

FILED

MAY 20 1988
KAREN L. SHORT, ACTING
Clerk of the Municipal Court of California
County of Marin Central Judicial District
By B. Monroe Deputy Clerk

STATE OF CALIFORNIA)
)
COUNTY OF MARIN) ss. AFFIDAVIT FOR SEARCH WARRANT

TED LINDQUIST, affiant, being duly sworn deposes and says, that the affiant has, and there is just and probable cause to believe and he does believe that the property described hereinafter falls within those grounds indicated below by "x"(s) in that it:

_____ was stolen or embezzled
 X was used as the means of committing a felony
_____ is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he may have delivered it for the purpose of concealing it or preventing its discovery
 X is evidence which tends to show that a felony has been committed or a particular person has committed a felony
_____ is evidence which tends to show the sexual exploitation of a child, in violation of Section 311.3 of the California Penal Code, has occurred, or is occurring;

and that said property is now located at and affiant requests the issuance of a warrant to SEARCH:

The premises and archives of the Pacific Bell Offices located at:

1155 Market Street, Suite 300, San Francisco, California.

for the following:

Telephone records in the name of Richard Alexander Baldwin and telephone records for Mr. Baldwin's place of business, "The Classic Car Shop" at 36 Front Street, San Rafael,

California, which during 1982 subscribed to the Pacific Bell Telephone Number 415-456-5900.

That the following facts establish the existence of grounds ~~for the issuance of a Search Warrant and further establish probable~~ cause for believing that said grounds exist:

My name is Ted Lindquist. I am an Investigator with the Marin County District Attorney's Office and have been so employed since January, 1988. Prior to my employment with the Marin County District Attorney's Office, I was employed as a police officer with the San Rafael Police Department and was so employed for approximately 16 years. During 1982 my assignment in the Investigations Bureau of the San Rafael Police Department was the investigation of crimes against persons. In the course of my experience I have investigated numerous homicide and apparent homicide cases as well as other crimes against persons. I completed the National Homicide Symposium sponsored by the California District Attorney's Association in San Diego in 1979 and have completed the Homicide Investigator's Course given by San Jose State University in 1981.

On July 16, 1982, I was the principal investigating officer and affiant for a search warrant relating to the investigation of the murder of Richard Alexander Baldwin which is attached and incorporated by reference as Exhibit A-1.

From July of 1982 through the spring of 1984, I was responsible for the investigation of the Baldwin Homicide which resulted in the conviction of two defendants during 1984. A Mr. Mark Richards, a long time friend of victim Baldwin, was convicted of First Degree Murder, with special circumstances and has been sentenced to life in prison without possibility of parole. His conviction was affirmed in the California Appellate Courts on April 29, 1988. A Mr. Crossan David Hoover, a juvenile tried as an adult in this matter, was also convicted of First Degree Murder during a separate trial and is currently serving his sentence in prison. Mr. Hoover's conviction has been affirmed by the California Appellate Courts.

During 1983, while investigating the murder of Richard Baldwin, I had an occasion to contact the Security Office of the Pacific Telephone and Telegraph Company in San Francisco. I contacted security personnel of the telephone company for the purposes of obtaining telephone toll records for the month of June and July, 1982. At the time I made contact with the Security Office personnel, I was in possession of written consent to obtain those telephone records from Mr. Baldwin's mother and executrix of his estate, Mrs. Ellen Baldwin. When I made the request of Pacific Telephone to obtain those previously mentioned telephone records, I made my request during the summer of 1983. I was informed by Pacific Telephone security personnel that the telephone records for Mr. Baldwin's telephone at the Classic Car Shop in San Rafael were no longer available. It was explained to me by Pacific Telephone security personnel that the telephone company purges their computer records of toll and long distance calls one year after the call is made.

During 1986, I had an occasion to meet and speak with Mr. Jerry Harrington, who at that time was employed by Pacific Bell as a Chief Special Agent in the Security Department of that company. During the course of that conversation with Mr. Harrington, he informed me that although Pacific Bell purges their computer records of telephone long distance and toll calls one year after they are made, copies of those telephone bills are saved in archives for a period of time ranging from six to eight years after the initial billing period.

During February of 1988, I contacted Mrs. Ellen Baldwin, mother and executrix of the Estate of Richard Baldwin. I informed Mrs. Baldwin that I have information to believe that telephone toll records of her son's business telephone account at the Classic Car Shop in San Rafael may still be in storage in the archives of the Pacific Bell office in San Francisco. I received consent in writing from Mrs. Baldwin to obtain the information from Pacific Bell which Mrs. Baldwin signed on February 18, 1988 at San Rafael, California, which is incorporated herein as Exhibit "B."

I subsequently contacted a Ms. Sally Hughes of the Security Department of the Pacific Bell Company located at 1155 Market Street, Suite 300, San Francisco, phone number 415-542-9420. After I informed Ms. Hughes of the written consent that I have for the business telephone records of Richard Baldwin, she informed me that written consent to obtain these telephone records would be insufficient to permit Pacific Bell to turn over the requested information. I am informed by Ms. Hughes that Pacific Bell regulations, as well as regulations from the California Utilities Commission prevent the release of the requested information without a search warrant or a subpoena duces tecum.

During the course of my investigation of the murder of Richard Baldwin I became very familiar with and learned that defendants Mark Richards and Crossan Hoover and a Mr. Andrew Campbell, who was not charged in this matter, engaged in conduct before, during, and after the commission of Mr. Baldwin's murder which led me to discover many varied and valuable pieces of evidence and other information which established the guilt of Mark Richards and Crossan Hoover for the murder of Richard Baldwin. Those pieces of evidence and information related to fraudulent credit card transactions in the victim's name, forged checks in the victim's name, a fraudulent credit application in the victim's name, theft of property from the victim's business and his residence, and an unsuccessful attempt to cover up the commission of this crime by attempting to destroy evidence.

Specifically, the investigation of the murder of Richard Baldwin has shown that Mr. Baldwin was murdered on or about July 6, 1982. Mr. Baldwin's body was discovered in the San Pablo Bay on July 13, 1982.

After the arrest of defendants Mark Richards and Crossan Hoover on July 16, 1982, I learned that Mr. Richards had been engaging in thefts from Mr. Baldwin's person, his residence at 18 Venetia

Meadows, and his business at 36 Front Street in San Rafael during the week immediately preceding his arrest.

On July 12, 1982, Mark Richards made several purchases using the credit card of Richard Baldwin at Montgomery Ward Department stores in Richmond and Daly City.

On July 12, 1982, Mark Richards made a purchase at "Video Concepts" in San Francisco forging the signature of Richard Baldwin on Mr. Baldwin's personal check.

On July 12, 1982, Mark Richards made a purchase at "Whale Point Marina" in Richmond and forged the signature of Richard Baldwin on Mr. Baldwin's personal check.

During the week following the murder of Richard Baldwin on July 6, 1982, Crossan Hoover drove Mr. Baldwin's Datsun station wagon to the East Bay and abandoned it in the vicinity of the Oakland Train Station.

On July 13, 1982, Mark Richards attempted to make a credit purchase from Mathews T.V. in Daly City in the amount of \$10,035.00. Mr. Richards used the name and California driver's license of Richard Baldwin to identify himself and filled out a credit application which displayed as his business address, the Classic Car Shop, 36 Front Street, San Rafael, California, phone number 415-456-5900. During the week that followed this transaction, I have since determined that an employee from Mathews T.V. made two telephone calls to the Classic Car Shop, 456-5900, in an effort to discuss the transaction just described.

My investigation enabled me to recover and preserve the original business records and cancelled checks from Mr. Baldwin's account documenting these fraudulent transactions.

Among the several telephone messages I discovered on Richard Baldwin's business telephone answering machine during my investigation, were two messages from Mathews T.V. in Daly City.

It is my belief, based on what information I have determined in this investigation of the murder of Richard Baldwin, and the experience I have accumulated during the course of my career as a police officer over the past sixteen years, that it is highly likely that telephone toll charges will appear on the telephone billing record of Richard Baldwin at phone number 415-456-5900 associated with the criminal activity that Mark Richards was engaging in on July 12 and July 13, 1982, and that such activity may prove that Mark Richards was present at Richard Baldwin's Classic Car Shop, during and after Mr. Baldwin's murder. I am seeking this information to corroborate the fact that Mark Richards used the residence and/or place of business of Richard Baldwin to facilitate the theft of his (Baldwin's) property. I would use this information in any future court proceedings that would be necessitated by a reversal of the pending conviction. The telephone record information may well be destroyed shortly.

WHEREFORE, affiant prays that a Search Warrant issue commanding that a search be made of the places, vehicles, persons and things described herein for the articles, items and property above described and that the same be brought before a magistrate and disposed of according to law.

Ted Grigori
Affiant

Subscribed and sworn to before me
on 5/10, 1988. *WSP*

WSP
Judge of the *Marin* Court
County of Marin
State of California

STATE OF CALIFORNIA)

COUNTY OF MARIN)

ss. AFFIDAVIT FOR SEARCH WARRANT

TED LINDQUIST affiant, being duly sworn deposes and says, that the affiant has, and there is just and probable cause to believe and he does believe that the property described hereinafter falls within those grounds indicated below by "x"(s) in that it:

 X was stolen or embezzled

 X was used as the means of committing a felony

 X is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he may have delivered it for the purpose of concealing it or preventing its discovery

 X is evidence which tends to show that a felony has been committed or a particular person has committed a felony; and that said property is now

located at and affiant requests the issuance of a warrant to SEARCH:

(1) The premises and building known and designated as and commonly called:

(A) 366 Butterfield Road, San Anselmo, California, a yellow stucco and wood constructed, single story, single family dwelling, with garage attached only by a common roof with the numerals "366" on the garage which faces west toward Butterfield Road; a boat is located to the right of the garage and the main portion of the residence is directly behind the garage as one faces the garage. CF5179CG is the number on the said boat. The garage has brown trim on it and the driveway is of gravel composition, including all rooms, attics, basements and other parts therein, other buildings, garages, storage rooms, and outbuildings used in connection with the premises or located thereon and in any receptacle or safe therein.

(B) 1090 Cambridge Street, Novato, California, a single story, single family dwelling of wood and stucco construction, light brown and dark brown in color with the numerals "1090" on the front of the house over the mailbox and on the curb in front of said residence, including all rooms, attics, basements and other parts therein, other buildings, garages, storage rooms, and outbuildings used in connection

with the premises or located thereon and in any receptacle or safe therein.

(C) 32 Los Padres Circle, in the Cross Roads condominium and apartment complex area of Novato, California, said address being located on the ground floor in the northwest corner of a 4-plex building; the numerals "32" are located to the right of the entrance to said dwelling, including all rooms, attics, basements and other parts therein, other buildings, garages, storage rooms, and outbuildings used in connection with the premises or located thereon and in any receptacle or safe therein.

(2) The motor vehicle designated and described as:

(A) A 1979 blue Ford Granada, California license 525 XPP;

(B) A 1976 Porsche, California license 1CDR882, black in color.

(C) An older model blue Ford pick-up truck bearing California license 1Y75915.

(3) The persons of:

(A) MARK RICHARDS described as a white male adult, date of birth 6/28/53, 5'11" in height, 165 pounds, brown hair, blue eyes, presently believed to be located at 366 Butterfield Road.

(B) ANDREW CAMPBELL, a white male, approximately 17 years of age, presently believed to be located at 1090 Cambridge Street, Novato, California.

(C) A white male, approximately 17 years of age, with the nickname of "Crossy" presently believed to be located at 32 Los Padres Circle, Novato, California.

(4) Other:

Boat, bearing the number CF5179CG, presently located in the driveway of 366 Butterfield Road, San Anselmo.

for the following:

1. Coaxial cable described as follows: black plastic cover over silver metal mesh, over a white plastic core which in turn surrounds one strand of copper wire, the total diameter thereof being approximately 5/16ths inches.

2. A hemp-type rope.

3. Knife or knives or other sharp instruments with or without apparent blood stains.

4. Beige or light brown corduroy "slip cover" or portions thereof.

5. Wire cutters.
6. Vehicle registration documents for any vehicles.
7. Documents bearing the name or variations of the name of Richard Alexander Baldwin, date of birth 9/9/45, including but not limited to identification cards, driver's licenses, credit cards, credit card receipts representing credit card transactions and vehicle registration documents.
8. Silver duct tape.
9. Clear plastic cover material.
10. Bamboo-type shades.
11. Personal or business records of Mark Richards tending to identify past or present employees of his including but not limited to payroll ledgers, checkbooks, checkbook stubs, cancelled checks, work rosters, tax or payroll deduction documents.
12. Video cassette or other video player bearing the brand name of "Wards" or "Montgomery Wards."
13. Brown terrycloth towels or portions thereof.
14. Metal or concrete encased safe.
15. Shoes and other clothing that may contain bloodstains; any objects with apparent bloodstains on them.
16. Drills, drill bits, and other tools capable of being used for opening a safe.
17. Indicia of occupancy or ownership; articles of personal property tending to establish the identity of persons in control of the said premises; storage areas or containers where the above items are found consisting in part of and including but not limited to utility company receipts, rent receipts, cancelled mail envelopes, credit card gas receipts, keys and warranties.

That the following facts establish the existence of grounds for the issuance of a Search Warrant and further establish probable cause for believing that said grounds exist:

My name is Ted Lindquist. I am a police officer with the San Rafael Police Department and have been so employed for 10 years and am currently assigned to the investigations division thereof, and more specifically assigned to crimes against persons. In the course of my experience I have investigated numerous homicide and apparent homicide cases as well as other crimes against persons. I completed the National Homicide Symposium sponsored by the California District Attorney's Association in San Diego in 1979 and have completed the Homicide Investigator's Course given by San Jose State University in 1981.

On July 15, 1982, I met Keith Arthur Andrews in the

D

investigations division of the Marin County Sheriff's Department and spoke to him there regarding what knowledge he might have regarding one Mark Richards and his possible involvement in the disappearance and death of Richard Alexander Baldwin. Mr. Andrews indicated to me that he was willing to assist me and other officers in any way he could in the investigation into the death of Mr. Baldwin. I have examined a teletype "rap sheet" for Mr. Andrews and find that he has no prior arrests nor convictions for any offense and have also examined the printout of his driving record which indicates no convictions or even traffic offenses and indicates his present address to be 30 Prospect in San Anselmo. I have read the statement of Keith Arthur Andrews attached hereto and marked "Exhibit A" and hereby incorporate that statement herein by reference. Mr. Andrews appears to me to be an honest person who desires to assist law enforcement in the solving of this crime and has no other reason for coming forward.

I have been informed by Sgt. R. Keaton that the U.S. Coast Guard found the body of a male individual, later identified as Richard Alexander Baldwin, near islands commonly called "The Two Sisters" which are in the Bay east of McNear's Beach in Marin County. The body was taken by the Coast Guard to Solano County the evening it was found, to wit: July 13, 1982. The body was identified as that of Mr. Baldwin by fingerprints being compared to a real estate application submitted to the California Department of Justice by San Rafael Police Department in 1979. According to Deputy Sheriff Ray Maynard when the body was found it was wrapped in a beige or light brown corduroy-type slip cover and a bamboo shade and covered by a clear plastic cover all of which was bound with silver duct tape, a hemp-type rope, and a black coaxial cable with a plastic cover over a silver metal mesh which in turn covered a white plastic core which also covered a single strand of copper wire, all of which measured approximately 5/16ths inches in diameter. Stuffed in the mouth of the body was a brown terrycloth hand towel.

Deputy Maynard has informed me that he learned from Dr. Harold Brazil, a pathologist employed by the County of Solano, who performed an autopsy on the body, that the cause of death appeared to be from two stab wounds to the heart which were further described as small, narrow puncture wounds. Dr. Brazil also indicated and Deputy Maynard observed that above the left ear there was a large skull fracture which had obviously resulted from a severe blow to the head from a fairly large blunt object which injury Dr. Brazil indicated, in his opinion, occurred near the time of death. Although the body had some clothing on it, no keys to either the home or the business of Mr. Baldwin were located on the body. Also around the body was a black "bungie" cord. Attached to the body was a 9 horsepower Wards Sea King outboard motor with a white cover which appeared to have a blue paint transfer on it; the gear throttle was held down with the "bungie" cord. There was a repair tag on the motor which read "Ready Outboards, 245 Gate 5 Road, Sausalito, 332-5233." Sgt. Keaton informed me that Dr. Brazil estimated that the body had been in the water from 5 to 15 days, probably a week.

Sgt. R. Keaton has informed me that the victim Baldwin was reported missing by Mrs. Baldwin, his mother, during the week of July 5, 1982. Keaton also informed me that on 7/14/82 he spoke with Mrs.

Baldwin who stated that she had tried to contact all of her son's known acquaintances and was able to reach all but two of them, one of those she was unable to reach was Mark Richards. Mrs. Baldwin indicated that she learned from her son that Mark Richards was to be at the victim's residence located at 18 Venetia Meadows in Santa Venetia on Tuesday, July 6, 1982, to do a remodeling job. She became aware that some work was done on that date in that trenches were dug and the work was to continue on July 7, but no one showed up to do it and the work has not yet been done. Mrs. Baldwin, according to Keaton was told by the victim that he was going to get a safe to keep valuables in, but she did not know for a fact whether he had done so or not. She stated that she knew that her son, as a result of his work in repairing automobiles at his shop located at 36 Front Street, San Rafael, and known as "Classic Car Repair" often possessed and carried on his person large sums of cash.

On July 15, 1982, after consent was obtained from Mrs. Baldwin, I entered and assisted in searching for evidence both the residence of the victim at 18 Venetia Meadows and his business located at 36 Front Street in San Rafael. I have been informed that prior to my entry that officers of the Marin County Sheriff's Department and San Rafael officers at the Front Street address, had previously made a forced entry at each location in an effort to determine whether or not Mr. Baldwin was in need of aid within either structure. Those entries were made on July 14, 1982. During the entry at 36 Front Street a personal telephone directory apparently belonging to the victim was located and in the directory is located the name of Mark Richards with two telephone numbers being indicated.

During my examination of the interior of 18 Venetia Meadows it appeared that other than the entry made by the officers there had been no forcible entry from the exterior of the house. However, each interior closet door appeared to have been opened and left ajar and there was one bedroom closet door which had obviously been forcibly opened and a deadbolt locking device had been forcibly broken and there was debris from that activity on the floor. That door had been removed from its hinges. Inside the closet were several 2 x 4 blocks on the floor and there was an empty space approximately 2' to 3' wide on the floor. This space could easily have contained the safe described by Mr. Andrews as having been located in the garage of Mr. Richards'. It is my opinion because of the locked door and its having been forcibly opened, and the placement of the 2 x 4 pieces of wood on the floor and the empty space which I observed that in all likelihood the closet contained a safe.

At 36 Front Street I observed large amounts of apparent blood on the floor with sawdust or wood chips sprinkled on top of the blood. I also observed what appeared to be blood on portions of other objects in the shop including vehicle and a bathroom sink. I also observed near the entry to the shop a baseball bat with a cracked handle which also has some stains upon it, possibly blood. Also inside the entry way I observed small blue paint chips. A "bungie" cord and numerous registration cards for vehicles were observed by me inside the shop. A piece of hemp-type rope was observed by me outside the shop near the front door on the ground.

I have been informed by Sgt. David Miller of the Marin County Sheriff's Department that he has spoken to, on July 15, 1982, with a representative of Montgomery Wards who told him that the victim Baldwin has a credit card account with Wards and that while it had been inactive for approximately 2 years, the account had had activity up to approximately \$968 within a couple of days prior to July 15, 1982.

Sgt. R. Keaton has informed me that Detective Don McQuarrie of the Sausalito Police Department contacted "Ready Outboards" at the address indicated on the motor which had been tied to the deceased. I have been informed via DMV records that the boat above-described, located in Mark Richards' driveway was currently registered to Bernard Healey, 344 Pine Hill Road, Mill Valley. McQuarrie inquired of Ken Ready, the owner of "Ready Outboards" whether or not he had done any work for Mr. Healey. According to McQuarrie Ready indicated that his records showed that on 8/2/80 he did repair work for Healey on a 9 horsepower outboard motor with no model or serial number. He indicated that his records indicate that the manufacturer of the motor was "Chrysler" but that Wards uses Chrysler motors in outboards bearing the Wards brand name. The motor which had been tied to the body of the deceased also had no model or serial number on it. Mr. Ready indicated that that is characteristic and unique for Wards outboard motors.

On July 15, 1982, I spoke with Stephen Murray who resides at 26 Venetia Meadows in Santa Venetia located next door to the victim Baldwin's residence. He informed me that at approximately 4:00 p.m. on July 6, 1982, a vehicle described by him as an early 1970's Chevrolet or Ford pickup "ratty looking," beige in color driven by a white male, aged 17 to 20 years, approximately 5'9", thin build, with brown hair, backed into and damaged Murray's fence and when that individual was first observed by Murray was putting pieces of the fence into the back of the pickup and appeared to be in a hurry. The driver apologized and said he was working for Mr. Baldwin. The young subject then stated to Mr. Baldwin, "I have to fix this fence." The young man then told Mr. Murray he would be back to fix the fence to which Murray agreed and the subject drove away after giving his name. Though Murray cannot be sure, he told me that he believed the person said his name was "Costello" or "Costellos." Mr. Murray observed Mr. Baldwin at that time and has not seen him since. On July 7, 1982, at approximately noon, Mr. Murray knocked on the door of Mr. Baldwin's residence but received no answer. He observed that the blinds on the window in the front were open at that time which was unusual. On July 8, 1982, between 12:00 and 1:00 p.m., Mr. Murray observed that his fence had been repaired.

According to records of the Department of Motor Vehicles the above-described residence to be searched is the residence of Mark Richards and a Porsche vehicle is registered to Mark Richards at that address according to DMV records. The Ford Granada vehicle and the Porsche vehicle described above as items to be searched were seen in the driveway of the residence to be searched at approximately 7:00 p.m. on July 15, 1982, by Sgt. Dave Miller, who informed me of his observations.

I have been informed by fellow officer, Sgt. Walt Kosta, that while he was conducting a search at 36 Front Street on July 15, 1982, at approximately 2:10 p.m., he answered the telephone at that location and spoke with a male individual who at first gave his name as "Mark" and then indicated his full name was "Mark Richards" who stated that he was "trying to get ahold of (victim Baldwin) for one week" and that he, Richards, was trying to do some work for Baldwin. Kosta described the voice of the subject, Mark Richards, as being apprehensive and nervous.

At approximately 11:45 p.m. on July 15, 1982, Keith Andrews identified a photograph in the Novato High School Year Book for 1978 of Gary Ables as being the subject "Gary" referred to in this affidavit and the statement of Mr. Andrews. At approximately 12:15 a.m. on July 16, 1982, I went to 525 Norman Drive, Novato, California, determined to be the home address of Mr. Ables and spoke with his parents who indicated that he had been home during the day but was gone this evening to a swim party at an unknown location. The parents did not know who he was with or when he would be home. They told me that they would call San Rafael Police when he returned.

At approximately 2:00 a.m. in response to a telephone call from Mrs. Ables I responded to 525 Norman Drive, Novato, California, and met with Gary Ables. I spoke with him briefly and then he gave me the information which is set forth in his affidavit attached hereto as Exhibit B and incorporated herein by reference. After our conversation at his home he then directed me to 32 Los Padres Circle, described above as a residence to be searched and told me that that is the residence of the individual referred to above and in his affidavit as "Crossy." Thereafter he directed me to 1090 Cambridge Street in Novato and told me that that is the residence of Andrew Campbell. Mr. Ables also identified the Ford pick-up truck described above as the vehicle currently being driven by "Crossy." I observed that vehicle parked near 32 Los Padres Circle.

While at Mr. Ables' residence he gave to me and fellow investigator Walt Kosta a .44 caliber revolver, Ruger Blackhawk, with the serial number 83-27192. Sgt. Kosta telephoned the San Rafael Police Department and requested that the serial number be run through the law enforcement computer and informed me that he was told by dispatch that that weapon is registered to the deceased victim in this case, Richard Alexander Baldwin.

I have been informed by Detective Kosta that the dispatcher at Novato Police Department indicated that their records indicate that an Andrew Campbell lives at 1090 Cambridge Street. Kosta has also informed me that one of the vehicles in the driveway at 1090 Cambridge Street is registered to Sylvia Campbell at that address.

Your affiant is requesting a nighttime search endorsement to this search warrant based on the facts recited above and on the additional factors as follows: The investigation by both the San Rafael Police Department and the Marin County Sheriff's Department has proceeded uninterrupted from the moment the body was found in the Bay and efforts have been made to identify the subject described in the statements of Mr. Andrews and Mr. Ables as "Crossy," but that

individual has not yet been identified. Because of the phone call received by Sgt. Kosta there is danger that evidence that may be located at the premises to be searched may be in jeopardy of being destroyed if not promptly seized. Also there is danger that items of clothing or other objects which may have blood on them may be laundered or otherwise altered. Additionally, it is now 3:30 a.m. and there is a necessity to promptly seize any evidence which may tend to identify those responsible for the killing of Mr. Baldwin.

WHEREFORE, affiant prays that a Search Warrant issue commanding that a search be made of the places, vehicles, persons and things described herein for the articles, items and property above described and, that the same be brought before a magistrate and disposed of according to law.

Red Rodriguez
Affiant

Subscribed and sworn to before me
on July 16, 1982.

Robert T. MacLean
Judge of the Marin Court
County of Marin
State of California

STATEMENT OF KEITH ARTHUR ANDREWS

I, KEITH ARTHUR ANDREWS, declare under penalty of perjury the following to be true:

My name is Keith Arthur Andrews, my date of birth is September 11, 1961. I am a third year pre-dental student currently enrolled at the University of California at Davis. I have never been arrested nor convicted of any crime. My present address is 30 Prospect, San Anselmo, California.

I have known an individual by the name of Mark Richards for approximately 15 years as we have been neighbors. He was once in a business partnership with my brother, Craig Edward Andrews.

On June 30, 1982, I began working for Mr. Richards as a summer job. When I began working for Mr. Richards there were 3 other employees of his, whose full names I did not learn but whom I knew as "Crossy," "Andrew," and "Gary." On July 13, 1982, "Gary" told me that he had spoken with "Crossy" on July 12, 1982, and learned from "Crossy" that a "rip-off" had occurred and that a theft of money (approximately \$1,400 in cash from a safe), jewelry also from the safe, registration or pink slips to possibly six vehicles, and a theft of a safe itself had taken place. Also stolen were credit card(s) of unknown type and number. "Gary" told me that he was told by "Crossy" that this "rip-off" happened at the victim's "shop" or his home. "Gary" told me that "Crossy" told him that during that theft the owner/victim was either present or showed up unexpectedly and was struck by "Crossy" in the head with a baseball bat. "Crossy" told "Gary" that "they" (referring to Richards, "Crossy" and "Andrew") had been going back to the victim's house and "getting stuff." "Gary" further told me that the other three individuals according to "Crossy" intended to get rid of the man's body by throwing it in the Bay and that Richards had purchased the boat which is presently in his driveway for the purpose of getting rid of the body.

I have personal knowledge that Mr. Richards had had monetary problems in that when I was paid on July 3, 1982, I received from Mr. Richards \$50 in cash and a check in the amount of \$110 which I then endorsed to pay for repairs to a vehicle. I have since been informed by the person to whom I gave that check that it was returned stamped "refer to maker." I returned the check to Mark Richards and he promised to make it good, which he has not done. To my knowledge he still has possession of the check. "Gary" informed me that within the last few days (since July 12) that Richards, "Crossy" and "Andrew" had been on a "credit card spree."

Mr. Richards told me that the boat was acquired by him from an individual who owed Richards \$3,500 for work which Richards had done for that individual and that Richards accepted the boat which that individual had been trying to sell for \$3,000 in

" EXHIBIT A "

payment of that debt.

On July 14, 1982, I was in Richards' home and observed what appeared to be a brand new video cassette or disk player with a "Wards" brand upon it. Richards told me that he got it from someone who owed him money and that it was given to him in lieu of cash. "Gary" told me that he figured that Richards, "Crossy" and "Andrew" had used a credit card to purchase the item. On or about July 13, 1982, Richards' wife, Karen, showed me a necklace and stated, "See what Mark got me." Either Karen or Mark Richards indicated that he (Richards) had bought bracelets for her too, but that they were too small.

On either July 6, or July 7, 1982, as "Crossy" and "Andrew" were leaving my presence and driving a blue late 1960's Ford pickup known to be me to be owned by Richards, "Crossy" told me "We've got business to attend to."

On July 7, 1982, I saw in the garage of Richards' located at 366 Butterfield Road, San Anselmo, a safe with the approximate dimensions of 1-1/2 x 2-1/2 x 1-1/2 feet. I first saw the safe before noon on that date and it was unopened, but had 3 holes drilled in it. It was of apparent green concrete and metal construction on the exterior, the interior being of a dirty metal color. Later the same day I observed what appeared to be holes drilled in the safe and it had been opened. "Gary" told me that "they" had been trying to open the safe that day.

During the week of July 5 and on Tuesday, July 13, "Crossy" told me he had had an accident in Terra Linda at "Bill's" house and had had to fix a fence which he had damaged.

On July 14, 1982, I was in a 1979 blue Ford Granada which I have often seen parked at Mr. Richards' residence. In the vehicle were myself and "Andrew." I observed inside the glove box what appeared to be vehicle registration papers in a stack approximately 3/4" thick. I observed them when "Andrew" opened the glove box, took out those documents, reached inside the glove box, took possession of some bullets, and then replaced the documents inside the glove box, and I am uncertain what he did with the bullets.

I know that "Crossy" drives the blue pick up truck owned by Mark Richards to and from work, frequently but not every day, as well as during the course of a workday.

At approximately 11:45 p.m. on July 15, 1982, I looked through the 1978 Novato High School year book and identified a photograph of a subject by the name of Gary Ables as being one and the same as the person I knew and referred to above as "Gary."

I declare the foregoing to be true under penalty of perjury.

Executed this 16 day of July, 1982, at San Mateo, California.

Keith Arthur Andrews
KEITH ARTHUR ANDREWS

I have examined Keith Arthur Andrews under oath and find him to be truthful.

July 16, 1982
Dated

Robert A. Garcia
MAGISTRATE

STATEMENT OF GARY FINIS ABLES, JR.

I, GARY FINIS ABLES, JR., declare under penalty of perjury the following to be true:

My name is Gary Finis Ables, Jr., and my date of birth is November 9, 1961. I presently reside at 525 Norman Drive, Novato, California. I have never been convicted of any felony and currently live with my parents at the above-mentioned address.

On or about June 26, 1982, I began working for a person known to me as Mark Richards who resides on Butterfield Road in San Anselmo, as a laborer. In the course of that employment I worked with a person known to me as "Crossy" whose full name I do not know and a person by the name of Andrew Campbell, as well as a person by the name of "Keith" whose last name I do not know.

On or about July 12, 1982, while working with "Crossy" he told me that he, "Crossy," and others had beaten a person over the head several times with a baseball bat and then dumped the body into the Bay. "Crossy" told me that he (Crossy) was the one who hit the individual in the head with a baseball bat and that he had hit him a couple of times. "Crossy" told me that in that same incident they had taken pink slips to various automobiles which automobiles apparently were located near the place where the beating took place. He indicated to me that those pink slips had come out of a safe and that approximately \$1,700 in cash had been taken in the course of the theft. He mentioned both a "shop" and a house of the victim's, but it was unclear to me as to precisely where as between those two places, the beating and theft had taken place. Though he did not say precisely that "the others" were Mark Richards and Andrew Campbell, the tone of the conversation was such that he suggested that they were in fact participants in the incident. "Crossy" told me not to mention this conversation to Mark.

Although he did not specify where they got them, or what kind of cards they were, Andrew Campbell told me that he and "Crossy" had acquired some credit cards and he told me that they were stolen.

Within the past week I have dropped Andrew Campbell off at 1090 Cambridge Street in Novato, and I have dropped "Crossy" off at 32 Los Padres Circle in the Cross Roads complex in Novato. Shortly after 2:00 a.m. on July 16, 1982, I showed Detectives Lindquist and Kosta both of those residences. I also pointed out to them the blue Ford pick-up which "Crossy" has been driving and which Mark Richards told me he had received in payment for some work which he did for a man in Mill Valley.

On July 14, 1982, Mark Richards gave me a weapon in payment of wages. That weapon is described as a .44 caliber Ruger Blackhawk revolver, with the serial #83-27192. When Mark

"EXHIBIT B"

Richards gave me that gun he told me, "Don't try to register it." I have given that weapon to Detectives Kosta and Lindquist and they have taken possession of it.

On or about July 13, 1982, in Mark Richards' garage located on Butterfield Road in San Anselmo, I observed a green safe and "Crossy" told me that the pink slips had come out of that safe. I saw the safe in the company of "Keith" and I saw the safe in an unopened condition and later the same day, approximately 2 hours later, observed that it had apparently been drilled open. I saw 3 or more holes which apparently had been drilled in it and saw a drill and drill bits near the safe.

I declare the foregoing to be true under penalty of perjury.

Dated this 16th day of July, 1982, at San Anselmo, California.

Gary Finis Ables, Jr.
GARY FINIS ABLES, JR.

I have examined GARY FINIS ABLES, JR., under oath, and find him to be truthful.

Dated: July 16, 1982

Robert H. Sullivan
MAGISTRATE

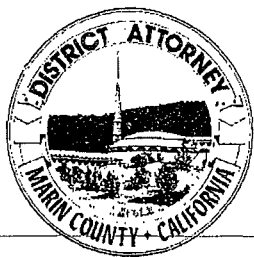


EXHIBIT 'B'
OFFICE OF THE DISTRICT ATTORNEY
County of Marin

JERRY R. HERMAN
District Attorney

RELEASE

MICHAEL A. GRIDLEY
Chief Assistant District Attorney

TERRENCE R. BOREN
Assistant District Attorney-Criminal

MILTON M. HYAMS
Assistant District Attorney-Services

Pacific Bell
Security Office
1155 Market Street, Suite 300
San Francisco, CA 94103-1566

RE: People v. Mark Richards, Marin DA #5555

To Whom It May Concern:

I, Ellen Baldwin, am the Executrix of the Estate of Richard Baldwin, my son. As the Executrix of my son's estate, I hereby give permission to the Marin County District Attorney's Office to obtain copies of any and all telephone records in the name of my son Richard Baldwin, as well as any and all telephone records for his place of business, The Classic Car Shop at 36 Front Street, San Rafael, California. Specifically, I give permission for the Marin County District Attorney to have copies of any and all records for the telephone number (415) 456-5900 for the month of July 1982.

Signed this 18th day of February, 1988, at San Rafael, California.

Ellen E. Baldwin

Ellen Baldwin

CONSUMER PROTECTION

Room 183—Hall of Justice
San Rafael, California 94903
(415) 499-6482

• **CRIMINAL DIVISION**

Room 183—Hall of Justice
San Rafael, California 94903
(415) 499-6450

• **FAMILY SUPPORT**

Room 183—Hall of Justice
San Rafael, California 94903
(415) 499-6501

• **VICTIM/WITNESS ASSISTANCE**

Room 183—Hall of Justice
San Rafael, California 94903
(415) 499-6482

FILED

MAY 20 1988
KAREN L. SHORTELL
Deputy Clerk
Clerk of the Municipal Court of California
County of Marin Central Judicial District
By [Signature] Deputy Clerk

STATE OF CALIFORNIA)
)
COUNTY OF MARIN) ss. SEARCH WARRANT

THE PEOPLE OF THE STATE OF CALIFORNIA to any sheriff, or peace officer in the County of Marin, State of California.

Proof by affidavit having been this day made before me by TED LINDQUIST that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it falls within those grounds indicated below by "x"(s) in that it:

- ☐ was stolen or embezzled
- ☒ was used as the means of committing a felony
- ☐ is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he may have delivered it for the purpose of concealing it or preventing its discovery.
- ☒ is evidence which tends to show that a felony has been committed or a particular person has committed a felony.
- ☐ is evidence which tends to show the sexual exploitation of a child, in violation of Section 311.3 of the California Penal Code, has occurred, or is occurring;

you are therefore COMMANDED TO SEARCH

The premises and archives of the Pacific Bell Offices located at:

1155 Market Street, Suite 300, San Francisco, California.

for the following:

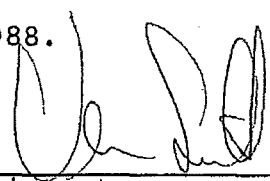
Telephone records in the name of Richard Alexander Baldwin and telephone records for Mr. Baldwin's place of business, "The Classic Car Shop" at 36 Front Street, San Rafael, California, which during 1982 subscribed to the Pacific Bell Telephone Number 415-456-5900.

and if you find the same or any part thereof, to retain it in your custody, subject to the order of this Court or of any other Court in which the offense in respect to which the property or things taken is triable.

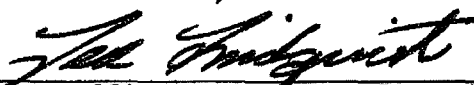
GOOD CAUSE having been shown by affidavit, you may do the following if it bears my initials:

_____ You may serve this warrant at any time of the day or night, according to Penal Code Section 1533.

GIVEN under my hand and dated
this 10 day of May, 1988.


Magistrate
Judge of the Municipal Superior
Court, County of Marin

1988, at TIME OF EXECUTION 12TH day of MAY,
10:08 A.m. hours.


Peace Officer, County of Marin
State of California

FILED

RETURN ON SEARCH WARRANT

MAY 20 1988

STATE OF CALIFORNIA)
) ss.
COUNTY OF MARIN)

KATHY H. HENDERSON
Clerk of the Municipal Court of California
County of Marin Central Judicial District
By B. Monroe Deputy Clerk

I, the undersigned, make this return to the within Search Warrant. I received said warrant on May 10, 1988, and under its authority, I, on May 12, 1988, diligently searched the premises and/or person described as follows, to wit:

PREMISES: Pacific Bell, 1155 Market Street, Suite 300, San Francisco, California.

INVENTORY

To date, I have not recieved any of the material ordered produced under the authority of this warrant. I have been advised by Sally Hughes, a security officer with Pacific Bell that the records that I am seeking are part of their archive files and are in storage. I have been advised that it may take as long as an additional six weeks to locate and produce the records. Therefore, I will supplement this return upon receipt of the records ordered.

I, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant.

All of the property taken by virtue of said warrant will be retained in my custody subject to the order of this court or of any other court in which the offense in respect to which the property or things taken, is triable.

Ted Lindquist
TED LINDQUIST, INVESTIGATOR

MARIN COUNTY DISTRICT
ATTORNEY'S OFFICE
Law Enforcement Agency

Subscribed and sworn to before me
on this 20 day of May, 1988

Deputy District Attorney
Deputy District Attorney

SUPPLEMENTAL
RETURN ON SEARCH WARRANT

FILED

JUN 29 1988

JOHN P. MONTGOMERY
Clerk of the Municipal Court of California
County of Marin Central Judicial District
By [Signature] Deputy Clerk

STATE OF CALIFORNIA)
) ss.
COUNTY OF MARIN)

I, the undersigned, make this return to the within Search Warrant. I received said warrant on May 10, 1988 1988, and under its authority, I, on May 12, 1988, diligently searched the premises and/or person described as follows, to wit:

Pacific Bell, 1155 Market Street, Suite 300, San Francisco, California.

and there I discovered the following:

INVENTORY

Attached hereto and incorporated herein as if more fully set forth is the following:

1) Marin County District Attorney's Office Receipt for Evidence, case number 5555.

2) Bill for July, 1982, telephone number (415) 456-5900, two pages.

3) Bill for August, 1982, telephone number (415) 456-5900, two pages.

I, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant.

All of the property taken by virtue of said warrant will be retained in my custody subject to the order of this court or of any other court in which the offense in respect to which the property or things taken, is triable.

[Signature]

TED LINDQUIST, INVESTIGATOR
MARIN COUNTY DISTRICT
ATTORNEYS OFFICE
Law Enforcement Agency

Subscribed and sworn to before me
on this 28 day of June, 1988

[Signature]
Deputy District Attorney

RECEIPT FOR EVIDENCE

VOUCHER NO.

Security

1155 Market Street, Suite 300
San Francisco, California 94103 1500
(415) 542-2464

PACIFIC BELL
A Pacific Telesis Company

RETAIN THIS SHEET WITH RECORDS

Date June 24, 1988

Attention:

Ied Lindquist

Agency:

Marin DA

Pacific Bell Case No.: BP32-3082SC

Search Warrant/Subpoena No.:

Records:

415-456-5900

This case was processed by Staff Associate

Sandi Carroll

Should you have any questions or need additional information on this case, please telephone the above Staff Associate on (415) 542-2464.

Be sure to refer to the Pacific Bell Case Number.

PACIFIC BELL - SECURITY

EBBA PAGE 1 OF 2 JUL 4 1982 180 415 456-5900

DETAIL OF ITEMIZED CALLS

DATE	TIME	MIN	*	PLACE CALLED	NUMBER CALLED	CHARGE	SO	SERIAL
6/ 4	748P	3	DE	OAKLAND CA	- 547 0819	.32	32VB	
6/ 5	1002P	4	DN	SANTA ROSA CA	707 523 1879	.37	32VB	
6/ 8	915P	100	DE	SACRAMENTO CA	916 452 2266	23.16	32VB	
6/15	936P	25	DE	OAKLAND CA	- 655 0163	2.33	32VB	
6/15	1001P	100	DE	SACRAMENTO CA	916 452 2266	23.16	32VB	
6/16	853P	40	DE	SACRAMENTO CA	916 452 2266	9.30	32VB	
6/21	133P	2	DD	SACRAMENTO CA	916 322 7007	.75	32VB	
6/21	151P	6	DD	LONG BEACH CA	213 435 4483	2.87	32VB	
6/27	302P	37	DN	BELFAST ME	207 338 4603	7.35	12VB	
6/29	239P	4	DD	SAN FRAN CA	- 469 6200	.60	32VB	

TOTAL \$70.21

* KEY DE-DIAL EVENING
DD-DIAL DAY

DN-DIAL NIGHT

DETAIL OF ZONE 2 AND 3 CALLS

DATE	TIME	MIN	ZONE	*	PLACE AND	NUMBER CALLED	CHARGE	SO	SERIAL
7/ 2	234P	1	2	DD	SAUSALITO	- 332 4852	.06	32VB	
ZONE 2 AND 3 CHARGES							\$0.06		

DJ3 EBBA 239245 3 JUL 4 82 180 415 456-5900 167

TOTAL AMOUNT OF LAST BILL	44.43		
PAYMENTS APPLIED THRU JUL 7	44.43CR	CLS SVC 1MB	ADV
ADJUSTMENT(S) APPLIED	.00	PRIOR TOLL/MU	
06/23 44.43P		3RD MONTH	27
		2ND MONTH	17
		LST MONTH	32
ZERO BALANCE	.00	COMMUNITY CODE	999
CURRENT CHARGES AND CREDITS		MESSAGE UNITS	
MONTHLY SRVC AND EQPMT 07/04 - 08/03	8.00		
ITEMIZED CALLS (PAGE 1) (8013)	70.21		
ZONE CALLS	3.31		
TAXES FED CITY 911 HCAP			
.82 .00 .37 .05	1.24		
SURCHARGE -PER PUC DECISION NO.93728	.65		

TOTAL CURRENT CHARGES 83.41

TOTAL AMOUNT DUE BY JUL 29 83.41

DICK BALDWIN

36B FRONT

SAN RAFAEL CA 94901

NEW CLASSIC CAR ANTQE RES 4573247 RNT

RTA
ESTAB 5/75 CR CL B

A I C 415 545-7447

D S C 415 499-5000

TREAT 000000000000

EBBA PAGE 2 OF 2 JUL 4 1982 180 415 456-5900
KEY DD-DIAL DAY

TIME PERIOD	CALLS	INIT	MINS	ADDL	MINS	CHARGE
DIAL DAY	41		41		80	2.03
DIAL EVENING	23		23		65	.94
DIAL NIGHT	12		12		34	.28
ZONE 1 CHARGES						\$3.25
CHARGES FOR ZONE 1,2						\$3.31
LESS ZONE ALLOWANCE						.00
TOTAL ZONE CHARGE						\$3.31

B EBBA PG 1 DATE 07 07 82 BR 4 CUS CD 180 415 456 5900 167
TE AC QTY USOC LN/ST/KS OP RC LISTING AND EXPLANATIONS TOTAL
PACIFIC TELEPHONE **

1675 A1 MNL CLASSIC CAR SHOP---
LAD 36B//FRONT/SR

*PN 415-456-5900-180

SEC 5517116314 MMC 242

1675 1 1MB 4565900 PT 7.00
2579 1 SETXC H 1.00

SUBTOTAL 8.00
DICK BALDWIN
36B FRONT

SAN RAFAEL CA 94901

CITY-LIC 999
SIC 7699
VSS 0675

1.00 H 8.00 T 8.00

1STA
*** END ***

B EBBA PG 1 DATE 08 06 82 BR 4 CUS CD 180 415 456 5900 167
TE AC QTY USOC LN/ST/KS OP RC LISTING AND EXPLANATIONS TOTAL
PACIFIC TELEPHONE **

1675 A1 MNL CLASSIC CAR SHOP---
LAD 36B//FRONT/SR

*PN 415-456-5900-180

1675 1 1MB 4565900 SEC 5517116314 MMC 242 PT 7.00
2579 1 SETXC H 1.00

SUBTOTAL 8.00

DICK BALDWIN
36B FRONT

SAN RAFAEL CA
94901

CITY-LIC 999
SIC 7699
VSS 0675

1.00 H

8.00 T

8.00

1STA

*** END ***

Richard's house, and furnishings for that apartment. Crossan told me that he himself was offered five thousand dollars, a car, the same apartment to share with Andrew Campbell, and furnishings for that apartment. The source of the money was to be money that was stolen from Richard Baldwin as well as the selling of Richard Baldwin's possessions. Supposedly this was also to include the selling of Richard Baldwin's home and various automobiles.

Crossan reported that although Mark Richards had been openly talking about killing Richard Baldwin he did not actually tell Crossan until the day before that he was going to do it. What should be noted is the fact that Crossan stated to me that approximately one week prior to the killing Mark Richards started paying particular attention to him (Crossan). For example, he would provide Crossan with sledge hammers to beat and disintegrate cement blocks, all the while coaching him on by saying things like, "think of all the people you hate... faggots!...child molesters!...sex perverts!...etc." Additionally, during the week prior to the killing (for the first time) Crossan actually stayed over as a house guest of Mark Richards on several occasions. Apparently Andrew Campbell was also involved. On those occasions they all stayed up until 3AM, talked about the Pendragon scheme, drank alcohol excessively, smoked marijuana and got up to go to work by seven o'clock the next morning.

Crossan stated that on the day of the killing, July 6, 1982, he got up feeling that, "I was the king of the world and let's kill everyone!" According to Crossan, Mark Richards had devised a plan to kill Richard Baldwin and to make money by selling off various possessions of Richard Baldwin. Crossan stated that Richard Baldwin was a "security freak" who had alarm systems in both his home and his auto mechanic shop. The plan consisted of Mark Richards, Andrew Campbell, and Crossan going over to Richard Baldwin's home under the pretext of doing some construction work for him. They were to divert Richard Baldwin to his auto mechanic shop while one of them (Andrew Campbell) stayed in the home pretending to be working. Once Richard Baldwin was diverted to his auto mechanic shop Crossan would kill him in the presence of Mark Richards. The reason Andrew Campbell was to stay behind was to make sure that the security system in Richard Baldwin's home was off so that they could gain access to his personal property once they had killed him. Crossan's report to me indicated that the killing went according to plan.

Once Richard Baldwin was diverted to his auto mechanic shop Mark Richards was to give a signal (his hand to his head) at which point Crossan was to kill him. Once the signal was given Crossan picked up a baseball bat that was in the shop, came up behind Richard Baldwin and struck him on the back of the head. According to Crossan it took several blows before Richard Baldwin fell to the ground. Crossan told me that throughout that period of time Richard Baldwin "did not stop talking... he just kept talking!" Crossan said that he feared that Richard Baldwin was not dead and was going to "kill me" he said he

145 CAP

900

especially panicked because the victim allegedly kept talking and making "strange noises". It should be pointed out that Crossan stated that while he was striking Richard Baldwin with the bat, Mark Richards kept urging him on saying such things as, "finish him off... he is a faggot...etc." Once Richard Baldwin was on the ground Crossan said that Mark Richards handed him a screwdriver which he jammed into Richard Baldwin's head (through the eye) and "scrambled his brain". Additionally Mark Richards handed him a knife which Crossan plunged into Richard Baldwin's chest and into his heart, again twisting and turning the knife until "this brown stuff started coming out!" Throughout this time Mark Richards allegedly urged him on and Crossan stated that he himself became more agitated since, "Baldwin wouldn't stop talking!" Even after Richard Baldwin was apparently dead, Crossan didn't want to touch him because he felt that "he would hurt me." Apparently they wrapped him in plastic sheets with tape and slipped him under one of the cars in the shop. Crossan also spread sawdust on the floor to soak up the blood.

Once the killing was done Crossan and Mark Richards returned to Richard Baldwin's house where Mark Richards told them to proceed as though they were working so that the neighbors would not become "suspicious" while he searched the house for money, etc. They allegedly found a couple of thousand dollars, guns, drugs and some pink slips. Apparently it was Mark Richards' plan to dispose of the body by dropping it into the bay. For this purpose he went out and bought a boat after which they returned to Richard Baldwin's shop later that evening to pick up the body. Once out into the water apparently they had difficulty sinking Richard Baldwin's body in spite of the fact that they had tied weights onto it. Crossan stated that he became agitated because Richard Baldwin's body would not sink and that he did not want to touch it. He said that somehow they tied a boat motor onto the body and with that the body sunk. He also claimed that they had difficulty returning to shore because the boat motor stalled on several occasions.

Crossan told me that they were arrested approximately ten days later as they were leaving Mark Richards' home one morning. According to Crossan they worked in Mark Richards' construction company as though everything were "normal". Crossan himself said that from the moment of the killing his stomach felt "uneasy, like there are butterflies in it." He said he was surprised at the cool manner in which Mark Richards behaved following the killing and was growing disillusioned with him. Crossan told me that in actuality he was happy that the police caught them: "I was happy we got caught, happy that we did not get away with it. Richards was a sick man, a menace to the United States. He might kill more people. He was weird!"

- III. Background Information: Crossan was born on October 23, 1964, in San Francisco and is of Irish, Portugese and German extraction. His mother has worked at San Francisco General Hospital for eleven and a half years and currently holds the position of a Medical Records clerk. Her approximate annual earnings are \$15,000. She has a tenth grade education. His father is a mechanic who has ten years of education. Apparently his work history is not stable and although it is known that he lives in San Francisco his exact whereabouts are not known. He is supposedly
- 146 CAP

because he doesn't want Mrs. Hoover to know his exact address because he owes her lots of back child support money. Significant in the fathers' history that he himself had quite a delinquent history and even spent time in Soledad Prison. Crossan's parents separated when he was thirteen years of age and finally divorced when he was fifteen years of age. The reason as stated by Crossan and Mrs. Hoover for the divorce was the father's drinking. It should be noted that Crossan also stated that his mother is "an alcoholic" who herself should get the problem under control.

Crossan's birth weight was eight pounds three ounces and was normal except that he had some initial breathing problems which cleared up. He sat up at age four months, crawled at age six months, walked at age ten months and talked at age twelve months. There were no problems with feeding. His mother went to work when Crossan was six months old leaving him in the care of someone else. Toilet training was completed by twenty-four months. At age seven years it became apparent that Crossan was having difficulties at school which apparently have been documented as a learning disability derived from a language processing dysfunction. Apparently he became very easily frustrated at school and this contributed to his adjustment at school. It was noted that he was mechanically inclined, being very good at art work, but in his academic subjects most of his grades were D's. His difficulty in adjusting to school included complaining of finding the work too difficult, being unable to concentrate, not minding his teachers, being easily distracted, refusing to study, truancy, claiming illness and generally unmotivated. Because it was noted that he was hyperactive he was tried on a regimen of Ritalin with good results. However, his mother's compliance to the Ritalin regimen was poor, at best, and so what little improvement he did make was not long-lasting.

Following the parents' divorce Mrs. Hoover states that Crossan changed. He assumed more of the role of the "man of the house" and he also changed from a mild to outspoken person. Especially noted by Mrs. Hoover was Crossan's possessiveness of both his mother and his younger sisters. He especially has been hyper-critical of Mrs. Hoover's boyfriends and very much has a dislike for Mrs. Hoover's current boyfriend. She and the children moved to Novato in 1979 after having lived in the Mission District in San Francisco. It should be noted that while in San Francisco Crossan was the object of a lot of beatings by the Latin neighborhood kids. He never fit into the crowd and at one point felt so threatened that he didn't even venture out of the house to go to school. He stated that he came to this decision because when he sought help from the school principal he got no response. Additionally he was frustrated at the school's inability to provide him with one-to-one teaching.

With respect to Crossan's violence in the past it can be stated that it was episodic and quite impulsive. For example he once gave his sister a rug burn on her face when he was angered at her. Additionally in May, 1981, he came to the attention of the Juvenile Court for assaulting his girlfriend during which he kicked her several times and pulled

47 (AP)

982

Crossan David Hoover, Jr.

page 6

her by the hair. It appears as though Crossan was upset with her because she wouldn't "talk to me" as well as claiming that she often hit him and that he wouldn't "put up with that so I hit her back." On one other instance he apparently did some damage to a sliding door at his girlfriend's home. However, in his so-called violent past one discerns more talk than action.

Apparently Crossan saw his move to Marin County as a beneficial one since he was with people who were of his "kind", i.e., ethnically similar. He claimed not to have been the victim of anymore beatings and also with one-to-one instruction at school did well and made some significant progress in his school work. However, for the year preceeding his move away from home his mother said that it was a stormy year between them because Crossan repeatedly became upset with her drinking and her boyfriend. Crossan himself states that he felt "unloved" and felt that nobody cared. It was also a stormy year with his girlfriend and Mrs. Hoover said that on more than one occasion he talked about committing suicide. Apparently he started spending more and more time away from home initially only coming back to eat and shower and eventually moving out into the home of Jack Thomas and Pete Neal. Crossan describes Jack Thomas as being a "gay" fifty-two year old male who would help kids out by taking them into his home to live with him and give them money. Crossan denies that neither he nor Pete Neal had any homosexual relationship with Jack Thomas. Mrs. Hoover acknowledged that Crossan did speak to her about his concerns that Jack Thomas was homosexual but she made no attempt to alter Crossan's living situation. While at Jack Thomas' house Crossan stated that he and Pete Neal were drug runners and slept with a machete or knife under their beds for fear that someone would break into the house for the drugs and kill them in the middle of the night. He emphatically stated that he had no concerns that Jack Thomas would try to engage them in any sexual activity against their wishes. However, Crossan did state that Jack Thomas often spoke about giving them "adjustments" (fellacio) because it gave them many "vitamins".

Prior to being referred to probation Crossan had two contacts with the Novato Police Department which involved fleeing a police officer while driving without a license in an unregistered vehicle (3/7/80) and burglary (1/17/81). His first referral to probation was the assault and battery on his girlfriend (5/22/81) mentioned above. He had two other contacts with the Novato Police Department which were taken care of by Police disposition for traffic and motor vehicle laws (6/11/81). His next referral to probation concerned malicious mischief and resisting arrest as per the sliding glass door incident mentioned above (11/30/81). The charge of killing Richard Baldwin is his most recent referral (7/6/82).

It should be noted in the Probation Officer's report filed July 1981, Edward J. Everidge, Deputy Probation Officer, notes that Mrs. Hoover was fined for the last unlicensed driver ticket that she so received because it was determined that she was contributing to his

148 CAP

983

behavior by allowing him to drive the family car after being warned by the Novato Police Department that her actions were leading to further difficulties for her son. He went on to further state that although Mrs. Hoover impressed him as being a concerned parent, it was his belief that a situation existed whereby she took no active steps to remove her son's driving privileges. In light of that information he felt that it was definitely necessary for probation intervention and on that basis recommended that he be placed on supervised probation for an indefinite period of time. In a more recent Probation Officer's report filed on November 30, 1981, Joseph E. Doherty, Deputy Probation Officer admitted to seeing Crossan's frustration and anger while he was at Juvenile Hall but was also able to see him get himself under control when they spent time together talking about what was going on. He recommended that Crossan participate in individual counseling under the direction of the Probation Officer. Both Crossan and his mother report that he saw a therapist in Novato for two sessions but he stopped going. In spite of the fact that a previous Probation Officer's report stated that there were concerns about Mrs. Hoover's effectiveness in adequately following through on her son's behalf I am not aware of any collaboration between the Probation Department and Mrs. Hoover to see that the recommendation for counseling was adequately followed through.

One last word should be said concerning the relationship between Crossan and his girlfriend. She did become pregnant and despite his wishes to the contrary she had an abortion. Both Crossan and his mother acknowledged that he was very depressed and withdrawn about his girlfriend's decision to have an abortion. Crossan stated that if his girlfriend didn't want to keep the baby he would have preferred to raise it himself since he knew he would be a "good father, not like my old man!"

IV. Psychiatric Examination:

Crossan was a seventeen year, ten month old white male who looked his stated age. He was slender in build and had a wiry appearance to him. Throughout my multiple interviews with him he always was in motion, especially unable to keep his hands still. Although he was basically cooperative there was always evident a certain degree of anxiety on Crossan's part simply because I was a "shrink". Most evident during my multiple contacts with Crossan was his emotional lability, i.e., the extreme shifts in his mood and agitation level sparked by either my questions, or his internal emotional state at the time. I should point out that I often had to back away from sensitive emotional topics due to his emotional upheavals. I even had to terminate one interview because of the level of agitation that he reached. Both during and after that interview Crossan became suicidal and needed supportive intervention lest he act out in a self-destructive fashion.

Throughout my interviews with Crossan he was oriented to time, place, person and situation. He was hypervigilant to all of my reactions.

149 CAP

984

Crossan's thought processes demonstrate speech that is somewhat pressured but not abnormal in rhythm. When under stress he demonstrated that his thinking becomes tangential and loose; that is, often times when we spoke about emotionally laden topics such as the killing of Richard Baldwin, his parent's divorce, the daily beatings he received from youngsters in San Francisco, and the poor relationship he had with his girlfriend, his thinking would begin to stray and, as he became more excited, would jump from topic to topic without there necessarily being any linear connection between his thoughts. However, he could be brought back to the topic when this examiner would choose to formally re-introduce structure to the interview. Crossan's reasoning and abstracting ability were appropriately for his age.

Crossan's thought content was rather primitive. There is a strong suspiciousness of the motives of others indicated by his mistrustful/paranoid approach to others. This was evident in spite of the fact that Crossan is perceived by many individuals as being a very needy individual who seeks out one-to-one attention. The point being that even though he craves attention he is highly ambivalent about it since he really feels others are not to be trusted since they too will deprive him of his needs and either be physically or emotionally aggressive towards him. This paranoid ideation has not yet reached to the psychotic dimensions of persecutory delusions but clinically it appears to border on it. Quite appropriately much of Crossan's thought content centers on his up-coming trial and his fate as a result of it. In this regard he often expressed to this examiner his wish to be "executed in the electric chair" if he receives a long sentence. Another alternative that he has chosen is to commit suicide. Without exception Crossan would mention his suicidal wishes and urges to me in every single interview that we had. Clinically his suicidal ideation is real and this examiner was much relieved to find out that the Juvenile Hall staff had instituted suicidal precautions for Crossan. During two of my interviews with Crossan he became sufficiently suicidal that I had to "put him back together", as it were, for fear that he would suicidally act out. During one of those interviews I utilized the Juvenile Hall staff so that they could follow-up once I had left.

When Crossan kept his anxiety level at tolerable levels he was able to talk about his remorse at having killed Richard Baldwin. He stated, "I hate what I did. I hate myself for what I did!" However, on several occasions he couldn't keep his anxiety level low enough to proceed in a non-agitated manner. His thinking would inevitably become tangential and loose as mentioned above and he would begin to speak about wanting to go to the electric chair, not wanting to lead the life of his father who also has a violent history, and repeatedly expressed his frustration that he is certain nobody believes that he truly felt the killing would provide him "happiness". By this he meant that Mark Richard's multiple offers to him would somehow make up for all the deprivation he perceived

150 CAP

985

Crossan David Hoover, Jr.
page 10

he had suffered throughout his whole life. At this point in whatever interview this topic came up Crossan would begin to carry on a conversation with himself so that you could physically hear two different voices addressing each other. One voice would say, "What I did was wrong!" The other voice say, "But I want to be happy! I didn't have anything! I thought nobody loved me!" When I asked him to further elaborate Crossan told me that at the time of the killing he thought his mother had disowned him, he felt that his sister had thought he was crazy because he tried to explain to her the Pendragon scheme, nobody in his family ever visited him, and he had lost his girlfriend and failed to develop any satisfactory relationships with other girls in spite of the fact that he attempted to "buy" their love. All the while Crossan was explaining this to me on several occasions he would shout louder, pound his fists on the table, grind his fingernails into the table and scratch the length of the table. In despair he would ask himself why did he ever let Mark Richards talk him into killing Richard Baldwin and would explode into multiple profanities, wishing that he had killed Mark Richards rather than Richard Baldwin.

Overall Crossan's prevailing mood could be described as anxious and apprehensive with a marked depression that was never far from the surface. There was never evidence of any incongruity of affect (feelings and mood) and ideation. His activity level varied depending on his level of emotional control and he displayed no unusual mannerisms nor adventitious movements such as ticks or grimacing.

A few comments should be made concerning the interview that was conducted by this examiner which included both Crossan and his mother. Crossan's ambivalence regarding the relationship he maintains with his mother was evident from the beginning of the interview. On the one hand, he very much wants her love and attention but, on the other hand is resentful at what he perceives to be her rejection. This examiner noted the interaction between mother and son and although Mrs. Hoover was speaking like a concerned parent her actions gave off a different message. She made no attempt to touch her son, she made no attempt to reassure him during the various points where he became agitated, at several points she either appeared disinterested or markedly ignorant of her son's activities, and at one point began to yell at him when he accused her of not loving him. She became quite angry at her son for not appreciating her efforts to financially support the family, etc. and made no attempt to understand her son's distress at that moment. Her somewhat narcissistic response to her son's accusations only served to further agitate him. As on two other occasions, this examiner had to terminate that interview this time coming back with a Juvenile Hall counselor to provide supportive relief for Crossan once his mother left. This was especially necessitated once Crossan began to verbalize suicidal intent.

"Mention should be made of a smiling response by Crossan's mother every time he spoke about violence. Perhaps because of her own hard life, she vicariously has enjoyed her son's aggressive behaviors toward society and has "signaled" her approval by smiling."

151 CAP

Crossan David Hoover, Jr.
page 11

IV. IMPRESSIONS:

- AXIS I: (312.00) Conduct Disorder, Undersocialized, Aggressive
- AXIS II: (301.83) Borderline Personality Disorder
(315.00) Developmental Reading Disorder
(315.31) Developmental Language Disorder
- AXIS III: No physical disorder apparent
- AXIS IV: (5) Severe presence of psychosocial stressors as evident by stormy relationship in separation from mother and girlfriend; mental duress resulting from his involvement in the Pendragon organization; his arrest.
- AXIS V: (5) Poor level of adaptive functioning over the past year.

It should be pointed out that Crossan's primary psychiatric diagnosis is the Borderline Personality Disorder indicated on AXIS II. This should also be the main focus of treatment/rehabilitation. Crossan's current psychiatric condition is manifested by: impaired ego integration which maintains sharply contradictory attitudes about important aspects of himself and his parents, a low level of anxiety tolerance, poor impulse control; poor sublimatory capacity (school, work, or hobbies) by which to appropriately channel his aggression, primitive ego defenses which prevent him from having adequate insight into his difficulties at this time, low self-esteem, an over-reaction to mild criticism or perceived rejection that suggests paranoia but falls short of outright delusion, extreme sensitivity towards any sign of perceived rejections by significant others, chronic depression, difficulties in reality testing when under stress, episodic hallucinatory experiences and marked suicidal ideation.

VI. DISCUSSION AND RECOMMENDATIONS:

This examiner's psychiatric evaluation of Crossan David Hoover, Jr. revealed a deeply troubled and disturbed young man who feels grossly deprived of even the smallest favors that life has to give. He feels materially deprived and emotionally deprived. The material deprivation is aggravated by his sense of parental rejection, first by his father and more recently by his mother. This has resulted in a chronic anger towards the world and an expectation that everyone in the world will treat him similarly. Hence, the trouble he was having with his girlfriend just prior to moving out of his mother's home and joining the

152 CAP

987

Crossan David Hoover, Jr.
page 12

Pendragon Organization only confirmed his paranoid beliefs in people. To add insult to injury, when his girlfriend obtained an abortion against his wishes he perceived that the rejection of "my baby" was a powerful statement by his girlfriend of his worthlessness.

His sense of worthlessness only served to exacerbate his already chronic depression to the point that he verbally cognated about suicide. Based on my observation of Crossan's mother during this psychiatric evaluation this examiner can clinically speculate that the non-responsiveness that she showed during this evaluation was also present during Crossan's difficulty with his girlfriend. The reader may recall that Mrs. Hoover described that period of time as "stormy" culminating in Crossan's move from her home. This feeling of emotional deprivation continued once Crossan moved from his mother home and again the reader may recall that Crossan complained during this psychiatric evaluation that he felt more isolated than ever because he thought his mother had disowned him, felt his sister considered him "crazy", didn't receive visits from his family and was unsuccessful in establishing and maintaining satisfactory relationships with girls. I also bring to the reader's attention that Crossan's father had been essentially out of the picture for several years and even when he was part of the family he had a severe drinking problem which, in effect, made him emotionally unavailable to his wife and children. With this in mind, Crossan was "ripe-pickings" for a strong, dominant male figure who was willing to raise Crossan's low self-esteem and promise to do something about his material deprivation. In essence, for the first time in his life, Crossan could become part of something, i.e., Pendragon, where he would be valued and he wouldn't be held back by such things as his learning disability, for example. Additionally, the Pendragon Organization provided him with what he perceived to be a secure future, a prospect that had never existed for him before.

After carefully considering Crossan's background, his present psychiatric status, my own knowledge of the psychiatric treatment and prognosis of Borderline Personality Disorders, my direct experience in treating such disorders (including convicted juvenile murderers), and my working familiarity with the availability of rehabilitative services to youngsters committed to the Department of Youth Authority, it is my clinical judgement that Crossan could be successfully treated for his mental illness in the Juvenile System.

I have come to this conclusion fully cognizant of the criteria set forth in Section 707 of the Welfare and Institutions Code of California:

- 1) The degree of criminal sophistication exhibited by the minor.

Based on the information that I have as reported above in this report it is clear to me that the planning of

153 CAP

988

14- read
10-18-85-
no an. - missing
can not intellig
- quote to pres
- interview plan
- did his part

1) -continued-

Richard Baldwin's killing was done by Mark Richards. Crossan essentially took orders and only learned of the specific details of the proposed killing the day before it actually happened. There is no question that the criminal sophistication of the act itself and the deposing of Richard Baldwin's body was quite high but there has been no evidence that Crossan himself contributed in any way to the planning.

2) Whether the minor can be rehabilitate prior to the expiration of the juvenile court's jurisdiction.

*
Borderline Personality Disorders are amenable to intensive, residential treatment. The prognosis can be very favorable under those conditions especially if the disturbed individual realizes that there is something "wrong" with him. This is the case for Crossan. A reasonable period of time for successful treatment is three to five years in a residential setting.

3) The minor's previous delinquent history.

Crossan's previous delinquent history indicates that Crossan's so-called contacts for driving without a license in an unregistered automobile, fleeing a police officer and burglary were disposed of by the Novato Police Department without Court contact. Court contact entered on a misdemeanor battery on his girlfriend followed by another episode of driving without a license. Lastly there was a misdemeanor vandalism before the current charge. With respect to the assault and battery, Edward A. Everidge, Deputy Probation Officer, stated in his report filed July 8, 1981, "the Probation Department feels the conflict with the victim mentioned in the Police Report appears to be more of a lover's quarrel situation and the seriousness of these assaults is somewhat negated by the fact that the minor and his mother have indicated that Crossan is also subject to assaults by the victim." Mr. Everidge further stated, "he impressed this officer as being a very angry youngster who was somewhat braggadocio in his description of violent situation he has been in. This could stem from immaturity or lack of sophistication but may be a real sign of emotional disturbance which will need to be explored further." At no time did Mr. Everidge or in another Probation Officer's Report filed November 16, 1981 by Joseph E. Doherty was a recommendation for out-of-home placement made because the Juvenile Probation Department was sufficiently concerned about Crossan's delinquency. Overall his offenses have been minor.

4) Success of previous attempts by the juvenile court to rehabilitate the minor.

154 CAP

984

Crossan David Hoover, Jr.
page 14

4) -continued-

Based on the Probation Officers report cited in number 3 above it appears that rehabilitation efforts consisted of four consecutive weekends in Juvenile Hall which was suspended pending successful completion of the Alternative Sentence Program, supervised probation for an indefinite period of time, letters of apology to the Novato Police Officers or engage himself in two Ride-Along Programs with the Novato Police Department, payment of restitution and individual counseling under the direction of the Probation Officer. The reader may recall that formal counseling on on-going basis never occurred since Crossan's only contact with a therapist in Novato occurred for only a two week period. It is unclear to this examiner why this unsuccessful therapy was not followed-up but, it is clear that two outpatient individual sessions do not cure a Borderline Personality Organization. The severity of Crossan's mental illness requires residential treatment on a long-term basis by experienced personnel with knowledge of the issues involved in Crossan's psychopathology. This has not been provided/available for Crossan up to this point.

5) The circumstances and gravity of the offense alleged to have been committed by the minor.

There is no question that the taking of a human life is a very grave offense. However, there are mitigating circumstances which need to be considered. The reader may recall that Crossan stated that he was afraid to leave the Pendragon Organization due to the loyalty oath the members took upon entering. In short it stated they would be killed if they betrayed Mark Richards. Also, it should be recalled that Crossan was using, on a regular basis, a number of drugs especially during the week preceeding the killing. The drug usage in combination with the sleep deprivation experienced by Crossan would certainly have adversely affected his thinking processes. The reader should also recall that during the week preceeding the killing, Mark Richards had Crossan disintegrating cement blocks with a sledge hammer while standing by coaching him on and urging him to think about the types of people he didn't like, e.g., "faggots.. child molesters.... etc." As Crossan was killing Richard Baldwin Mark Richards stood by him, essentially coaching him on in the same fashion as when Crossan was disintegrating the cement blocks. An argument can be made that Crossan was reacting to a condition response. The very legitimate question of diminished capacity can be raised under those circumstances. Lastly because of Crossan's perception of being deprived, the promises made to him by Mark Richards were almost irresistible and the fact that Mark Richards did have him regularly employed in his construction company threatened Crossan with loss of finances should he not follow through with Mark Richards' plans. All of these factors

155 CAP

Crossan David Hoover, Jr.

page 15

5) -continued-

in combination raises the strong possibility he was, in fact, functioning under duress.

In conclusion I would like to state that Crossan's suicidal threats should be taken seriously and I believe that he will act them out whether or not he is subject to the Juvenile Justice System or the Adult System. Therefore, no matter whether Crossan is treated as a juvenile or adult if this senario is to be averted psychiatric treatment is essential!

I hope that you find this psychiatric evaluation satisfactory and wish to thank you for the opportunity to examine this very disturbed, non-sociopathic young man. Please feel free to contact me if you should have any additional questions.

Sincerely,

Roman Rodriguez, M.D.

ROMAN RODRIGUEZ, M.D.

Child Psychiatrist/

Assistant Clinical Professor of Psychiatry,

University of California, San Francisco/

Former Staff Psychiatrist & Medical Advisor,

Youth Guidance Center (YGC), San Francisco

156 CAP

991

1 JERRY R. HERMAN, District Attorney
2 EDWARD S. BERBERIAN, Deputy District Attorney
3 Room 155, Hall of Justice
San Rafael, California 94903
Telephone: 499-6450

4 Attorneys for Plaintiff

FILED

JAN 12 1984

HOWARD HANSON
MARIN COUNTY CLERK
By P. Ellsberry, Deputy,
P. Ellsberry

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF MARIN

11 PEOPLE OF THE STATE OF CALIFORNIA,)

NO. 8362

12 Plaintiff,)

AFFIDAVIT IN SUPPORT
OF SUBPOENA DUCES TECUM

13 v.)

14 MARK RICHARDS,)

15 Defendant.)

16
17 The defendant, MARK RICHARDS, is charged with the
18 murder of Richard Baldwin. The evidence to be presented will
19 show that during defendant Richards' attempts to plan and solicit
20 others to assist in the killing of Richard Baldwin, defendant
21 Richards claimed to have a contact in the Fresno area who could
22 assist in selling the victim's automobiles. The San Rafael
23 Police found within the records seized from the residence of
24 defendant Richards the name John Carrington with a telephone
25 number in Dinuba, California.

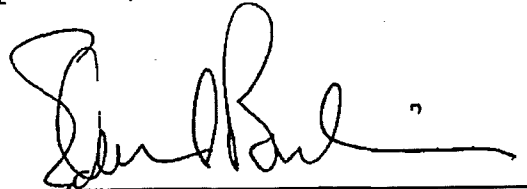
26 Ted Lindquist of the San Rafael Police has learned that
27 a John Carrington had a Department of Motor Vehicle auto sales
28 license. Therefore, any record of telephone conversations

1 between the two individuals would be relevant and corroborative of
2 evidence to be presented during the trial.

3 The records specifically sought would be:

4 (1) Any and all records showing telephone calls placed
5 from or received at (415) 456-5973 during the period December,
6 1981, through September, 1982;

7 (2) Any and all records showing telephone calls placed
8 from or received at (209) 591-8636 and (209) 528-3041 during the
9 period December, 1981, through September, 1982.

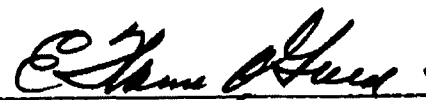
10
11
12 

13 EDWARD S. BERBERIAN
14 Deputy District Attorney

15 ORDER

16 Good cause appearing therefor, and based on the above
17 affidavit, IT IS ORDERED that the items specified in the above
18 affidavit be submitted to the Court in compliance with Evidence
19 Code Sections 1560 and 1561 on the date as specified in the
20 attached subpoena.

21 Dated: *11/12/84*

22
23 
24 JUDGE OF THE *Seam*
25 COURT, COUNTY OF MARIN
26
27
28

1 JERRY R. HERMAN, District Attorney
2 EDWARD S. BERBERIAN, Deputy District Attorney
3 Room 155, Hall of Justice
San Rafael, California 94903
Telephone: 499-6450

4 Attorneys for Plaintiff

FILED

JAN 12 1984

HOWARD HANSON
MARIN COUNTY CLERK
By R. Ellsberry, Deputy.

R. Ellsberry

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF MARIN

11 PEOPLE OF THE STATE OF CALIFORNIA,) NO. 8362.
12)
13 Plaintiff,) AFFIDAVIT IN SUPPORT
14) OF SUBPOENA DUCES TECUM
15 v.)
16 MARK RICHARDS,)
17)
18 Defendant.)

16 The defendant, MARK RICHARDS, is charged with the
17 murder of Richard Baldwin. The evidence to be presented will
18 show that during defendant Richards' attempts to plan and solicit
19 others to assist in the killing of Richard Baldwin, defendant
20 Richards claimed to have a contact in the Fresno area who could
21 assist in selling the victim's automobiles. The San Rafael
22 Police found within the records seized from the residence of
23 defendant Richards the name John Carrington with a telephone
24 number in Dinuba, California.

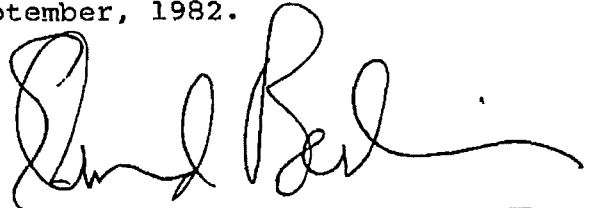
25 Ted Lindquist of the San Rafael Police has learned that
26 a John Carrington had a Department of Motor Vehicle auto sales
27 license. Therefore, any record of telephone conversations
28

1 between the two individuals would be relevant and corroborative of
2 evidence to be presented during the trial.

3 The records specifically sought would be:

4 (1) Any and all records showing telephone calls placed
5 from or received at (415) 456-5973 during the period December,
6 1981, through September, 1982;

7 (2) Any and all records showing telephone calls placed
8 from or received at (209) 591-8636 and (209) 528-3041 during the
9 period December, 1981, through September, 1982.

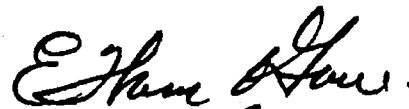
10
11
12 

13 EDWARD S. BERBERIAN
14 Deputy District Attorney

15 ORDER

16 Good cause appearing therefor, and based on the above
17 affidavit, IT IS ORDERED that the items specified in the above
18 affidavit be submitted to the Court in compliance with Evidence
19 Code Sections 1560 and 1561 on the date as specified in the
20 attached subpoena.

21 Dated: 1/12/84

22
23 
24 JUDGE OF THE Superior
25 COURT, COUNTY OF MARIN
26
27
28

JERRY R. HERMAN, District Attorney
 EDWARD S. BERBERIAN, Deputy District Attorney
 Room 155, Hall of Justice
 San Rafael, California 94903
 Telephone: 499-6450

Attorneys for Plaintiff

FILED

Jan 12, 1984

HOWARD HANSON
 MARIN COUNTY CLERK

BY Stuenkel
 DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

PEOPLE OF THE STATE OF CALIFORNIA,	)	NO. 8362
)	
Plaintiff,	)	OPPOSITION TO THE
	)	DEFENSE REQUEST TO
v.	)	REQUIRE STIPULATIONS
)	
MARK RICHARDS,)	
Defendant.)	

In urging the court to require the people to accept stipulations on the fact Mark Richards wrote insufficient funds checks, the defense cites as controlling authority, Jefferson's California Evidence, (2d Edition 1982). What is not mentioned in the defense argument is that even Jefferson's text notes exceptions to the rule requiring the acceptance of a stipulation by an adverse party. The people believe that the strongest and most persuasive evidence we have to offer deals with the financial pressures bearing on Mark Richards. In addition, the proof on these issues is the clearest and most convincing. Obviously the defense sees this and the way to diminish its impact is to stipulate to what can not be explained away in a rational fashion.

There is a long line of cases that note this specific defense strategy, and allow the proponent of the evidence to

1 reject such a stipulation. It has been repeatedly held that a
2 party can not stipulate away the opponent's case, thus taking
3 away it's forcefulness and persuasiveness. (See, People v.
4 Szeto, 29 Cal.3d 20, at page 29; People v. Robles, 2 Cal.3d 205,
5 at 213; People v. McClellan, 71 Cal.2d 793 and Fuentes v. Tucker,
6 31 Cal.2d 1, at page 7.)

7 Also Proposition 8 reinforces this argument.
8 Specifically, Section 28 (f), has been added to Article I of the
9 California Constitution. This provision was specifically enacted
10 to repeal the authority of People v. Hall, 28 Cal.3d 143, that
11 required the People to accept the stipulation in a 12021 P.C.
12 prosecution that the defendant had been convicted of a prior
13 felony offense, when that is an element of the charge. Until the
14 enactment of Proposition 8 the Hall case often provided the
15 defense with a springboard for the argument that stipulations to
16 any elements must be accepted. Therefore reading both Section 28
17 (d) and Section 28 (f) of Article I of the California
18 Constitution, the court can now clearly see the intent of the
19 law. All relevant evidence should be admitted--clearly Mark
20 Richards financial background is relevant, and to enable the
21 People to convincingly present its case, should not be stipulated
22 away.

23 Dated this 12th day of January 1984.

24 Respectfully submitted,

25 JERRY R. HERMAN
26 DISTRICT ATTORNEY

27 BY

28 EDWARD S. BERBERIAN
Deputy District Attorney

FILED

Jan 11, 1984

HOWARD HANSON
MARIN COUNTY CLERKBY Shan 351
DEPUTY

DENNIS P. RIORDAN
Attorney at Law
396 Hayes Street
San Francisco, California 94102
Telephone (415) 431-3472

Carl B. Shapiro
Attorney at Law
404 San Anselmo Avenue
San Anselmo, California 94960
Telephone: (415) 453-7611

Attorneys for Defendant

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

MARK RICHARDS,

Defendant.

NO. 8362

DEFENDANT'S REPOSE TO
PEOPLE'S OPPOSITION TO
MOTION IN LIMINE

I. GIVEN THAT THE DEFENSE WILL STIPULATE
THAT DEFENDANT RICHARDS WROTE CHECKS
FOR WHICH THERE WERE INSUFFICIENT FUNDS
IN THE MONTHS BEFORE HIS ARREST, ANY
FURTHER TESTIMONY CONCERNING THE CHECKS
IN QUESTION IS INADMISSIBLE AS IRRELEVANT
AND PREJUDICIAL

The People have indicated in their written opposition an
intent to offer evidence at trial concerning defendant's financial
condition before and at the time of the offense. They will do so
on the theory that "a financial motive had a large part in the
killing of Richard Baldwin." (Response to Defendant's Motion In
Limine, at 6.)

1 The People have alleged murder for financial gain as a
2 special circumstance in aggravation of the charged crime. They
3 therefore are obligated to prove that allegation, and defendant
4 agrees evidence of financial need or difficulty is relevant to it.
5 Defendant, however, does not dispute the evidence of financial
6 difficulties received from the prosecution in discovery, and will
7 stipulate to it at trial.

8 The prosecution may intend, for example, to call a store
9 owner to testify that he received a check for lumber from defendant
10 in May of 1982; that he deposited the check; and that it was returned
11 for insufficient funds. If this is the case, defendant will stipulate
12 that he gave the store owner a check in a given amount on a given
13 date, and that it was returned for insufficient funds. The store
14 owner's testimony will then be unnecessary.

15 The prosecution asserts that it will refuse to accept the
16 defense's stipulation. Such a refusal cannot render the oral
17 testimony admissible for two reasons. First, the oral testimony
18 will concern facts which are demonstrably undisputed. "Evidence
19 that is offered to prove a fact that is not disputed is irrelevant
20 evidence and, as such, is inadmissible" Jefferson, California Evidence,
21 § 21.2, at 493-494 (2d Ed. 1982).^{1/} See Evid. Code §§ 210, 350.

23 1. "Is evidence relevant which is offered to
24 prove an essential element of proponent's case,
25 but which is not disputed by the opponent? No.
26 An essential element, fact, issue, or contention
may be taken out of a case by the opponent's
admitting the matter in the pleadings or at the
trial. Evidence Code §§210 and 350 make it clear
(fn. cont.)

1 Secondly, since the oral testimony would have no probative
2 value, its probative value would be outweighed by both its prejudi-
3 cial effect and the time its unwarranted admission would consume.
4 The only apparent reason the state would have to call witnesses
5 to testify to facts the defense would admit is for emotional impact:
6 in this case, the creation of sympathy for the victims of defendant's
7 bad checks and consequently of hostility towards Richards. Ob-
8 viously, such reactions would be irrelevant to the issues at hand
9 and must be avoided.

10 Furthermore, the calling of such witnesses to testify to
11 facts not in dispute would lengthen appellant's trial considerably
12 for no good reason. Given defendant's willingness to stipulate to
13 its probative elements, oral testimony concerning defendant's
14 financial condition is irrelevant and should be excluded from
15 admission.

16 II. ANY EVIDENCE CONCERNING "PENDRAGON"
17 OR "IMPERIAL MARIN" SHOULD BE EXCLUDED
18 UNDER EVIDENCE CODE SECTION 352

19 The state indicates in its response to defendant's motion

20 1. Cont.

21 that unless evidence is offered on a disputed
22 issue, fact, or contention, it is irrelevant
23 and inadmissible.

24 "Section 210 defines 'relevant evidence' in
25 terms of evidence having a reasonable tendency to
26 prove or disprove a disputed fact. It follows
that evidence offered to prove a fact that is not
disputed cannot qualify as relevant evidence and
must be considered as irrelevant. Section 350
requires the exclusion of all irrelevant evidence."
(Id.) (original emphasis)

1 in limine that it intends to introduce evidence of the "Pendragon"
2 plot, specifically defendant's leading of "Warlord" meetings. That
3 evidence should plainly be excluded under Evidence Code section
4 352, as its minimal probative value is grossly outweighed by its
5 prejudicial effect.

6 The prosecution's theory of the present case is that Mark
7 Richards, Crossan Hoover, and Andrew Campbell plotted and executed
8 the murder of Richard Baldwin for financial motives. The prosecu-
9 tion also alleges that Richards unsuccessfully solicited other
10 individuals to commit the murder.

11 The theory of relevancy offered for the "Pendragon"
12 evidence is that their joint participation in that plot tends to
13 prove association between Richards and Hoover and Campbell, as well
14 as Richards and those -- e.g. Willie Robles -- whom he unsucces-
15 fully solicited to kill Baldwin. Certainly evidence of association
16 between Richards and Hoover, Campbell and Robles is relevant. But
17 the "Pendragon" evidence is wholly cumulative on the issue of
18 association, because such association will be fully proven by
19 evidence that Hoover, Campbell, and Robles worked for Richards and
20 saw him every day. Richards does not dispute that fact, and would
21 stipulate to it. Once the daily contact among these parties is
22 conceded or proven by less inflammatory evidence, the "Pendragon"
23 evidence loses its probative value on this issue.

24 On the other hand, the "Pendragon" evidence is highly
25 prejudicial. The prosecution concedes it is bizarre. It suggests
26 defendant was planning a criminal takeover of the very county from

1 which the jurors in this case are to be drawn. More inflammatory
2 evidence would be difficult to imagine. More importantly, as
3 defendant can prove by expert testimony, a telephone survey con-
4 ducted in Marin County reveals that people who remember reading
5 press accounts of the "Pendragon" aspect of this case are more than
6 twice as likely to hold a preconceived opinion of defendant's
7 guilt than those who do not remember that aspect of the case. Based
8 on this data, defendant will have to renew his motion for a change
9 of venue if "Pendragon" is to be a central issue at trial.

10 Evidence such as "Pendragon" which is cumulative and
11 prejudicial is inadmissible under Evidence Code section 352. People
12 v. Cardenas (1982) 31 Cal.3d 897, 904-905. In Cardenas, the prose-
13 cution gained admission of evidence of gang membership by the defen-
14 dant and some defense witnesses on the theory it showed the
15 witnesses were biased in favor of the defendants. The Supreme
16 Court reversed:

17 "In this case, the trial court abused its
18 discretion by allowing the prosecution to intro-
19 duce evidence that appellant and his witnesses
were affiliated with the El Monte Flores youth
gang.

20 "The probative value of the gang membership
21 evidence was minimal at best. The evidence was
22 offered to establish possible bias of the defense
witnesses in favor of appellant. The prosecution
23 sought to prove that the witnesses and appellant
'live[d] in the same neighborhood' and 'had the
24 same circle of friends.' However, these facts
had already been amply established by other
25 testimony before the prosecutor began his inquiries
into the witnesses' gang affiliations. All of
26 the defense witnesses testified that they were
friends of appellant and lived in the same neighbor-
hood as he. Each of the male witnesses and appellant

1 also belonged to the San Gabriel Valley Boys
2 Club where they played basketball.

3 "On the basis of this evidence, there could
4 have been no doubt in the jurors' minds that
5 appellant and his male witnesses were neighbor-
6 hood friends. The fact that appellant and the
7 witnesses were also members of the Flores gang
8 was cumulative and added little to further the
9 prosecution's objective of showing that the
10 witnesses were biased because of their close
11 association with appellant. (See 1 Jefferson,
12 Cal. Evidence Benchbook (2d ed. 1982) § 22.1,
13 p. 589.)

14 "Not only did the common gang membership
15 evidence have limited probative value, but its
16 admission created a substantial danger of undue
17 prejudice. There was a real danger that the jury
18 would improperly infer that appellant had a
19 criminal disposition because (1) the El Monte
20 Flores was a youth gang; (2) such gangs commit
21 criminal acts; and (3) appellant was a member of
22 the Flores gang. . . .

23 "(3) '[T]he prosecution has no right to
24 present cumulative evidence which creates a
25 substantial danger of undue prejudice to the
26 defendant.' (People v. De La Plane (1979) 88
Cal.App.3d 223, 242 [151 Cal.Rptr. 843].) Yet,
this is precisely what occurred during appel-
lant's trial. (2b) Admission of the evidence
of common gang membership constituted an abuse
of the trial court's discretion under Evidence
Code section 352." (Id.)

Under Cardenas, the "Pendragon" evidence should be
excluded from admission at trial.

III. ALL EVIDENCE OF COMMUNICATIONS BETWEEN
DEFENDANT AND HIS EX-WIFE SHOULD BE
EXCLUDED FROM EVIDENCE

Defendant was married prior to and at the time of this
offense. All evidence of communications between he and his wife
is presumptively privileged, and should be excluded from admission.

//

1 Jefferson, supra, § 36.2 at 1345.^{2/}

2 IV. ALL TESTIMONY OF CROSSAN HOOVER SHOULD
3 BE EXCLUDED IF OBTAINED THROUGH A PLEA
4 BARGAIN

5 Defendant does not dispute that should Crossan Hoover
6 spontaneously decide to testify in this case, his testimony would
7 be admissible. There is, however, a standing order compelling
8 discovery of any plea negotiations between Hoover and the prosecu-
9 tion. Defendant's motion in limine is directed solely at testimony
10 obtained through a plea bargain of which defendant is not previously
11 notified.

12 CONCLUSION

13 For the reasons stated above and in defendant's motion,
14 that motion should be granted.

15 DATED: January 11, 1984

16 Respectfully submitted,

17 DENNIS P. RIORDAN
18 Attorney at Law

19 CARL B. SHAPIRO
20 Attorney at Law

21 By Dennis P. Riordan
22 DENNIS P. RIORDAN

23 Attorneys for Defendant

24 2. "Evidence Code §980 creates the third marital
25 privilege--that for nondisclosure of interspousal
26 marital communications. The privilege applies only
to communications intended to be confidential. How-
ever, because of the presumption of confidentiality
created by Evid C §917, practically all communica-
tions between spouses fall within this privilege."
(original emphasis)

JERRY R. HERMAN, District Attorney
EDWARD S. BERBERIAN, Deputy District Attorney
Room 155, Hall of Justice
San Rafael, California 94903
Telephone: 499-6450

Attorneys for plaintiff

FILED

JAN 06 1984

HOWARD HANSON
MARIN COUNTY CLERK

BY J. Costabile
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MARIN

PEOPLE OF THE STATE OF CALIFORNIA,	)	NO. 8362
)	
plaintiff,	)	PEOPLE'S SUPPLEMENTAL
v.	)	<u>MOTION IN LIMINE</u>
)	
MARK RICHARDS,)	
)	
defendant.)	

The People request the court, under the authority of Evidence Code section 352, prohibit the introduction of evidence by either offering exhibits or permitting the questioning of witnesses on the fact an "old bullet" (a term used by the pathologist who removed the slug during the autopsy) was found in the thigh of Richard Baldwin.

Dated this 6th day of January 1984.

Respectfully submitted,

JERRY R. HERMAN
DISTRICT ATTORNEY

BY: Edward S. Berberian
EDWARD S. BERBERIAN
Deputy District Attorney

1 STATE OF CALIFORNIA)
2) ss. PROOF OF SERVICE
3 COUNTY OF MARIN)

4 I am a citizen of the United States and a resident of
5 the county aforesaid; I am over the age of eighteen years and not
6 a party to the within action; my business address is Room 155
7 Hall of Justice, San Rafael, CA 94903.

8 On January 6, 1984, I served the within
9 PEOPLE'S SUPPLEMENTAL MOTION IN LIMINE on the Defendant's
10 attorneys in said action by placing a true copy enclosed in a
11 sealed envelope with postage thereon fully prepaid, in the United
12 States post office mail box at San Rafael, California, addressed
13 as follows:

14 Carl Shapiro, Esquire
15 404 San Anselmo Avenue
16 San Anselmo, CA 94960

17 Dennis Riordan
18 396 Hayes Street
19 San Francisco, CA 94102

20 I certify under penalty of perjury that the foregoing
21 is true and correct.

22 Dated: January 6, 1984

23 Clare Hunter
24
25
26
27
28

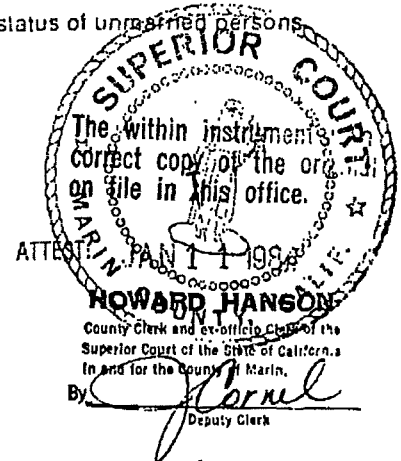
ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS) ROBERT K. BIRKIE, Inc. (415) 453-9433 874 Fourth Street San Rafael, CA 94901		FOR COURT USE ONLY <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center;">OCT - 5 1983</div> <div style="text-align: center;">HOWARD HANSON MARIN COUNTY CLERK By K. Galatolo, Deputy</div>	
ATTORNEY FOR (Name): Petitioner, CARYN L. RICHARDS SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: Hall of Justice, Civic Center BRANCH NAME: San Rafael, CA 94903		<div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center;">Jan 11, 1984</div> <div style="text-align: center;">HOWARD HANSON MARIN COUNTY CLERK BY <i>[Signature]</i></div>	
MARRIAGE OF PETITIONER. CARYN L. RICHARDS RESPONDENT. MARK RICHARDS		CASE NUMBER: <div style="text-align: center; font-size: 1.2em;">111849</div>	
FINAL JUDGMENT OF		<input checked="" type="checkbox"/> DISSOLUTION OF MARRIAGE <input type="checkbox"/> LEGAL SEPARATION <input type="checkbox"/> NULLITY <input type="checkbox"/> DISSOLUTION OF MARRIAGE—STATUS ONLY	

1. The court acquired jurisdiction of the respondent on (date):

March 25, 1983
2. THE COURT ORDERS
 - a. ☒ A final judgment of dissolution be entered, and the parties are restored to the status of unmarried persons.
 - b. ☐ A judgment of legal separation be entered.
 - c. ☐ A judgment of nullity be entered on the ground of (specify):

and the parties are declared to be unmarried persons.

3. ☒ THE COURT FURTHER ORDERS
 - a. ☐ This judgment be entered nunc pro tunc as of (date):
 - b. ☒ Wife's former name be restored (specify): CARYN L. CERRUTI
 - c. ☐ Other (specify):



Dated: 10/3/83

Judge of the Superior Court
☐ Signature follows last attachment.

4. Total number of pages attached:

NOTICE
1. PLEASE REVIEW YOUR WILL. UNLESS A PROVISION IS MADE IN THE PROPERTY SETTLEMENT AGREEMENT, THIS COURT PROCEEDING DOES NOT AFFECT YOUR WILL AND THE ABILITY OF YOUR FORMER SPOUSE TO TAKE UNDER IT.
2. ALTHOUGH AN OBLIGATION BASED ON A CONTRACT IS ASSIGNED TO ONE PARTY AS PART OF THE DIVISION OF THE COMMUNITY, IF THE PARTY TO WHOM THE OBLIGATION WAS ASSIGNED DEFAULTS ON THE CONTRACT, THE CREDITOR MAY HAVE A CAUSE OF ACTION AGAINST THE OTHER PARTY.
3. IF YOU FAIL TO PAY ANY COURT ORDERED CHILD SUPPORT, AN ASSIGNMENT OF YOUR WAGES WILL BE OBTAINED WITHOUT FURTHER NOTICE TO YOU.

No attachment permitted on less than a full page Cal. Rules of Court, rule 201(b)

Form Adopted by Rule 1289
 Judicial Council of California
 Revised Effective January 1, 1982

**FINAL JUDGMENT
 (FAMILY LAW)**

CC 4514, 4515

REQUEST TO CONDUCT EXTENDED MEDIA COVERAGE

FOR COURT USE ONLY

FILED

Jan 6, 1984

HOWARD HANSON
MARIN COUNTY CLERKBY [Signature]
DEPUTY

1. NAME OF MEDIA ORGANIZATION: Independent Journal
INDIVIDUAL SUBMITTING REQUEST: Erik Ingram
ADDRESS: 7100 Alameda del Prado, Novato
PHONE: 883-8600 or 479-8043

2. NAME OF COURT: Marin Superior Court
STREET ADDRESS: Marin Hall of Justice
MAILING ADDRESS: San Rafael, Calif.
CITY AND ZIP:
BRANCH NAME:

3. NAME OF JUDGE: Hon. E. Warren McGuire

4. NAME OF CASE: People vs. Mark Richards

CASE NUMBER: 8362

5. TYPE OF PROCEEDING AND PART(S) OF PROCEEDING TO BE COVERED☒ Criminal (specify charges): 187 p.c.☐ Civil (specify type, e.g., personal injury, domestic relations, etc.):

Specific parts to be covered (e.g., ball hearing, preliminary hearing, particular witness(es) at trial, sentencing hearing):

Attorneys opening statements, closing arguments, witnesses' (various) testimony

Date(s) of proposed coverage:

???

6. CONTEMPLATED USE OF EXTENDED MEDIA COVERAGE (Please briefly indicate intended use of this extended media coverage—e.g., as news story, feature, public affairs program, etc. This notation in no way limits intended use.)

still photographs to accompany news stories

7. CONTEMPLATED DISSEMINATION OF COVERAGE (Please check appropriate boxes. Notation does not limit dissemination.)☒ Local Only☐ TV☒ Print Media☐ Radio☐ Network or Syndication☐ TV☐ Print (wire service or
or nonlocal periodical)☐ Radio**8. EQUIPMENT TO BE USED** (Please list type, brand and specifications of all equipment to be used for this extended media coverage.)

35mm still camera -- no flash

9. CERTIFICATION

I hereby certify a copy of this request has been mailed to: Administrative Office of the Courts, 350 McAllister Street, Room 3154, San Francisco, California 94102.

I further certify that if consent is granted to conduct extended media coverage in this case, all personnel of this media organization will abide by the provisions of rule 980.2, California Rules of Court.

By [Signature]
(Signature)

Erik Ingram

(Printed Name)

Reporter

(Supervisory Position in Media Organization)

SEE THE REVERSE SIDE FOR INSTRUCTIONS

INSTRUCTIONS FOR USING THIS FORM

A supervisor should sign the certification of compliance in item 9.

Make one copy of the completed form.

Mail the completed copy to the following address:

Administrative Office of the Courts
350 McAllister Street, Room 3154
San Francisco, CA 94102

Deliver the original promptly to the clerk of the court. This should always be done a reasonable time in advance of the event to be covered.

REQUEST TO CONDUCT EXTENDED MEDIA COVERAGE

FOR COURT USE ONLY

FILED
Jan 6, 1984
HOWARD HANSON
 MARIN COUNTY CLERK
 BY *[Signature]*
 DEPUTY

1. NAME OF MEDIA ORGANIZATION: Independent Journal
 INDIVIDUAL SUBMITTING REQUEST: Erik Ingram
 ADDRESS: 7100 Alameda del Prado, Novato
 PHONE: 883-8600 or 479-8043

2. NAME OF COURT: Marin Superior Court
 STREET ADDRESS: Marin Hall of Justice
 MAILING ADDRESS: San Rafael, Calif.
 CITY AND ZIP:
 BRANCH NAME:

3. NAME OF JUDGE: Hon. E. Warren McGuire

4. NAME OF CASE: People vs. Mark Richards

CASE NUMBER: 8362

5. TYPE OF PROCEEDING AND PART(S) OF PROCEEDING TO BE COVERED

☒ Criminal (specify charges): 187 p.c.

☐ Civil (specify type, e.g., personal injury, domestic relations, etc.):

Specific parts to be covered (e.g., ball hearing, preliminary hearing, particular witness(es) at trial, sentencing hearing):
 Attorneys opening statements, closing arguments, witnesses' (various) testimony
 Date(s) of proposed coverage: ???

6. CONTEMPLATED USE OF EXTENDED MEDIA COVERAGE (Please briefly indicate intended use of this extended media coverage—e.g., as news story, feature, public affairs program, etc. This notation in no way limits intended use.)

still photographs to accompany news stories

7. CONTEMPLATED DISSEMINATION OF COVERAGE (Please check appropriate boxes. Notation does not limit dissemination.)

☒ Local Only

☐ TV

☒ Print Media

☐ Radio

☐ Network or Syndication

☐ TV

☐ Print (wire service or
or nonlocal periodical)

☐ Radio

8. EQUIPMENT TO BE USED (Please list type, brand and specifications of all equipment to be used for this extended media coverage.)

35mm still camera -- no flash

9. CERTIFICATION

I hereby certify a copy of this request has been mailed to: Administrative Office of the Courts, 350 McAllister Street, Room 3154, San Francisco, California 94102.

I further certify that if consent is granted to conduct extended media coverage in this case, all personnel of this media organization will abide by the provisions of rule 980.2, California Rules of Court.

By *[Signature]*
 (Signature)

Erik Ingram

(Printed Name)

Reporter

(Supervisory Position in Media Organization)

SEE THE REVERSE SIDE FOR INSTRUCTIONS

JERRY R. HERMAN, District Attorney
 EDWARD S. BERBERIAN, Deputy District Attorney
 Room 155, Hall of Justice
 San Rafael, California 94903
 Telephone: 499-6450

Attorneys for plaintiff

FILED

JAN 05 1984

HOWARD HANSON
 MARIN COUNTY CLERK

BY *J. Catalano*
 CS2077

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF MARIN

PEOPLE OF THE STATE OF CALIFORNIA,	)	NO. 8362
)	
Plaintiff,	)	OPPOSITION TO DEFENDANT'S
	)	MOTION TO BIFURCATE GUILT
v.	)	AND SPECIAL CIRCUMSTANCE
	)	<u>PHASES OF TRIAL</u>
MARK RICHARDS,)	
)	
Defendant.)	

PROCEDURAL OBJECTION

On a procedural basis the people do not believe the court should entertain this motion.

First, the Motion itself is untimely. Mr. Riordan appeared in court before Judge Menary on January 3, 1984 and presented a copy of the Motion to Bifurcate that had been filed that morning. The court was told it was only a very recent opinion of the California Supreme Court which provided the authority for the late filing. However, after examining the documents filed on behalf of defendant Richards it can be seen that the holding in Carlos v. Superior Court, L.A. 31487 (December 12, 1983) does not provide a new basis for the relief requested. The argument for a bifurcated trial on guilt and

1 special circumstances, using the rationalization set forth in
2 this present motion, i.e, inconsistent defenses, could have been
3 made during the pre-trial hearings some months ago.

4 The second reason the court should deny this motion on
5 a procedural basis is that the defense has tendered, under seal,
6 documents in support of their motion. The people strongly object
7 to this procedure because it does not provide the people an
8 opportunity to respond to what may be misleading or false
9 statements of fact. The court should provide the defendant with
10 the opportunity to either withdraw its motion, or indicate to the
11 defense if that is not their choice, then the documents provided
12 under seal will be furnished to the people. By tendering the
13 motion the defense is waiving any claim it would have to a
14 privilege based on an attorney/client relationship or a claim
15 that defendant Richard's right against self-incrimination may be
16 infringed.

17 SUBSTANTIVE ARGUMENT

18 It is an accurate statement that Carlos v. Superior
19 Court, L.A. 31487 (December 12, 1983), does require that in
20 felony-murder special circumstance allegations that the trier of
21 fact must find that the defendant possessed the specific intent
22 to kill. However, to move from that pronouncement to adding an
23 additional trial phase just for special circumstance allegations
24 is neither logical nor supported by statutory or case authority.

25 quite to the contrary, the California Supreme Court has
26 again pronounced its preference for maintaining a single jury
27 system to decide the often complex issues in a capital punishment
28 case. People v. Stevie Lamar Fields, decided December 29, 1983,

1 (Crim. 21126) reiterates that position. In Fields the California
2 Supreme Court found that the exclusion of jurors who would
3 automatically vote against the death penalty (Witherspoon
4 excludible) did not deny a defendant a representative jury at the
5 guilt phase. Therefore, the long preference for a single jury to
6 try both guilt and penalty phases remains the approved procedure.

7 It is important to note that when one speaks of the
8 guilt phase of the trial one is referring to the jury rendering
9 its decision as to guilt on the substantive crime of murder as
10 well as its specific findings as to any special circumstance
11 allegation that may be alleged. In a capital punishment case, it
12 is only after that unitary phase has been concluded that the jury
13 is then further instructed (with the potential for additional
14 evidence to be presented) on whether death or life imprisonment
15 without parole shall be imposed. There does not exist either in
16 statute or in case law a separate and distinct trial phase for
17 special circumstances.

18 The comparison to a severance of multiple defendants
19 under a theory of inconsistent defenses is simply not an
20 appropriate comparison. In that situation it is not the
21 individual defendant who wishes to argue "inconsistent defenses,"
22 but it is the fact that each of several defendant's has
23 demonstrated to the court that there specific theory of defense
24 would be inconsistent and prejudicial if it had to be tried with
25 a second or third defendant presenting a diametrically opposed
26 theory.


27 Not knowing what defendant Richards has submitted to
28 the court under seal, the people cannot respond on a factual

1 basis to those arguments. However, it would seem to be very
2 similar to a situation where a defendant might want to urge to
3 the trier of fact a defense based upon alibi, on diminished
4 actuality, on intoxication and on a theory that someone else did
5 it, and I am being set-up. Any of these pronouncements might
6 prove a defense if believed by the jury. However, common sense
7 would tell one that if a jury is confronted with all of these as
8 well as other potential defenses, that the accumulation of
9 explanations may make it more difficult for any one of them to be
10 accepted as the truth. Therefore, the solution proposed by the
11 defense is why not impanel a separate jury to hear each version
12 of how and why I am innocent of this charge. If the first jury
13 doesn't accept the first defense, maybe a second jury will accept
14 defense number two. The system would be one ripe to promote
15 perjury. Using this rationale one would not necessarily stop
16 with two juries, but the court might be called upon in some cases
17 to impanel three or four juries so that the defense can test each
18 "colorable defense".

19 Dated this 5th day of January 1984.

20 Respectfully submitted,

21 JERRY R. HERMAN
22 DISTRICT ATTORNEY

23
24 BY: 
25 EDWARD S. BERBERIAN
26 Deputy District Attorney
27
28

STATE OF CALIFORNIA)
) ss. PROOF OF SERVICE
COUNTY OF MARIN)

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within action; my business address is Room 155 Hall of Justice, San Rafael, CA 94903.

On January 5, 1984, I served the within OPPOSITION TO DEFENDANT'S MOTION TO BIFURCATE GUILT AND SPECIAL CIRCUMSTANCE PHASES OF TRIAL on the defendant's attorneys in said action by placing a true copy enclosed in a sealed envelope with postage thereon fully prepaid, in the United States post office mail box at San Rafael, California, addressed as follows:

Carl Shapiro, Esquire
404 San Anselmo Avenue
San Anselmo, CA 94960

Dennis Riordan
396 Hayes Street
San Francisco, CA 94102

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

Dated: January 5, 1984

Claire Hunter

1251

JERRY R. HERMAN, District Attorney
EDWARD S. BERBERIAN, Deputy District Attorney
Room 155, Hall of Justice
San Rafael, California 94903
Telephone: 499-6450

Attorneys for Plaintiff

FILED

JAN 04 1984

HOWARD HANSON
MARIN COUNTY CLERK

BY J. Castaldi
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

PEOPLE OF THE STATE OF CALIFORNIA,	)	NO. 8362
)	
Plaintiff,	)	OPPOSITION TO DEFENDANT'S
	)	<u>MOTION TO DISMISS</u>
v.)	
)	
MARK RICHARDS,)	
)	
Defendant.)	

By way of declarations the defense alleges that certain items were seized by the San Rafael Police Department. It is the position of the People that "business records" for 1982, as described by defendant Richards, never were seized, and in all likelihood never existed. The San Rafael police Department has painstakingly maintained the integrity of all items seized.

The defense has been offered the opportunity to examine in detail all items seized. Again the defense is being extended that opportunity. I am informed, that to date only a limited review of the items seized has been requested. Simply stated, items as described by the declarations tendered by the defense, never have been in the possession of the San Rafael Police Department.

1 Exhibit A to this response are copies of the Returns to
2 the search warrants executed on the residence of defendant
3 Richards. Exhibit B, C, and D are the declarations of the
4 relavant San Rafael Police personnel responsible for the seizures
5 and maintenance of the evidence in this case.

6 Dated this 4th day of January 1984.

7
8 Respectfully submitted,

9 JERRY R. HERMAN
10 DISTRICT ATTORNEY

11 BY: 

12 EDWARD S. BERBERIAN
13 Deputy District Attorney
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SAN RAFAEL POLICE DEPARTMENT

1253

FIRST
5/6

PROPERTY RECORD

EVIDENCE Y FINDER NAME Richard Mark
FOUND OWNER ADDRESS 316 Bullerfield San Anselmo
SAFEKEEPING SUSPECT X

DATE 7-16-32 TIME OFFICER Smilow OFFENSE

*TO BE RETURNED TO FINDER IF OWNER NOT LOCATED YES NO

to be

ITEM	AMT	DESCRIPTION: (Make, Model, Size, Color)	SERIAL #	STORED
1	1	blue bag		
2	1	roll of white tape		
3	1	white t-shirt with red trim		
4	1	broken red handle screwdriver		
5	1	drill bit		
6	1	roll of coaxial cable		
7	1	roll of coaxial cable		
8		rolls of coaxial cable, gray cord and heavy wire		
9	1	roll of coaxial cable		
10	1	blue towel		
11	4	Four metal wheels		
12	10	roll of coaxial cable, and white, blue, black, and purple covered wires		
13	1	Blue vinyl seat attached to board		
14	1	Blue vinyl seat attached to board		
15		united brush with blue trim, with dark blue cord		

PROCESSING REQUESTED

DUST NINHYDRIN PHOTO NARCO ANALYSIS

EXHIBIT A

CASE #

SAN RAFAEL POLICE DEPARTMENT

1254

PROPERTY RECORD

FINDING ☒ FINDER NAME Roberts, Mark
 OWNER ADDRESS 366 Butlerfield San Bruno
 SUSPECT ☒
 DATE 7-16-82 TIME OFFICER Smiley OFFENSE
 TO BE RETURNED TO FINDER IF OWNER NOT LOCATED YES ☐ NO ☐

Boat

QTY	AMT	DESCRIPTION: (Make, Model, Size, Color)	SERIAL #	STORED
2	1	roll of rope (white)		
	1	roll of rope (green)		
3	1	multi color rug		
	2	two pieces of paper towel		
	1	piece of blue carpet		
	1	piece of white rope		
	1	piece of white rope		
	1	white towel		
	1	metal pipe with white plastic tip		
	2	two pieces of rope, one blue, one yellow		
	1	piece of rope		
	1	piece of carpet		
	1	piece of rope		
	1	blue carpet		
	1	black and red rubber cabinet seat		
	1	white cloth seat		
	1	blue and red vinyl seat		
	1	blue and red vinyl seat		

PROCESSING REQUESTED

NINHYDRIN

PHOTO

NARCO ANALYSIS

1255

ii

DATE 7-16-32

Cab of truck and car

1	1992 to 2001 slip to 1979 Ford 505 XPP
---	--

EUST. ..	NINHYDRIN	PHOTO	NARCO ANALYSIS
----------	-----------	-------	----------------

CASE: 10-1000

SAN RAFAEL POLICE DEPARTMENT

1256

PROPERTY RECORD

DATE 7-11-87 FINDER X NAME Richards Mark
 OWNER ADDRESS 366 Butler Field San Anselmo
 SUSPECT X
 OFFICER Smiley OFFENSE
 *TO BE RETURNED TO FINDER IF OWNER NOT LOCATED YES NO

Guns

ITEM	AMT	DESCRIPTION: (Make, Model, Size, Color)	SERIAL #	STORED
39	1	silver tape roll		
40	2	an Skill drill and one Black and Decker drill		
41	12	chisels; one punch three drill bits, one screwdriver		
42	6	5 drill bits and one punch		
43	2	screwdrivers		
44	1	one screwdriver and 3 drill bits		
45	1	two cutters		
46	4	screwdrivers		
47	1	Milwaukee electric drill		
48	1	electric drill gray and chrome body		
49	1	gray two cutters		
50	3	three pieces of yellow rope		
51	1	white case		

PROCESSING REQUESTED

DUST NINHYDRIN PHOTO NARCO ANALYSIS

SAN RAFAEL POLICE DEPARTMENT

1257

PROPERTY RECORD

FINDENCE X FINDER NAME Richards Mark
 AND OWNER ADDRESS 366 Butterfield San Antonio
 SAFEKEEPING SUSPECT X
 DATE 7-16-82 TIME OFFICER Smiley OFFENSE
 *TO BE RETURNED TO FINDER IF OWNER NOT LOCATED YES NO

house

ITEM	AMT	DESCRIPTION: (Make, Model, Size, Color)	SERIAL #	STORED
50	5	brass knuckles and airplanes		
51	1	Montgomery Ward AM-FM cassette with turntable stereo, model 6341	13020	
		with dust cover		
52	2	two stereo speakers for item #51		
		Montgomery Ward video disc player model 10201 with remote control	029363	
		with carrying case		
54	1	Excelsior dressings model TA28	L35101	
55	1	LIAMIA .22 Auto	608495	
		with holster clip with 8 rounds		
56	1	Uberti California .44 Mag revolver	12169	
		with holster		
57	1	Colt .22 cal revolver "New Frontier"	412854	
		with holster		
58	1	Universal .25 cal carbine, 30 rounds incl clip	112278	
59	1	Marlin model 1394 .44 Mag rifle	2313094	
60	1	AR-7 Explorer 27 cal clip with 8 rounds	A28729	

PROCESSING REQUESTED

DUST NINHYDRIN PHOTO NARCO ANALYSIS

1258

FINDER ☒ NAME Richards, Mark
 OWNER _____ ADDRESS _____
 SUSPECT ☒ 3126 Butler Field San Antonio
 DATE 7-16-32 TIME _____ OFFICER Smiley OFFENSE _____
 *TO BE RETURNED TO FINDER IF OWNER NOT LOCATED YES ☐ NO ☐

Huse

DUST-____ NINHYDRIN PHOTO NARCO ANALYSIS

CASE # 62-100

SAN RAFAEL POLICE DEPARTMENT

OFFENSE	X	FINDER	NAME	Richards Mark
AND		OWNER	ADDRESS	
KEEPING		SUSPECT	X	1212 Butler Field San Antonio
DATE	7-18-68	TIME	1315	OFFICER [Signature] OFFENSE

*TO BE RETURNED TO FINDER IF OWNER NOT LOCATED YES NO

[illegible]

PROCESSING REQUESTED

DUST — NINHYDRIN PHOTO NARCO ANALYSIS

SEP 20 1970 (U.S. 7/16/70)

CASE - 2

1260

FINDENCE X FINDER NAME Richard Mark
 FOUND OWNER ADDRESS
 SAFEKEEPING SUSPECT 2120 Biltmore Road San Antonio
 DATE 7-19-82 TIME 1330 OFFICER Sam L... OFFENSE 187 PC
 *TO BE RETURNED TO FINDER IF OWNER NOT LOCATED YES NO

[illegible]

JUST NINHYDRIN PHOTO NARCO ANALYSIS

169

FD-7 (Rev. 7/16/79)

CASE - 8

SAN RAFAEL POLICE DEPARTMENT

2112 1261
3/11

PROPERTY RECORD

EVIDENCE FINDER NAME
FOUND OWNER ADDRESS
SAFEKEEPING SUSPECT

DATE 7-17-82 TIME 2014 OFFICER [Signature] OFFENSE

*TO BE RETURNED TO FINDER IF OWNER NOT LOCATED YES NO

ITEM	AMT	DESCRIPTION: (Make, Model, Size, Color)	SERIAL #	STORED
70	1	roll of silver tape		
71	1	air hammer chisel		
72	1	sledge hammer		
73	1	sledge hammer		
74	1	hammer		
75	1	hammer		
76	1	large pry tool		
77	1	medium size pry tool		
78	3	small pry tools		
79	13	binders on Triskelion, 12 of which are empty		
80	1	book labeled Fortifications		
81	96	Folders on Triskelion		
82	5	drawings of Earls Citadel		
83	-	File drawer full of folders on various people		
84	2	swords		
85	2	large knives		
86	1	sword canvas		

PROCESSING REQUESTED

DUST NINHYDRIN PHOTO NARCO ANALYSIS

SAN RAFAEL POLICE DEPARTMENT

1262

PROPERTY RECORD

IDENTENCE _____ FINDER _____ NAME _____
 FOUND _____ OWNER _____ ADDRESS _____
 SAFEKEEPING _____ SUSPECT _____

DATE 7-17-82 TIME 2014 OFFICER [Signature] OFFENSE _____

*TO BE RETURNED TO FINDER IF OWNER NOT LOCATED YES NO

ITEM	AMT	DESCRIPTION: (Make, Model, Size, Color)	SERIAL #	STORED
87	3	Aerial maps of Marin		
88	various	drawings of Marin Empire 1st-2nd 2000 Marin Transportation 1st-2nd 2000 Control areas		
89		Drawings of the Castle		
90		1st-2nd 2000		
91	1	Folder on board		
92	1	original photo of George Lucas		
93	1	Marin map showing command stations and blackmap points		
94	1	color aerial map of Marin showing land use areas and LAP lines		
95	5	Pentagrams books		
96	—	Marin file box containing Pentagram records		
97	5	Folders on Timorad Marin		
98	—	stack of cards "CINEMA ANTHARIS"		
99	1	signed		
100	For	magazines Wings and Soldiers of Fortune		

PROCESSING REQUESTED

DUST _____ NINHYDRIN _____ PHOTO _____ NARCO ANALYSIS _____

SAN RAFAEL POLICE DEPARTMENT

PROPERTY RECORD

FINDER _____ NAME _____
 OWNER _____ ADDRESS _____
 SUSPECT _____

DATE 7-17-82 TIME 2014 OFFICER Smly OFFENSE _____

TO BE RETURNED TO FINDER IF OWNER NOT LOCATED YES _____ NO _____

ITEM	AMT	DESCRIPTION: (Make, Model, Size, Color)	SERIAL #	STORED
101	2	board sketch books		
102	1	metal cabinet with six sections		
103	1	sketch of machine gun and silencer		
104	2	File on Sheriff and D.A.		
105	1	Pullman May 1982 issue		
106	1	cardboard file box with numerous files		
107	1	on archive		
108	1	bundle containing "Letter of Capture"		
109	1	cardboard file box with numerous files		
110	1	on military info		
111	6	drawings of emergency and transport systems		
112	16	checks on Richard's Acct #04926870		
113	1	colt Python 357 loaded with holster	E72990	
114	2	reels of movie tape		
115	1	Squirrel game		
116	1	two clips, eight bullets		
117	1	plastic bag of possible psilocybin		

PROCESSING REQUESTED

DUST _____ NINHYDRIN _____ PHOTO _____ NARCO ANALYSIS _____

SAN RAFAEL POLICE DEPARTMENT

PROPERTY RECORD

EVIDENCE Y FINDER NAME Rodriguez, Mario
 FOUND OWNER ADDRESS
 SAFEKEEPING SUSPECT Y 366 Puente Alto San Antonio
 DATE 7-17-82 TIME 2014 OFFICER [Signature] OFFENSE
 *TO BE RETURNED TO FINDER IF OWNER NOT LOCATED - YES NO

PROCESSING REQUESTED

DUST	NINHYDRIN	PHOTO	NARCO ANALYSIS
------	-----------	-------	----------------

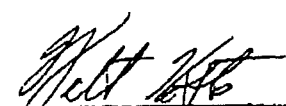
1 STATE OF CALIFORNIA)
2 COUNTY OF MARIN) ss. AFFIDAVIT


3 I, Sgt. Walt Kosta, and I, Sgt. Ted Lindquist, were the
4 lead San Rafael Police investigators assigned to investigate the
5 death of Richard Baldwin, and as such do hereby certify:

6 After reviewing the declarations of Carl Shapiro, Major
7 E.L. Richards, and defendant Mark Richards, it can be stated that
8 the records, as described in those declarations, and alleged to
9 be lost, were never seized by the San Rafael Police Department.

10 In fact during the seizure of the evidence from the
11 residence of defendant Richards, there was discussion of the lack
12 of business (job) related records for the months immediately
13 preceeding the homicide. It appeared at that time, and still
14 appears to be, that the detailed records reflecting business
15 activities end in 1981.

16 We certify under penalty of perjury that the foregoing
17 is true and correct, and was executed in San Rafael, California,
18 on January 3, 1983.

19
20 
SGT. WALT KOSTA
San Rafael Police Department

21
22 
SGT. TED LINDQUIST
San Rafael Police Department

1 STATE OF CALIFORNIA)
2 COUNTY OF MARIN) ss. AFFIDAVIT

3 I, Sgt. Tom Smiley of the San Rafael Police Department,
4 was the investigator assigned to make the actual seizures under
5 the search warrants executed on the residence of defendant Mark
6 Richards, and as such do hereby certify:

7 After reviewing the declarations of Carl Shapiro, Major
8 E.L. Richards, and defendant Mark Richards, I can state that the
9 records, as described in those declarations, and alleged to be
10 lost, were never seized by the San Rafael Police Department.

11 In addition to examining the items at the time of the
12 original seizures, I inventoried the items I seized in the
13 presence of Carol Rafferty, Evidence Custodian, San Rafael Police
14 Department. Based on those examinations, I know that the items,
15 as described, never were seized by the San Rafael Police
16 Department.

17 I certify under penalty of perjury that the foregoing
18 is true and correct, and was executed in San Rafael, California,
19 on January 3, 1983.

20
21 
22 SGT. TOM SMILEY
23 San Rafael Police Department
24
25
26
27
28

- EXHIBIT C -


1 STATE OF CALIFORNIA)
2) ss. AFFIDAVIT
COUNTY OF MARIN)

3 I, Carol Rafferty, am presently the Evidence Custodian
4 of the San Rafael Police Department. I held that position at the
5 time the evidence was seized during the investigation of the
6 death of Richard Baldwin, and as such do hereby certify:

7 After reviewing the declarations of Carl Shapiro, Major
8 E.L. Richards, and defendant Mark Richards, I can state that the
9 records, as described in those declarations, and alleged to be
10 lost, are not now, nor have they ever been logged in as evidence
11 with the San Rafael Police Department.

12 I was present when Sgt. Tom Smiley logged into San
13 Rafael property the evidence he seized during the investigation
14 of the Richard Baldwin homicide. In addition, I have personally
15 searched for the items claimed to be lost. Also, I have just
16 recently completed a cataloging of all exhibits in preparation
17 for trial. Based on those examinations, I know that the items,
18 as described, never were submitted as evidence to the San Rafael
19 Police Department.

20 I certify under penalty of perjury that the foregoing
21 is true and correct, and was executed in San Rafael, California,
22 on January 3, 1983.

23
24 
25 CAROL RAFFERTY
26 Evidence Custodian
27 San Rafael Police Department
28

-EXHIBIT D-

JERRY R. HERMAN, District Attorney
 EDWARD S. BERBERIAN, Deputy District Attorney
 Room 155, Hall of Justice
 San Rafael, California 94903
 Telephone: 499-6450

FILED

JAN 04 1984

HOWARD HANSON
 MARIN COUNTY CLERK

BY J. Castabala
 DEPUTY

Attorneys for plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

PEOPLE OF THE STATE OF CALIFORNIA,	)	NO. 8362
)	
plaintiff,	)	RESPONSE TO DEFENDANT'S
	)	SUPPLEMENTAL DISCOVERY
v.	)	<u>MOTION</u>
)	
MARK RICHARDS)	
)	
Defendant.)	

The "Rules of the Superior Court of the State of California County of Marin" which became effective March 15, 1981, address the present request. Specifically, the people are prepared to abide by Section 5 (c). Attached as Exhibit A is a list of the potential witnesses the people may call during their case-in-chief. As additional potential witnesses are identified the defense will be so advised.

Attached as Exhibit B are pages 25,154 - 25,157 of materials furnished during pre-trial discovery, received by Mr. Shapiro on April 14, 1983.

Defendant Richards' request for a further continuance was argued on December 16, 1983, before the Honorable David Menary. The record of that hearing will show that Mr. Shapiro

1 was not present to argue the continuance motion. In his place
2 his wife, Mrs. Helen Shapiro, who is associated with Mr. Carl
3 Shapiro in his legal practice, appeared. When the court asked
4 the reason for Mr. Shapiro's absence it was determined he was
5 appearing in a court proceeding in San Francisco County. If Mr.
6 Shapiro had been present he would have known that the court did
7 not deny the requested continuance solely on the fact the people
8 felt it a hardship to repeatedly have to re-subpoena a number of
9 witnesses.

10 The only medical documentation of Mr. Shapiro's
11 condition was a letter dated December 13, 1983, from a Dr. George
12 Roth, Department of General Medicine, permanente Medical Group,
13 Inc. Although the letter reports that Mr. Shapiro complained of
14 shortness of breath and chest pains, Dr. Roth's medical studies
15 showed no evidence of cardiovascular disease.

16 Attached as Exhibit C is a copy of a letter I sent to
17 Mr. Shapiro on December 5, 1983, after I read in a local
18 newspaper he would be seeking a delay in the Richards' trial in
19 order to take a vacation. Mr. Shapiro's appointment with Dr.
20 Roth occurred on December 8, 1983, with his formal motion for
21 continuance filed on December 14, 1983.

22 In addition, in weighing the factors being urged as a
23 showing of good cause for a continuance, the court was informed
24 by Mrs. Shapiro that the defense case for defendant Richards was
25 prepared and if Mr. Richards had not been able to post bail, Mr.
26 Shapiro was ready to proceed to trial. Also, the court knew that
27 a second attorney, Mr. Dennis Riordan, had been appointed and had
28 been assisting in the preparation of the case for the past

1 year. Finally, it was emphasized that one and one-half years had
2 elapsed since Richard Baldwin's murder and that everyone's best
3 interests would be served by bringing this case to a conclusion.

4 Dated this 4th day of January, 1984.

5 Respectfully submitted,

6 JERRY R. HERMAN
7 DISTRICT ATTORNEY

8
9 BY 

10 EDWARD S. BERBERIAN
11 Deputy District Attorney
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WITNESSADDRESS

Ables, Gary	525 Norman Drive, Novato
Andrews, Keith	330 J. St. #26, Davis 30 Prospect, San Anselmo (parents)
Ardwin, Todd	25 Balra Dr., Novato
Artiga, Raul	2331 Santiago, San Francisco
Adkins, Leland	981 Francisco, San Rafael
Bailey, Scott	c/o U.S. Coast Guard Reserves New Mexico - address forthcoming
Baker, Marlene	c/o Mont. Wards, 133 Serra Monte Center, Daly City 94015
Baker, William	Solano Co. Identification Technician
Bakewell, D.J.	500 Texas St., Fairfield, 94533 <i>Credit Mar. Mont. Wards, 2401 Shadeland</i>
Baldwin, Ellen	<i>Drive, Walnut Creek, CA 94596</i> 16 Galleou Way, San Rafael
Battaglia, Steve	SAPD
Bednar, Ron	36 Front St., San Rafael
Bowman, William	Duncan's Chimney Service 32A Front St. San Rafael, CA
Brannan, Susan	36 Front St., San Rafael
Brazil, Harold (M.D.)	Inter-Community Hosp., 1800 Pennsylvania Ave., Fairfield, CA 94533
Buehler, John (M.D.)	1125 Sir Francis Drake Blvd., Kentfield
Burge, Jean	47 Redwood Ave. #15, Corte Madera, CA
Campbell, Andrew	1090 Cambridge, Novato
Canziani, Ken	MCSO
Card, Gordon	MVPD
Carrington, John	Dinuba, CA
Cook, James	SRPD
Cradeur, Jerry	Safeway Stores Inc., Town & Country Shopping Center, Mill Valley
Crawford, Susan	955 So. Eliseo, Greenbrae Loch Lomond Yacht Harbor, San Rafael
Fischer, Joel	1561 Kildare Way, Pinole Standard Tee Chemical (work)

EXHIBIT A

Foehr, Robert	1721 Fifth Ave, San Rafael, CA
Gallagher, Martha	c/o Fairfax Lumber, Fairfax
Gulbransen, Elana	MCSO
Gutstadt, Joseph (M.D.)	P.O. Box 1354, Ross
Healy, Bernard	344 Pinehill Rd., Mill Valley
Heitkamp, Gregory	SAPD
Hird, Devon	48 Grove Lane, San Rafael
Holm, Carolyn	36 Front St., San Rafael
Hubinsky, Frank	36 Front St., San Rafael, CA 51 Valencia, San Rafael, CA
Hudspith, Robert	142 Park St., #A, San Rafael, CA
Hulbert, Lori	SRPD
Hulett, Dan	SRPD
Hutchinson, Harold	SRPD
Johnson, David	SRPD
Johnson, Swede	110 Loch Lomond Dr., San Rafael
Jordan, Deborah	c/o U.S. Coast Guard Texas - address forthcoming
Kallins, Wendy	32 Front St., San Rafael, CA
Keaton, Richard	MCSO
Keller, Mike	SRPD
Kline, Donald	SRPD
Kosta, Walt	SRPD
La Bounty, Steve	SRPD
Landi, Lodovico	11 Venetia Meadows, San Rafael
Lanstra, Joel	
Larson, Marvin	P.O. Box 671, San Rafael
Linden, Neil	c/o Matthew's TV, 6400 Mission, Daly City
Lindquist, Ted	SRPD

Marquez, Wilfred

Maynard, Ray

McLaughlin, Doug

McKinnon, Duncan

McQuarrie, Don

Millar, Loel

Miller, Dave

Mills, Tom

Mitchell, Mike

Monroe, William

Morena, Joseph

Neal, Pete

Numark, Charles

Odetto, Tom

Pascoe, Terrence

Paul, Sam

Rafferty, Carol

Ready, Ken

Richards, Caryn

Rippe, Jan

Robles, Gary (Greg)

Robles, Willy

Rose, Don

Russo, Tony

Schwernfurth, Rick

Smiley, Tom

Sommer, Glen

1563 Lincoln Ave. #6, San Rafael

MCSO

36 Front St., San Rafael

32 Front St., San Rafael

SPD

2 Kensington Rd., San Anselmo, CA

MCSO

128 Mabry Way, San Rafael, CA

95 Santa Ana Ave., Daly City, CA 94015

Solano Co. Sheriff's Office

25 H Commercial Blvd., Novato

32 Los Padres Circle, Novato

Marin Co. D.A.

FPD

DOJ Questioned Documents, Sacramento

127 Sunnyside, San Anselmo

SRPD

245 Gate 5 Rd., Sausalito, CA

27 Billou San Rafael, CA 94901 (res)

c/o 25 H Commercial Blvd., San Rafael

9 Corral Dr. San Rafael

MCSO

94 Sequoia Glen, Novato

U.S. Navy - location to follow

Marin Co. D.A.

MCSO

577 Castro St. #102, San Francisco

SRPD

Whale Point Marina, 110 W. Cutting
Blvd., Pt. Richmond, CA

Stapp, John	418 Fernbridge, Novato
Strong, James	SRPD
Sypnicki, Joseph	DOJ Questioned Documents, Sacramento
Thomas, Jack	32 Los Padres Circle, Novato
Thompson, Norwood	2483 Center Rd, Novato
Torrez, Linda	5536 Bayview, Richmond 94804 5313 Ridgeview Circle, El Sobrante
Vacek, Ruben	1015 B Street, San Rafael, CA
Vyas, Ramprasad J.	1325 Park Central Court, El Sobrante (work) Richmond Wards
Wade, Bob	SRPD
Waller, Mike	DOJ Lab, 7505 Sonoma Hwy., Santa Rosa, CA 95405
Warren, Laura	SAPD
Weaver, Robert	8 Hopkins Court, Berkeley Old West Gun Shop, 3509 Carlson, El Cerrito
Weiss, Richard	11624 Castilian Court, Dublin
Zimmerman, Terry	Marin Co. Public Defender

WITNESS

Ables, Gary
Andrews, Keith
Ardwin, Todd
Artiga, Raul
Atkins, Leland
Bailey, Scott
Baker, William
Baldwin, Ellen

Battaglia, Steve
Bednar, Ron
Borg, Peter
Bowman, William
Brannan, Susan
Brazil, Harold Dr.
Buehler, John Dr.
Burge, Jane
Campbell, Andrew
Canziani, Ken
Card, Gordon
Carrington, John
Cook, James
Cradeur, Jerry

Crawford, Susan
Fischer, Joel
Foehr, Robert
Gallagher, Martha

ADDRESS

255 Norman Drive, Novato
30 Prospect, San Anselmo
25 Balra Drive, Novato
2331 Santiago, San Francisco
981 Francisco, San Rafael
US Coast Guard, Vallejo
Solano County Identification Technician
2300 Lincoln Village Circle #263,
Larkspur

San Anselmo Police Department
36 Front Street, San Rafael
939 Front Street, Novato
32 Front Street # A, San Rafael
36 Front Street, San Rafael
Solano County Coroner's Office
1125 Sir Francis Drake Blvd, Kentfield
2 Kensington Road, San Anselmo
1090 Cambridge, Novato
Marin County Sheriff's Department
Mill Valley Police Department
Dinuba, California
San Rafael Police Department
Safeway Stores Incorporated, Town and
Country Shopping Center, Mill Valley
Loch Lomond Yacht Harbor, San Rafael
1561 Kildare Way, Pinole
1721 Fifth Avenue, San Rafael
Fairfax Lumber, Fairfax

EXHIBIT B

25154

Gulbransen, Elana	Marin County Sheriff's Department
Gutstadt, Joseph, Dr.	P.O. Box 1354, Ross
Healy, Bernard	344 Pinehill Rd, Mill Valley
Heitkamp, Gregory	San Anselmo Police Department
Hird, Devon	48 Grove Lane, San Rafael
Holm, Carolyn	36 Front, San Rafael
Hubinsky, Frank	51 Valencia, San Rafael
Hudspeth, Robert	18 Indian Rock Court, San Anselmo
Hulbert, Lori	San Rafael Police Department
Hulett, Dan	San Rafael Police Department
Hutchinson, Harold	San Rafael Police Department
Johnson, David	San Rafael Police Department
Johnson, Swede	110 Loch Lomond Dr, San Rafael
Kallins, Wendy	32 Front Street, San Rafael
Keaton, Richard	Marin County Sheriff's Department
Keller, Mike	San Rafael Police Department
Kosta, Walt	San Rafael Police Department
La Bounty, Steve	San Rafael Police Department
Landi, Lodovico	11 Venetia Meadows, San Rafael
Larson, Marvin	P.O. Box 671, San Rafael
Lindquist, Ted	San Rafael Police Department
Marquez, Wilfred	32 Front Street #9, San Rafael
Maynard, Ray	Marin County Sheriff's Department
Mc Lauchlain, Doug	36 Front Street, San Rafael
McKinnon, Duncan	32 Front Street, San Rafael
McQuarrie, Don	Sausalito Police Department
Millar, Loel	2 Kensington Road, San Anselmo

25195

Miller, Dave	Marin County Sheriff's Office
Mills, Tom	78 Novato Street #3, San Rafael
Monroe, William	Solano County Sheriff's Office
Morena, Joseph	25-H Commercial Blvd, Novato
Neal, Pete	32 Los Padres Circle, Novato
Numark, Charles	Marin District Attorney's Office
Odetto, Tom	Fairfax Police Department
Pascoe, Terrence	Department of Justice Questioned Documents, Sacramento
Paul, Sam	127 Sunnyside, San Anselmo
Pennell, Williard Dr.	450 Sutter Street, San Francisco
Rafferty, Carol	San Rafael Police Department
Ready, Ken	245 Gate 5 Road, Sausalito
Richards, Caryn	c/o 25 H Commerical Blvd, Novato
Richards, Lois	
Rippe, Jan	Marin County Sheriff's Office
Robles, Gary	94 Sequoia Glen, Novato
Robles, Willy	US Navy--Lindberg Field, San Diego
Rose, Don	Marin District Attorney's Office
Russo, Tony	Marin County Sheriff's Office
Schwernfurth, Rick	577 Castro St. #102, San Francisco
Smiley, Tom	San Rafael Police Department
Sommer, Glen	Whale Point Marina, Richmond
Stapp, John	418 Fernbridge, Novato
Strong, James	San Rafael Police Department
Sypnicki, Joseph	Department of Justice Questioned Documents, Sacramento
Thomas, Jack	32 Los Padres Circle, Novato
Thompson, Norwood	2483 Center Road, Novato

25156

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 STATEMENT OF THE CASE

3 In July of 1982, defendant Richards was charged in
4 Municipal Court with murder, robbery, burglary and four special
5 circumstances rendering him liable to a sentence of death. A bail
6 hearing was held in Municipal Court before the Honorable Gary Thomas
7 while defendant faced capital charges. Judge Thomas set a bail of
8 \$500,000.00.

9 On April 7, 1983, subsequent to defendant's being bound
10 over to this Court, Deputy District Attorney Ed Berberian announced
11 that no death penalty would be sought in this case. At that time the
12 allegation of robbery was dismissed by this Court, both as a
13 substantive count and as a special circumstance. Defendant's trial
14 has been stayed by the Court of Appeal while it reviews the validity
15 of the other special circumstances defendant still faces. Those
16 writ proceedings will not be completed for at least two months, and
17 could consume more than a year if either party seeks and obtains
18 review by the California Supreme Court.

19 STATEMENT OF FACTS

20 Defendant Richards was born in Marin County in 1953 and
21 has lived in the county since that time, excepting only periods
22 during his childhood when his father, an Air Force officer, was
23 assigned outside the country. His parents have owned and maintained
24 their residence at 15 Sturdivant Avenue in San Anselmo since 1950.
25 Defendant attended and graduated from Drake High School, College of
26 Marin, and Dominican College, all educational institutions located

1 within Marin County. Mr. Richards has been in business in Marin
2 since his graduation from college in 1976. He has been a member of
3 the San Rafael Chamber of Commerce and the Lions Club. He has never
4 suffered a felony or misdemeanor conviction.

5 Defendant has been confined in the Marin County Jail for
6 eleven months. He is presently chairman of the inmate council and
7 the trustee for his unit. During that time he has received spiritual
8 counseling regularly from his minister, William Geisler. He intends
9 to continue that counseling if he succeeds in posting bail in this
10 case.

11 //

12 //

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //