certain information to be conveyed? Would there be contact between the two?

JACOBSON: From the pole camera surveillance back to my wire room?

GERAGOS: Yes.

JACOBSON: Would there be,

GERAGOS: Communication being are going back and forth?

JACOBSON: Not in this investigation. I don't believe so.

GERAGOS: Did the wire room people who actually work during that period of time from the 11th to the 4th, can you name the people who actively worked in the wire room?

JACOBSON: I have a list of those people, and you have a list as well. We could go down that list. Just off my recollection?

GERAGOS: I'm asking you, were any of the detectives, the lead detectives in this case, working in the wire room?

JACOBSON: Yes.

GERAGOS: Okay.

JACOBSON: Any lead detective, such as Detective Grogan?

GERAGOS: Or Brocchini, Buehler, Owen, or any of those gentlemen working?

JACOBSON: No, sir.

GERAGOS: And is it a fair statement that the people who were working the wire room were not in Modesto. They have in, I assume you are familiar with the term "Core Detectives"?

JACOBSON: Yes.

GERAGOS: Gentlemen that we just named are the Core Detectives?

JACOBSON: Yes, sir.

GERAGOS: Did any of those people that I you have indicated, none of those core detectives were work in the wire room, correct?

JACOBSON: No, sir.

GERAGOS: Who would convey information from the wire room to the Core Detectives?

JACOBSON: Generally myself, or one of the other supervisors that you mentioned. One of the other two or three.

GERAGOS: One or two or three supervisors who were working the wire room?

JACOBSON: Yes, sir.

GERAGOS: Okay. And was that done on a daily basis, if needed?

JACOBSON: Yes, sir.

GERAGOS: And anything that was thought to be important would be relayed to the detectives, correct?

JACOBSON: Generally, yes, sir.

GERAGOS: Okay. That would include, we hear Scott staying he's going to go to a meeting here, Scott saying he's going to go to a meeting there. Anything that, where somebody wants to inform the Core Detective as to where surveillance should go to?

JACOBSON: Yes, sir. Surveillance is set up on him at that particular time.

GERAGOS: Okay. And there was, as far as you know, surveillance that was set up at that time, physical surveillance on Scott Peterson?

JACOBSON: Oh which day?

GERAGOS: On the 11th.

JACOBSON: Yes, I believe it was in the morning time. I think you told me about the time in which the surveillance was terminated because they lost him.

GERAGOS: Right.

JACOBSON: Yes. So up to that period of time.

GERAGOS: Okay. And you are aware that there were, surveillance was being conducted by, at least it was your understanding, surveillance was being conducted by people who line 13 were supposedly undercover. They weren't black and white, as far as you know, following him around?

JACOBSON: No, sir.

GERAGOS: So when he's being surveilled, the whole idea is that it's supposed to be covert?

JACOBSON: Yes, sir.

GERAGOS: Okay. And when he's being wire tapped, the whole idea is that's supposed to be covert?

JACOBSON: Yes, sir.

GERAGOS: And part of what would happen is, is that the information that's gleaned from the wiretap as to places he's going to go, for instance, there was one piece of information, you heard a phone call, I think on the wiretaps about him meeting Brian Argain, correct?

JACOBSON: Yes, sir.

GERAGOS: And part of what was done was to tell the surveillance officers, he's going to be meet Argain here at this particular restaurant, right?

JACOBSON: I don't know if it was the surveillance officers. It was the Core Detective.

GERAGOS: Tell the Core Detectives he is going to go to a certain restaurant. Get a subsequent call in turn, say he's changed his mind, he's no longer going to the restaurant. He's going to the Country Club?

JACOBSON: That's correct, yes, sir.

GERAGOS: That was done, presumably, I assume, so the Core Detectives would know where he was most of the time, and have him under surveillance most of the time, correct?

JACOBSON: Yes, sir.

GERAGOS: Now, the, ask you the, you know, C1, which was selling his and Laci's home. Do you remember that tape that you captured?

JACOBSON: Yes, sir.

GERAGOS: There were a succession of calls on that; is that correct?

JACOBSON: Or on the slide that I,

GERAGOS: Yeah. You put together a slide. But the slide was nothing more than taking what were a series of calls on four different days, right?

JACOBSON: Yes, sir.

GERAGOS: Okay. Now, the first one that was at 5:39, that was when Scott had this discussion with Mr. Argain about putting the house for sale?

JACOBSON: I believe that was January 22nd.

GERAGOS: January 22nd. I believe it was at 5:39, at least according to slide.

JACOBSON: Yes, sir.

GERAGOS: Now, that conversation, specifically there was a portion of that conversation, I don't remember either if it was contained in the recorded spot or not, there was call led up to that, in terms of where they were going to meet, or where they were going to talk on issues; is that not correct?

JACOBSON: Was it the meeting that you are talking about?

GERAGOS: Meeting that I'm talking.

JACOBSON: Yes.

GERAGOS: He was there attempting to and try to tape, or have somebody sit at a booth near them and tape their conversation?

JACOBSON: I don't know if they actually had brought some recording equipment with them, but there was an attempt by the police department to put a couple of the gals from the police department in a booth nearby to overhear any conversation that Mr. Peterson was talking about with Mr. Argain and group.

GERAGOS: Do you know the date when that first intercept took place, talking about the meeting? Not the meeting itself, but do you remember the first time that you intercepted that?

JACOBSON: I'd have to look at these records; but I think it was like on the 22nd.

GERAGOS: I believe it was too. If you want to take a look. I have got mine in front of me. But I don't have the date earmarked.

JACOBSON: I believe it was, it began the to transpire about on the 22nd, just roughly speaking of looking at what's in front of me.

GERAGOS: And as that, as that call took place, this is the 22nd, first one was, the first one you had on the slide was the 5:39.

JACOBSON: Yes, sir.

GERAGOS: And that was the tape that we heard where Scott called Argain, and they talked about agreeing to have lunch at the Del Rio, right?

JACOBSON: Yes, sir.

GERAGOS: And what was the reason why they were going to go there?

JACOBSON: They were going to go there to the restaurant to talk about the sale of the house.

GERAGOS: The reason was because, you have got quotes in there. What was the quote?

JACOBSON: Oh, they agreed to go to the Del Rio Country Club because the media cannot get in there, or can't go there.

GERAGOS: Okay. And the, when he says he wanted to keep it quiet, obviously. Even if Laci comes back, we'll not want to stay there either way, however this comes out, correct?

JACOBSON: Yes.

GERAGOS: And the meeting, appears that the first meeting or the first discussion on that phone call was about doing it at Del Rio, correct?

JACOBSON: Yes, sir.

GERAGOS: Was there a previous call about doing it at some other restaurants?

JACOBSON: A previous call to this one, there was one after it where they changed restaurants.

GERAGOS: Okay. And do you know where they changed it to?

JACOBSON: The Appetez restaurant, is my recollection.

GERAGOS: Okay. And where is that located?

JACOBSON: That's located on Roseburg in the City of Modesto. I think it's Roseburg Square.

GERAGOS: And they agreed to meet there. And that was on 10 10-23, I mean 1-23?

JACOBSON: 1-23.

GERAGOS: I have got it as 1-23.

JACOBSON: What time.

GERAGOS: Looks to, looks to me like 10:49.

JACOBSON: Yes, sir.

GERAGOS: That was not, we did not hear that one yesterday, did we?

JACOBSON: We did not hear that call, no.

GERAGOS: So that would have taken place, can you put up the slide just so we can get it in order?

JACOBSON: Sure.

GERAGOS: The first one that you played yesterday was this 1-22 call, right?

JACOBSON: Yes, sir.

GERAGOS: And then there was the, there is another one at 1-23. That would have come right here in between, correct?

JACOBSON: There is several calls actually between those two that coordinate the meeting, about the meeting that's supposed to be taking place.

GERAGOS: The next one that there is an incoming answered by the voicemail where Argain tells him to get in touch with him. And that's at 10:46?

JACOBSON: Yes, sir.

GERAGOS: And then. Okay. Can you play that, can you pull that one up and play that? I think there is only a minute and 58. The Court will indulge me without a transcript.

JUDGE: I assume there is no objection to that.

DISTASO: Which call are we playing?

GERAGOS: 10:46 on the 23rd.

DISTASO: No, I have no objection to that.

JUDGE: And we have no transcript of this. And I hope it's a short call.

GERAGOS: He indicates it's a minute 58.

JUDGE: All right.

JACOBSON: Okay. Wherever you are ready.

GERAGOS: Sure. Can you play it? (RECORDING)

GERAGOS: Then the next one that's also not on the, that we didn't play yesterday, or wasn't played yesterday, was the one at 10:49, where Scott returns the call to Brian Argain, correct?

JACOBSON: Yes, sir.

GERAGOS: They agree to meet at this Appetez restaurant in Roseburg Square?

JACOBSON: Yes, sir.

GERAGOS: At 12:15?

JACOBSON: Yes, sir.

GERAGOS: They are going to include Guy in the meeting so they can talk about some stuff, right?

JACOBSON: Yes, sir.

GERAGOS: Then they have a, you played the one on January 23rd at 12:42, correct?

JACOBSON: Yes, sir.

GERAGOS: And then on January 23rd at 5:42 left a message for meeting early in the day in that?

JACOBSON: Yes, sir.

GERAGOS: In that one he stated, that one is only fifty seconds. Could have him play that one as well?

JACOBSON: That's the one we played.

GERAGOS: The one we played before?

JACOBSON: That's the one, the second call listed in the slide.

GERAGOS: Play that for fifty seconds.

JUDGE: That's the one we played yesterday?

GERAGOS: Yes. (RECORDING)

GERAGOS: Now, this would seem to at least indicate that that meeting took place, at least from the wiretaps, on that day, on the 23rd, correct?

JACOBSON: Yes, sir.

GERAGOS: Okay. Is it also, is it a fair statement that your understanding or memory is, is that the attempted surveillance of that meeting took place on that same day?

JACOBSON: Yes, sir.

GERAGOS: And was that also at this restaurant, this Appetez Restaurant in Roseburg Square?

JACOBSON: Yes, sir.

GERAGOS: Now, the, was there, as far as you know, was there an attempt to tape record that conversation?

JACOBSON: Like I stated earlier, I don't believe they brought any recording equipment in there to the restaurant with them. I do know it was a couple ladies from the police department. My understanding is that they did sit nearby, but they couldn't overhear or determine the nature of the conversation.

GERAGOS: Okay. Now, on the 23rd, was it on that date, similar to other dates, you have the HIDTA records in front of you, right?

JACOBSON: I do.

GERAGOS: On the 23rd, was he receiving calls, media calls on that day?

JACOBSON: Yes, sir, he was.

GERAGOS: Okay. Roughly, can you estimate how many media calls he received on the 23rd?

JACOBSON: On the 23rd, roughly?

GERAGOS: As always, we have a number of calls from Ted Rowlands, correct?

JACOBSON: Pretty much count on that, sir.

GERAGOS: And we have got Karen Brown from NBC, Jody Hernandez, repeated calls, correct?

JACOBSON: Yes, sir.

GERAGOS: Got Michael Reel from CBS. We have got Kimberly Culp repeatedly from ABC, correct?

JACOBSON: Yes, sir.

GERAGOS: Karen Brown again from NBC. Kimberly Culp for another back-to-back phone calls?

JACOBSON: Yes, sir.

GERAGOS: We are got Jody Fernandez weighs in again. Kimberly Culp. Is it fair to say that within the span on the 23rd, I'm just looking at the 23rd, there is quite a few calls, isn't there that are inserted, at least on the HIDTA? My Bates stamp 29296, looks like there are over two pages worth of calls on the 23rd; is that right?

JACOBSON: Just talking about media related calls, or calls in general?

GERAGOS: Calls in general.

JACOBSON: Yes, sir.

GERAGOS: And then, in addition to that, there is a lion's share of these are either media or family, correct?

JACOBSON: Yes, sir.

JUDGE: Mr. Geragos, can I interrupt? My clerk just reminded me, you have to provide, since we didn't report those conversations that was not without the transcript, we'll not have a transcript for the record. So if you will provide one. Raffi can do it, then we'll mark it defendant's next in order.

DISTASO: If I can just jump in. We could have a CD marked for the record as well of that call.

GERAGOS: Do the same thing I did yesterday. I'll have him burn a CD and mark it as an exhibit.

GERAGOS: Is it fair to say that these incoming calls from the media, for the most part at that point, well, he's getting these calls all day long, at all hours; is that correct?

JACOBSON: Usually they don't call too early in the morning or very, very late at night. But I would say that, beside those two periods of times, they called quite frequently, variety of different times.

GERAGOS: Okay. Now, and they have a habit of calling repeatedly within the same, like a number of calls in a row as a pattern that you noticed the media, all with the same purpose, three or four times within an hour, correct?

JACOBSON: They got his voicemail message, they got his voicemail machine quite often. Appears they try to continue the calls to see if the voicemail would pick it up. Continue to pick it up.

GERAGOS: For instance, on this day, on the 23rd, at the same time that Scott was leaving that message, or roughly the same time that he's leaving the message for Brian Argain at 5:42, it looks like Kimberly Culp and Jody Hernandez each call about four or times apiece within a span of about thirty or forty minutes?

JACOBSON: Yes, sir.

GERAGOS: Now, the, we heard the phone call about the selling of the house. And then the last one, I believe, was the renting of the house; is that correct?

JACOBSON: Yes, sir.

GERAGOS: Now, when that, so the first call was on January 22nd. The meeting takes place on January 23rd. Presumably they don't discuss the selling of the house on January 23rd, because we have got a voicemail message that says here, we never talked about it at the meeting. There is another call four days later?

JACOBSON: Yes, sir.

GERAGOS: And that's the one that we heard yesterday where Brian called Scott, and asked Scott if he wanted to talk to him.

JACOBSON: Yes, sir.

GERAGOS: Two days after that, on the 29th, is when Brian called Scott, said you better talk to the lawyer because of the title. And then said, what, about renting it?

JACOBSON: Exactly.

GERAGOS: The day that you believe that there was some kind of knowledge by Scott that he was, his phone was being listened to, do you remember what day that was?

JACOBSON: It was early part of February. I believe it was about February 3rd. Do you want me to find that call?

GERAGOS: No. February 3rd. Did you shut it, shut down the wiretap on the 4th, correct?

JACOBSON: Yes, sir, I did.

GERAGOS: Is it a fair statement, as you sit here today, that as soon as you found that out, that you figured that it wasn't going to be much good to you, or much use to you. So the following day, or within a day or two, you shut it down?

JACOBSON: I heard that call and several others that he made. And I figured at that time that I wasn't going to be gaining any additional evidence.

GERAGOS: And is it also a fair statement that on a number of these calls, that Scott would tell either his mother, who said, don't tell me where you are, or his father who said, don't tell me where you are?

JACOBSON: I did hear some of those as well, around that period of time.

GERAGOS: Where you are, meaning location geographic location, what you understood it to be?

JACOBSON: Yes, sir.

GERAGOS: Thank you, judge. I think this is as far as I can go with him.

JUDGE: Do you want me to order him back on Monday? Can you reserve your redirect until we finish him on Monday?

DISTASO: I would like to start my redirect.

JUDGE: He's not done with his cross yet.

DISTASO: I will do it Monday.

GERAGOS: He's got Mr. Wall here as well.

JUDGE: Well, do it Monday. He hasn't finished his cross examination. Okay. Then have to come back.

JACOBSON: I don't want to hear that, judge.

JUDGE: We'll see you at 9:00 o'clock.