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TRAVESTY OF JUSTIC

In the matter of Death Penalty of Hooman Ashkan Panah,

CDC# J55600 /2EB-87

San Quentin State Prison
San Quentin, CA. 94974

Currently before: United States Court of Appeals

For the 9th Circuit Court #13-99010

A mother comes to plead for Justice. By no means is it requested that the law be ignored, nor does this pleading mother request a pardon. All that is asked of the reader of these statement of facts, is to look at the many available evidence in this case, and the manner of conviction in the Van Nuys, California Court.

This pleading is solely to bring about Justice, as it is guaranteed by the Constitution of the United States of America and the requirements of the spirit of the constitution, as set forth by our forefathers.

TRAVESTY OF JUSTICE:

How the police and prosecutors suppressed exonerating D.N.A and other crucial evidence to frame, Hooman Ashkan Panah, an innocent Iranian young man!?

Hooman has been on Death Row in California San Quentin State Prison, more than 23 years.

It is a proven fact, legally and repeatedly established by the United States Judicial systems, that many people have been wrongly convicted & sent to "Death Row" waiting for their "Execution" and demise, only to discover and establish many years, or decades, later that they were indeed "Innocent." This is not a new or a rare phenomenon, as the numbers of innocent prisoners released from **"Death Row"** throughout the United States, are approximately **122**. Actually, innocent prisoners are continuously added to that list, each and every year.

This is the story of yet "Another innocent man" languishing for more than two decades, as a "Condemned man on the death row", and unfairly awaiting a "Full & fair trial", so that he can present the unjustly suppressed, and exonerating **D.N.A** & pathology evidence, which can prove his innocence. **D.N.A** is the most reliable scientific evidence & courtroom's golden standards of legal proof, and this is exactly why police and prosecutors suppressed such evidence, to gain a totally unjust, and racially biased, conviction of an innocent Iranian man.

It has long been said by a wise seeker of the truth that:

"Knowledge of a part, is still better than the ignorance of the whole"!

BACKGROUND HISTORY:

Mr. Hooman Ashkan Panah, (Born May 28, 1971) is a Persian born, and an Iranian citizen and national, is actually and factually **an innocent man,** who at the young age of 22 years old was wrongly "Arrested", on Nov 21, 1993, for the alleged murder of Nicole Parker, an underage minor. Subsequently through a partial & biased trial, which was a total sham, farce & a "Mockery of Justice", he was "Convicted" on December 19, 1994. The Jury returned a "Death Verdict" against him on January 23, 1995; and the Judge cruelly, and with no conscious, sentenced him to "Death" on March 6, 1995. To further send a symbolic racial bigotry message, Hooman was sent to **San Quentin prison's "Death Row",** on **March 20, 1995, which is "The Persian New Year",** where he remains to this day, languishing for almost more than 23 years, constantly fighting for his life against all odds, and striving to receive a fair hearing, so that he

can present the various available **"Scientific D.N.A, pathology & other evidence", w**hich will prove his innocence!

Mr. Ashkan Panah's wrongful and unjust conviction was the result of numerous acts of "Fraud" by the prosecution team, the actions of a biased and prejudice judge, leading to a gross miscarriage of justice by a mislead and wrongfully selected Jury. The foundation for this injustice stemmed from the police (L.A.P.D) & prosecutors' intentional and total failure to present strong evidence of actual innocence in their possession, as well as their failure to investigate, and in fact cover up crucial evidence pointing to the guilt of another occupant, in the same apartment where the deceased's body was ultimately discovered.

Why did it take the police **two (2) days and a total of seven searches,** to ultimately and surprisingly discover the body, for the first time, in a small two bedroom apartment??...

This is truly beyond comprehension!!

Obviously, the body must have been "Planted" there during this time, by others, before police's seventh and final search of the residence. Given these bizarre circumstances, even an amateur investigator would have used basic logic, evidence and common sense to figure this out, but yet the police failed to identify and to investigate the existing evidence showing that Mr. Ashkan Panah had been "Framed."

Mr. Hooman Ashkan Panah was tried in the Los Angeles superior court, Van Nuys, before judge Sandy Kriegler, who was (as will be further discussed later) a totally biased Judge. As a result, prejudice **permeated** the entire murder trial of Hooman Ashkan Panah, which took place during 1994-1995. Hooman was racially targeted due to his "Iranian Nationality" and "Islamic faith" A clear case of **Racial and Religious discrimination.** It is not surprising that only some indications of this bias appear in the court record, and like majority of cases involving bias, the most glaring instances of discrimination do not even appear in the trial transcripts.

SUMMARY OF FACTS AND EVIDENCE:

The following is a condensed version of events, evidence, and facts, to **inform** the readers and help in understanding and grasping the sense of "Oppression" and "Injustice" involved in this case. These are merely just some of the plethora of existing facts and evidence, all based on available existing police reports and exhibits, most of which were withheld and hidden at the time of Mr. Ashkan Panah's trial. These facts and evidence, which have been painfully and only partially obtained and revealed, due to post-conviction discovery motions (and still ongoing), explain **why** Mr. Ashkan Panah should **not,** and would **not,** have been found guilty, and **how** he could have proven his "**Innocence**", if he had access to such evidence, and had he received a fair and impartial trial.

*** It is very critical that the readers understand and consider the single most important and determinative key factors in this case:

The prosecutors specifically charged Hooman with **"Felony Murder"** / **"Special Circumstance" case,** claiming that the death occurred **"As a result of",** and **"During"** the alleged injuries and sexual assault.

However, as seen in the following, **Hooman in fact did NOT commit any sexual assault**, **nor** was he **responsible** for any alleged injuries to the deceased; Indeed Mr. Panah was not even **"Present"** during these alleged acts and, as a matter of fact, the evidence proves that he **did not** even have **"Contact"** with the deceased, Nicole Parker.

Hooman is obviously innocent and NOT responsible for any death or murder.

1) Although Hooman stood for "Murder trial" charges, the case itself did not even involve any "Murder"!

a) As the district attorneys concededly expressed to the trial Judge, their "Case theory", involved **No** "Premeditation"; **No** "Deliberate and or Intentional" death or homicide.

b) They further repeatedly revealed that they believed "The Death" itself was "Accidental", regardless of who was actually involved.

c) That's why the prosecution charged Hooman with "Strictly felony murder" and "Special circumstances" case, which did not require an "Intent to kill".

d) The prosecution's entire case was based on "circumstantial evidence case", meaning that **There is No "Direct evidence" (such as incriminating D.N.A, Confession, Eye witness testimony, photos, films, weapons, finger prints, etc.) to link Hooman to this crime**!!

The prosecutors even conceded to the Jury that: Most of their case evidence is subject to **two** or **more "Interpretations",** including being deemed **non incriminating** and being interpreted as evidence of **Innocence**.

Yet, under the guidelines of a biased judge, they urged the jury to engage in "Guess work" and to "Draw uncertain inferences" supporting their case theories, in order to convict Hooman. It is finally now that such **web of lies** has ultimately been revealed and exposed.

e) There is even evidence of an "Attempted resuscitation", meaning **someone** was attempting to prevent her death & to save her life.

f) The "Actual cause of death" was determined to be "Vomit with Aspiration" apparently food particles having been aspirated/inhaled into her lung, and blocking the airway passage, causing her to suffocate from not to be able to exhale. There was no "Strangulation" involved, contrary to prosecutions deliberate lies. As finally the prosecution's own expert pathologist, Dr. Eva Heuser, reluctantly admitted at trial, her cause of death was NOT the result of "Lack of air supply", but rather she died as a result of "Too much air getting in, and in, and in**,** expanding the lungs", causing death. Her own vomit and inhaled food particles obstructed the lungs, and led to her death. Based on this determination, and description of the cause of death, as admitted to by Dr. Heuser, there was/is clearly NO "Murder" involved in this case.

g) Since the factual and actual "Cause of death" was due to "Vomit with Aspiration", the prosecutors and their coroner pathologist, Dr. Eva Heuser, blatantly fabricated and provided knowingly false, and deliberately perjurious testimony in order to alleged "Head Trauma", "Neck stretching" and "Sodomy", each presumably to have independently caused her death. Ignoring the fact that a person can only die once, not multiple times from independent causes,

prosecution team used various underhanded tactics to distract attention, to down-playing and to mislead the jury, as to **original and actual cause of death**.

h) At the same time, the court-appointed trial attorney for Hooman, was so "Incompetent" that he couldn't, and indeed didn't, even point out the inconsistencies, illogical and nonsensical testimonies of the prosecution's medical coroner, Dr. Heuser, to the jury.

Of course, the evidence (especially after post trial discoveries) indicate that:

1- The neck lacked any signs of horizontal uninformed grip and any kind of bruising;
2- There was No "Voice Box" or "Hyoid Bone" (a U shaped bone in that area) damaged nor any injury causing collapse and "Suffocation", as in a typical "Manual Neck Strangulation";
3- And the ultimate established fact that **"She was able to, and could breathe in, & died of too much air filling up her lungs".**
4- Furthermore, it was factually established that neither her "Nose" or "Mouth" were obstructed to prevent her from **"Breathing in/inhaling air".**

Therefore, all of the above disprove and dismiss the prosecutions' deliberately false and perjuriously testimony that she was **"Strangulated"** or **"Suffocated",** which would require lack of air supply, or inhalation capability, which by prosecutions' own admission was not the case here. The fabrications involved here greatly prejudiced Hooman's case, by appealing to and provoking the Jurors' emotions, in order to inflame their passion, causing blind rage and fury, leading to Hooman's wrongful conviction.

2) "The Time OF Death"

Time of death is one of the single most crucial factors in any "Criminal" case, specially a "Murder case. The question of **who** could have had the "Access and Opportunity" to commit the alleged crime is of most importance, in any case.

This issue is obviously one of the central and decisive factors, which may lead either to inclusion of a suspect and the ultimate conviction; or exclusion of a suspect and ultimate exoneration. In this case:

a) According to the attorney general's reply to petitioner's 2254 (d) merits briefing, filed on 6/14/13, some 20 years post autopsy examinations, attorney general "conceded" that the medical coroner **"Could not determine"** the **"Time of death".** This admission directly **contradicts** Dr. Heuser's deliberately perjurious testimony, at trial, aimed to help the prosecutors' misleading "Case theory", premised on the allegation that the victim died on Saturday 11/20/1993, approximately at 2:00 P.M., in order to place the blame on Hooman.

b) In fact **the "Pathology" evidence shows** that **"Death" happened the next day, Sunday 11/21/1993, at afternoon-night, close to the time when her body was discovered, which** would clearly establish **Hooman's innocence.**
c) Mr. Panah, in post-trial habeas corpus appeal proceedings, has retained the ancillary services of an independent renowned expert medical examiner (Not available to him

during his trial) which completely refutes and indeed dismisses the prosecution team's false testimonies, in this regard, by stating basically that since the body was in **"Full rigor mortis"** upon discovery, at 10:30 PM, Sunday 11/21/93, some 34 1/2 hours after the alleged/claimed time of death, and due to the fact that in a natural setting it takes 6-8 hours in a "normal" temperature for a body to stiffen into a "rigor mortis", **there is strong, proven scientific finding, which establishes that the "Time OF Death" to be much closer to "The time of discovery of the body", on Sunday 11/21/93 at 10:30 P.M.** (it was further noted that in this case, where the body was discovered in a "hot and well insulated area", inside of a closet, in a suitcase, under two other suitcases and under a pile of clothing, therefore retaining much heat, the time factors become shortened, meaning the rigor mortis sets in quicker, and the limbs become loosened much quicker, **within 2-4 hours after death**, once a person dies. This proven scientific fact, alone, totally **disproves prosecution's "Entire case theory".**

d) **The location of discovery of the body:** It is undisputed that Hooman left for work on Saturday 11/20/93, arriving there at 3:00 P.M, and that he never returned to his apartment, prior to being arrested by the police, the next morning elsewhere in the city. It is also undisputed that Hooman was in police custody, the entire day Sunday 11/21/93. Hence, it would be "**physically impossible**" for Hooman to have committed the alleged crimes and to have "placed" the body in the location where it was found.

e) Indeed, the fact that a total of **seven/ multiple police searches,** of a small apartment, with **numerous "K-9" police scent tracing dogs** resulted in **"Negative finding of either the deceased body, or any trace or scent trace of her body, inside the apartment"** further corroborate the **pathology evidence** as to **the actual time of death, therefore vindicating and exonerating Mr. Ashkan Panah.** It further establishes that he was "framed" and the body was indeed **"PLANTED THERE".**

f) Other case evidence pointed to presence of one, Ahmad Seihoon (And his accomplices), who was also residing in the same apartment, at the time, and who had ample opportunity, means, and access to the apartment, and was last seen speaking to the Nicole Parker, by her brother.

3) Nicole parker was seen indeed "Alive" at a different location, on Sunday, the day after police's false claims of her alleged death on Saturday.

The above pathology findings, are further corroborated by the police report, indicating that another citizen, **"Witness Neil",** had stated to the police that "He had knowledge of the fact that two males had observed (Seen) Nicole Parker at the Best Western Hotel, at Winnetka and Vanowen, on Sunday afternoon 11-21-93", **the day after** the prosecution claimed she had already died, and much closer to the time of discovery of the body. This "exculpatory" evidence of "Reasonable doubt" was hidden from Mr. Panah at trial, which could have resulted in a "Not guilty verdict", and would have disputed the police and the prosecutor's bogus arguments that there were **"NO OTHER SUSPECTS" and "NO EVIDENCE OF ANYONE ELSE INVOLVED",** and that she allegedly had died the previous day, distorting the juror's perceptions, and giving them a totally incomplete and inaccurate view of the available (but hidden) evidence. This evidence, in combination with the "Time of death pathology evidence" was essential to Mr. Ashkan Panah's defense, and proof of his innocence. That he did **NOT** and could **NOT** have committed the allege crime.

4) "The original suspect" in the case and many/strong incriminating evidence of his culpability:

Mr. Ahmad Reza Seihoon: The prosecutors and L.A.P.D, argued before the Jury:
a) There were no other suspects;
b) No one else had "Keys" or "access" to the apartment other than Mr. Ashkan Panah;
c) That Seihoon didn't "Live in that apartment" and was there on the day Nicole Parker went missing simply for "Business";
d) When he initially left the apartment, he remembered having left his:
1- "Car keys"; changed to:
2- "His wallet"; changed to:
3-"His brief case"; ultimately to:
4- His "Car keys and wallet";
e) No one else other than Mr. Ashkan Panah allegedly knew of her missing **(This was fabricated by the father months after "His original contrary police statement";** and was changed months later at grand jury and trial proceedings at behest of police and prosecutors to falsely point the blames toward Mr. Ashkan Panah);
f) When Seihoon was about to leave the apartment, he **allegedly** yelled upstairs to Mr. Ashkan Panah who was asleep to "**Lock the door**", to reinforce his self-interested story that he had no "Keys" to the apartment and couldn't have "Planted" the body there, at later a time.--
g) The prosecution team refused to provide in their "Discovery files" and constitutional obligations to turn over to defense and reveal: "The actual police statements of Ahmad Seihoon" which would have refuted & dismissed all their fabricated deliberate lies, and
h) By such a withholding of "discovery" of relevant and crucial material evidence, knowingly allowed Seihoon to have **a free reign/green-lighted him to commit deliberate perjury** to exclude himself as responsible; instead, to accuse and blame Mr. Ashkan Panah.

"The original statements of Seihoon within detective Severens' police report", explained the following shocking and contradictory facts and incriminations of Seihoon (and the prosecution team's):
a) Police in their own many reports, repeatedly had identified Seihoon as: **"A male occupant"** and **"A resident"** of Mr. Ashkan Panah and his mother's apartment:
b) He was seen and identified by deceased's young brother, "Casey Parker", as the last person ever to have been seen with her **"Shortly before"** she disappeared;
c) He had in fact returned to the apartment:
"To retrieve the keys from inside the apartment door lock";
d) Stepped in to the apartment briefly and grabbed **"A suitcase and A bag",** which he placed on the floor in front of the door as he **encountered** Nicole Parker (2-3 feet distance);
e) As he spoke with her, she kept staring at him without talking, they kept staring at each other for 20-25 seconds without words, all the while feeling: **"She was so amazing"** (Trial testimony, which even shocked and raised the concern of the trial judge inquiring about this weird comment by Seihoon);
f) Seihoon (and contrary to prosecution team's fabrications) was the only person contemplating the bizarre and incriminating thoughts: He had **"** The impression that **she could have easily become lost";**
g) When he left, he retrieved the set of "Stolen/lost apartment keys" from "The front door lock", and left **"Carrying a suitcase and a bag";**

h) Nicole Parker indeed disappeared shortly within that **"Time frame"** of last encounter with Seihoon; and her **"Dead body"** was discovered the next day **"Inside a suitcase"** planted in the apartment which had been searched previously repeatedly by police & special k-9 scent tracing dogs in two days, total of seven searches without her or any sign or traces of her having been in the apartment. **Multiple officers testifying of having searched the closet and suitcases, and moved them repeatedly, at various different times;** can't claim they were that "Incompetent" to not find her had she been there; ESP. Can't argue that the police would have **"Held the noses of the many k-9 search dogs closed shot" as to prevent them from sniffing for her trace** since that was the purpose for having the dogs at the location last seen to begin with, to follow her "Scent trace."

i) Furthermore**, there were police reports re: "Three white male suspects"** seen and reported by two different neighbors as: Suspiciously hanging around the apartment area where Nicole Parker disappeared from, without any known reasons other than the crucial fact that this being "Around time of her disappearance";

J) Thus, there existed plenty of evidence to argue with the jury that: Seihoon and "His accomplices" had ample: **"Motive", "Access", "Opportunity",** to "Nicole Parker" and to "The apartment" and had **"The means and Tools" (Suitcase, a bag, and keys)** to carry out the alleged crimes. (Prosecutors also argued likely a bag was used to carry away her clothing) = every incriminating piece of evidence and circumstances and thoughts, were most logically and in actuality present revolving and around Seihoon (and his accomplices) only!!! Including the most relevant factor and questionable factual acts and evidence that: **Seihoon's obvious self-interested lies to deflect all evidence pointing toward him, being the product of:** His **"Consciousness of guilt"!**

k) Plus, why would Seihoon have to allegedly, yell upstairs to Mr. Ashkan Panah sleeping to "Lock the door" when in fact **he was in the possession of another set of keys which he had placed in the front door lock,** to lock the door before leaving, to begin with?!
Proves his lies were calculated, trying to "Frame" Mr. Hooman Ashkan Panah.

l) The police's "Focus of investigation on Mr. Ashkan Panah's apartment": Was because of Casey Parker (deceased's brother) having seen her shortly before she disappeared with Seihoon, and, due to fact of police having confirmation from neighbors that Seihoon was also "A male occupant" and a "Resident" of that apartment; which police used as the reasons to obtain Apt. Keys from the manager and conduct their **first Saturday warrantless search at 4:30 P.M**.; also stating: Since "The T.V." Had been observed **"To be on"** at 4:00 P.M (Sat.11-20-93) and voices of an older male with foreign accent arguing was heard from inside the apartment and the person (S) inside **refusing to open the door;** then when 1/2 hour later officer Barnes returned and noticed no noises being heard and "The T.V." Had now **"Been turned off"** by someone who obviously had been inside earlier whom had been seen with the missing person and refusing to open the door; meaning**: "The intruder"/ "The original suspect";** was their "Reason" for that initial search.

Since both Mr. Hooman Ashkan Panah and his mother have **"Concrete alibi"** of having been **at work** during those crucial "Time-lines"; and only Seihoon was admittedly in possession of their "Lost/stolen set of Apt. keys"; it was him and his accomplices who were obviously inside their apartment; hiding and refusing to face the police; but who 1/2 hour later successfully left the apartment and escaped facing inquiries and further scrutiny & investigation of the police!

m) Furthermore, **contrary to trial claims by the prosecution team that "No one else" could have done this, had any motives or could be responsible:**

1- Police had made a report stating: **"**The entire of the San Fernando Valley had been besieged

(in past recent months and weeks) **by a series of child molestation cases";**
2- The case was: **"Possibly related to serial crotch grabber."** Hence, knowingly lying and depriving Mr. Ashkan Panah of:
a) A right to a "Defense";
b) Right to meaningful and a fair "Adversarial process";
c) Right to "Effective representation of counsel";
d) right to have investigator;
e) Right to Farsi Interpreter;
f) Right to "Impeach" the police's perjuries with: Already known and readily available documentary facts, which the police themselves were considering, actively pursuing and engaged in ongoing investigations and thought possible "Connection" of other individual known suspects to this case and documenting that possibility. However, instead they engaged in "Withholding" and **not** "Divulging" those facts in their possession to the defense, so as to be able to provide their slanted against Mr. Ashkan Panah, one-sided stories, cover ups, and fabrication without any challenge being made against them! That's deep and deliberate "Deceit", "Fraud", and "Conspiracy to convict" **At all costs.**
n) Not so surprisingly, within few short days of Mr. Ashkan Panah's attorneys questioning about Mr. Seihoon's "Original statements" and attempting to learn of and uncover his and his accomplices' roles and culpability in the alleged crimes of this case, suddenly "White male biker gang members**"** showed up in court **"Threatening"** both defense attorneys and the district attorney representative with their demand of insuring **Mr. Ashkan Panah and only him must get convicted and sentenced to death;** which in return caused the judge to order:
1- Installing "Metal detectors doors" in front of his courtroom's entrance;
2- For his bailiffs to search trial spectators with "Metal detector hand wands" **(all of which was later utilized:** Instead to abuse and discriminate against the Persian/Iranian born spectators; and which caused the jury to form false and prejudicial beliefs that it was due to fear for "Jurors' safety" from the Iranians which the bailiffs were openly harassing with extra and excessive searches; causing the jurors' unfounded and false "Threat of security" and "Racial prejudice" against the defendant and his fellow ethnic supporters).
o) Within 2 months after the trial and Mr. Ashkan Panah's wrongful conviction, **the original suspect: Ahmad Reza Seihoon was shot three times in front of his business store and was murdered to insure his "Forever silence",** most likely in order to: Prevent him in the future from divulging the secret information he knew about his accomplices' identity, guilt and role in this case!!! According to some sources, some 20 years later, his case remains "Unsolved."

5) At trial Police and prosecution team deliberately altered and changed the actual/factual "Time of Nicole Parker' disappearance":

"The time lines" when a person is witnessed still "alive" before he or she vanishes are most crucial in any criminal investigation to establish who actually had:
a) "Opportunity",
b) "Motive",
c) "Access" to the victim or the areas/residence,...Etc. last seen;
d) "The tools" and "The means" by which to carry out the alleged crimes.
Therefore, "The time lines" are one of the most single determinative factors for:
1- Identification of all the suspects and:

2- The apprehension of the person (S) responsible, whom need to be put on trial and held

accountable.
Nicole Parker was last seen Saturday at "11:15 A.M.", which was within short moments of her disappearance and being seen alive, talking to Mr. Seihoon (Who was "Carrying a suitcase and a bag" and was in possession of "The keys to Mr. Ashkan Panah's residence").
This actual and crucial time line of 11:15 A.M. contradicts her father: Edward Parker's **"Change"** of time lines to 11:45A.M.-12:00 Noon (Which was done **months after** she went missing and discovered dead) at behest of the police and prosecutors' specific request.

This was done in order to deflect attention, existing facts and incriminating evidence against Mr. Seihoon, by falsely arguing to the Jury that:
Seihoon had allegedly left 30-45 minutes before she went missing; and thus, allowing prosecution team to wrongly place all blames on Mr. Panah.
"The father's original police report and statements" refute and dismiss those known perjurious lies to the Jury.

6) "The negative and exonerating D.N.A test results":

Is the science of **D.N.A** designed to engage in **"Racial Discrimination"** and hold dual standards when it comes to exonerating foreign nationals (Such as an **Iranian** in this case)?
Or, is it the trial and appellate Judges' own personal bias and prejudices that causes them to instead decide to turn a blind eye and deaf ears to obvious negative and exonerating **D.N.A** results?!
a) November 21, 1994 (Page 1024) Pretrial court transcript, where Hooman from the outset asked and insisted from the Judge to conduct "D.N.A Tests", in order to prove his innocence.
b) The court ordered such testing(s), and, the prosecution team collected additional samples to what they already had collected.
c) Mr. Ashkan Panah repeatedly inquired from the court through his attorneys re: "The result of **D.N.A** tests"; prosecutors reassured they would notify them of the **D.N.A** results collected with intention to use against him.
d) When one year later, about a week prior to trial, the prosecutors informed the court of their completed **"D.N.A results"**, they suddenly and surprisingly told the court: They would **NOT** be using **The D.N.A Results**; but instead were going to use **"Serology"** blood- typing evidence.
e) This raised the objection of defense counsel; arguing blood-typing "Serology" is **vague** and **Non-Conclusive** as compared to the most accurate **"D.N.A"** Scientific Testing Methods.
f) The trial Judge and D.A said you may try to challenge "Serology" to the Jury and Judge said he'd hold **D.N.A** Hearings; **which never happened.**
g) On November 21, 1994 few short days prior to trial, Mr. Ashkan Panah specifically filed a "Marsden motion" (Which permits defendants to address the court re: Complaints against their attorneys) subject of: **"Conflict of interest with counsel"** against his attorney Mr. Robert Sheahen due to his failure to:
Conduct D.N.A examination and obtain D.N.A experts to put forth for the Jury the results of the prosecution teams' conducted laboratory test results: which the district attorneys did **not** want the Jury to learn of.

(Note: Mr. Ashkan Panah filed approximately 15 areas of complaints against his attorney for failure to properly represent him, I. E., **D.N.A** experiments; he still had no "**Investigator**" to help

his defense; "**Forensic Criminalist and Pathologist**"; failure to interview witnesses; request for a "**Farsi-English Translator"** to help him understand the court proceedings in order to defend himself, …Etc. Complaining that **instead of representing him effectively** and provide him a meaningful defense as his entitled constitutional rights through these requested defense ancillary means and fields of expertise; the attorney constantly trying to talk to him about and convincing him into taking "A Deal"; And basically trying to sell him out**)**.

h) The trial judge refused to relieve the conflicted counsel and further falsely declared that the **D.N.A** results were against Mr. Ashkan Panah by stating: "Given the **D.N.A** results that the prosecution has, but at this point is **not going to attempt to use,** I would think it would be a terrible tactic to get a **D.N.A** expert for the defense in this case"; to which **Mr. Ashkan Panah immediately stood up and objected** to the court's erroneous remarks and stated on the **record: "What if I know it's not mine, Your Honor? What if I'm confident it can't be mine"? (Knowing he was innocent and declaring it to the court, to introduce the D.N.A results to the Jury to exonerate him).** The court denied his requests.

i) Thereby, the prosecution team, brought a non- qualifying criminalist William Moore, for the first time to testify in superior court trial as an alleged "Star expert", that, **"Serology"** results which contained **"AB"** blood (Neither Mr. Ashkan Panah's **"B"** blood type; Nor the deceased's type **"A"** blood): To deceive the jury that **"AB"** blood type found on a bed sheet, a robe and a tissue paper, meant it was a "Mixture" of **"A"** and **"B"** blood type.

j) The above lies by criminalist Moore and prosecutors were deliberate, since **they knew their own L.A.P.D lab, D.N.A experts had exonerating and contradicting reports** (Which the prosecutors hid from Jury) which would have and does dismiss that perjurious testimony.

k) Furthermore, approximately 21 separate tests of the items of **"The sexual assault kit"** from the **Oral, Anal, Vaginal canals,** including **The body surface** revealed **No D.N.A** materials from Mr. Ashkan Panah on the deceased; as conceded by William Moore: "**None** of the items in sexual assault kit showed presence of semen" (RT 2029) or any blood type **"B"**, Mr. Ashkan Panah's blood type.

l) Through perjurious "Serology" testimony, Mr. Ashkan Panah was convicted. It took 10-12 years post his wrongful 1994 conviction to finally obtain "Discovery" to **D.N.A** results which in 2 separate reports by two **D.N.A** scientists from an independent **D.N.A** lab, "Forensic Analytical":

1- 2004 D.N.A report by Mrs. Lisa Calandro;

2- 2006 "Supplemental report" Re:

"newly discovered and provided **D.N.A** Reports by L.A.P.D lab" reviewed by supervising **D.N.A** analyst **Mr. Keith Inman**, both confirm the L.A.P.D/ prosecution teams' own lab's testing conducted and the existing results of **1994 D.N.A** (Which Mr. Ashkan Panah wanted for Jury to see) in fact that:

All D.N.A results are exonerating by excluding his D.N.A from anywhere on or within the victim's body and by **concluding 3 major facts**:

1- There was no evidence of "Intimate Contact" between Mr. Ashkan Panah and Nicole Parker (meaning: He could not have been the perpetrator, nor involved in this crime);

2- No evidence of "Mixture" of biological materials on: The bed sheet, the robe or tissue paper;

3- No evidence of "Intimate sexual contact or assault"; thus, the prosecution teams' own lab's testing and their intentionally "Withheld" D.N.A results from the jury, fully exonerating Mr. Ashkan Panah.

Yet more than 23 years post wrongful arrest and unjust conviction, Mr. Ashkan Panah still remains in prison; and has not been freed as other prisoners are through "Negative D.N.A results"!!!

m) Lastly, the prosecution's own medical coroner Dr. Eva Heuser, testified at grand Jury:
1- "The lining of the anal canal was intact";
2- "The rectum had a dusky purplish 'Appearance' without any damage or injury to the inner lining";
3- "The vaginal orifice was not torn";
4- "There were no lacerations of the inner lining of the vaginal canal" (CT 408-409).
All of which, plus her own autopsy notes, further reflecting these facts in combination with negative **D.N.A** test results support **NO SEXUAL ASSAULT** (although amidst trial she tried to change all her previous findings by misleading the Jury of alleged bruising in **"The perennial tissue"** area samples, which is: The area **"Between" the vagina and anus; Not "Inside" them, Not "In the canals" to show any "Actual penetrations").**

Nevertheless, the negative D.N.A results exclude Mr. Ashkan Panah of any involvement with the deceased or the charged crimes.
It has repeatedly been proven that "D.N.A" can show:
1- Police force and coerced a person to falsely confess to things which they never did;
2- D.N.A can disprove a false "Eye witness" or even the "Victim's" own belief and identification as to be faulty and mistaken.-Similarly, the pathology evidence as to "Time lines of death" can show: A "Physical impossibility" for someone to have been able to be present or have access to the victim to commit a crime.
If **D.N.A** or pathology evidence by themselves, or, as we have in this case: The combination of these two most reliable and accurate Scientific methods supporting the "Same fact (s)", are not to be considered sufficient enough to **"Exclude"** a person and demonstrate his innocence; then nothing else can ever be considered sufficient as evidence and **"Proof."**
It is as if we close our eyes amidst a bright sunny day, and claim not only it is nighttime, but in fact even deny the existence of the luminous and undeniable sun itself.

7) The prosecutor who introduced the known false serology and withheld the D.N.A's exonerating results has been subsequently established by California Supreme Court to be "A pathological liar" who commits perjury and lies in order to advance his own career. His name is: Mr. Patrick Couwenberg:

Who was in 1999 taken to trial by "Council on judicial watch performance" which found ex-prosecutor Mr. Patrick Couwenberg who had been promoted and had become a superior court Judge (shockingly by Mr. Ashkan Panah's trial judge sandy Kriegler's endorsement as result of good job-done and securing a conviction in his courtroom against Mr. Ashkan Panah) was removed from the bench for willful misconduct while in office, repeated under oath false sworn declarations, perjuries, and for bringing the judicial system into disrepute; deeming him to be a threat to "**The public's safety."** (These judicial findings are available on line and recorded in detail in the opinion of his guilty trial and **"Removal from the bench"**).

http:/ /articles.latimes.com/2001/Aug/16/me-34920

http:/ /articles.latimes.com/keyword/Patrick-Couwenberg

http:/ /www.metnews.com/articles/couw0815.htm

Most significantly interesting, his defense at his trial and his official misconduct was that**:**
He suffers from a mental disease called: "Pseudologica fantastica" which causes him to weave fantasies and falsehoods into some facts in order to advance his self-interest and to promote his career aspirations; admittedly he has had this "Mental illness" starting his childhood, all his life. Thus, he engaged in same improper self-interested actions and web of lies as he did with: Withholding of negative and exonerating **D.N.A** results in order to provide knowing and deliberate false and perjurious testimony of alleged "Serology mixture of bodily fluids" (on foreign objects) to the Jury in order to cruelly prejudice and insure a conviction against Mr. Ashkan Panah; as he did, so as to later use his victory to promote himself to become "A superior court Judge." Thus, although clear example of his illegal manipulations of the truth are available: "Before", "During", and "After" Mr. Ashkan Panah's trial; and California supreme court upheld his conviction and rebuked his deceitful character and misconduct; yet, they saw nothing wrong with such a "Pathological lying, deceitful, perjurious repeated offending criminal" to have been: **"The tall-tale story telling prosecutor"** involved and in charge of telling false stories to Jurors and manipulating them to convict Mr. Ashkan Panah based on "false forensic and junk science and deliberate lies"!!!

(Patrick Couwenberg was tried by the state commission on judicial performance: "C.J.P").

8) "The biased trial Judge", Mr. Sandy R. Kriegler:

Defense attorneys confirm that the Judge was biased. He ridiculed them in front of the jury and interfered with objections. The lead defense lawyer felt he had no credibility with the Jury. The attorneys have also stated that the pattern of prejudice in the courtroom against "Iranians" and "The Islamic faith" was disturbing. They asserted that the Judge was hostile to supporters of Mr. Ashkan Panah from the Persian community.
a) The trial Judge, Mr. Sandy R. Kriegler openly deriding Mr. Ashkan Panah's Iranian nationality; referring to The Holy Koran which he carried daily to court, as a "Telephone book."
b) Also, on another occasion his "Courtroom's bailiff" even attempting to snatch away and confiscating his "Holy Koran" from him.
c) Then, one day during Mr. Ashkan Panah's absence from his jail cell, his "Holy Koran" was torn, defaced and thrown on the floor.
d) Furthermore, the Judge issued a "Gag order" as to Mr. Ashkan Panah's mother, Mehri Monfared (preventing her to defend her son in the media or public eyes) who was even forcibly removed from the court on one occasion, and summoning the Persian Media both print and audio-visual owners and managers, and placing gag orders on all of them;
e) while permitting the deceased's family to freely speak to the press. Often, these media interviews would be conducted just outside the courtroom within the hearing and sight of Jury members.
f) Lori Parker, mother of the deceased, and her fiancé were witnessed going into the area of judge's chambers during court recess (Lunch break). They were also seen by witnesses and attorneys to be standing in the chamber's hallway. The trial Judge not only was made aware of these facts, but nevertheless prevented further thorough inquiry from other Judges and staff as to

what **these secret meetings** amidst trial lunch breaks were about.
g) Another "Courtroom's bailiff" making inappropriate and prejudicial comments to Mr. Ashkan Panah: **"Why don't you just kill yourself and save the 'Tax payers' money"?!**
h) Other replacement bailiffs putting unfounded fear regarding "Iranian spectators" to the Jury during trial, insinuating alleged but unfounded threat to their safety and well-being (As previously mentioned, on page 9, under subsection **n**).
i) The unfair treatment of bailiffs also included targeting the courtroom spectators of Persian descent with excessive searches when they entered the courtroom and checking their identification cards and running "Background information checks" on them; even arresting one for an outstanding traffic infraction; however such treatment was not given to Non-Persian. These prejudicial treatments and **the installation of "A metal detector" right outside the courtroom** gave a very negative impression to the jury; and played into their already existing bias. It was obvious that the extra security measure was because the court was biased toward the Iranians and unfairly perceived them as being dangerous.
j) One "Bailiff" was even witnessed hugging and kissing the deceased's mother, Mrs. Lori Parker; in the courtroom hallway area where the Jurors gathered, before entry to the courtroom.

k) **"Violating Mr. Ashkan Panah's most basic required right to have a "Court appointed interpreter":**
Even though Mr. Ashkan Panah was in the United States for a short period of time (Approx.4 years) and he was not fluent in English language, as a result of which he had to drop many of his college classes, and "Farsi" was his native language which he spoke fluently; when he personally requested from the Judge to provide him with an English-Farsi interpreter to translate the courtroom proceedings and testimonies for which he stood trial; the court told him no one had made such a request. When then, Mr. Ashkan Panah explained he was not aware of that right and that he had to personally request, but now that he was made aware of, was **specifically requesting an interpreter to translate into Farsi the testimonies**; the Judge agreed to provide him with one; **but it never did.**
To worsen the matter, the judge removed the initially family hired "Farsi speaking attorney" from his case, due to an automobile injury over repeated objection of Mr. Ashkan Panah, and, replaced him with another American Non-Farsi speaking attorney. As a result, Mr. Ashkan Panah was lost as to understanding fully what all testimony was being given against him and lost his constitutional right to be able to "Communicate" fully with his attorneys regarding his defense; understanding the language and being able to communicate with one's attorney are the most basic fundamental constitutional rights to defend against oneself in any trial, anywhere in the world; yet, the trial Judge unreasonably denied a fair chance to Mr. Ashkan Panah.
It is a sham trial and a mockery of the judicial system recognized throughout the world, to take & deprive a man: **A foreigner,** to stand trial and facing to have to defend for their life and innocence, when facing **"Language barriers"** and difficulties.
This fact alone, nullifies any legitimacy of all proceedings held; ESP. Since the Judge was made aware, a specific request was made by the defendant himself expressing the need for an interpreter, yet the judge never cared to comply. That's deliberate judicial bias.

9) The Biased Jurors:

One of the Jurors was heard telling news media after convicting Mr. Ashkan Panah that: **"We have our neighbors that we must answer to."** This fact shows:
1- A vengeful lynch mob mentality regardless of evidence;

2- The **Jurors' fear** of retaliation in their community if not convicting.
Another Juror had to **ask her Church Priest as how to vote on "Death Penalty",** whom in return, directed her to **biblical passages** that made up her mind and to "come into peace with herself and God" as she said; then voted for Death Penalty to be imposed.
Obviously, she must have engaged in this same misconduct for reaching a decision to convict Mr. Hooman Ashkan Panah at the initial "Guilt phase."
Essentially it was rather the vote of: Her priest and their church community and the bible and allegedly God, as extra sitting Jurors behind the scenes; major U. S. Constitutional violations in any Jury trial.

Shockingly, one Juror member and his family were also Parishioners and members of "The same church" as the deceased's family (The parkers): And;

a) His children attended "The same school" as the deceased;
b) He even remembered fully being aware of all details of "The funeral, eulogy memorial prayer piece" by the priest in his church; which:
c) His family and (Himself most likely) participated in that prayer eulogy with the rest of his parishioners. Yet, this obviously "Biased and partial person", with vested interest in the outcome of the case, with all his "Parishioners"; "The parkers family"; "His priest"; "His neighbors"; "His children" and his "Children's and the deceased's schoolmates" relying on him to:
1- Convict Mr. Ashkan Panah;
2- To persuade other members of Jury to convict also; was shockingly allowed to sit in as a Juror in Mr. Ashkan Panah's trial; like a mercenary on a special assignment mission to "Convict" and "Condemn to death"!!!

This is unheard of in any case, let alone "A criminal case", a "Murder trial" case where the stakes were so high; Not only No "Fairness" could be possible in any such a case, but not even a "presumption of a fair and impartial trial" can exist; this diminishes "The integrity of the judicial system" in a questionable sham of a farce trial, where "The decision maker" is so biased and his motives and intentions and partiality questionable that "The verdict" is not only unreliable and void; but rather it's "A mockery of Justice"!!!
To make matters worse, it was repeatedly witnessed that during the trial:
a) "A priest in full priesthood garb attire": The same priest from the Juror's and parker family's "Church" was attending the trial and sitting next to deceased's mother as a sign and show of "support" for the deceased's family and demanding so-called (blind) Justice by insuring a quick and swift conviction and death sentence!
b) The priest and the juror were seen winking and nodding at each other, meaning:
There was clear acknowledgement of what was required and expected: "A conviction", and, for the Juror to prove his binding loyalty to the religious leader of: Himself, his family and their close-knit community.
Would **"Any human being in the world"**, feel even the remote possibility of fairness, let alone "Justice"?! Or, they'd feel the whole trial and Jury is rigged, pre-planned and a sham circus show enfolding openly (Not even covertly) and daring you to object as to fairness and complain: What sort of "mockery is such a Justice system" or "So-called trial"?!

The following shocking, sad, devastating fact and unimaginable act of "Betrayal" explain:
a) Why Mr. H. Ashkan Panah never had a fair chance from the start in hopes for a fair trial?!...
b) How and why he could not escape a wrongful conviction?! –And…
c) What factor and obstacle stood in his way of proving his innocence at his trial?!

10) Deliberate betrayal, abandonment, and "Selling-out" of his "Specifically chosen" by court, appointed" trial counsel: Attorney Mr. Robert Sheahen:

In order to be appointed on Mr. Ashkan Panah's case, attorney Mr. sheahen, unbeknownst to his client (Mr. Ashkan Panah) had written a **"Confidential letter",** dated **February 24, 1994;** to: The presiding Judge of the superior court **in charge of "Appointment of attorneys" to different cases,** Judge Cecil j. Mills; specifically requesting himself to be appointed as Mr. Ashkan Panah's attorney based on alleged: "Considering the unique circumstances of this case, it would be appropriate to appoint counsel **other than** the public defender", furthermore, citing a case law as the basis of his request alleging:

"**The interest of Justice would be served** by the appointment of **a particular** attorney."
This is how Mr. Sheahen declared the interest of Justice would be best served; to the detriment of the poor and indigent foreigner client whom had caught his interest to such degree to follow (stalk) & actively seeking out his case, as he laid out his plans & intentions in writing, as follow:
1- "Under these circumstances, **the court system would be saved a great deal of time and the taxpayers would be saved a great deal of money if Mr. sheahen and Mr. Shafinia are appointed as counsel for the defendant.**"
2- … "Given defendant's **complete faith in Mr. Sheahen,** it is possible that he would follow their advice to enter a **plea** at an **early stage** of the **proceedings."** (Meaning: He'd make sure a **"Guilty plea", + no "trial").**
3- "On the other hand, were the public defenders to be **appointed,** this sense of trust would **not exist** and **the result** might be **an extremely costly trial."** (Meaning: He would almost guarantee a "Guilty plea deal" of life without the possibility of parole, as he repeatedly later told the trial Judge of his repeated advisement to Mr. Ashkan Panah; whereas the public defender may want to fight and defend Mr. Ashkan Panah and try to prove his innocence which would create a lengthy and expensive trial).

It is irrefutable that Mr. Sheahen had a "False sense of loyalty", instead of as an attorney's sworn duty being: Looking out for the best interest, protection and defending his client; instead his loyalties laid in advocating "The court system" and "The taxpayers":
His job appointing salary paying benefactor bosses. He didn't even care as to what the law is: A suspect/defendant is "presumed innocence until proven otherwise, by a court of law and through fair and equal constitutional protection of the law, of access to the court; through meaningful and effective representation and advocacy by counsel"!!!--
Mr. Sheahen viewing himself instead, as "The representative attorney" for "The taxpayers" and their "Financial interests" instead of his own client's, essentially made him: **An added/ the additional "4th active prosecutor/district attorney"** working against his own client.

What's worse, is that:

a) This was 10 months prior to any trial;
b) Months before hearing any evidence or knowing all the facts;
c) Or interviewing any or all witnesses;
d) Having consulted with or retained any "Experts" or "An Investigator";
e) He had not seen or viewed all case evidence;
f) Was not in possession of, nor had been given "Full access to prosecution team's discovery

files", reports, ...Etc.; yet pouncing on and playing on Mr. Ashkan Panah's "Complete faith" and trust in him, to sell him-out and subvert and circumvent his constitutional and "Human right" to receive a fair trial and **be presumed innocent** until a Jury may decide otherwise.
g) This was 9 months before November 21, 1994 ("Marsden Hearing") which he erroneously told the court that: "Having seen the photos of the deceased and receiving the **D.N.A** test results he's got full picture of the case as far as the outcome."(Indeed, he lied at that hearing also, again, Re: **D.N.A** results; although they were "Negative" of Mr. Ashkan Panah's **D.N.A** and exculpatory and exonerating him; instead he was misleading the judge that **D.N.A** results worked against his client. And, by his failure to comply with **Mr. Ashkan Panah's insistence on introducing D.N.A result which he told the judge would exonerate him;** Sheahen guaranteed a "Guilty verdict").

Mr. Sheahen during many subsequent to having been successfully appointed as counsel for Mr. Ashkan Panah based on his promises of "Client abandonment" and "Insuring a deal and no trial; let alone a costly one"; was ultimately appointed to the case; and in:
a) Many subsequent "Pretrial" proceedings;
b) In "Post-Conviction habeas corpus declarations", repeatedly detailed: **His sole intentions were to insure** Mr. Ashkan Panah was not defended, but rather would be "Coerced" into taking **"A plea deal"** for life without possibility of parole; so that no trial would take place. --
However, when Mr. Ashkan Panah complained to the trial judge and insisted on his innocence and demanded a trial; Mr. Sheahen was neither "Prepared", nor was his "Heart" and "Mind" on the right positive loyal framework for advocacy, or even desired for his client to be exonerated. **He was deliberately ineffective as so-called "Attorney"** who had, and, continued to sabotage any fair chance of trial or exoneration of his client. Therefore, with all the negative **D.N.A** results and Pathology evidence, available evidence of 3rd party culpability; innocence, reasonable doubt; …Etc.; Mr. Ashkan Panah still didn't have a faint chance of hope, since his own attorney wouldn't allow them to **COME TO LIGHT!**
As such, a misinformed Jury, misguided by perjuries and untruths told by corrupt prosecutors, and their team, convicted Mr. Hooman Ashkan Panah with slanted fabrications and even worse: The Jury only had **fragments of a puzzle** (Evidence and facts) which wrongly distorted with prejudice their overall view and tainted their decision – making – process throughout the trial and in reaching an unjust and deadly verdict.

Shockingly turning a blind eye to all these evidence, this Injustice persists and continues for more than 23 years:

1: California Supreme Court (CSC) "Direct appeal" denial, March 2005.

2: California Supreme Court "Habeas Corpus" Denial, August 2006,

3: California Supreme Court, "1st Amended Habeas Corpus for exhaustion brief", denial, April 2011,

4: Federal District Court (Central District Court) Western Division, Los Angeles)

"2nd Amended Federal Habeas Corpus, the Merits brief" denial, 11/14/2013,

ATTEMPTED MURDER(S) OF HOOMAN ASHKAN PANAH:

On February 4th 2012, through a well-coordinated and sinister plot devised by prison staff, inmate Joseph A. Barret, who never had any past arguments with Hooman Ashkan Panah, in an unprovoked attack from behind, ambushed and attempted to kill Hooman Ashkan Panah, in the prison yard with a shank on behalf of racist prison guards; in order to silence the negative **D.N.A** test results and Hooman's attempts to prove his innocence in a court of law.

Mr. Barret, was convicted of killing an inmate, and he was to be retained in isolation at all times. However he was allowed to be close to Hooman Ashkan Panah, and after stabbing Mr. Panah, he was sent to isolation and in a short time later he was rewarded by staff by taking him out of the hole as his punishment and instead they transferred him to psychiatric ward of San Quentin Prison where he has been receiving many special treatments and amenities.

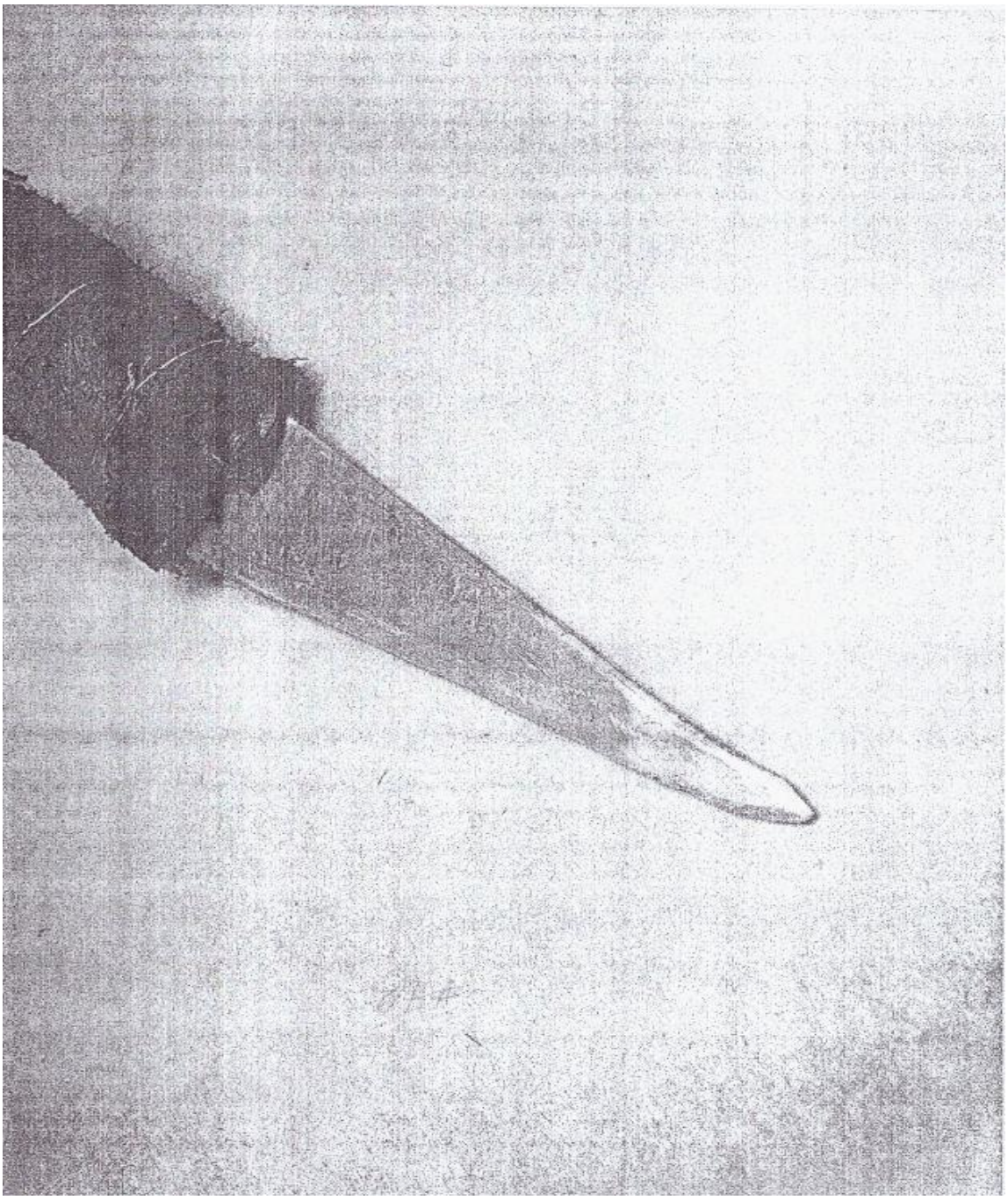
When the **Feb 04, 2012** attempted murder plan **"A"** didn't work, S.Q. prison staff resorted to plan **"B"** and on **Nov 05, 2012** tampered with Hooman's religious food diet tray by writing terroristic messages all over its inner top lid and most likely spiked it with dangerous/poisonous substance.

Hooman engaged in a spiritual, peaceful journey of **23 days** hunger strike **(11/05/12-11/28/12)** in protest, during which time he lost **22 pounds**, placing his life at great risk again.

Shockingly staff still refused to provide him sealed-meals for his protection and to inshore his safety.
Since December, 2012 up to now he bought and preparing his own meals daily, on strictly self-disciplined-rations, to survive.

Only by the grace of God, has Hooman survived these cruel attempts on his life; and has become even more stronger physically, in health, spirit and resolve to march forward in his endeavors, so once and for all to clear up his name and obtain long overdue justice for his wrongful convection.

Photos of the weapon used in the attempted murder attack against Hooman, at San Quentin State Prison's exercise yard for the condemned prisoners on Feb 04, 2012.

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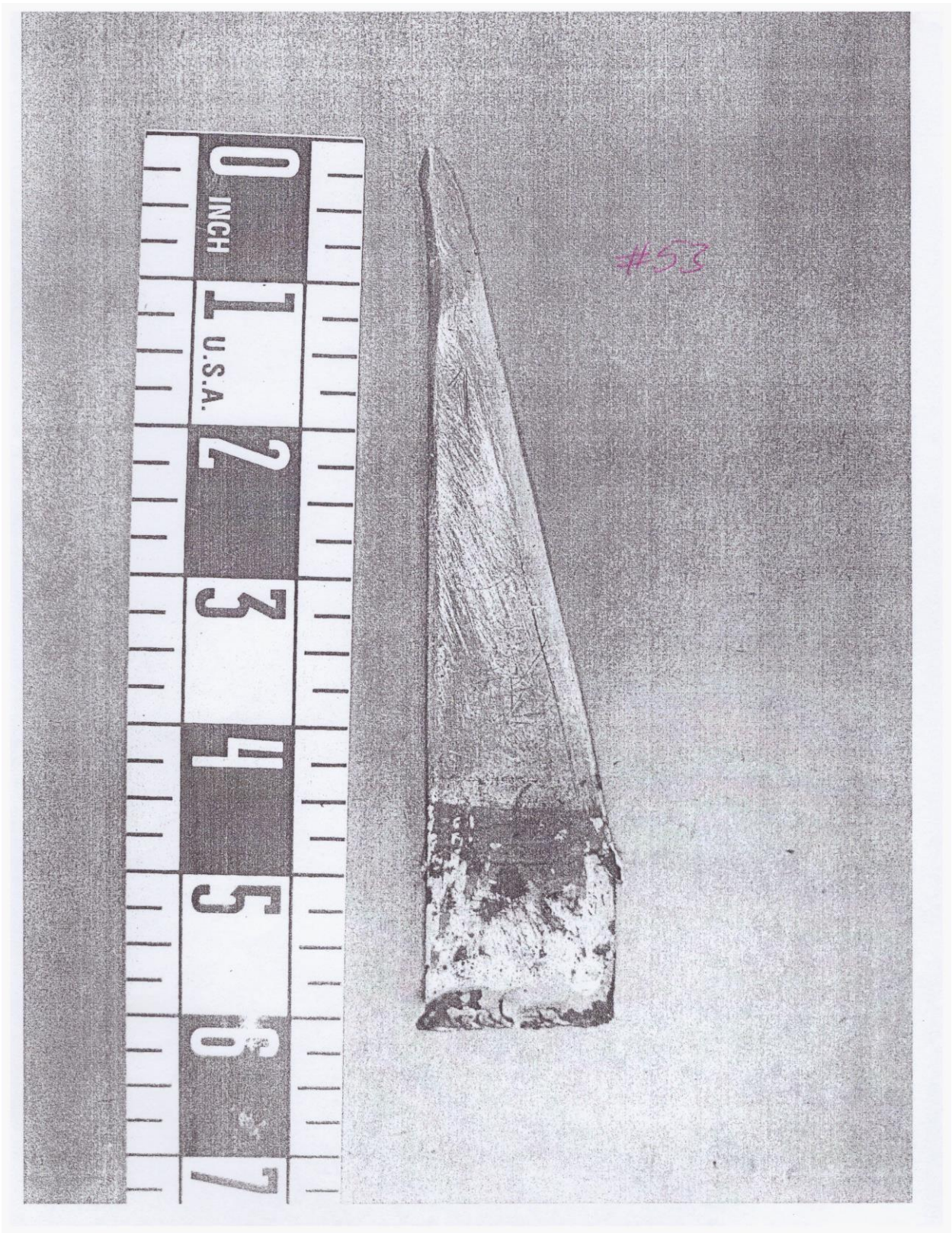
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CURRENT STATUS OF THE CASE:

Currently the case is pending before the U.S. Federal Court, the Ninth Circuit, filed on November 20, 2014 Mr. Hooman Ashkan Panah's opening brief,

This is the Court, where Mr. Ashkan Panah has the crucial shot to lay all his claims for his release and freedom, so long awaited.

Yet, the federal district Judge, out of **58 plus claims and sub claims,** only has provided him a "Certificate of appeal ability" as to **one claim:**

The false evidence claim": ** Regarding the false serology and exonerating **D.N.A evidence

APPELLANT'S REPLY BRIEF March 9, 2016

More than 23 long and hard years, and still counting!

Hooman Ashkan Panah remains hopeful, sincerely prays and appeals to the Ninth Circuit Court Judges' fairness, sense of Justice and humanity to finally reset and fix this great Injustice.

These subject matters have been explained and described based on existing and available facts and many evidences in the case and in the court.

Friday March 10, 2017

Index to innocence project letter:

INDEX TO INNOCENCE PROJECT LETTER	
No.	**Document Description**
1	August 26, 2011 letter from Mark Drozdowski to Huy Dao of Innocence Project.
2	Introduction and first three claims from second amended federal habeas corpus petition filed June 24, 2011.
3	February 27, 2004 report by Lisa Calandro (habeas exhibit 27).
4	May 25, 2006 report by Keith Inman (habeas exhibit 95).
5	Declaration of Gregory Rieber, M.D. (pathologist), signed August 27, 2007 (habeas exhibit 112).
6	Letter of Michael Baden, M.D. (pathologist), signed April 1, 2004 (habeas exhibit 29).
7	Letter by Hooman Ashkan Panah (exhibits 8-11 pertain to Mr. Panah's letter).
8	Autopsy Notes (with last minute report at time of trial) of Dr. Eva Heuser, the prosecution's critical witness as to time/cause of death and specials (habeas exhibits 25, 156).
9	Amhad Seihoon's Statements (last person seen with victim, and a guest in Mr. Panah's home at the time of the incident) (habeas exhibit 82).
10	Materials regarding Officer Bayati's tape recording of Mr. Panah's statements (habeas exhibit 40).
11	Letter to Judge Mills from Robert Sheahen, February 24, 1994 (habeas exhibit 150).

December 16, 2011 Letter by attorney Mr. Mark Drozdowski (Federal Public Defender) describing case fact and evidence that establish Hooman's innocence.

FEDERAL PUBLIC DEFENDER
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Direct Dial: 213-894-7520

December 16, 2011

Huy Dao
Innocence Project
40 Worth Street, Suite 701
New York, NY 10013

Re: *Hooman Ashkan Panah*, USDC Case No. 06-2403

Dear Mr. Dao:

Our office represents Hooman Ashkan Panah in his habeas corpus proceeding. I, and my co-counsel on Mr. Panah's case, Firdaus Dordi, have written to the Innocence Project about Mr. Panah's case in the past. I enclose a copy of a letter I sent you on August 26, 2011 enclosing a case evaluation authorization signed by Mr. Panah. At Mr. Panah's request, I again write to seek the Innocence Project's assistance, and to provide you with Mr. Panah's own account of the factual bases demonstrating his innocence.

Mr. Panah was convicted in 1994 of the first-degree murder of a child found in a suitcase in his closet. At the time, the residence was shared by Mr. Panah, his mother, and an individual guest named Ahmed Seihoon, who was, incidentally, the last person seen with the deceased shortly before she went missing. The crux of the prosecution's case relied solely on circumstantial evidence including pathology and serological evidence. While DNA evidence was collected, the results of the DNA testing were not presented at Mr. Panah's trial. The prosecution's serological evidence purportedly showed that fluid found on various samples at the crime-scene contained a blood type AB mixture from the victim (blood type A) and Mr. Panah (blood type B), inferring intimate sexual contact between the two. The prosecution then used their pathologist to link Mr. Panah to the crime by establishing a time-of-death consistent with the state's theory.[1]

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[1] Indeed, there were multiple and material discrepancies with the prosecution's evidence regarding (1) the time of the girl's disappearance (11:15 a.m. v. 12:00 p.m.), (2) the location of the discovery of the girl's body (Apt. no. 122 v. Apt. no. 126), and (3) the time of discovery of the body (10:20 p.m., 10:30 p.m., and 11:00 p.m.).

Through his habeas proceeding, however, Mr. Panah has demonstrated that the conclusions derived from the pathology and serological evidence supporting Mr. Panah's conviction were false. Instead, the DNA and pathology evidence demonstrate that Mr. Panah is *innocent* of the crimes for which he was convicted. The DNA results conclusively disprove the prosecution's mixture-of-fluids theory, establishing the absence of sexual contact and the presence of blood type AB, a type which neither belongs to Mr. Panah nor the victim, at the crime scene. *See* Claim One (attached as part of Exhibit 2). Prior to trial, the prosecution should have known that the DNA evidence contradicted the serology evidence presented at trial. The prosecutor who presented the serology evidence and was responsible for the DNA evidence has since been disbarred from the practice of law, found to have lied while under oath, and deemed to be pathological liar who brought the judicial system into disrepute. *See* Claim Two (attached as part of Exhibit 2). Also, an independent pathologist confirmed that the victim likely died outside of the time-frame in which Mr. Panah was present in his apartment. The police admitted entering and searching Mr. Panah's apartment at least four times, including his closet, and moving suitcases where the victim's body was ultimately discovered, before obtaining a search warrant. Each of those searches yielded negative results for the body or any evidence of wrongdoing with the victim. No traces of blood, fluids, or other signs of struggle were found in the apartment. Moreover, there is evidence, obtained through post-conviction discovery, to suggest that additional warrantless searches of the apartment were conducted by the authorities, all with negative results. K-9 Units were brought to the vicinity, and did not alert the authorities to Mr. Panah's apartment.

With Mr. Panah's trial counsel explicitly prioritizing the settling of Mr. Panah's case over a complete investigation into the facts described above, much of this exculpatory evidence was left undeveloped. Even with competent counsel, however, the ability of Mr. Panah to obtain a fair trial was impeded by, *inter alia*, the fact that the trial court worked with the victim's mother and fiancé in the Courthouse, and the fact that a sitting juror was a member of the same Church-parish as the victim's family and the juror's children attended the same school as the victim.

For further explanation, I have enclosed copies of reports by Keith Inman and Lisa Calandro, the DNA experts retained by Mr. Panah's state habeas counsel, and a copy of two pathologists' reports. First, the report of Dr. Gregory Reiber, a pathologist also retained during habeas proceedings, who opines that based on the victim's body being found in full rigor mortis, the time of death argued by the prosecution could not have been correct. Dr. Reiber also takes issue with the prosecution's asserted cause of death. The second, a report by Dr. Michael Baden, a renowned pathologist who refuted the prosecution's asserted cause of death. During trial, the prosecution unequivocally advised the Court that it was pursuing a felony murder theory, not a premeditated murder theory. I have also enclosed the introduction and the first three claims from our habeas petition, which discuss the above issues in detail.

Finally, I also include a letter drafted by Mr. Panah, with exhibits. Addressing the evidence described above, as well as the other circumstantial evidence presented against him at trial, Mr. Panah has thoughtfully addressed how the newly obtained evidence in his case demonstrates his innocence. With such overwhelming evidence pointing to Mr. Panah's innocence, we respectfully seek the Innocence Project's help in further developing and presenting Mr. Panah's claims for relief.

If you have any other questions do not hesitate to give me a call. Also, please let us know of your decision regarding our request so that we may plan accordingly. I thank you for your time and look forward to your response.

Sincerely,

Mark R. Drozdowski
Deputy Federal Public Defender

MRD/ih
Enclosures

October 09, 2015 Letter by attorney Mr. Joseph Trigilio (Federal Public Defender) describing case fact and evidence that establish Hooman's innocence.

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Direct Dial: (213) 894-7525

October 9, 2015

Embassy of Pakistan
Interests Section of the Islamic Republic of Iran
2209 Wisconsin Ave. NW
Washington, DC 20007

Re: **Hooman Ashkan Panah**

To Whom it May Concern:

Our Office represents Hooman Ashkan Panah, a citizen of Iran, in his pending habeas corpus proceeding. Mr. Panah is currently incarcerated at San Quentin State Prison under a sentence of death. I write to provide a brief overview of his case and to explain the new evidence developed in post-conviction proceedings that demonstrate his innocence.

Mr. Panah was convicted in 1994 of the first-degree murder of a child found in a suitcase in his closet. At the time, the residence was shared by Mr. Panah, his mother, and an individual guest named Ahmed Seihoon, who was, incidentally, the last person seen with the deceased shortly before she went missing. The crux of the prosecution's case relied solely on circumstantial evidence including pathology and serological evidence. While DNA evidence was collected, the results of the DNA testing were not presented at Mr. Panah's trial. Instead, the prosecution presented serological evidence that purportedly showed that fluid found on various samples at the crime-scene contained a blood type AB mixture from the victim (blood type A) and Mr. Panah (blood type B), inferring intimate sexual contact between the two. The prosecution then used their pathologist to link Mr. Panah to the crime by establishing a time-of-death consistent with the state's theory. No DNA or biological material from Mr. Panah was found on the victim, nor was there DNA from the victim found on Mr. Panah.

Through his habeas proceeding, however, Mr. Panah has demonstrated that the conclusions derived from the pathology and serological evidence supporting Mr. Panah's conviction were false. Instead, the DNA and pathology evidence demonstrate that Mr. Panah is innocent of the crimes for which he was convicted. The DNA results disprove the prosecution's mixture-of-fluids theory, and indicate that no contact, sexual or otherwise, occurred between Panah and the victim. Prior to trial, the prosecution should have known that the DNA evidence

contradicted the serology evidence presented at trial. The prosecutor who presented the serology evidence and was responsible for the DNA evidence has since been disbarred from the practice of law, found to have lied while under oath, and deemed to be pathological liar who brought the judicial system into disrepute.

Also, an independent pathologist has confirmed that the victim likely died outside of the time-frame in which Mr. Panah was present in his apartment and while he was in police custody, showing that the prosecution's pathologist's testimony was also false. Indeed, while the police admitted entering and searching Mr. Panah' s apartment at least four times, including his closet, and moving suitcases where the victim's body was ultimately discovered, before obtaining a search warrant, each of those searches yielded negative results for the body or any evidence of wrongdoing with the victim. No traces of blood, fluids, or other signs of struggle were found in the apartment. Moreover, there is evidence, obtained through post-conviction discovery, to suggest that additional warrantless searches of the apartment were conducted by the authorities, all with negative results; this includes searches by K-9 (search dog) Units that were brought to the vicinity but that did not alert the authorities to Mr. Panah's apartment.

With Mr. Panah's trial counsel explicitly prioritizing the settling of Mr. Panah's case over a complete investigation into the facts described above, much of this exculpatory evidence was left undeveloped. Even with competent counsel, however, the ability of Mr. Panah to obtain a fair trial was impeded by, *inter alia*, the fact that the trial court worked with the victim's mother and fiancé in the Courthouse, and the fact that a sitting juror was a member of the same Church-parish as the victim's family and the juror's children attended the same school as the victim.

We are currently litigating multiple claims in the Ninth Circuit Court of Appeals based on some of the postconviction evidence described above in the hopes of vacating Mr. Panah's wrongful conviction. Should you have any further questions please do not hesitate to contact me.

Sincerely,

Joseph Trigilio

April 01, 2016 Letter by attorney Mr. Joseph Trigilio (Federal Public Defender) describing case fact and evidence that establish Hooman's innocence.

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April 1, 2016

Embassy of Pakistan
Interests Section of the Islamic Republic of Iran
2209 Wisconsin Ave. NW
Washington, DC 20007

Re: **Hooma Ashkan Panah**

To Whom it May Concern:

Mr. Panah was arrested on November 21, 1993 for the murder of Nicole Parker. On January 23, 1995, he was sentenced to death after a jury convicted him for the crime. The prosecution's presentation of false evidence, the hostile courtroom atmosphere, and his trial lawyer's failure adequately defend Mr. Panah, resulted in a trial rife with constitutional violations.

Mr. Panah's death sentence and first-degree murder conviction were obtained in a corrupted and biased trial atmosphere. For example, a sitting juror attended the same parish as the victim's family; the priest attended the trial. Compounding this bias, the prosecution's case rested on circumstantial evidence that was not as compelling as the jury was led to believe. For example, the jury did not hear that the man who had access to Mr. Panah's apartment, and who was last seen with the victim and never investigated or charged with the murder, had keys to Mr. Panah's apartment and was seen with a suitcase. Multiple searches, including searches with the assistance of K-9 dogs, failed to uncover the victim's body until a warrant was conveniently obtained. The body was found in a suitcase.

To make matters worse, the prosecution also presented false evidence. The prosecution's serologist claimed that stains found in his bedroom showed a mixture of Mr. Panah and the victim's bodily fluids. But an independent expert examined DNA results that the prosecution had—but chose not to present—at trial, and exposed as false the serologist's mixture theory. An independent pathologist also undermined the prosecution's pathologist at trial by concluding that the victim likely died at a time when Mr. Panah could not have been at the scene.

Accordingly, Mr. Panah is seeking to vacate his conviction and death sentence, and his case is currently pending in the Ninth Circuit Court of Appeals.

Sincerely,

Joseph Trigilio
Deputy Federal Public Defender

Forensic Analytical D.N.A report – Mrs. Lisa Calandro, MPH February 27, 2004

Forensic Analytical

February 27, 2004

COPY

Law Offices of Robert Bryan
Robert Bryan, Attorney at Law
1738 Union Street, 2nd Floor
San Francisco, CA 94123

Re: FSD Case #: 20000307
Peo. vs. Hooman Panah

Dear Mr. Bryan:

I have had the opportunity to review the reports issued by the Los Angeles Police Department Forensic Laboratory with regard to the above referenced case. I have also received an assortment of analytical notes pertaining to the serology and DNA analyses conducted. Refer to my letter dated November 3, 2000 for a list of discovery items received. The November 3, 2000 letter also documents a number of items related to the scrolgy and DNA analyses which were **not** provided for review. It is my understanding that numerous requests have been made to LAPD for these items. In addition to the laboratory reports and notes I have also reviewed the following transcripts:

- Grand Jury transcript of LAPD Criminalist William Moore P233-250
- Trial transcript of LA County Coroner Criminalist Lloyd Mahanay P1964-1989
- Trial transcript of LAPD Criminalist Robert Monson P1989-2015
- Trial transcript of LAPD Criminalist William Moore P2015-2033 and P2054-2142

My impressions based on the information I have been provided with are as follows:

The reports dated March 4, 1994, January 5, 1994 and October 19, 1994 describe the serological analysis of evidence items related to the murder and alleged sexual assault of Nicole Parker. The reports dated May 24, 1994, October 6, 1994 and October 26, 1994 describe the DNA analyses conducted. I understand the circumstances of evidence collection to be as follows; Ms. Parker's body was found in a suitcase in the closet at 20564 Ventura Blvd., #122, Mr. Panah's residence. The body was wrapped in a sheet. Following discovery, the decedent was placed on a bed in the room and sexual assault evidence samples were collected (*Transcript of Lloyd Mahanay P1982 L1-11*).

It is not clear why the Coroner's office chose to process the body at the crime scene, risking transfer of biological materials to the sheet or body. It would not be unreasonable to expect that

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body fluids from Ms. Parker would be transferred to the sheet during the time she was wrapped in it or during the subsequent sexual assault examination which took place on top of the sheet. The sheet was later examined for evidence of body fluids from Ms. Parker and the history of the sheet must be considered in any interpretation of the examination conducted.

A blue bath robe, also described as a kimono, was recovered from the bed in the bedroom, where it was reportedly bundled with other items from the bed (*Transcript of Robert Monson, P1996 L9-13*). In order to prevent cross contamination, evidence items should have been collected and packaged separately. The robe was later examined for body fluids from Ms. Parker and Mr. Panah. It is not clear from the notes received whether there were body fluid stains on the other items contained within the bundle. There is no notation as to whether items contained within the bundle were dry upon collection and packaging. It is important to consider the possibility of cross-transfer among items in any interpretation of body fluids from the robe.

Bloodstains were collected from the bathroom and a tissue paper with a beige colored stain on it was recovered from the waste basket in the bathroom. A "field test" for semen (presumably a test for acid phosphatase, an enzyme found at high concentrations in semen and lower concentrations in other body fluids) was conducted on the stain with positive results (*Transcript of Robert Monson, P1997 L26 - P1998 L3*). The acid phosphatase test provides an indication that semen may be present. Further testing was conducted which established conclusively the presence of semen on the tissue.

The following items of evidence were examined by the LAPD laboratory as part of this inquiry.

Sexual Assault Evidence Kit of Nicole Parker (Item #67)

The sexual assault evidence collected from Ms. Parker included the following items:

- Item #67A Vaginal swabs (4)
- Item #67B Vaginal slides (2)
- Item #67C External genital swabs (2)
- Item #67D External genital slides (2)
- Item #67E Oral swabs (2)
- Item #67F Oral slides (2)
- Item #67G Anal swabs (2)
- Item #67H Anal slides (2)
- Item #67I Right nipple swab (1)
- Item #67J Left nipple swab (1)
- Item #67K Body surface control swab (1)

The objective of the analysis of the sexual assault kit was to determine whether there was evidence of intimate contact between the assailant and Ms. Parker. The analysis involved screening of items contained within the sexual assault kit for body fluids, such as semen or

saliva, from the assailant. It is, of course, possible for contact or penetration to have occurred without the presence of semen or saliva in scenarios involving use of a condom, no or very limited ejaculation, or penetration with a foreign object. The activity of the victim prior to death and the post-mortem interval (time between sexual contact and recovery of body fluids) are also important in establishing whether semen or saliva would persist in or on the body of the victim.

The vaginal slides, external genital slides, oral slides and anal slides were examined microscopically for the presence of spermatozoa. No spermatozoa were detected on any of these items.

Cellular material was extracted from the vaginal swabs, external genital swabs, oral swabs and anal swabs. Portions of each extract were examined microscopically for spermatozoa with negative results. Analysis of the vaginal and external genital swab extracts also yielded negative results for acid phosphatase.

The oral and anal swabs yielded positive results for the presence of acid phosphatase and were further tested for P30, a male specific protein. Detection of either P30 or spermatozoa is considered a positive indication of the presence of semen. P30 was not detected in the extract from the oral and anal swabs. It is possible that decomposition of the victim may have contributed to the positive acid phosphatase findings.

No semen was detected on items 67A through 67H. Although this is indicated in the analytical report dated March 4, 1994, the direct testimony of LAPD Criminalist William Moore implies that semen is indicated by the positive findings of acid phosphatase (*Transcript P2029 L24-28*). The cross examination of Mr. Moore by Mr. Sheahan is reasonably successful in clarifying these results as Mr. Moore acknowledges that "The presence of semen was not conclusively established on any of the items packaged in the coroner's sexual assault kit" (*P2099 L4-6*).

Extracts of the right nipple swab, left nipple swab and body surface control swab were analyzed for the presence of amylase. No significant quantity of amylase was detected. **No saliva was detected on items 67I through 67K.**

As there was no evidence of body fluids from Hooman Panah on items contained within the sexual assault kit of Nicole Parker, the biological evidence analysis does not corroborate a finding of sexual assault.

Tissue paper bearing stains (item #52)

As mentioned, the tissue paper was recovered from the waste basket in the bathroom at Mr. Panah's residence. The item is described in various locations as a piece of toilet tissue with a beige stain, yellow stains and a light pink stain. The light pink stain is not further characterized as to whether it is possibly blood or non-biological in origin. A sample was removed from the "central area" for analysis and cellular material was extracted from the sample. A portion of the

extract was examined for spermatozoa. A moderate number of spermatozoa were detected indicating the presence of semen on the tissue. The extract was also tested for amylase. The quantity of amylase detected was equivalent to approximately a 1:100 dilution of saliva based on comparison to a saliva standard of known dilution. The notes indicate that Mr. Moore used his own saliva as a standard. Given the variation of amylase present in other body fluids such as semen and urine, as well as in saliva from different sources, it is not possible to definitively ascertain the presence of saliva based on such a low quantity. Further characterization of the source of the amylase enzyme to determine whether it is of salivary or pancreatic origin may have resolved this issue.

Genetic marker typing conducted on the stain area from the tissue and on known reference samples from Hooman Panah and Nicole Parker produced the following results (*from Analyzed Evidence Report dated March 4, 1994*).

Item #	Description	ABO (H) Activity	PGM	PGM Sub	Pep-A
52	Tissue stain	ABH	Inc	2+1+	1
35	H. Panah reference	B	2-1	2+1+	Inc
68	N. Parker reference	A	1	1+1-	1

There is no evidence that would allow a determination of the number of contributors to this stain. Therefore, the following possible interpretations for the data above are as follows; assuming a single source, the results obtained for the tissue stain indicate a donor with ABO type AB, PGM subtype 2+1+ and Pep-A type 1. This interpretation would exclude both Hooman Panah and Nicole Parker. The typing results may also be the result of a mixture of more than one contributor. Under this scenario, Mr. Panah cannot be eliminated as a contributor as both his ABO type (B) and PGM subtype (2+1+) are detected in the stain. Assuming that Mr. Panah is a contributor, the ABO type A which is detected is foreign. Therefore any type A or type AB individual would be included as a contributor. Individuals who are type A or AB comprise approximately 39.8% of the Caucasian population and 46.6% of the Asian population (*Journal of Forensic Sciences 1978 23(3):582*). The ABO blood group refers to surface antigens detected on red blood cells. The majority of the population (approximately 70-80%) also secrete blood group substances into their body fluids, such as semen and saliva. Mr. Panah was determined to be a secretor by typing his saliva sample for ABO. Ms. Parker's secretor status is unknown. If Ms. Parker is a non-secretor she could not be the source of the type A detected in the tissue stain sample.

The Pep-A results are suspect. The results for Hooman Panah's reference sample (item #35) and for Ms. Parker's reference sample (item #68) produced identically recorded results. The "Electrophoresis Worksheet" dated December 27, 1993 indicates that, for both samples, the type 1 recorded by Criminalist Moore could not be verified by the second reader. The second reader (initials "LR") notes the Pep-A result as "INC 2-1" for both reference samples. There are no notes provided which indicate that repeat typing may have been done. Ms Parker's Pep-A type is reported as "INC" (inconclusive) in the January 5, 1994 report and as type 1 in the March 4, 1994

and July 12, 1994 reports. In the absence of repeat typing, Ms. Parker's Pep-A type should have been reported as inconclusive. Mr. Panah's Pep-A type is consistently reported as "INC" (inconclusive). If Hooman Panah is a type 2-1 at Pep-A he is eliminated as a contributor to the tissue semen sample.

No photographs of the PGM and Pep-A typing results were received for review. Confirmation of the reported types would require examination of photographic data.

DNA analysis was performed on the tissue stain using a differential extraction procedure. The differential extraction process physically separates the sperm cells (which have a much tougher cell wall) from the epithelial cells (such as those which line the vaginal canal, mouth or rectum), resulting in two separate DNA extracts. The DNA extracts were analyzed for a single genetic marker, DQ-alpha. The notes do not indicate whether epithelial cells were detected upon microscopic examination of a portion of the extract. One would expect that a mixture of semen and saliva would contain a detectable quantity of epithelial cells. DQ-alpha type 1.3, 4 was obtained for both the sperm and epithelial cell fractions. Mr. Panah is a type 1.3, 4, therefore, he cannot be eliminated as the source of the DNA from both fractions. Ms. Parker is a type 2, 4, therefore, **she is eliminated as a contributor to the tissue stain sample.**

The DNA typing results do not support the hypothesis that the tissue stain contains a mixture of body fluids from Nicole Parker and Hooman Panah. It is my understanding that the DNA results were not presented at Mr. Panah's trial. **The DNA results contradict the State's assertion that the sample from the tissue contained a mixture of body fluids from Hooman Panah and Nicole Parker.**

Stains from bed sheet, Item #55

This item consisted of the bed sheet which had been wrapped around the body of the decedent. The sheet was examined for the presence of body fluids. Human blood, semen and saliva were reportedly detected on the sheet. The notes indicate that multiple stains were excised from the bed sheet, however, the appearance and relative locations of the stains are not documented. The prosecution alleged in this case that the finding of stain areas containing mixtures of body fluids from Mr. Panah and Ms. Parker suggested sexual contact. Therefore, it is important to determine whether areas of blood, semen and saliva staining may have overlapped as well as to examine the distribution of these body fluids relative to one another. It is also important to consider whether Ms. Parker's body fluids transferred to the sheet as she was wrapped in it or during the sexual assault examination, which took place while she was lying on the sheet. The pattern of staining is not documented within the notes in the form of a sketch or diagram. Therefore, the relationship of the stains to one another cannot be ascertained without examining the sheet itself.

The pattern of biological material on the sheet is also important in order to determine the validity of testimony given by Mr. Moore at trial where he states that the pattern observed could be consistent with the "spewing of semen across the bed sheet" (*W. Moore trial transcript P2067 L*

27 to P2068 L 8). Prior to an objection by defense counsel, Mr. Moore is asked "Assuming, as a hypothetical, a situation where there was an act of oral copulation and ejaculation was inititated by the defendant, and the victim then spit out –". The objection precludes his assessment of this hypothetical, however, Mr. Moore further testifies that the stains could not "have come solely…from an ejaculatory process like masturbation". *(W. Moore trial transcript P2073 L19-23).*

It appears that the reports dated January 5, 1994 and March 4, 1994 document the analysis of two different stains from the sheet. The January 5, 1994 report documents the typing of a bloodstain (described in the analytical notes as stain "A") on the sheet. The following typing results were obtained from this stain:

Item #	Description	ABO	EsD	PGM	PGM Sub	EAP	ADA	AK	Pep-A
55	Stain from bed sheet	ind AB	1	1	1+1-	BA	INC	1	1
55 con	Control from bed sheet	ind B							
35	H. Panah reference	B	1	2-1	2+1+	BA	1	1	INC
68	N. Parker reference	A	1	1	1+1-	BA	1	1	INC

There is no evidence that would allow a determination of the number of contributors to this stain. Assuming a single contributor of ABO type AB, both Hooman Panah and Nicole Parker would be eliminated as contributors to this stain. Assuming a mixture is present, Nicole Parker cannot be eliminated as a contributor to this stain; however, she could not be the source of the ABO type B detected in the stain. It is not possible to determine how or when this bloodstain may have been deposited on the sheet. Type B was also detected in the background control sample for the sheet. This suggests that the type B in the stain could be due to a background source of biological material on the sheet. As this is likely a sheet from Mr. Panah's bed and he is a type B secretor, it would not be unreasonable to find type B on the bed sheet. **Therefore, this result does not provide strong evidence of a mixture of body fluids from Hooman Panah and Nicole Parker.**

The report dated March 4, 1994 indicates that both semen and saliva were detected in the extract of another stain from the sheet (described in the analytical notes as stain "3"). The amylase activity present in the stain was greater than that of the 1:100 saliva standard and less than that of the 1:10 saliva standard. The presence of amylase on a sheet would not be an unusual finding. The finding of amylase activity on the sheet does not allow a determination of whether any saliva was deposited at the same time as the semen in a particular area; nor does it allow a determination of the individual who deposited the saliva.

Typing results were obtained as follows:

Item #	Description	ABO (H) Activity	PGM	PGM Sub	Pep-A
55	Stain from bed sheet	ABH	N/A	N/A	N/A
55 con	Control from bed sheet	B			
35	H. Panah reference	B	2-1	2+1+	Inc
68	N. Parker reference	A	1	1+1-	1

N/A = No Activity

The serological analysis does not allow exclusion of **any** individual including Hooman Panah and Nicole Parker, as all possible ABO types would be included as contributors to a mixture. Mr. Panah could be the source of the type B detected in the control area from the bed sheet. The control area is likely an area outside the detected stain which is sampled to ascertain whether there is any "background" source of genetic material. Because no semen or saliva was detected in this sample, these results indicate that there is detectable type B blood group substance on the bed sheet from an unknown body fluid source (possibly perspiration).

DNA analysis conducted on at least five stain areas from the bed sheet which contained spermatozoa either yielded "inconclusive" results or DQA1 type 1.3, 4, which is consistent with Mr. Panah's type. **No DNA typing results consistent with that of Nicole Parker were obtained from any of the samples from the bed sheet.** Although some of the stain areas contained spermatozoa, the DNA analyst does not note the presence of significant quantities of epithelial cells. A number of samples yielded "inconclusive" results. The meaning of the "inconclusive" finding cannot be determined without additional information such as photographic quality copies of the typing strips. **The DNA typing results do not support the hypothesis that the areas tested contain a mixture of semen and saliva stains from Mr. Panah and Ms. Parker, respectively.** Had Ms. Parker "spit out" ejaculate onto the bed sheet, one would have expected a) to detect spermatozoa on the oral swab and b) to detect Ms. Parker's DNA in significant quantities on the bed sheet.

Photographic quality copies of the DQA1 typing strip photographs should be obtained for review.

Blue silk kimono, Item #60

The blue silk kimono was examined for the presence of semen with negative results. Human bloodstains were detected on the left chest area of the kimono. Typing results obtained from the bloodstain were as follows:

Item #	Description	ABO	EsD	PGM	PGM Sub	EAP	ADA	AK	Pep-A
60	Stain from kimono	ind AB	INC	1	1+1-	BA	1	1	1
60 con	Control from kimono	N/A							
35	H. Panah reference	B	1	2-1	2+1+	BA	1	1	INC
68	N. Parker reference	A	1	1	1+1-	BA	1	1	INC

The typing results do not allow for a determination of the number of contributors to the stain. Assuming a single contributor to the stain from the kimono, Nicole Parker and Hooman Panah are eliminated as contributors. Assuming that the stain is a mixture of body fluids from more than one source, Nicole Parker cannot be eliminated as a contributor to the bloodstain on the kimono. No typing results were obtained from the control area. It is of note that the control area was excised from the lower left side of the kimono, some distance away from the bloodstained area. It would be of greater interpretative value to analyze a substrate control area which is closer to the bloodstains, as this would provide a more accurate picture of any background material in that location.

Subsequent to the ABO analysis of the stain, and in an apparent effort to determine whether a mixture of body fluids existed, Mr. Moore analyzed a cutting removed from the edge of the bloodstained area for the presence of amylase. The quantity of amylase detected was less than the quantity detected for a 1:100 dilution of saliva. This quantity is not necessarily indicative of the presence of saliva and may be the result of perspiration. Epithelial cells, which typically line the body cavities such as the mouth, vagina and rectum, were detected in this cutting. Mr. Moore provides a suspect interpretation of the findings with regard to the amylase activity and serological analysis of this stain. The conclusions appear to presume the presence of both Hooman Panah as the source of the type B antigen and Nicole Parker as the source of the type A antigen when he indicates in the July 12, 1994 report:

> "Analysis for the presence of genetic markers provided conclusive results for ABO(H) antigenic activity. Given that Hooman Panah is known to be a secretor of type "B" and "H" ABO(H) antigens, the type "A" ABO(H) antigenic activity exhibited by this stain is foreign to him and could not have originated with him."

This interpetation clearly assumes Mr. Panah is the source of the B antigen detected in the stain and provides no alternate interpretation. Mr. Moore's approach is biased and indefensible. In fact, the source of the A and B antigens is unknown. The purpose of the analysis is to determine whether an individual can be eliminated as a contributor to a sample. The finding of ABH antigenic activity does not allow exclusion of **anybody**. Mr. Moore appears to have inferred that both blood and saliva are present and that each body fluid was contributed by a different individual. This inferrence is not supported by the evidence.

The conclusion continues:

> "Since Nicole Parker was known to possess type "A" blood, it is possible that she contributed the type "A" antigenic activity through her saliva or other bodily secretion. However, she cannot be a sole contributor of the antigenic activity detected in this stain."

The above interpretation makes the assumption that 1) the stain is a mixture of at least two individuals, 2) one of the contributors is a type "B" secretor and 3) Ms. Parker is a type "A" secretor and could be the source of the A antigen. The failure to clearly state these assumptions renders this interpretation incomplete and misleading.

DNA analysis was conducted on a stain from the kimono. No spermatozoa or epithelial cells were detected in the examination of the cell debris pellet from this sample (presumably this stain is from the bloodstained area, however, the notes are not very clear with regard to this). DQ-alpha type 2, 4 was obtained from this sample, therefore, Nicole Parker could not be eliminated as a contributor to this sample. Hooman Panah was eliminated as a contributor to the DNA from this sample. **The typing results obtained from this sample do not provide evidence of a mixture of body fluids from Nicole Parker and Hooman Panah.**

Reporting of typing results for an additional cloth sample and control area from the kimono yielded inconclusive results in the epithelial cell fraction and no results in the sperm fraction. The notes do not report the finding of spermatozoa in the cloth sample, so it is unclear why a differential extraction was performed. The meaning of the "inconclusive" finding cannot be determined without additional information, such as photographic quality copies of the typing strips.

Fingernail Samples of Hooman Panah, Items #28-34

DNA analyses performed on fingernail samples from Hooman Panah yielded Mr. Panah's own DNA type, 1.3, 4. **No types foreign to Mr. Panah's own types were detected.** The circumstances of collection of Hooman Panah's fingernails samples relative to the alleged contact is unknown to me. Assuming contact did occur, the ability to detect DNA from a source other than Hooman Panah would be affected by the time frame since the contact occurred and Mr. Panah's activity in the time following contact.

General Issues

No photographs of serological typing results were provided. The laboratory notes in general are incomplete and omit information which may be best obtained through an examination of the actual evidence items. The opinions provided are based only on information received to date.

Quantities of DNA recovered from evidence items was not determined. Quantitation results would have provided some means of assessing relative quantities of DNA in the various stain and control areas.

Photocopies of DQ-alpha typing results are incomplete and inadequate for independent review.

The bed sheet and kimono should be re-examined in order to document the appearance and relative locations of stains. Samples from the bed sheet, kimono and tissue should be analyzed using more sophisticated DNA typing methods which are now available to determine whether mixed stain areas are detectable. Control areas should be excised from areas in close proximity to the stain areas in order to adequately assess the presence of "background" DNA. These results should be analyzed in the context of the pattern of staining on the evidence items themselves, bearing in mind handling and storage conditions. Current DNA analysis methods also are capable of determining the gender of DNA sources. This may be helpful in assessing the existence of possible mixtures of body fluids from Nicole Parker, Hooman Panah or other sources. Adequate material remains from many of the stain areas for independent reanalysis; however, the effects of degradation of the DNA must be considered in light of the amount of time which has elapsed.

Regarding the reported DNA analyses: Hooman Panah's DQA1 type is 1.3, 4; Nicole Parker is a type 2, 4. Of the samples which yielded DNA typing results, none contained a mixture of DNA from Panah and Parker. Therefore, the DNA results may have been important to the triers of fact in evaluating the possibility of sexual contact between Hooman Panah and Nicole Parker.

In summary, assuming that the analytical data provided is the only information available, the biological evidence analyses reviewed herein do not support the hypothesis that intimate sexual contact occurred between Hooman Panah and Nicole Parker. Testimony regarding the DNA analyses would not have supported the conclusions that the stains tested were mixtures of body fluids. The opinions in this report are subject to amendment upon receipt of additional information.

Please feel free to call if you have any additional questions or requests.

I declare under penalty of perjury the foregoing to be true and correct.
Executed on this the 27th day of February, 2004, in Alameda County, California.

Lisa Calandro, MPH
DNA Laboratory Supervisor

Forensic Analytical D.N.A report – Mr. Keith E. Petersen Inman, MCrim May 25, 2006

SUPPLEMENTAL REPORT

Robert R. Bryan
Law Offices of Robert R. Bryan
2088 Union Street, Suite 4
San Francisco, California 94123-4117

May 25, 2006

RE: *People v. Hooman Ashkan Panah*
Calif. Supreme Court Nos. S123962, S045504
FSD Case 20000307

Dear Mr. Bryan,

This review supplements one written on February 27, 2004, by Lisa Calandro of our office. It is based upon new discovery material received on January 25, 2006 from the Los Angeles Police Department's Scientific Investigation Division.

In her February 2004 report, Ms. Calandro notes that inconclusive DNA results were obtained for two items of evidence, Item 55, a bedsheet, and Item 60, a kimono. She notes that

> *The meaning of the "inconclusive" finding cannot be determined without additional information such as photographic quality copies of the typing strips. (pages 7 and 9 of her report)*

This review was conducted to resolve the issue of "inconclusive findings" for the DNA results from these samples.

I received for review, from Larry Blanton of the Los Angeles Police Department's Scientific Investigation Division, color copies of 6 pages of "DNA Hybridization Records," including records 309, 310, 315, 316, 317, and 318. According to the notes that I have reviewed, all of the DNA typing of the samples of interest are contained in these records.

Each record consists of a table listing the samples typed, including information about the tube number, Item number, description (which typically contains the case number and sample analyzed), hybridization volume, and results. Also recorded are the lot numbers of reagents used, the date the samples were typed, and the initials of the primary and confirming analysts. Finally, a photograph of the typing strips is present on the record. For all but record 309, black and white photographs were taken. Record 309 contains a color photograph of the typing strips.

Item 52, Tissue

This typed unequivocally as a type 1,3,4 in both the non-sperm and sperm fractions. This is consistent with Mr. Panah's type, and different from Ms. Parker's type. This was reported correctly by LAPD, and Ms. Calandro does not equivocate in her opinion about the meaning of the result. My review of the hybridization record supports the findings and observations of Ms. Calandro, specifically that no evidence exists to support a claim of a mixture of semen and saliva from Mr. Panah and Ms. Parker.

Exhibit 22

3777 Depot Road, Suite 409, Hayward, California 94545-2761 Telephone: 510/887-8828 [illegible] Fax: 510/887-4218

Item 55, Bedsheet

At least five stains from the bedsheet were tested for the DNA type of the semen donor. Two of these gave a type 1.3, 4 in the non-sperm and sperm fractions, consistent with the type of Mr. Panah. The other three samples gave weak 4 activity in both the non-sperm and sperm fractions. The weak activity was called inconclusive in the LAPD report, presumably because the control "C" dot was weak or absent. My review of the typing strips confirms all of the types indicated in the LAPD hybridization strips, and further supports the finding that no evidence exists of a mixture of biological material from Mr. Panah and Ms. Parker.

Item 60, blue silk kimono

Ms. Calandro comments on a bloodstain typed by DNA. Inasmuch as this portion of her report is unequivocal, I will not comment further.

She also noted that an unidentified area was examined for DNA using a differential extraction. She did not understand why this analysis was performed, inasmuch as semen was not detected on this item. Nonetheless, LAPD reported inconclusive results for the typing of this sample. My review of the typing strips reveals that the sperm fraction gave no results (consistent with finding no semen on the garment), and the non-sperm fraction gave weak 4 activity. The weak activity was called inconclusive in the LAPD report, presumably because the control "C" dot was weak or absent. No evidence exists in the DNA evidence of a mixture of biological material from Mr. Panah and Ms. Parker on this item.

Ms. Calandro summarized her review by indicating that no evidence existed of intimate contact between Mr. Panah and Ms. Parker, subject to further review of, at the least, the DNA typing strips. Assuming no other biological examinations were performed, my review of the DNA results confirms her opinions. No biological evidence exists to support the hypothesis that a mixture of biological fluids from Mr. Panah and Ms. Parker was present on the tissue, bedsheet, or kimono. It is my opinion, based upon the foregoing, that there is no evidence to suggest intimate sexual contact between Mr. Panah and the victim.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this the 25 of May, 2006, at Hayward, California.

Keith E. Petersen Inman, MCrim
Senior Forensic Scientist

Mr. Michael M. Baden, M.D. statement on victim's death April 1, 2004

Michael M. Baden, M.D.
15 West 53rd Street
New York, New York 10019

Telephone (212) 397-2732 *Facsimile (212) 397-2754*

COPY

1 April 2004

Via Facsimile 415-292-4878

Robert R. Bryan, Esq.
2088 Union Street, Suite 4
San Francisco, California 94123-4124

Re: People v. Hooman Ashkan Panah
Nicole Parker, Deceased

Dear Mr. Bryan:

I have reviewed the autopsy report, the neuropathology report, photographs, laboratory reports, the report of DNA expert Lisa Calandro, and the trial testimony of medical examiner Eva Heuser and criminalist Robert Monson that you sent to me relative to the death of Nicole Parker.

In this type of trial, which requires proper evaluation of highly-specialized forensic and autopsy evidence, it is, in my opinion, essential that a forensic pathologist be consulted by trial counsel well in advance of the trial so that counsel can understand the strengths and weaknesses of the forensic and autopsy findings; so that time of death and nature of sexual injuries can be independently evaluated; so that counsel can be advised as to whether other testing or contacting other experts is warranted; so that counsel can more intelligently evaluate the appropriateness of a negotiated settlement;

so that counsel can properly cross-examine opposing experts; and so that counsel has available the expert to testify if appropriate.

In this matter, Nicole was 8 years old when her nude body was discovered wrapped in a white sheet in a suitcase in defendant's bedroom closet. The autopsy report concluded that the cause of death was "Traumatic injuries" which consisted of "Craniocerebral trauma, neck compression and sexual assault with anal lacerations." However, the neuropathology examination demonstrated that there was no injury to the brain – no trauma to the brain – and that Nicole's brain was entirely normal. Further, the full autopsy and the examination of the microscopic slides showed that the sexual assault did not produce injuries sufficient to cause death.

It is my opinion, to a reasonable degree of medical certainty, that neither craniocerebral injuries nor a sexual assault caused Nicole's death and a forensic pathologist expert would have been able to explain this to counsel and to the jury.

I declare under penalty of perjury that the foregoing is true.

Yours very truly,

Michael M. Baden, M.D.

MMB:ph

Robert Sheahen Trial Attorney's letter February 24, 1994

ROBERT SHEAHEN
ATTORNEY AT LAW
TWO CENTURY PLAZA
SUITE 1800
2049 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067

(213) 553-1275

February 24, 1994

Hon. Cecil J. Mills
Presiding Judge of the Superior Court
Criminal Courts Building
210 West Temple Street
Los Angeles, California 90012

COPY

re: People v. Hooman Panah, LA 015927

Dear Judge Mills:

Pursuant to a grand jury indictment alleging a special circumstances homicide, the above defendant is scheduled for arraignment in Department 100 on Friday, February 25, 1994. Because the defendant has become indigent, the court will be asked to appoint counsel for him. This letter addresses the question of whether under Penal Code section 987.2, considering the unique circumstances of this case, it would be appropriate to appoint counsel other than the public defender.

I.

There can be no doubt that Department 100 must be accorded the widest latitude in its determination of issues relating to appointment of counsel. Alexander v. Superior Court, 93 Daily App. Rpt. 2077 (Feb. 17, 1994). Nevertheless, it still remains clear that there may be circumstances wherein the interests of justice would be served by the appointment of a particular attorney. Harris v. Superior Court, 19 Cal.3d 786.

II.

In this case, defendant Panah is a Persian-born, Farsi-speaking immigrant. Though he is accused of killing a young girl, Panah has a documented history of mental instability and hospitalization -- both in Iran and in the United States. He has no criminal history, and, at the time of the incident, was employed at Mervyn's department store.

Since the day he came to the United States more than six years ago, defendant Panah has maintained a close personal relationship with Syamak Shafania, a Farsi-speaking member of the Bar. Throughout the time defendant attended Taft high school and Pierce college, Mr. Shafania acted as defendant's tutor, mentor and advisor. For more than six years defendant has reposed enormous trust and confidence in Mr. Shafania.

At the time of his November 1993 arrest in this case, defendant immediately turned to Mr. Shafania, his friend and confidant. When the case was first filed in division

Exhibit 150 - 94

ROBERT SHEAHEN
ATTORNEY AT LAW
TWO CENTURY PLAZA
SUITE 1800
2049 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067
(213) 553-1275

119 in Van Nuys, it was Mr. Shafania who stood by defendant's side. Throughout numerous appearances in the municipal court, Mr. Shafania served as counsel of record for defendant.

At the same time, Mr. Shafania and the Panah family had begun a search for co-counsel -- someone experienced and skilled in special circumstances cases. Having consulted with any number of attorneys, the Panah family selected Robert Sheahen, a criminal lawyer of more than 20 years experience in homicide cases. (Mr. Sheahen is not a downtown panel attorney but has served with distinction by court appointment in death cases in Santa Monica and Van Nuys.)

Retained for purposes of the preliminary hearing only, Mr. Sheahen and Mr. Shafania thoroughly prepared the case. Together they worked with an investigator, interviewed witnesses and even caused two psychiatrists to be appointed to assess the boy's troubled background. They sought out his prior mental hospital records in this country and initiated contacts with Farsi-speaking witnesses in Tehran. They further spent countless hours interviewing the defendant in jail, working with the prosecutor and developing the ability to insure the trust and cooperation of the Panah family. (Though the case was exhaustively prepared, the preliminary hearing itself was not held due to the district attorney's resort to the superseding indictment.)

III.

Under these circumstances, it appears likely that the court system would be saved a great deal of time and the taxpayers would be saved a great deal of money if Mr. Sheahen and Mr. Shafania are appointed as counsel for defendant. They know the case and they know the defendant. Given the defendant's long-standing reliance on the counsel of Mr. Shafania and the defendant's complete faith in Mr. Sheahen, it is probable that he would follow their advice to enter a plea at an early stage of proceedings. On the other hand, were the public defeder to be appointed, this sense of trust would not exist and the result might be an extremely costly trial.

It would thus appear that the Court has sufficient ground to find good cause for appointment of counsel other than the public defender.

Most sincerely,

Robert Sheahen

Rs/sjf

06100110

Exhibit 150 - 95

Patrick Couwenberg Trial Prosecutor Year 2001

demand that ...m withdraw from a lawsuit involving ...ley radio station KPFA.

"What's disgusting? Union busting!"

"Hey, hey! Ho, ho! John Murdock has got to go!"

After about an hour of this, they were arrested.

Such organized agitation is increasingly common at the employment law firm. Protesters have flocked to at least four of the ten Epstein Becker offices since the firm agreed to represent the Pacifica Foundation, the charitable trust that runs KPFA and four other politically progressive radio stations.

KPFA fans have long complained that a cadre of Pacifica board members improperly seized power over the stations and dulled their normally provocative shows. The Pacifica board's supporters respond that it is doing what's best for the stations, acceding to pressure to boost ratings from the Corporation for Public Broadcasting, which determines federal funding for public radio.

The programming shift inspired three lawsuits alleging that the changes are illegal because they belie the foundation's idealistic mission, as written in its articles of incorporation. The suits also claim that

Lawyers in rich suits ...

...members were placed on leave and ...d out of the station. Large crowds gathered outside, police arre... demonstrators and ultimately security forces were called in.

Now, protesters are directing that same anarchic fervor to the legal process. They boo and hiss from the audience at court hearings. They march outside Epstein Becker offices in San Francisco, Los Angeles and New York. They crash the firm's seminars and client meetings.

Their tactics range from leaflets planted in firm's library books to Web sites encouraging protesters to "physically confront" lawyers.

"I am being harassed," said Murdock, a partner at Epstein Becker's Washington, D.C., office who is a target for much of the ire. "The irony is that people who claim to be about free speech and democracy are behaving like a lynch mob of 30, 40 years ago. They have only the passion and not the reason."

Some lawyers on the case say the rhetoric could poison settlement talks that were scheduled to start today. Others dismiss the activity as harmless attention-seeking.

See PACIFICA, Page 7

Orrick Herrington Chairman Ralph Baxter said the main goal of his firm's ...ssociate compensation system is to hel... ...urage a fair distribution of work among the associates at the firm, essentially reserving the raise for those who do their part and meet the minimum billables requirement.

"I think it is fair that the associates who make what we think is a fair minimum contribution all get that initial $10,000. ... Within the bonus program there's a clear message that we're not trying to induce associates to overwork. The key word is balance," Orrick said.

Bonuses come at 2,100-, 2,250- and 2,400-hour levels, although the highest level brings the smallest jump in pay. The firm also offers profit-sharing and a discretionary year-end bonus. Orrick is paying just $5,000 to $10,000

See ORRICK, Page 2

S.F. Daily Journal, Feb. 22, 2001

JUDICIARY

Embattled L.A. Jurist's Defense: He's a Pathological Liar

■ Patrick Couwenberg admits he lied about his credentials, but says he couldn't help it.

By Donna Domino
Daily Journal Staff Writer

PASADENA — Los Angeles Superior Court Judge Patrick Couwenberg lied about his background and about receiving a Purple Heart because he suffers from a pathological compulsion to increase his self-esteem, a result of his childhood spent in war-torn Indonesia, his lawyer told a panel of special masters Wednesday.

During nearly three hours of pointed questioning at a judicial disciplinary hearing, the 56-year-old jurist was forced to admit that he lied extensively about his academic and professional background.

Couwenberg, a former Los Angeles prosecutor now presiding over the Norwalk family court, faces several disciplinary charges for "providing false information regarding his background and qualifications," according to the Commission on Judicial Performance, the state's judicial watchdog agency.


COUWENBERG

Dismissing the falsehoods as "misrepresentations concerning a relatively narrow area" of Couwenberg's past, his attorney, Edward P. George of Long Beach, said the judge has been diagnosed with "pseudologica fantastica," a psychological term for pathological lying.

The condition, which George described as a "matrix of fact and fiction," resulted in Couwenberg's "compulsion to provide information for self-aggrandizement." The psychological impairment resulted from Couwenberg's upbringing "in a concentration camp atmosphere" when his family lived in Indonesia, George told the three-judge panel. The condition is "very treatable," George said, and Couwenberg is already undergoing therapy.

During probing questioning by commission attorney Jack Coyle, Couwenberg admitted lying about the colleges he attended, even about seemingly inconsequential details such as the dates he graduated.

A distinguished-looking man with salt-and-pepper hair and beard, Couwenberg acknowledged that he lied to his wife about having a master's degree in psychology from California State College at Los Angeles "to make more of an impression on her." But when asked why he repeatedly lied on official questionnaires about attending Loyola Law School, being a Vietnam veteran and working for the prestigious Los Angeles firm of Gibson Dunn & Crutcher, Couwenberg appeared mystified himself.

"I don't know," he answered. "It kind of puzzles me."

Attempting to play down the significance of lying about which schools he attended, Couwenberg explained, "I didn't think educational history was important. The important thing was the cases you handled and why you wanted to become a judge."

Couwenberg had also told attorneys that he had been late to court one day in the past "because of a medical appointment for shrapnel in the groin" that he sustained during combat. During Wednesday's hearing, he continued to assert claims about his involvement in a secret CIA mission in Laos, but admitted he only suffered a knee wound.

When Coyle pressed for details of his claimed South East Asia spy missions involving Scandinavian mercenaries, Couwenberg said he couldn't recall, because "it was over 30 years ago."

Though the jurist initially adopted an unrepentant tone during questioning about a long litany of falsehoods, after being forced to acknowledge that he had also perjured himself to the commission last year, he left the witness stand slightly shaken.

See JUDGE, Page 2

EX 63 255

EX 63 256

GARRY ABRAMS

issue has become is that Los Ang District Attorney Steve Co ho campaigned on a pledge of more openness in the district attorney's office, has issued a gag order prohibiting his deputies from discussing their investigation of the April 21, 1975, bank robbery and its links to an attempt to bomb police cars in Los Angeles in August 1975.

The gag order apparently is a professional courtesy extended to — or perhaps extracted by — Sacramento District Attorney Jan Scully, who believes Los Angeles prosecutors have been trespassing on her prosecutorial property by urging her office to try the suspects of the bank robbery. Besides Scully, previous Sacramento district attorneys have declined to bring the bank robbery case to trial.

Now, some see the Sacramento press release as a breach of the zipped lips deal and as an effort to claim credit for recent developments in the bank robbery case — such as the shotgun pellet analysis —that really belongs to Los Angeles prosecutors.

And that no doubt explains why Cooley's office lifted the gag briefly last week to denounce another statement in the Sacramento sheriff's press release as "absolutely false."

losophy, members of the SLA kidnapped newspaper heiress Patricia Hearst in 1974 and then allegedly brainwashed her into joining a terrorist rampage that riveted the co Hearst, who wrote a book about her life with the SLA, is a key witness in both the bank and bomb cases.

The Sacramento sheriff's press release also said that that the bomb case should be tried first to "serve as a barometer to determine the quality of Patricia Hearst's testimony, which is critical to the Sacramento prosecution efforts."

Not all sources in the case have been muzzled. Dr. Jon Opsahl of Riverside, son of Myrna Opsahl, said in a telephone interview that Los Angeles Deputy District Attorney Michael Latin deserves credit for having tests done on the shotgun pellets. Latin said he couldn't comment on the case.

Opsahl said he believes Sacramento officials are signaling to witness Hearst, "If you do a bad job in L.A., we won't bother you." He also thinks the murder case should have "priority" over the bomb case.

Contact the writer at (213)-229-5131, or send e-mail to garry_abrams@dailyjournal.com.

■ JUDGE: Admitted Pathological Liar

Continued From Page 1

When asked why he told retired Judge Charles Frisco, prior to his 1997 enrobing ceremony, that he had served in Vietnam and was awarded a Purple Heart, Couwenberg offered this strained explanation: "I didn't affirm it, but I didn't correct him," he said. "I thought it was basically a 'roast' as he had done before — a humorous thing."

Two groups — the governor's office and the State Bar's Commission on Judicial Nominees Evaluation — are responsible for checking judicial candidates' credentials. After the disciplinary charges against Couwenberg were filed, both offices acknowledged that neither academic nor military backgrounds are verified. To check professional experience, the State Bar panel sends forms to firms listed on the applicant's official Personal Date Questionnaire, but doesn't check if the forms are not returned.

Couwenberg was appointed to the bench by Gov. Pete Wilson in April 1997.

Bill Edlund, a San Francisco attorney, who chairs the Commission on Judicial Nominees Evaluation, acknowledged during questioning that the group does not verify applicants' educational backgrounds, saying it lacked sufficient staff.

If Couwenberg is found culpable for wilful misconduct, he could be removed from the bench by the commission.

The hearing continues today before the masters, judges Ina Gyemant of San Francisco, Thomas Hansen of San Jose and Peter Saiers of Stockton. They will make findings of fact, but not recommendations for discipline, to the commission.

■ Orrick: Bonuses, Not Base Increases

Continued From Page 1

to associates with more than 2,100 billable hours for its 2000 bonus.

Gordon Davidson, chair of Fenwick & West in Palo Alto, said the structure his firm established in 2000 is sufficient for this year's needs. Fenwick & West starts with a $125,000 first-year base salary and adds bonuses based on lawyer hours and other elements of performance.

"To some extent, we think that, given the very large increase last year, we need some time to catch up, meaning we can't keep increasing the rates we charge to our clients for our first year associates," he said.

Davidson said the performance-focused bonus system already books are done each year to make sure that the compensation squares with everyone's overall performance. Associates' bonuses are determined individually.

"Having [raised associate salaries to $125,000] in 2000 and assessed where we are in 2001, we didn't feel it was necessary to increase our bases," he said.

In the light of last year's huge salary leaps, Pitchford noted that $10,000 doesn't much affect a firm's competitive edge.

Recruiter Caravello said she has noticed the same thing.

"I'm not getting the phone calls that I was getting last year at this time. The reaction isn't there."

Also, she added, standing still has become a selling point with

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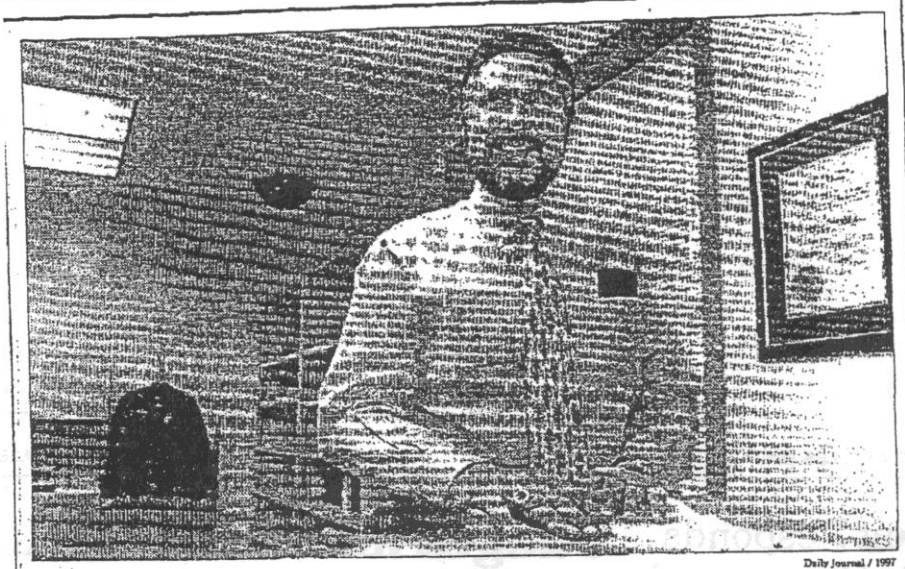

Daily Journal / 1997

TRUE LIES — Los Angeles Superior Court Judge Patrick Couwenberg told a panel of special masters at the Commission on Judicial Performance that he lied about his war record, academic and professional background and his qualifications as a judge. When asked why he repeatedly lied on official questionnaires about attending Loyola Law School, being a Vietnam veteran and working for Gibson, Dunn & Crutcher, Couwenberg appeared mystified himself. "I don't know," he said. "It kind of puzzles me."

At Hearing, Judge Admits His Lies

Lawyer Attributes False Boasts to Childhood in War-Torn Land

By Donna Domino
Daily Journal Staff Writer

Los Angeles Superior Court Judge Patrick Couwenberg lied about his background and about receiving a Purple Heart because he suffers from a pathological compulsion to increase his self-esteem, a result of his childhood spent in war-torn Indonesia, his lawyer told a panel of special masters Wednesday.

In a disciplinary hearing, the 56-year-old jurist had to admit that he lied extensively about his academic and professional background.

Couwenberg, a former Los Angeles prosecutor now presiding over the Norwalk family court, faces several disciplinary charges for "providing false information regarding his background and qualifications," according to the Commission on Judicial Performance, the state's judicial watchdog agency.

Dismissing the falsehoods as "misrepresentations concerning a relatively narrow area" of Couwenberg's past, his attorney, Edward P. George of Long Beach, said the judge has been diagnosed with "pseudologica fantastica," a psychological term for pathological lying.

As a result of the condition, George said, Couwenberg had a "compulsion to provide information for self-aggrandizement."

The psychological problem resulted from Couwenberg's upbringing "in a concentration-camp atmosphere" when his family lived in Indonesia, George told the three-judge panel.

The condition is "very treatable," George said, and Couwenberg is undergoing therapy.

During probing questioning by commission attorney Jack Coyle, Couwenberg admitted lying about the colleges he attended, even about seemingly inconsequential details such as the dates he graduated.

Couwenberg acknowledged that he lied to his wife about having a master's degree in psychology from California State College, Los Angeles, "to make more of an impression on her."

But when asked why he repeatedly lied on official questionnaires about attending Loyola Law School, being a Vietnam veteran and working for the prestigious Los Angeles firm of Gibson Dunn & Crutcher, Couwenberg appeared mystified himself.

"I don't know," he answered. "It kind of puzzles me."

Attempting to downplay the significance of lying about which schools he attended, Couwenberg explained, "I didn't think educational history was important. The important thing was the

See Page 5 — JUDGE

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Suit Responds To Commerce's Census Seizure

Continued from Page 1

on scientific issues," Currey said. "[Evans' decision] turns the matter into an ex parte free-for-all, subject to lobbying that will result in a recordless decision.

"There is no guarantee under the new rule that we'll ever get" scientifically correct information, he said.

At stake are millions of dollars in federal funds used for law enforcement, education and infrastructure, among other things.

Evans announced he was implementing a rule to take over the census late Friday, as the government closed down for a three-day weekend. The rule will become effective when it appears in the Federal Register, as early as today.

The city charges that Evans took power to choose the official census count — the enumerated count, announced Dec. 29, versus the statistically adjusted Accuracy and Coverage Evaluation, announced Feb. 14 — away from census director William Barron, without holding a formal notice and comment period, as required by the Administrative Procedures Act.

Judge Admits He Lied

Continued from Page 1

cases you handled and why you wanted to become a judge."

Couwenberg also had told attorneys that he had been late to court one day in the past "because of a medical appointment for shrapnel in the groin" that he sustained during combat. During Wednesday's hearing, he continued to assert claims about his involvement in a secret CIA mission in Laos but admitted he only suffered a knee wound.

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Gov. Pete Wilson appointed Couwenberg to the bench in April 1997.

Bill Edlund, a San Francisco attorney who chairs the Commission on Judicial Nominees Evaluation, acknowledged during questioning that the group does not verify applicants' educational backgrounds, saying it lacked sufficient staff.

If Couwenberg is found culpable for wilful misconduct, the commission could remove him from the bench.

The hearing continues Thursday before the masters — Judges Ira Gyemant of San Francisco, Thomas Hansen of [illegible] and Peter Saiers of Stockton — who will make findings of fact but not recommendations for discipline to the commission.

■ Donna Domino's e-mail address is donna_domino@dailyjournal.com.

EX 63 258

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210 S. Spring St., Los Angeles, 90012 | Thursday, August 16, 2001 | Main telephone number: (213) 346-00

CJP Removes Couwenberg From Superior Court for Lying

By a MetNews Staff Writer

Los Angeles Superior Court Judge Patrick Couwenberg was removed from the bench yesterday by the state Commission on Judicial Performance for lying about his education, his professional background and his military record.

The panel found Couwenberg guilty of willful misconduct in office, conduct prejudicial to the administration of justice and improper action under the state constitution.

"He lied to become a judge, elaborated on his misrepresentations for his enrobing ceremony and subsequently lied to the commission in an apparent attempt to frustrate its investigation," the commission said in a 16-page order signed by Chairman Michael A. Kahn.

"The commission is convinced that protection of the public and the judiciary's reputation requires Judge Couwenberg's removal from the bench," the panel said.

Couwenberg's attorney admitted his client is a compulsive liar. But Edward P. George Jr. of Long Beach said Couwenberg suffers from a curable mental condition and should be allowed to return to the bench. George said the ex-judge has not yet decided whether to petition the state Supreme Court for review.

PATRICK COUWENBERG
Former Los Angeles Superior Court Judge

George noted that the panel took 30 days to reach its decision.

"That's the longest period I can remember the commission deliberating," the attorney said. "I commend the commission, because they did do a lot of thinking about this. This was not a slam-dunk case."

George also noted that the removal had nothing to do with Couwenberg's on-bench conduct.

He said his client has been in therapy four or five months, and that he has made progress in treating the condition that some doctors have called "pseudological fantastica" and consists of mingling truth and lies, and being unable to distinguish between the two.

(Continued on Page 5)

COUWENBERG

(Continued from Page 1)

The ex-judge's doctors said it was a result of his difficult upbringing in war-torn Indonesia.

Superior Court officials said Couwenberg officially is off the court as of yesterday. The Supreme Court does not have to take review, even if the former judge seeks it. The action becomes final after 30 days if the high court does not act.

Couwenberg, 56, was appointed in 1997 by then-Gov. Pete Wilson and served at the Norwalk courthouse. He becomes the seventh Los Angeles Superior Court judge—and the 16th statewide—to be removed in the commission's 40-year history, commission director Victoria B. Henley said.

Most recently, Judge Patrick Murphy left the bench following commission action. Murphy claimed that he resigned before the commission's removal order was filed.

When applying to Wilson for a judgeship, Couwenberg claimed, falsely, that he went to Loyola Law School. He did not mention that he went to the unaccredited La Verne College of Law.

At his enrobing ceremony he falsely claimed to have been a corporal in the Army and to have received a Purple Heart. Later, he falsely told a group of attorneys that he went to college on the G.I. Bill, had a master's degree in psychology and was late because of a medical appointment for shrapnel in his groin.

He falsely claimed to have served in the CIA—or some other covert government agency—in Laos.

George, the ex-judge's lawyer, said he hoped the experience would send a message to the Legislature that some type of discipline involving probation is warranted.

The commission action also serves to keep Couwenberg from returning to the practice of law, unless he reapplies and is readmitted by the State Bar.

"That," George said, "would mean we could end up retrying this whole case."

Court spokeswoman Jerrianne Hayslett said the removal means the court is down 21 judges.

Disgraced Judge Wants Bar Card Back

Novel bid could keep paycheck coming for L.A.'s Couwenberg

By Mike McKee
RECORDER STAFF WRITER

Former Los Angeles County Superior Court Judge Patrick Couwenberg, removed from the bench last year for lying about his academic credentials and his military record, is trying to reclaim his license to practice law.

But the state's Commission on Judicial Performance says the 56-year-old man is going about it the wrong way — a way that allows him to keep his former judge's salary a while longer — and the CJP has gone to the California Supreme Court to oppose him.

Couwenberg's petition, filed with the Supreme Court on Nov. 13, makes clear that the ex-judge — who served four years on the bench until leaving in September — isn't challenging his removal by the CJP, but simply wants to expedite the procedure for getting his law license back.

"[Couwenberg] is seeking this honorable court, following review, to refer this matter to the California State Bar Court," Long Beach solo practitioner Edward George Jr. wrote, "to determine the appropriate degree of

See BID page 6

ALAN J. DUGHAN

MAKING IT UP Patrick Couwenberg, who was removed from L.A. bench for lying about his qualifications, wants the California Supreme Cour to clarify the rules for reinstatement as an attorney.

Today's C.D.O.S.

Attorneys and Judges

■ **IN RE RIORDAN AND SANGER:** Attorney's willful failure to comply with court's order to file already-overdue opening brief in death penalty case constituted contempt. Cal.Sup.Ct.

Civil Litigation and Procedure

■ **PATTON v. COX:** Under Arizona law, witness immunity does not bar action for breach of contract where witness participated voluntarily in quasi-judicial proceeding. 9th Cir.

■ **SHELTON v. RANCHO MORTGAGE & INVESTMENT CORPORATION:** Post-judgment order denying sanctions was appealable. C.A. 4th

See Today's C.D.O.S. page 2

Power of Persuasion, or Plain Silliness

By Jason Hoppin
RECORDER STAFF WRITER

Anyone who has ever seen Al Gore speak is painfully aware that there's more to communicating than mere words. Body language tells a story, too.

Developing that language into a sort of science is something practitioners of "neuro-linguistic programming" think they've done. And for nearly 20 years now, some jury consultants have been applying the techniques to courtrooms.

Court Watch

Though the shine has faded from its once-bright star and many today dismiss its relevance, NLP still has its advocates. Like many counterculture ideas, aspects of NLP have been scattered into the larger culture. But there are still places to learn about it in its purest, and perhaps most controversial, form.

NLP, which sprung from the same Northern California c terculture of est seminars and the Esalen Institute, is know virtually every trial consultant around, though its usefulne questioned by many. But Constance Bernstein, surrounde trial briefs in her San Francisco home, is an exception. Sh lieves in what advocates say is NLP's secret power — pe sion.

NLP is a system of communicating aimed at "synchroni the speaker and the listener to get the listener more recepti the words, which is why it has become somewhat popular i legal profession. Every lawyer wants every juror to hang on every word, a goal Bernstein and others say NLP can achieve.

"We naturally get in physical sync with people we are in a ment with," says Bernstein, who owns *Synchronics Group*.

See NEURO-LINGUISTS

EX 63 274

Bid Could Keep Pay Coming for L.A.'s Couwenberg

Continued from page 1

discipline in order that [he] may seek reinstatement to practice law."

The CJP responded on Dec. 28, saying that if Couwenberg — a Gov. Wilson appointee who served on L.A. County's Norwalk bench — wants his license restored, he should petition the court directly for reinstatement rather than use the underlying removal case as a platform for appeal.

"The commission believes that its proceedings are concluded, that its decision is final and that the factual findings and legal conclusions underlying its decision should not be disturbed or reopened," Jack Coyle, a member of the CJP's Office of Trial Counsel, wrote in court papers.

Coyle also raised the fact that Couwenberg's method for seeking reinstatement would reopen the CJP proceedings and let Couwenberg continue receiving his old salary until a decision is made. "He could be receiving a judicial salary to which he clearly is not entitled," Coyle wrote.

> 'No judge since [Proposition] 190 has been removed by the court, so this is kind of a brand-new procedure.'
>
> — *Couwenberg attorney Edward George Jr.*

The CJP's removal order, issued Aug. 15 and effective Sept. 14, followed revelations that Couwenberg had, among several other things, lied about being a Vietnam veteran, receiving a Purple Heart, serving in covert operations for the CIA and earning a master's degree from California State University, Los Angeles.

Couwenberg's lawyers and doctors said the 1976 graduate of the University of La Verne College of Law in Ontario suffers from a pathological lying condition called pseudologia fantastica, which they tied to his childhood in an Indonesian concentration camp at the end of World War II.

George, Couwenberg's lawyer, said Thursday he chose to petition the Supreme Court because the proper method for seeking reinstatement isn't clear in light of voters' 1995 passage of Proposition 190, which granted the CJP the authority to remove, retire or censure a judge. The measure — California Constitution Article VI, Section 18(e) — also strips such judges of their right to practice law, George said, but doesn't clarify how they should seek reinstatement of their law licenses.

"No judge since [Proposition] 190 has been removed by the court, so this is kind of a brand-new procedure," he added. He told the court that he thought the issue was one of first impression.

George said he believed "the easiest thing to do would be to petition the Supreme Court [justices] and have them refer it to the State Bar Court."

CJP Director Victoria Henley could not be reached for comment, but commission lawyer Coyle said in court papers that Couwenberg chose "an inappropriate procedural vehicle" for reinstatement.

"As a result," he wrote, "the Commission on Judicial Performance, a party with no interest in the issue, is forced to respond; and the State Bar, the real party in interest, has not been provided with the opportunity to respond."

Couwenberg's lawyer, though, isn't convinced that the State Bar has jurisdiction, because judges relinquish their bar licenses when they join the bench. Couwenberg's "not a licensed lawyer in California," George said, "until he shows he has a right to be reinstated."

State Bar General Counsel Marie Moffat said Friday that her agency's records currently list Couwenberg as a judge.

"I understand he filed a petition for review," she said, "and, therefore, his removal from office is not final and until such time it is final, he would remain listed as a judge and as such would not be considered a member of the State Bar. However, we are, of course, monitoring this matter."

Moffat wouldn't comment on whether Couwenberg's petition for review is the proper route for reinstatement, but noted that "as the Supreme Court's administrative arm, we'd certainly follow any direction provided by the court."

Lawyers seeking reinstatement must prove rehabilitation, moral character, up-to-date skills and exemplary conduct by a preponderance of the evidence. If reinstated, George said, Couwenberg, a former prosecutor who has criminal defense experience, could have a good chance at success because his illness reportedly responds well to psychotherapy.

"He wants to do something. He's relatively young," George said. "He's between the rock and the whirlpool right now."

The high court petition is *Couwenberg v. Commission on Judicial Performance*, S102066.

Associate editor Mike McKee's e-mail address is mmckee@therecorder.com.

EX 63 275

10 Truly Amazing Stories of Misdeeds From the Bench

By Gail Diane Cox
AMERICAN LAWYER MEDIA

NEW YORK — Call it "gavelitis."

Something comes over a tiny percentage of those who sit in judgment of the rest of us, and weird things start happening — things involving firecrackers, wild turkeys and lingerie catalogs. Some judges suddenly think they have a license to do anything, including one judge in Arkansas who decided he had a license to issue licenses.

Welcome to the fifth annual survey of, for lack of a better term, the stench from the bench. Here are 10 judges and ex-judges who won't be presiding this May 1, Law Day, and whose absence is cause for celebration. Some are on suspension, others have been ousted and a growing number have resigned while under investigation by state conduct bodies.

These aren't garden-variety ticket fixers or sad-sack drunks. You won't find the poor guy who was caught by a hidden camera at Wal-Mart, swigging stolen pills at a drinking fountain. This is truly amazing misconduct, hard to explain, except to say it's downright injudicious.

ALAN J. DUGINAR

TALL TALES: Former L.A. County Superior Court Judge Patrick Couwenberg, who was removed from office last year, claimed he had earned a Purple Heart in Vietnam when actually he served in the Naval Reserves back home.

PATRICK COUWENBERG

Judges under scrutiny usually clean up their act when a watchdog commission summons them. But Patrick Couwenberg of Los Angeles County Superior Court did just the opposite. The more investigators questioned him, the wilder and woollier his tales became.

First the question was whether he inflated his education and past employment on his application for a judgeship. He claimed a degree in physics from the California Institute of Technology in Pasadena. His real alma mater: a junior college. He falsely said he had a master's degree. He fudged dates so no one would guess he had to take the state bar exam six times to pass. He said he'd worked for Gibson, Dunn & Crutcher — the Los Angeles firm had no record of it.

At his enrobing ceremony, he conned a judge into introducing him as a Renaissance man who'd earned a Purple Heart in the Army in Vietnam. The reality was he stayed home with the Naval Reserves.

OK, he finally told investigators, maybe he had made mistakes and his jokes misled people. But he really had been recruited by a shadowy fellow named Jack who he assumed was with the CIA, and The Company attached him to a Laotian general for clandestine operations alongside Scandinavian mercenaries in Southeast Asia.

California's Commission on Judicial Performance observed "a lack of honesty is an ongoing problem." His attorney maintained his prevaricating was a treatable mental quirk caused by his being born in a refugee camp in Japanese-occupied Java. By that time the commission had stopped listening. It removed him from office last August.

BARBARA BROWN

While visiting a Cash-Mart, one of those companies that makes loans against future paychecks, Judge Barbara Brown of the Bernalillo County, N.M., Metropolitan Court reportedly told an employee, "Do you know who I am? I'm a judge."

Using the prestige of her office to try to advance her financial interests was just one of seven allegations the state Judicial Standards Commission presented to the state Supreme Court last fall. The court ordered Brown suspended indefinitely as of Nov. 29 — first with a paycheck, then without.

Another allegation is that she used the prestige of her office to aid the private interests of her housemate, one Richard "Dickie" Hone.

Brown sat as a criminal court judge for a decade, but her office's prestige has been a dwindling commodity since last year when her name started appearing in newspapers linked with Hone's in one incident after another.

Cash-Mart refused her the loan, according to police, who say she and Hone responded by throwing rocks at the employee. The conduct commission concluded: "While in a public place, [Brown] engaged in violent, abusive conduct, which created a clear and present danger to others."

Brown says Cash-Mart was ripping her off, she never threw a rock, the police are out to smear her and she is eager for her day in court. That day, however, was recently delayed when new charges were filed against her over allegedly threatening calls to a probation officer who had been assigned to her courtroom and who *apparently* doesn't get along with Hone. A fax she sent to the probation officer is said to have warned him that her friend is a former professional kickboxer and "Mr. Hone says anywhere — anytime."

The judge explained to reporters that Hone just has an "intense, Manhattan style" that plays poorly in New Mexico.

STEVEN RAY KARTO

Steven Ray Karto was the only judge in Harrison County, Ohio. Maybe that's why

See AN ANNUAL page 8

Correction

Due to a reporting error, an *American Lawyer* magazine story that appeared in the April 19 edition of *The Recorder* misstated the location of the Gary Hart trip that ended his presidential campaign 15 years ago. The trip was from Florida to Bimini, which is in the Bahamas.

We regret the error.

In This Issue

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Today's C.D.O.S.

Continued from page 1

Individual Rights

■ **SANTOS V. GATES:** Mentally ill plaintiff's §1983 excessive-force claim against police did not necessarily fail due to his lack of clear recollection of acts that allegedly caused his physical injury. 9th Cir.

Labor and Employment

■ **COUNTY OF RIVERSIDE V. SUPERIOR COURT (RIVERSIDE SHERIFF'S ASSOCIATION):** County could not be compelled to privately arbitrate wage dispute with public safety employees' union. C.A. 4th

Real Estate

■ **TAHOE-SIERRA PRESERVATION COUNCIL, INC. V. TAHOE REGIONAL PLANNING AGENCY:** Tahoe planning agency's temporary moratoria on development pending formulation of comprehensive land-use plan did not require compensation under Takings Clause. U.S.Sup.Ct.

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Mr. Ahmad Reza Seihoon's first statement November 22, 1993

WEST VALLEY AREA HOMICIDE UNIT

MAJOR CRIME SCENE ACTIVITIES REPORT

TYPE OF CRIME: HOMICIDE DR# 93104295

VICTIM(S)-(IF KNOWN) PARKER, NICOLE

LOCATION OF OCCURENCE: [redacted]

DATE/TIME OF OCCURENCE: 11-20-93 2300

DATE/TIME OF THIS REPORT: 11-22-93 1700

SOURCE OF CALL: RADIO CALL

*This report shall contain a detailed, first-person account of the activities and observations of officers/supervisors involved in the investigation. Upon completion, the report shall be turned in to the assigned detective for approval.

ON 11-20-93, AT APPROX 2150 HOURS I KNOCKED AT THE DOOR OF [redacted], LOCATED AT [redacted] I HAD RECVD INFO FROM VICTS BROTHER (CASEY) THAT HIS SISTER HAD TALKED TO A MAN WHO WALKED OUT OF THAT DOOR SHORTLY BEFORE SHE DISAPPEARED.

I WAS MET AT THE LOC BY A WOMAN WHO STATED SHE WAS THE RESIDENT AT THE LOC. I ADV HER WHY I WAS THERE & THAT I WAS LOOKING FOR A MALE THAT HAD BEEN SEEN COMING OUT OF HER APT. SHE TOLD ME TO WAIT A MINUTE. THE WOMAN WENT BACK INSIDE & PROCEEDED TO SPEAK ON HER TELEPHONE WHILE I STOOD AT HER OPEN DOOR. THE CIRCUMSTANCES OF HER PHONE CALL WAS INAUDIBLE TO ME. AFTER APPROX 5 MINUTES OF WAITING AT HER DOORWAY, I WALKED AWAY WITH THE INTENTION OF RETURNING WHEN SHE FELT LIKE BEING MORE ACCOMODATING.. (OVER)

OFFICER/SUPERVISOR REPORTING: (USE REVERSE SIDE FOR ADDITIONAL SPACE)

SEVERNS, W. 24350 DETS DAY

LAST NAME FIRST INITIAL SERIAL # UNIT WATCH

40.

EX 77

A SHORT TIME LATER, SHE MET ME OUTSIDE & STATED THE MAN I WANTED TO SPEAK TO WOULD BE RIGHT OVER. SHE STATED HE WAS A FRIEND OF HERS AND LIVED AT A DIFFERENT LOCATION.

AT APPROX 2250, I RETURNED TO APT # 122 & WAS LET INSIDE BY THE WOMAN WHO LIVED THERE. I MET WITH MR AHMAD REZA YASINI (DOB [redacted] 30, [redacted], 340-0209) HE STATED THAT HE LEFT THE LOC AT APPROX 1100 HOURS, CARRYING A SUITCASE & A BAG. HE WAS HURRYING AS THE WOMAN WAS ALREADY OUTSIDE WAITING FOR HIM IN A VEH. HE SUDDENLY REALIZED HE LEFT HIS KEYS IN THE FRONT DOOR LOCK. HE SET THE SUITCASE DOWN IN THE COURTYARD AND HURRIED BACK TOWARDS THE DOOR. HE NOTICED THE VICT STANDING NEAR THE FRONT DOOR OF # 122. HER BROTHER WAS PLAYING WITH A REMOTE CONTROL CAR. AS HE APPROACHED THE DOOR, THE VICT ASKED HIM IF HE LIVED THERE. MR REZA REPLIED NO. SHE THEN ASKED IF HE WAS "HUMANS" FATHER & HE AGAIN REPLIED NO. HE ADDED THAT THE GIRL HAD A BLANK/STARING TYPE OF LOOK AS SHE SPOKE TO HIM. IT WAS HIS IMPRESSION THAT THE GIRL COULD EASILY HAVE BECOME LOST.

November 21, 1994 (Page 1024) pretrial court transcript, where Hooman from the outset asked and insisted from the Judge to conduct "D.N.A Test in order to prove his innocence.

MR. ASHKAN PANAH DECLARING HIS INNOCENCE IN RESPONSE TO THE JUDGE'S LIES RE: D.N.A. RESULTS

ALL IN THIS CASE.

IN TERMS OF GETTING A DNA EXPERT, THAT'S A TACTICAL DECISION FOR THE DEFENSE LAWYER TO MAKE. MR. SHEAHEN'S TACTICS ARE VERY SOUND IN THIS PARTICULAR CASE.

IT IS A VERY POOR DEFENSE TACTIC TO HIRE AN EXPERT WHEN THERE'S NO EXPECTATION THAT EXPERT WILL BE HELPFUL.

I SEE YOUNG LAWYERS ALL THE TIME MAKE MOTIONS FOR WHAT WE CALL EVANS LINEUPS, AND ALL THEY DO IS THEY HAVE THEIR CLIENT PLACED IN A LINEUP AND THEN IDENTIFIED.

IT'S A TWO-EDGED SWORD WHEN YOU GET AN EXPERT IN.

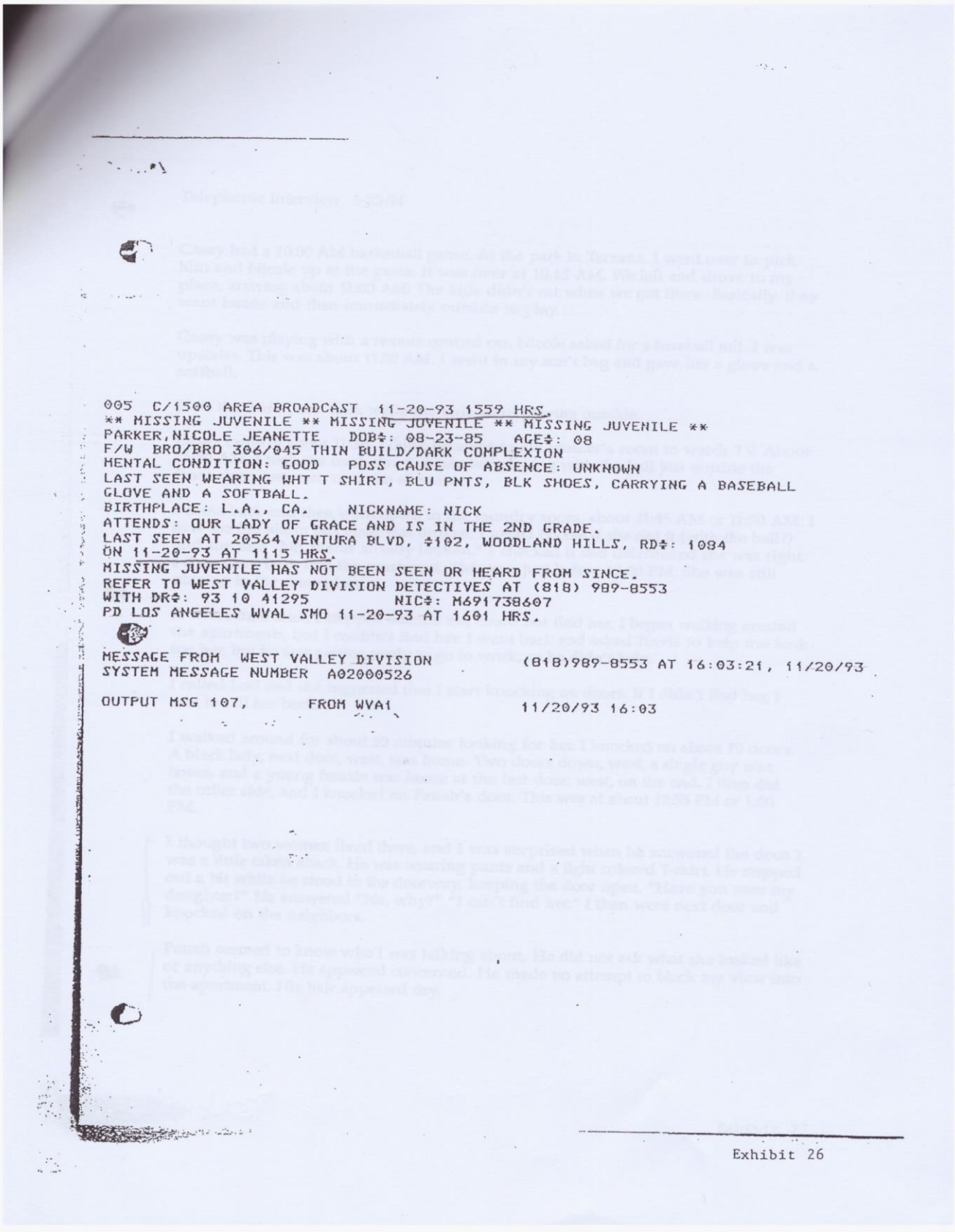
GIVEN THE SEROLOGY THAT EXISTS IN THIS CASE, GIVEN THE FACT THAT IT WAS THE DEFENDANT'S APARTMENT APPARENTLY WHERE THE GIRL WAS RECOVERED, GIVEN THE DNA RESULTS THAT THE PROSECUTION HAS, BUT AT THIS POINT IS NOT GOING TO ATTEMPT TO USE, I WOULD THINK IT WOULD BE A TERRIBLE TACTIC TO GET A DNA EXPERT FOR THE DEFENSE IN THIS CASE.

THE DEFENDANT: WHAT IF I KNOW IT'S NOT MINE, YOUR HONOR?

WHAT I AM IF I'M CONFIDENT IT CAN'T BE MINE?

THE COURT: THAT'S A DECISION AGAIN FOR YOUR ATTORNEY TO MAKE. BUT HE HAS TO MAKE THAT IN LIGHT OF ALL OF THE EVIDENCE.

Nicole Parker was last seen Saturday 11/20/1993 at "11:15 am."



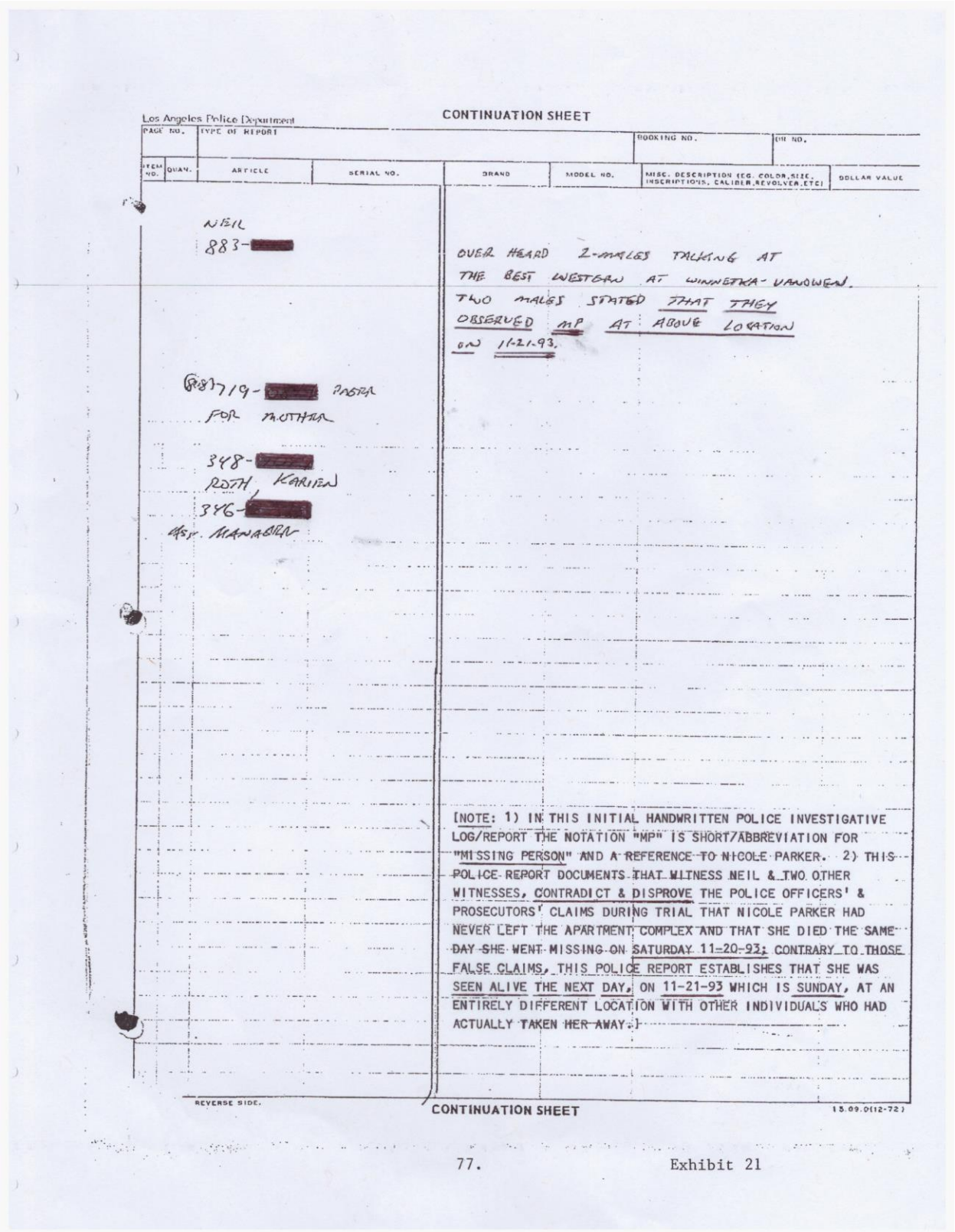
005 C/1500 AREA BROADCAST 11-20-93 1559 HRS.
** MISSING JUVENILE ** MISSING JUVENILE ** MISSING JUVENILE **
PARKER,NICOLE JEANETTE DOB#: 08-23-85 AGE#: 08
F/W BRO/BRO 306/045 THIN BUILD/DARK COMPLEXION
MENTAL CONDITION: GOOD POSS CAUSE OF ABSENCE: UNKNOWN
LAST SEEN WEARING WHT T SHIRT, BLU PNTS, BLK SHOES, CARRYING A BASEBALL
GLOVE AND A SOFTBALL.
BIRTHPLACE: L.A., CA. NICKNAME: NICK
ATTENDS: OUR LADY OF GRACE AND IS IN THE 2ND GRADE.
LAST SEEN AT 20564 VENTURA BLVD, #102, WOODLAND HILLS, RD#: 1084
ON 11-20-93 AT 1115 HRS.
MISSING JUVENILE HAS NOT BEEN SEEN OR HEARD FROM SINCE.
REFER TO WEST VALLEY DIVISION DETECTIVES AT (818) 989-8553
WITH DR#: 93 10 41295 NIC#: M691738607
PD LOS ANGELES WVAL SMO 11-20-93 AT 1601 HRS.

MESSAGE FROM WEST VALLEY DIVISION (818)989-8553 AT 16:03:21, 11/20/93
SYSTEM MESSAGE NUMBER A02000526

OUTPUT MSG 107, FROM WVA1 11/20/93 16:03

Exhibit 26

Police report of witness Mr. Neil's statements that Nicole Parker was seen alive, the day after prosecutor's wrongly claimed to be the date of her death.



Los Angeles Police Department — CONTINUATION SHEET

PAGE NO. | TYPE OF REPORT | BOOKING NO. | DR NO.

ITEM NO. | QUAN. | ARTICLE | SERIAL NO. | BRAND | MODEL NO. | MISC. DESCRIPTION (EG. COLOR, SIZE, INSCRIPTIONS, CALIBER, REVOLVER, ETC) | DOLLAR VALUE

NEIL
883-[redacted]

OVER HEARD 2-MALES TALKING AT THE BEST WESTERN AT WINNETKA-VANOWEN. TWO MALES STATED THAT THEY OBSERVED MP AT ABOVE LOCATION ON 11-21-93.

[redacted] PARA FOR MOTHER

348-[redacted]
ROTH, KARIEN
346-[redacted]
ASST. MANAGER

[NOTE: 1) IN THIS INITIAL HANDWRITTEN POLICE INVESTIGATIVE LOG/REPORT THE NOTATION "MP" IS SHORT/ABBREVIATION FOR "MISSING PERSON" AND A REFERENCE TO NICOLE PARKER. 2) THIS POLICE REPORT DOCUMENTS THAT WITNESS NEIL & TWO OTHER WITNESSES, CONTRADICT & DISPROVE THE POLICE OFFICERS' & PROSECUTORS' CLAIMS DURING TRIAL THAT NICOLE PARKER HAD NEVER LEFT THE APARTMENT COMPLEX AND THAT SHE DIED THE SAME DAY SHE WENT MISSING ON SATURDAY 11-20-93; CONTRARY TO THOSE FALSE CLAIMS, THIS POLICE REPORT ESTABLISHES THAT SHE WAS SEEN ALIVE THE NEXT DAY, ON 11-21-93 WHICH IS SUNDAY, AT AN ENTIRELY DIFFERENT LOCATION WITH OTHER INDIVIDUALS WHO HAD ACTUALLY TAKEN HER AWAY.]

REVERSE SIDE. CONTINUATION SHEET 15.09.0(12-72)

77. Exhibit 21