

PAROLE SUITABILITY HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

In the matter of the Parole
Consideration Hearing of:

CDCR Number: **K14101**

ERIK MENENDEZ

RICHARD J. DONOVAN CORRECTIONAL FACILITY

SAN DIEGO, CALIFORNIA

AUGUST 21, 2025

8:45 AM

PANEL PRESENT:

ROBERT BARTON, Presiding Commissioner

RACHEL STERN, Deputy Commissioner

OTHERS PRESENT:

ERIK MENENDEZ, Incarcerated Person

HABIB BALIAN, Deputy District Attorney

HEIDI RUMMEL, Attorney for Incarcerated Person

UNIDENTIFIED, Correctional Officers

SCOTT WYCKOFF, Observer

STEVEN MEHLER, Hearing Support Staff

JEFFREY ELSTON, Hearing Support Staff

EMILY HUMPAL, Hearing Support Staff

JAMES QUEALLY, Media Representative

SEAN CONNELLY, Observer

DIANA CROFTS-PELAYO, Observer

NATASCHA LEONARDO, Victim Next of Kin

KAREN VANDERMOLLEN-COPLEY, Victim Next of Kin

DIANE HERNANDEZ, Victim Next of Kin

SILVIA ACEVES, Victim Support

KATHLEEN SIMONTON, Victim Next of Kin
TAMARA LUCERO GOODELL, Victim Next of Kin
ERIK VANDERMOLEN, Victim Next of Kin
MARTA CANO HALLOWELL, Victim Next of Kin
KEN DEASY, Victim Representative
ANAMARIA BARALT, Victim Next of Kin
ALICIA BARALT BARBOUR, Victim Next of Kin
TERESITA MENENDEZ BARALT, Victim Next of Kin
SARAH MALLAS, Victim Next of Kin
KRISTEN H., Victim Next of Kin
EILEEN CANO, Victim Next of Kin
BRIAN ALAN ANDERSEN, JR., Victim Next of Kin
TIFFANI LUCERO PASTOR, Victim Next of Kin
ROBERT PASTOR, Victim Support
ARNOLD VANDERMOLEN, Victim Next of Kin
EUNICE BAUTISTA, Victim Support
MAYA EMIG, Victim Representative
STUART HART, Victim Representative
ROBERT LOVE, Victim Support
MARIAM EL-MENSHAWI, Victim Support
AMY H., Victim Next of Kin

Transcribed by:

HEATHER COOKSEY

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PROCEEDINGS

DEPUTY COMMISSIONER STERN: We are on the record.

PRESIDING COMMISSIONER BARTON: Good morning, everyone. I'm Commissioner Barton, and we are here for an initial parole consideration hearing for Mr. Menendez, CDCR number K14101. Today is August 21, 2025. The time now is 8:45 a.m. I apologize to everyone. The attorneys, myself, the Deputy Commissioner, were all here at 8:30 a.m. Um, we had to handle some preliminary matters. The prison had some technical difficulties signing in. Um, that's the reason for the delay, but, uh, I -- again, I apologize. Appreciate everyone's patience. Mr. Menendez is located at the RJ Donovan State Prison. The rest of us are joining on Microsoft Teams, and for that reason, anyone that is present has to be identified, uh, by voice. If you are a victim next of kin and you don't want your full name given, you can give your first name, uh, first initial of your last name. If you're going to be speaking, we'll need you to do that again at the end of the hearing so that the person doing the transcribing has a chance to do so. These hearings are audio recorded. No one other than the Board is allowed to audio record. If anyone is recording, I'd ask you to turn that off. Um, and as far as those people that are authorized to attend, we will be going through our list and seeing who everyone is and identifying them

1 momentarily. If you are somewhere where there's someone
2 that is not authorized, again, I would ask that you have
3 them leave the room because only authorized persons are
4 allowed to attend and observe the hearing. I'll also let
5 everyone know that we will be taking breaks sporadically.
6 We take care of some administrative matters first. Once
7 those are done, um, we'll probably take a break, and then
8 at some point during the questioning, we'll probably take
9 a break, and then we take another break generally, um,
10 either before closing statements, certainly before, uh,
11 victim state -- victim next of kin statements, and then
12 there'll be a break for deliberations. If at any time
13 those of you that are observing need to leave the room or
14 come and go, um, you're allowed to do that at -- at your
15 leisure. I'm not controlling that. However, if you sign
16 out, you will need to sign back in, and you won't have
17 that opportunity until we have another break, because as
18 you can see from the screen, it can be very distracting.
19 The other thing I'm going to do after everyone's been
20 identified is ask those parties that are not actual
21 participants, meaning the two attorneys, Mr. Menendez, and
22 the Panel to, um, turn off their video, uh, so that we
23 don't have any bandwidth issues and are losing audio. It's
24 very important that everything be recorded. So, with that,
25 I am going to start the identifications with myself.

1 Again, I'm Robert Barton, B-A-R-T-O-N. I'm the Presiding
2 Commissioner for this hearing. Next to identify will be
3 our Deputy Commissioner.

4 **DEPUTY COMMISSIONER STERN:** Good morning, Rachel
5 Stern, S-T-E-R-N, Deputy Commissioner, Board of Parole
6 Hearings, appearing via Microsoft Teams.

7 **PRESIDING COMMISSIONER BARTON:** And then this
8 next, uh, group of people, as I go through them, it's
9 going to be the participants, as I said, and then the rest
10 of the people in no particular order. So, I'm going to
11 ask, um, counsel for Mr. Menendez to identify, primary
12 counsel.

13 **ATTORNEY RUMMEL:** Heidi Rummel. Heidi Rummel, R-U-
14 M-M-E-L, counsel for Mr. Erik Menendez.

15 **PRESIDING COMMISSIONER BARTON:** And then the
16 representative for LA County District Attorney. You're on
17 mute, sir.

18 **DEPUTY DISTRICT ATTORNEY BALIAN:** I apologize.
19 Habib Balian on behalf of the people of the State of
20 California. Good morning.

21 **PRESIDING COMMISSIONER BARTON:** Can you spell your
22 last name, please?

23 **DEPUTY DISTRICT ATTORNEY BALIAN:** B, like boy, A-
24 L-I-A-N, like Nancy.

25 **PRESIDING COMMISSIONER BARTON:** All right. And Mr.

1 Menendez, first name, last name. Spell your last name,
2 please.

3 **ERIK MENENDEZ:** Erik Menendez, M-E-N-E-N-D-E-Z.

4 **PRESIDING COMMISSIONER BARTON:** All right. And is
5 there anyone there in the room with you?

6 **ERIK MENENDEZ:** Yes.

7 **PRESIDING COMMISSIONER BARTON:** How many staff
8 members?

9 **ERIK MENENDEZ:** Two.

10 **PRESIDING COMMISSIONER BARTON:** All right. Staff,
11 um, I don't generally identify staff unless they're
12 speaking. I don't have any reason to speak to you, but if
13 for some reason, uh, staff has to speak, we will be
14 identifying them at that point. All right. Next, uh,
15 again, in no particular order, I'm going to list observers
16 and ask that you identify yourself and any agency you're
17 with or if you are, uh, a victim next of kin, what your
18 relationship is to the victims. So, starting with Mr.
19 Wyckoff. Is he still with us? Yes.

20 **OBSERVER WYCKOFF:** Good morning, Commissioner. I
21 am having issues with my camera, so I apologize that I
22 can't be seen, although my background apparently can be
23 seen. Um, Scott Wyckoff, Executive Officer for the Board
24 of Parole Hearings, W-Y-C-K-O-F-F.

25 **PRESIDING COMMISSIONER BARTON:** All right. And

1 then Steven Mehler.

2 **STEVEN MEHLER:** Good morning. Steven Mehler, BPH
3 support, M-E-H-L-E-R.

4 **PRESIDING COMMISSIONER BARTON:** All right. And
5 then, uh, who do we have in the media center at OPEC?

6 **JEFFREY ELSTON:** This is Jeffrey Elston with
7 Computer Services.

8 **PRESIDING COMMISSIONER BARTON:** Could you state
9 your last name again?

10 **JEFFREY ELSTON:** E-L-S-T-O-N.

11 **PRESIDING COMMISSIONER BARTON:** And is there --

12 **EMILY HUMPAL:** Hello, this is Emily Humpal. I am
13 with the CDCR OPEC Press Office. Last name Humpal, H-U-M,
14 as in Mary, P-A-L.

15 **PRESIDING COMMISSIONER BARTON:** And I -- I can't
16 quite see everyone. Who else is there?

17 **JAMES QUEALLY:** Uh, this is James Queally. I'm the
18 courts reporter for the Los Angeles Times serving for pool
19 reporter today.

20 **PRESIDING COMMISSIONER BARTON:** Can you spell your
21 last name?

22 **JAMES QUEALLY:** Q-U-E-A-L-L-Y.

23 **PRESIDING COMMISSIONER BARTON:** All right. And is
24 there a fourth person?

25 **OBSERVER CONNELLY:** Sean Connelly, C-O-N-N-E-L-L-

1 Y, the Assistant Secretary for the Office of Public and
2 Employee Communications.

3 **PRESIDING COMMISSIONER BARTON:** All right. I think
4 that's everyone I can see in that video. Is there anyone
5 else?

6 **OBSERVER CONNELLY:** No one else.

7 **PRESIDING COMMISSIONER BARTON:** All right. Thank
8 you. All right. Next, um, we have Ms. Pelayo. Are you
9 here?

10 **OBSERVER CROFTS-PELAYO:** Hi, yes. Uh, Diana
11 Crofts-Pelayo with the Office of the Governor in
12 Communications. Last name is spelled Crofts-Pelayo, C-R-O-
13 F, as in Frank, T, as in Tom, S, as in Sam, hyphen P-E-L-
14 A-Y-O.

15 **PRESIDING COMMISSIONER BARTON:** All right, thank
16 you. Um, and then again, going through, uh, the victims'
17 next of kin that we have, support persons, representatives
18 in no particular order. It's just how I have them on my
19 list. Uh, I'm going to state your first name, and then you
20 can choose whether you want to give your last initial or
21 you want to give your full name. Um, if you're only using
22 your first name, just spell that for us and tell us what
23 your relationship is to the victim. Starting with, uh,
24 hopefully we don't have any duplicate names. Don't think
25 so. Uh, Natascha?

1 **NATASCHA LEONARDO:** Hi, Natascha Leonardo, L-E-O-
2 N-A-R-D-O, great niece of Kitty Menendez.

3 **PRESIDING COMMISSIONER BARTON:** All right. And
4 next, Karen.

5 **KAREN VANDERMOLLEN-COPLEY:** M-O-L-E-N C-O-P-L-E-Y.
6 And I'm the niece of Mary Lou Kitty Menendez.

7 **PRESIDING COMMISSIONER BARTON:** All right. That
8 got cut off at the beginning. I have it as a VanderMolen.
9 So, it starts with V-A-N. Is that correct?

10 **KAREN VANDERMOLLEN-COPLEY:** Yeah, V-A-N-D-E-R-M-O-
11 L-E-N C-O-P-L-E-Y.

12 **PRESIDING COMMISSIONER BARTON:** All right. Uh,
13 next I have a Diane.

14 **DIANE HERNANDEZ:** Diane Hernandez, H-E-R-N-A-N-D-
15 E-Z.

16 **PRESIDING COMMISSIONER BARTON:** Thank you. And I
17 have Alexander.

18 **DIANE HERNANDEZ:** He is not present right now.

19 **PRESIDING COMMISSIONER BARTON:** Okay. Do you know
20 if he plans on joining at some future break?

21 **DIANE HERNANDEZ:** I don't believe so.

22 **PRESIDING COMMISSIONER BARTON:** Okay. Uh, Silvia?

23 **SILVIA ACEVES:** Silvia Aceves, A-C-E-V-E-S, OVSRS
24 Support for Diane Hernandez.

25 **PRESIDING COMMISSIONER BARTON:** All right. And

1 then Kathleen.

2 **KATHLEEN SIMONTON:** Kathleen Simonton, first
3 cousin to Erik Menendez. Um, um, Kitty was my aunt. It's
4 S-I-M-O-N-T-O-N.

5 **PRESIDING COMMISSIONER BARTON:** And it -- it says
6 there's a support person with you there, Steven?

7 **KATHLEEN SIMONTON:** No, he's not gonna be here.

8 **PRESIDING COMMISSIONER BARTON:** Okay.

9 **KATHLEEN SIMONTON:** Thank you.

10 **PRESIDING COMMISSIONER BARTON:** All right. Uh,
11 Tamara or Tamara?

12 **TAMARA LUCERO GOODELL:** Tamara Lucero Goodell.
13 Last name L-U-C-E-R-O, Goodell, G-O-O-D-E-L-L.

14 **PRESIDING COMMISSIONER BARTON:** And relationship
15 to the victim?

16 **TAMARA LUCERO GOODELL:** Great niece to Mary Louise
17 Menendez.

18 **PRESIDING COMMISSIONER BARTON:** Okay. Um, Erik?
19 Not -- not Erik Menendez. Erik --

20 **ERIK VANDERMOLEN:** Erik Vander -- VanderMolen. And
21 that's V-A-N-D-E-R-M-O-L-E-N, and I am Kitty's great
22 nephew.

23 **PRESIDING COMMISSIONER BARTON:** All right. And
24 then I have, um, Marta Cano here. Is -- does she have
25 someone assisting her?

1 **UNKNOWN:** Yes.

2 **MARTA CANO HALLOWELL:** So -- so it's, um, Mar --
3 oh, I'm sorry. Marta Cano or Marta Menendez Cano. You
4 should have two.

5 **PRESIDING COMMISSIONER BARTON:** Yes.

6 **MARTA CANO HALLOWELL:** Uh, which one are you
7 referring to? I'm sorry.

8 **PRESIDING COMMISSIONER BARTON:** Go ahead. You can
9 go first.

10 **MARTA CANO HALLOWELL:** So, I'm Marta Cano
11 Hallowell. My mother would be Marta Menendez, and I am
12 niece of Jose Menendez.

13 **PRESIDING COMMISSIONER BARTON:** Right. And I have
14 you as Marta Hallowell on my -- on my list.

15 **MARTA CANO HALLOWELL:** That's fine.

16 **PRESIDING COMMISSIONER BARTON:** And then I think
17 it -- is it, um, is it your mother that's also here?

18 **MARTA CANO HALLOWELL:** Correct. I am representing.
19 Oh, there's somebody representing her, I believe.

20 **PRESIDING COMMISSIONER BARTON:** Okay. And who is
21 that? Go ahead and speak up if you're representing, uh,
22 Marta Menendez Cano.

23 **KEN DEASY:** Yes. My name is Father Ken Deasy, D-E-
24 A-S-Y, retired priest from the Archdiocese of Los Angeles,
25 uh, mentor and pastor of Erik Menendez for his first eight

1 years --

2 **PRESIDING COMMISSIONER BARTON:** Okay.

3 **KEN DEASY:** -- in jail. Yeah.

4 **PRESIDING COMMISSIONER BARTON:** So, um, what can
5 you tell me as far as Ms. Cano? Is she physically, uh,
6 unable to attend?

7 **MARTA CANO HALLOWELL:** Uh, correct. I will be
8 speaking some about her. But yes, she will not be here.

9 **PRESIDING COMMISSIONER BARTON:** Okay. And that
10 again, was her daughter just now speaking.

11 **MARTA CANO HALLOWELL:** Correct.

12 **PRESIDING COMMISSIONER BARTON:** Again, folks,
13 there's a transcript. Someone's -- this record is going to
14 be typed up by someone. So, when people speak, I have to
15 try to keep track of who's speaking. All right. So, again,
16 um, once you've identified, if you would mute. I should
17 have also said this at the beginning. I can't remember if
18 I did or not. Once you've identified, I'm gonna ask you to
19 turn off your camera so that once we start the hearing, we
20 only have those people that are speaking so we don't lose
21 bandwidth. Um, next I have Anna Marie.

22 **ANAMARIA BARALT:** Sorry. Anamaria Baralt, B-A-R-A-
23 L-T, and I'm the niece of Jose Menendez.

24 **PRESIDING COMMISSIONER BARTON:** All right. Next, I
25 have Alicia.

1 **ALICIA BARALT BARBOUR:** Yes. Hi, Alicia Baralt
2 Barber, B-A-R-B-O-U-R. I am the niece to Jose Menendez.

3 **PRESIDING COMMISSIONER BARTON:** And who do you
4 have there with you?

5 **ALICIA BARALT BARBOUR:** That's my mother, Teresita
6 Baralt.

7 **PRESIDING COMMISSIONER BARTON:** All right. Can she
8 just identify herself? She doesn't have to spell her last
9 name again.

10 **ALICIA BARALT BARBOUR:** Okay. Go ahead, name.

11 **TERESITA MENENDEZ BARALT:** Last name, Menendez
12 Baralt, M-E-N-E-N-D-E-Z, Baralt, B-A-R-A-L-T.

13 **PRESIDING COMMISSIONER BARTON:** Okay. And she is a
14 sibling to the victim, correct?

15 **TERESITY MENENDEZ BARALT:** Yes, he was my brother.

16 **PRESIDING COMMISSIONER BARTON:** Okay. Next, I
17 have, uh, Amy. Is Amy H.M. with us? Okay. I'll come back.
18 Uh, Sarah?

19 **SARAH MALLAS:** Uh, that's me. I, uh, my name is
20 Sarah Mallas, M-A-L-L-A-S. I am the great niece of Kitty
21 Menendez.

22 **PRESIDING COMMISSIONER BARTON:** All right. And
23 Kristen?

24 **KRISTEN H.:** I'm Kristen H., um, and I'm the great
25 niece of Jose Menendez.

1 **PRESIDING COMMISSIONER BARTON:** And, okay. Uh,
2 let's see here. I have somebody -- is somebody there with
3 you?

4 **KRISTEN H.:** No, he's not here.

5 **PRESIDING COMMISSIONER BARTON:** Uh, is Tyler not
6 joining us?

7 **KRISTEN H.:** Yeah, he's not joining us.

8 **PRESIDING COMMISSIONER BARTON:** He's not? Okay.
9 And then I received notice, um, that Sylvia was not gonna
10 be joining us. This is Sylvia B. Uh, that's correct, Mr.
11 Mehler? Did you receive that notice, as well? He's our --

12 **STEVEN MEHLER:** Correct.

13 **PRESIDING COMMISSIONER BARTON:** Okay. And, uh, Mr.
14 Mehler, as I said, is one of our staff persons that's been
15 assisting in terms of organizing the folks that have been
16 authorized to attend. So, I'll show her as not present.
17 Uh, Eileen, are you there?

18 **EILEEN CANO:** Yes. Good morning. Um, my name is
19 Eileen Cano, C-A-N-O. I am the niece of Jose Menendez.

20 **PRESIDING COMMISSIONER BARTON:** All right. And
21 Brian?

22 **BRIAN ANDERSEN, JR.:** Yes. Brian Alan Andersen,
23 Junior. Can you hear me?

24 **PRESIDING COMMISSIONER BARTON:** Do you want --
25 yeah, but I need you to spell your last name.

1 **BRIAN ANDERSEN, JR.:** A-N-D-E-R-S-E-N, Junior
2 prefix. I am the nephew of Kitty Menendez.

3 **PRESIDING COMMISSIONER BARTON:** Okay. And then
4 Tiffani.

5 **TIFFANI LUCERO PASTOR:** Good morning. My name is
6 Tiffani Lucero Pastor, L-U-C-E-R-O, Pastor, P-A-S-T-O-R. I
7 am the great niece of Kitty Menendez.

8 **PRESIDING COMMISSIONER BARTON:** And is Robert
9 there in support of you?

10 **TIFFANI LUCERO PASTOR:** He is. Um, we actually
11 share, uh, an office, and he is appearing on a separate ca
12 -- camera. We are separated by a wall.

13 **PRESIDING COMMISSIONER BARTON:** Okay. Robert, if
14 you're here, could you identify, please?

15 **ROBERT PASTOR:** Certainly. My name is Robert
16 Pastor, P, as in Paul, A-S-T-O-R. I'm here in a support
17 capacity for Tiffani Lucero Pastor.

18 **PRESIDING COMMISSIONER BARTON:** All right. Thank
19 you, both. And again, I'd ask you to go off camera. Uh,
20 Ana, A-N-A H.?

21 **MARTA CANO HALLOWELL:** This is Marta Hallowell. I
22 just wanted to say that Ana will not be appearing today.

23 **PRESIDING COMMISSIONER BARTON:** All right, thank
24 you. Uh, how about Arnold?

25 **ARNOLD VANDERMOLLEN:** Uh, this is Arnold, Arnie

1 VanderMolen, V-A-N-D-E-R-M-O-L-E-N. Uh, I am the, uh,
2 nephew of Kitty Menendez.

3 **PRESIDING COMMISSIONER BARTON:** All right, thank
4 you. And then, um, Eunice is there as a support person for
5 you or not?

6 **EUNICE BAUTISTA:** Yes, this is Eunice Bautista. I
7 am a support person for Arnold VanderMolen.

8 **PRESIDING COMMISSIONER BARTON:** Okay. And your
9 last name?

10 **EUNICE BAUTISTA:** B, as in boy, A-U-T-I-S-T-A.

11 **PRESIDING COMMISSIONER BARTON:** All right, thank
12 you. And then we have, um, Ms. Emig for Ms. Joan
13 VanderMolen. Is that correct?

14 **MAYA EMIG:** Yes, Commissioner. Good morning,
15 everyone. I'm attorney Maya Emig. I am the legal
16 representative for Joan VanderMolen, the sister of Kitty
17 Menendez. My last name is Emig, E-M-I-G, as in George.
18 Thank you.

19 **PRESIDING COMMISSIONER BARTON:** And I show you as
20 a support person, which is fine. But as far as, um, any
21 speaking role today, are you going to be a representative
22 for one of these persons?

23 **MAYA EMIG:** Uh, yes, Commissioner. I will be the,
24 uh, legal representative in lieu of, uh, Joan VanderMolen.
25 I am also the support person for Natascha Leonardo, Karen

1 VanderMolen, and Brian Andersen, Jr. Thank you,
2 Commissioner.

3 **PRESIDING COMMISSIONER BARTON:** All right. Um, I
4 think that's everyone on my list. Is there anyone that has
5 not been identified? Okay. There's a gentleman here in the
6 center. Go ahead, sir.

7 **STUART HART:** Yeah, thank you. Uh, Stuart Hart, H-
8 A-R-T, retired Indiana University professor. I've known
9 Erik Menendez for 33 years, initially in the role --

10 **PRESIDING COMMISSIONER BARTON:** Sir, sir?

11 **STUART HART:** Yes, go right ahead.

12 **PRESIDING COMMISSIONER BARTON:** Um, I don't need
13 to know your relationship to the incarcerated person. I
14 need to know your capacity here today. Who are you
15 representing or supporting?

16 **STUART HART:** Uh, Terry Baralt, as I understand
17 it.

18 **PRESIDING COMMISSIONER BARTON:** Okay. And I
19 apologize. There's so many people that we had a second
20 page, and I didn't turn my sheet over. Um, all right. We
21 have a hand raised here. I think it's another, uh, pastor,
22 perhaps. I'm not sure. Go ahead, sir. You have your hand
23 raised. Unmute. Gentleman in the blue sweater, you have to
24 unmute your microphone. Still can't hear you. We see you,
25 and I see your hand raised, but your microphone isn't

1 working. Are you Mr., um, Love?

2 **ROBERT LOVE:** Yes, I'm Mr. Love, Robert Love, um,
3 OVSRS, um, support for the family.

4 **PRESIDING COMMISSIONER BARTON:** Okay, Mr. Love. I
5 apologize. I would've identified you earlier, but I again,
6 didn't have the back of my list turned over. And then we
7 have Ms. El-Menshawi joining us.

8 **MARIAM EL-MENSHAWI:** Yes. Um, good morning. Um,
9 Mariam El-Menshawi, E-L, dash, M-E-N-S-H-A-W-I. I'm the
10 chief of the Office of Victim and Survivor Rights and
11 Services here in support for victim Anamaria.

12 **PRESIDING COMMISSIONER BARTON:** Okay. All right.
13 And then once she goes off camera, I think that will be
14 everyone. Uh, let me check with Mr. Mehler. Are there any
15 other persons waiting in the lobby?

16 **STEVEN MEHLER:** No, there is not, Commissioner.

17 **PRESIDING COMMISSIONER BARTON:** Okay. And I show
18 on my list, uh, one, two, three, four, five, um, six. Six
19 people that I originally had on the list that are not
20 present at this time. So, you'll be monitoring that lobby
21 and letting me know if we have people waiting when we, uh,
22 have our next break?

23 **STEVEN MEHLER:** Correct.

24 **PRESIDING COMMISSIONER BARTON:** All right, thank
25 you. All right folks, um, again, some of this that we have

1 to cover now is administrative in nature, um, and we just
2 had somebody, a new person. Let's bring them in before we
3 go any further. Okay. So, I show now that Amy has joined
4 us. Um, she was not previously identified. Amy, can you
5 identify yourself?

6 **AMY H.:** Yes, Amy H.

7 **PRESIDING COMMISSIONER BARTON:** All right. And
8 your relationship to the victims?

9 **AMY H.:** Um, a relative of the victims.

10 **PRESIDING COMMISSIONER BARTON:** Okay. And it's,
11 um, let me see here. I know I have you on my list. There
12 you are. All right. All right. Uh, Mr. Mehler, anybody
13 else in the lobby?

14 **STEVEN MEHLER:** No, Commissioner.

15 **PRESIDING COMMISSIONER BARTON:** All right. So,
16 again, as I was about to say, um, we have to take care of
17 some administrative records keeping and then, um, some
18 preliminary matters with the attorneys, and then what will
19 happen is we'll actually start the substantive portion of
20 the hearing. As I said before, if any of you that are
21 observing need to leave or come back, um, you can do that
22 at your leisure. We don't need to know about it other
23 than, obviously, the principal parties. If at any time,
24 Mr. Menendez, you or your attorney, uh, needs a break or
25 want a break, all you have to do is request it, and we can

1 take a break for that purpose for you to confer. Do you
2 understand?

3 **ERIK MENENDEZ:** Yes, sir.

4 **PRESIDING COMMISSIONER BARTON:** Okay. And again,
5 before we do that, I know this is your first hearing, so
6 we're going to cover some things before we actually get
7 started. I show that you were received by CDCR in 1996
8 from LA County for a conviction of first-degree murder,
9 originally sentenced, um, for both murders to life without
10 parole, that was recently commuted to 50 years to life,
11 for the killing of your parents on August 20, 1989. Um,
12 for anyone that's observing, that then changed your
13 minimum eligible parole date, uh, actually to February
14 2025. So, even though you qualify for special
15 consideration under elderly parole, based upon the fact
16 that you're over 50 and have served more than 20 years,
17 and you also qualify for consideration, uh, under youth
18 offender status, which we will give great weight to in
19 determining your suitability today, those dates are not
20 the ones that are um, bringing you before the Board today.
21 You're before the Board today because, despite those
22 dates, which of course preceded today, once you were
23 commuted, it made you eligible for this hearing. Is that
24 your understanding?

25 **ERIK MENENDEZ:** Yes, sir.

1 **ATTORNEY RUMMEL:** It was a re-sentencing, not a
2 commutation, Commissioner. Just so the record's clear.

3 **PRESIDING COMMISSIONER BARTON:** Correct. Thank
4 you. I appreciate that, and I appreciate the
5 clarification. I know he was up for both, and I do
6 recognize that he was resentenced. All right. Um, I also
7 show that you were 18 at the time of this crime. Is that
8 correct?

9 **ERIK MENENDEZ:** Yes, sir.

10 **PRESIDING COMMISSIONER BARTON:** All right. Now,
11 for everyone's benefit, myself and the Deputy
12 Commissioner, we may be looking at other screens. I
13 actually have three screens in front of me, um, because we
14 have documents on the screens, our notes on a screen, and
15 then of course the video in front of us. But again, if
16 there's any technical issues, if we lose you at the
17 prison, Mr. Menendez, or either of the attorneys that are
18 participating, um, we will stop the hearing for that
19 purpose and reconnect with you. It's not unusual when we
20 have this many people online that, uh, that could happen.
21 So, I'll try to stay in tune with that as will Mr. Mehler
22 who's here for technical support. Um, at this time, Mr.
23 Menendez, I'm gonna swear you in if you'd raise your right
24 hand, please. Do you solemnly swear or affirm any
25 testimony you give is the truth, the whole truth, and

1 nothing but the truth?

2 **ERIK MENENDEZ:** Yes, sir.

3 **PRESIDING COMMISSIONER BARTON:** All right. You can
4 put your hand down. As I said, pursuant to Penal Code
5 section 3051, you do qualify as a youth offender, and we
6 will be giving that great weight in determining your
7 suitability. You also qualify for elderly parole
8 consideration, which um, basically means we look at your
9 age. You're currently 54. Is that correct?

10 **ERIK MENENDEZ:** Yes.

11 **PRESIDING COMMISSIONER BARTON:** Okay. And you've
12 served 35 years, or so?

13 **ERIK MENENDEZ:** Yes.

14 **PRESIDING COMMISSIONER BARTON:** All right. Can you
15 confirm your birthday for me?

16 **ERIK MENENDEZ:** November 27, 1970.

17 **PRESIDING COMMISSIONER BARTON:** All right. Thank
18 you, sir. And I show you have an education score of 12.9.
19 You have high school and college. You certainly know how
20 to read and write, correct?

21 **ERIK MENENDEZ:** Yes.

22 **PRESIDING COMMISSIONER BARTON:** And I'm going to
23 assume, unless you tell me differently, that all the
24 writings that you submitted, uh, were created by you?

25 **ERIK MENENDEZ:** All of them.

1 **PRESIDING COMMISSIONER BARTON:** Okay. And it says
2 that you've been in CCCMS. Are you currently seeing a
3 clinician? At -- at --

4 **ERIK MENENDEZ:** I see --

5 **PRESIDING COMMISSIONER BARTON:** -- at CDCR, I
6 mean.

7 **ERIK MENENDEZ:** Uh, yes, but I'm not in CCCMS.

8 **PRESIDING COMMISSIONER BARTON:** Okay. So, I'm not
9 talking about Dr. Hauser and the classes that you're
10 taking. I'm talking about, um, the last time you were in
11 CCCMS where you saw someone once every 90 days or so was
12 when?

13 **ERIK MENENDEZ:** I believe it was one year ago this
14 month.

15 **PRESIDING COMMISSIONER BARTON:** Okay.

16 **ERIK MENENDEZ:** It was August.

17 **PRESIDING COMMISSIONER BARTON:** All right. And you
18 chose to discontinue, or they told you didn't need to go
19 anymore, or what?

20 **ERIK MENENDEZ:** I think it was a mutual decision.

21 **PRESIDING COMMISSIONER BARTON:** Okay. And I am in
22 possession of all your documents including, uh, other
23 persons that you spoke to in terms of, um, mental health
24 issues. Let's see here. Do you currently take any
25 medications that make you sleepy or drowsy or unable to

1 participate today?

2 **ERIK MENENDEZ:** No.

3 **PRESIDING COMMISSIONER BARTON:** And do you use
4 anything to assist you in walking, like knee brace, ankle
5 brace, orthotics, anything like that?

6 **ERIK MENENDEZ:** Not regularly. I think I'm
7 assigned a knee brace, but I, I only wear it when I play
8 pickle ball or, or do some activity that requires, uh, uh,
9 athletics.

10 **PRESIDING COMMISSIONER BARTON:** Okay. So, you
11 don't need anything to get to and from the room today?

12 **ERIK MENENDEZ:** No.

13 **PRESIDING COMMISSIONER BARTON:** Um, what about
14 your hearing? Have you been able to hear everything so
15 far?

16 **ERIK MENENDEZ:** Yes.

17 **PRESIDING COMMISSIONER BARTON:** And, uh, do you
18 have any problems with your vision? Do you wear glasses?

19 **ERIK MENENDEZ:** I do. Uh, occasionally, I put them
20 on and, and -- but, uh, I see fine, more or less.

21 **PRESIDING COMMISSIONER BARTON:** Do they help you
22 read or distance or both?

23 **ERIK MENENDEZ:** Uh, both. Uh, I'm -- I'm, uh,
24 nearsighted, and so, uh, I'll wear them if I'm gonna read
25 a document.

1 **PRESIDING COMMISSIONER BARTON:** Okay.

2 **ERIK MENENDEZ:** I have a few -- I have a few
3 documents, legal documents in front of us. Uh --

4 **PRESIDING COMMISSIONER BARTON:** Perfectly fine.

5 **ERIK MENENDEZ:** So, if I refer to them, I -- I'll
6 wear the glasses.

7 **PRESIDING COMMISSIONER BARTON:** All right. And
8 there also should be a magnifying device available if for
9 some reason your glasses didn't work, but it sounds like
10 they work just fine.

11 **ERIK MENENDEZ:** Yes.

12 **PRESIDING COMMISSIONER BARTON:** Is there anything
13 else impairing your ability to participate today? I do --
14 I am aware of your medical situation. Again, if you need a
15 break, you simply need to let us know. Um, we have access
16 to your EHRS. I'm aware of the issues in terms of, uh,
17 kidneys and the Crohn's and your dyslexia, as well. So, we
18 do a thorough review of that, and obviously, all of that
19 are things that we consider when we look at elderly
20 parole, as well. Um, because in addition to your age and
21 the length of confinement, we also look at any, uh,
22 debilitating physical conditions. Um, I'm not asking you
23 to divulge those on the record in front of everyone, uh,
24 unless there was something specific or something new that
25 you felt we were not aware of, um, at which time you can

1 certainly share that. But as I said, myself and the Deputy
2 Commissioner have viewed your medical records, and I think
3 we, uh, understand the various, uh, chronic issues that
4 you're dealing with. Did you want to add anything to that?

5 **ERIK MENENDEZ:** No, sir.

6 **PRESIDING COMMISSIONER BARTON:** All right. You did
7 sign a Notice of Hearing Rights with your counselor on May
8 20, 2025, and I am sure you went over them with your
9 attorney. Do you have any questions about your rights for
10 today's hearing?

11 **ERIK MENENDEZ:** No.

12 **PRESIDING COMMISSIONER BARTON:** You also had the
13 Risk Assessment interview with Dr. Kalich on, um, March
14 25, 2025. It was revised in July as a result of, uh, the
15 objection submitted by your attorney, and it looks like
16 they served you with a copy of that. Um, so, I know you've
17 had a chance to review it because there was obviously
18 that, uh, response sent in. Um, did you review your Risk
19 Assessment?

20 **ERIK MENENDEZ:** Yes.

21 **PRESIDING COMMISSIONER BARTON:** Okay. And then you
22 also had an opportunity for what we call an Olson Review
23 as recently -- it looks like we just got a document that
24 that, uh, happened a couple days ago, August 19, 2025.
25 Correct?

1 **ERIK MENENDEZ:** Yes, it did.

2 **PRESIDING COMMISSIONER BARTON:** All right. So, I'm
3 going to ask your attorney at this time, um, so you don't
4 need to answer, but, um, she can. Um, did you receive the
5 miscellaneous decision from the Board regarding the CRA
6 objections, Ms. Rummel?

7 **ATTORNEY RUMMEL:** I did.

8 **PRESIDING COMMISSIONER BARTON:** And my tentative
9 is to adopt those rulings in as much as there are things
10 that are clarifying or disagreements with clinician's
11 opinions, either of what was actually said to the
12 clinician or, uh, their opinions about Mr. Menendez. I
13 certainly will take into consideration what I see as your
14 clarifications and arguments regarding each of those
15 issues. Um, and you certainly covered them both in that as
16 well as in your, uh, brief that you submitted to the
17 Panel, which is quite lengthy. So, uh, did you wanna speak
18 to that anymore at this point?

19 **ATTORNEY RUMMEL:** Um, as you can -- as -- as I
20 outlined in my brief, we were not satisfied with the
21 clinician's -- with the miscellaneous decision responses
22 to our objections. Um, I have outlined it in detail in the
23 brief, and as things come up in the hearing, I may speak
24 to them, but, um, you know, we have fundamental
25 disagreements on what he said to the clinician and no

1 access to their notes or any recording that was made. And,
2 you know, our disagreements with the clinical, um,
3 diagnoses and conclusions are outlined in my brief and
4 supplemented by the expert opinions of Dr. Kaser-Boyd and
5 Dr. Hart.

6 **PRESIDING COMMISSIONER BARTON:** Yeah. And I have
7 all that. My question was, was there any new objections
8 today that I hadn't already reviewed?

9 **ATTORNEY RUMMEL:** No.

10 **PRESIDING COMMISSIONER BARTON:** Okay. And I -- I
11 know we were delayed this morning for a short time
12 because, um, we had problems connecting you with your
13 client through no fault of yours or his. Have you had
14 sufficient time to talk to your client such that he, or
15 you believe he, to be ready to go forward today?

16 **ATTORNEY RUMMEL:** I did, and we are ready to
17 proceed.

18 **PRESIDING COMMISSIONER BARTON:** All right. Mr.
19 Menendez, I know you're nervous. Everyone's nervous when
20 they come to a hearing. That's natural. Um, what I'll tell
21 you is just keep breathing. Don't hold your breath. Take
22 deep breaths. Uh, don't try to answer questions before
23 they're finished. We don't wanna talk over one another.
24 Um, understand that we have reviewed your file. Uh, even
25 though it is extremely voluminous, trust me that, uh,

1 Commissioner Stern and I exercised diligence in going
2 through it. So, there may be some things that we don't
3 talk about. In fact, there will be some things we don't
4 talk about because they're not as relevant to us for
5 purposes of this hearing. The purpose of this hearing is
6 not to retry your case, nor is the purpose of this hearing
7 to put your parents on trial. The purpose of this hearing
8 is to determine whether or not you currently pose an
9 unreasonable risk to public safety. And so, in determining
10 that we identify what we believe to be risk areas, and
11 then we will discuss with you any or all mitigation of
12 those risk areas that you wanna share with us. There are a
13 lot of things in the file that, um, if they're already
14 well-detailed, we may not need to discuss. You will be
15 given an opportunity to give a closing statement. Also,
16 your attorney will be given an opportunity to ask
17 clarifying questions. Because once myself and the Deputy
18 Commissioner are through with our questions, we ask the
19 attorneys each if they have clarifying questions. Um,
20 those clarifying questions are designed to assist the
21 Panel in any areas that would be relevant to our decision.
22 So again, that's not an opportunity to either retry the
23 case or ask questions that have already been asked. And if
24 I feel that, for example, the DA's questions, um, are
25 relevant, then I will rephrase or ask you to answer them

1 directly. So, wait until that happens, and I'll remind you
2 of that. Your attorney can ask you questions directly.
3 However, again, if I feel that they're not relevant, um, I
4 will, uh, indicate that, and we'll move on. Once those
5 questioning portions are through with the hearing, we'll
6 go to closing statements. Each attorney will have time to
7 give a closing statement. Uh, we'll cross that bridge when
8 we come to it, as well. And then subsequent to that,
9 you'll be given an opportunity to give a closing statement
10 if you choose. You're not required to do so, but if you
11 want to, we'll give you an opportunity to give a closing
12 statement. And then, we will take those persons that are
13 victim family members that want to speak or
14 representatives. Um, I don't know that any order has been
15 preset. Um, we'll -- I'll ask that when we get to that
16 point. With this many people, I may just go down the
17 roster as I did earlier, and we'll take statements. When
18 all of that is done, we'll take another break, and during
19 that break is when myself and the Deputy Commissioner will
20 deliberate on your case. Once we're through with
21 deliberations, we'll come back with a decision. And as,
22 uh, I'm sure you're aware, that decision can be to grant
23 or deny. If it's a denial, it can be anywhere from three
24 years to 15 years, depending on the reasons for the denial
25 and how long we believe it will take for you to do the

1 things to be found suitable. If it's a grant, it's not
2 automatic. It goes through a review process with the
3 Governor's office, also with our legal office. Um, that
4 takes a period of four to five months. Um, it can be
5 reversed. It can be sent back en banc. Um, so, those
6 various things happen potentially after the hearing on a
7 grant. So, that's basically the layout of what potentially
8 could happen. Do you understand or do you have any
9 questions about any of that?

10 **ERIK MENENDEZ:** Yes, sir. Uh, no questions.

11 **PRESIDING COMMISSIONER BARTON:** All right, sir.

12 **DEPUTY COMMISSIONER STERN:** Commissioner?

13 **PRESIDING COMMISSIONER BARTON:** We do have the te
14 -- yes?

15 **DEPUTY COMMISSIONER STERN:** I need to -- I need to
16 check the, uh, audio recording, please.

17 **PRESIDING COMMISSIONER BARTON:** Oh, I apologize.
18 Go ahead. Let's do that. So, we're gonna pause. We'll be
19 off the record for Commissioner Stern. It's her job to
20 make sure the recording is good. So, I should have done
21 this earlier, but, uh, we'll check it at this time.
22 Everyone just standby.

23 **DEPUTY COMMISSIONER STERN:** Thank you.

24 **RECESS**

1 **DEPUTY COMMISSIONER STERN:** Thank you,
2 Commissioner. The recording is clear, and we're back on
3 the record.

4 **PRESIDING COMMISSIONER BARTON:** All right. We're
5 back on the record in the matter of Erik Menendez's
6 initial parole consideration hearing with all the parties
7 previously identified. The time is 9:21 a.m., and we're
8 ready to begin. Mr. Menendez, as I said, while it's not
9 our intent to retry your crime, we certainly want to talk
10 to you about who you were at that time, um, because one of
11 the things in our determination of whether or not you
12 currently pose an unreasonable risk to public safety is
13 whether or not there's been offender change. So, prior to
14 the murder, you had already been involved in some criminal
15 activity. Is that correct?

16 **ERIK MENENDEZ:** Yes, sir.

17 **PRESIDING COMMISSIONER BARTON:** And, um, in the
18 first instance, the first burglary that you committed, uh,
19 how old were you?

20 **ERIK MENENDEZ:** Seventeen.

21 **PRESIDING COMMISSIONER BARTON:** Okay. And why did
22 you involve yourself in that burglary?

23 **ERIK MENENDEZ:** It began as a -- as a, uh, a prank
24 with a couple of other, uh, people at a party, and it
25 escalated and became a serious, uh, instance. Uh, I wanted

1 to impress them, and I was, uh, very immature, and I made
2 very poor decisions, and, uh, I ended up hurting, uh,
3 those -- those individuals that I burglarized.

4 **PRESIDING COMMISSIONER BARTON:** Okay. And I know
5 what happened. I've read the record. But I'm trying to
6 figure out, at that point in time, you didn't need money,
7 right?

8 **ERIK MENENDEZ:** No.

9 **PRESIDING COMMISSIONER BARTON:** And you realize
10 that you have entry to a safe, and it has valuables in it.
11 Do you remember having any thought whatsoever about --
12 'cause that's a little different than moving your friend's
13 car. I mean, now you're actually stealing things. Had you
14 stolen before that?

15 **ERIK MENENDEZ:** No.

16 **PRESIDING COMMISSIONER BARTON:** Okay. So, what was
17 your plan to do with the things you were stealing?

18 **ERIK MENENDEZ:** I didn't have a plan. Uh, I -- I
19 was with these -- with these, uh, older, uh, kids that I -
20 - that I had known from high school. And it doesn't excuse
21 my action. I was fully culpable in what I was doing. I
22 took them, and I didn't know what I was gonna do with
23 them. Uh, simply doing the act was this sense of
24 validation for me that I could -- I could do this act. Uh,
25 I -- I was dealing with tremendous self-worth issues at

1 the time, and this made me feel like I could do something.
2 And I went to my brother, and I showed him what I had
3 taken almost as if I was gonna get validated. Uh, you
4 know, almost as if he was gonna say, you know, "Good job,"
5 or -- or -- or something like that. And, uh, I did not
6 appreciate the consequences of -- and -- and the -- not --
7 not just the consequences, but the damage I was doing to
8 those -- to the Lists, it was the family of Lists, and
9 how I was harming them. In my mind, I was saying,
10 "Insurance is gonna cover all of this." Uh, uh, you know,
11 "I did this with these kids, and I'm one of them." You
12 know, "I'm -- I'm," --

13 **PRESIDING COMMISSIONER BARTON:** I got you. And
14 you've written about this in some detail, very similarly
15 to what you're sharing now. I guess my question is, if
16 you'd already done that, kind of proven it to yourself,
17 proven it to these kids, why then commit the second
18 burglary?

19 **ERIK MENENDEZ:** As soon as -- uh, right after we
20 had gone into the safe, uh, there was a discussion among
21 them, and I was there, uh, but they were older kids, and
22 so, I was -- I was more of the hanger-on, that, uh, they
23 wanted to do a real burglary. Like, this was -- we were
24 already in the house. It was a party and -- and we came
25 across the safe, uh, in looking for the keys. And so, I

1 heard this, and I put it in my mind that I was going to do
2 this burglary before they could do the burglary ,that I
3 was going to --

4 **PRESIDING COMMISSIONER BARTON:** Well, did you talk
5 about who was gonna be burgled or -- or where?

6 **ERIK MENENDEZ:** At the -- at the time? No. It was
7 subsequent conversations that they had decided that it was
8 gonna be a different house, the Ginsberg house. That's the
9 family of the second place. And --

10 **PRESIDING COMMISSIONER BARTON:** And how many peers
11 are we talking about?

12 **ERIK MENENDEZ:** Two others.

13 **PRESIDING COMMISSIONER BARTON:** And -- and how
14 much older were they than you?

15 **ERIK MENENDEZ:** They were a -- they were a year
16 older. They were going off to college. I was still in high
17 school.

18 **PRESIDING COMMISSIONER BARTON:** Okay. All right.
19 And so, you decide that you're gonna do it before they
20 can, but then you involve your brother. Why?

21 **ERIK MENENDEZ:** My brother was like a second
22 father to me. Uh, he was the person that I just -- I
23 looked up to and idolized and --

24 **PRESIDING COMMISSIONER BARTON:** Well, you're not
25 gonna involve your father in doing a burglary.

1 **ERIK MENENDEZ:** Definitely not. Uh, uh, so, that's
2 a good question. Uh, I just had a -- a -- I just thought
3 Lyle would say -- I don't know what exactly I thought Lyle
4 would say. But, uh, maybe he would say, "This is terrible.
5 You did an awful thing." Or maybe he would say, "Good
6 idea." What he ended up saying is, uh, "You're going to
7 get in trouble. You're gonna get arrested, and I'm gonna
8 be held responsible for this." With that, it wasn't -- it
9 wasn't -- keep in mind, it wasn't the ethical
10 considerations that was -- that he was bringing up. It was
11 the consequential considerations.

12 **PRESIDING COMMISSIONER BARTON:** I understand.

13 **ERIK MENENDEZ:** And -- and -- and, uh, and so, his
14 concern, uh, wasn't in -- about the morality of the event.
15 It was -- it was, "This is gonna go badly, and you don't
16 know what you're doing, and you're gonna get arrested or
17 worse," and dad's gonna blame him.

18 **PRESIDING COMMISSIONER BARTON:** I get that. But
19 that actually was the point of my question in both of
20 these cases that you haven't really answered yet, and that
21 is, why weren't there, in your mind -- most people at 16,
22 17, they know the difference between right and wrong. Why
23 weren't there ethical or morality considerations in terms
24 of just, "Hey, this is wrong. It's against the law. It's
25 taking stuff that isn't ours."? Was stealing something

1 that you thought was acceptable in cer -- certain
2 circumstances?

3 **ERIK MENENDEZ:** I had never, uh, stolen like that
4 before, but I was raised in a family where, uh, stealing
5 isn't what was frowned upon. Uh, it was --

6 **PRESIDING COMMISSIONER BARTON:** Getting caught.

7 **ERIK MENENDEZ:** Getting caught was what was
8 frowned upon. My -- my father, uh, prided himself on being
9 able to do anything inside or outside the law and rise
10 above it and profit from it. Uh, I was not raised with a -
11 - a moral foundation. I -- to say the opposite. I was
12 raised pur -- purposely without the moral foundation that
13 I should -- that I should not -- that I should not do
14 wrong when I know the difference between right and wrong.
15 I was raised to lie, to -- to cheat, to steal, uh, and
16 steal in a sense, uh, an abstract way. Uh, so, when I was
17 playing tennis, my father would make sure that I cheated
18 at certain times if he told me to. And there -- there --
19 the idea that there's a right and wrong that I do not
20 cross because it's just a moral bound was not instilled in
21 me as a teenager.

22 **PRESIDING COMMISSIONER BARTON:** So, when do you
23 think you learned that?

24 **ERIK MENENDEZ:** That's been an evolution for me,
25 uh, in -- in life. When it came to the burglaries and

1 years later, my wife owned a store, uh, called Planet
2 Puppy, and her -- her story --

3 **PRESIDING COMMISSIONER BARTON:** She was burgled.
4 You wrote about it.

5 **ERIK MENENDEZ:** Yes. And that had a major impact
6 on me. But I was already under -- I was already, uh, going
7 along the lines that there is, uh, that there is right and
8 wrong. I -- I -- I had begun to believe in God again, and
9 I -- and I understood the moral right and wrong. The
10 evolution of my -- of -- of me having an internal
11 guardrail that there's just certain things that you don't
12 do has been an evolving process. It's been that my journey
13 in prison has been that process, me finding who I am.

14 **PRESIDING COMMISSIONER BARTON:** And -- and the
15 reason I'm asking you this about who you were at the time
16 is because you wrote at length about what you felt your
17 character defects were at that time. Right?

18 **ERIK MENENDEZ:** Yes.

19 **PRESIDING COMMISSIONER BARTON:** And do you
20 remember what you wrote?

21 **ERIK MENENDEZ:** I wrote that, uh, my character
22 defects involved a lot of, uh, moral failings. Uh --

23 **PRESIDING COMMISSIONER BARTON:** I have it listed.

24 **ERIK MENENDEZ:** Uh, I was dishonest. I was angry.
25 I was in a codependent relationship with my brother. I

1 was, uh, impulsive. I was, uh, entitled. I had extreme
2 negative, uh, uh, talking at -- to myself. I would violate
3 the rules if I believed that it would benefit me. Uh, I --
4 I did not trust, uh, authority. I didn't trust my
5 relatives. I didn't trust -- I lived in an isolated, uh,
6 uh, household. We were trained to not go outside the
7 household. So, I had deep character failings.

8 **PRESIDING COMMISSIONER BARTON:** Okay.

9 **ERIK MENENDEZ:** Uh, and --

10 **PRESIDING COMMISSIONER BARTON:** But -- but I'm
11 talking about -- and these were -- you recognize now these
12 were instilled even before the murders.

13 **ERIK MENENDEZ:** Absolutely. Yes.

14 **PRESIDING COMMISSIONER BARTON:** And so, and I know
15 they're not huge when it comes to criminal history
16 necessarily, but there was some speedings and failures to
17 appear. Did you feel like the laws of the road really
18 didn't apply to you?

19 **ERIK MENENDEZ:** Speeding, yes. I -- my
20 understanding is that the failures to appear happened
21 because I was arrested. But I --

22 **PRESIDING COMMISSIONER BARTON:** I don't know.

23 **ERIK MENENDEZ:** Uh, yeah. I -- the -- I can't
24 imagine I wouldn't have gone to court if I had a court
25 date. Um, but -- but speeding, yes, absolutely. I lost my

1 license for speeding.

2 **PRESIDING COMMISSIONER BARTON:** Okay.

3 **ERIK MENENDEZ:** A -- a total disregard for, uh,
4 the safety of others on the road.

5 **PRESIDING COMMISSIONER BARTON:** Okay. And after
6 you commit the second burglary, right, even though your
7 brother tells you not to, as you said, not for moral
8 reasons, but for consequences from your dad, you still
9 decide to go ahead and do it. Why?

10 **ERIK MENENDEZ:** He was advising me not to. I told
11 him, "I'm going to do this. My friends are going to do
12 this burglary. I'm going to do it before them." And I
13 believed that this would impress my friends. I believed
14 that I would look like I was worth being in their -- in
15 their group of their age 'cause they were older, and --

16 **PRESIDING COMMISSIONER BARTON:** Right. But didn't
17 you already do that in the first burglary?

18 **ERIK MENENDEZ:** I was just there. I was -- I was -
19 - I mean, I was there, and I committed the burglary, but I
20 hadn't done it on my own. They were there. And this was
21 something --

22 **PRESIDING COMMISSIONER BARTON:** After the second
23 one, did you give them any of that property or go tell 'em
24 what you did?

25 **ERIK MENENDEZ:** No. Uh, tell 'em what they -- I'm

1 not sure if I specifically told them what I did. They
2 found out very quickly that I'm the one that did it. Uh,
3 things unraveled very fast, at that point. I was putting
4 some of the jewelry --after I did the second burglary, I
5 began to realize what I did was wrong. This is -- this was
6 -- I hadn't -- some of the jewelry I was looking at looked
7 like it was meaningful and personal. And my -- my thought
8 was, "They're gonna be able to replace all of this with
9 insurance." But some of the jewelry looked like it's not
10 replaceable, and I began to think what started out as this
11 prank and what started out as -- as, uh, turned into a
12 serious crime. And so, I thought, "I should put some of
13 this back." And I began to -- to -- and so, I went into
14 the safe to return some of it, and -- but it -- it
15 unraveled so fast that there was, uh, after I did that,
16 there was no opportunity to get back into the houses.

17 **PRESIDING COMMISSIONER BARTON:** Well, but you
18 planned the second burglary. So, what did you plan to do
19 with the stuff you took?

20 **ERIK MENENDEZ:** I didn't plan it. I -- I planned
21 the burglary. I didn't -- I didn't plan on what to do with
22 the stuff. I took a Soloflex machine. I took paintings. I
23 -- I -- I took -- I just took everything, and --

24 **PRESIDING COMMISSIONER BARTON:** The stuff was
25 stupid, but, and I get it, you were 17. But I'm talking

1 about the storage facility.

2 **ERIK MENENDEZ:** The store -- I -- I took so much
3 stuff that Lyle had to rent the storage facility. And --
4 and so, we just put it in the storage facility 'cause we
5 had no other place to put it. And --

6 **PRESIDING COMMISSIONER BARTON:** And at no time
7 during that discussion with him, you guys were like, "This
8 is stupid. Why are we doing this? What -- what are we
9 gonna do with this stuff?" I mean, you had to have some
10 discussion.

11 **ERIK MENENDEZ:** Uh, yeah. Well, we discussed at
12 some point later returning it. But in the meantime, my
13 brother was upset that I -- he actually stopped me from
14 going back in the house because he said, "You're taking
15 too much stuff." I had piled the stuff up by the front
16 door. He's now helping me put it into the car, and he was
17 telling me that I'm not there to -- to move the people
18 out. I was -- I was there because I wanted to do this
19 burglary, and I took all kinds of things that were
20 ridiculous, and he was disappointed in me. I felt like I
21 had failed again, and now in his eyes. He thought that
22 this -- this crime that I did was, uh, the reasons were
23 dumb and that I was going to get, uh, into serious trouble
24 with my father.

25 **PRESIDING COMMISSIONER BARTON:** So, why didn't

1 that concern you?

2 **ERIK MENENDEZ:** I kind of wanted to stick it to my
3 dad. Uh, I -- I was in a very, uh, difficult relationship
4 with my father, and I was dealing with a -- a -- a whole
5 nother, uh, uh, issues with him in terms of, uh, my
6 relationship with him, and I was resisting him in ways
7 that I could. And doing the burglary was one way that I
8 could resist him and -- and sort of be -- really, really
9 violate his rules, and there's nothing he could do about
10 it. And I -- it was --

11 **PRESIDING COMMISSIONER BARTON:** But you murdered
12 him because you thought there was something he was gonna
13 do to you.

14 **ERIK MENENDEZ:** Yes. But at -- at this time of the
15 burglaries, there was -- this was just a -- a sort of a
16 passive resistance to him. Uh, this was not me standing
17 up. The last time I stood up to him was before my 18th
18 birthday, and I built myself up to say no to him, and that
19 turned very badly for me. So, I gave up --

20 **PRESIDING COMMISSIONER BARTON:** And I read about
21 it. I -- I -- I'm not here to -- for you to revisit your
22 trauma. I read extensively about it. Um, so, I understand
23 that. I guess what I'm trying to figure out is your desire
24 to impress these friends overcame your fear of your father
25 and the advice of your brother.

1 **ERIK MENENDEZ:** Yes and no. I -- I don't know that
2 it overcame my fear of my father. Uh, he was gonna punish
3 me one way or another, uh, violently or not. He ended up
4 not violently punishing me, which was odd to me. Uh, he
5 took me out of the will, but he didn't punish me
6 violently. But it -- it -- the -- the -- the vi -- the --
7 the loyalty in my family was secrecy. Loyalty was -- was
8 keep the family secret. That I was not going to betray.
9 Doing a burglary, my dad did -- my dad's bad, violated
10 laws, bragged about not paying taxes, uh, about doing --
11 would lie to the neighbor, killed our dog. He -- he wasn't
12 the -- the immoral act, uh, in -- in my mind, maybe he'd
13 be proud of me if -- if I did this well. Maybe this was
14 something I could do. But it was also a way in my heart
15 that I knew this is -- this is me sticking it to him.

16 **PRESIDING COMMISSIONER BARTON:** Well, and you said
17 because it would damage his reputation.

18 **ERIK MENENDEZ:** Right. Yes.

19 **PRESIDING COMMISSIONER BARTON:** Yeah. And as I
20 said, we, you know, we've read that, so we understand
21 that. Um, okay. So, how much time between the second
22 burglary and the murder?

23 **ERIK MENENDEZ:** A little over a year.

24 **PRESIDING COMMISSIONER BARTON:** And during that
25 timeframe, um, when was it when Lyle came home again?

1 **ERIK MENENDEZ:** Lyle was living at home during the
2 summer of the burglaries. Uh, and then he went off to
3 Princeton that fall, and he would be home on and off. He
4 was constantly flying home. Uh, so, he was home
5 periodically. He lived in the guest house.

6 **PRESIDING COMMISSIONER BARTON:** Okay. So, on and
7 off during that whole year.

8 **ERIK MENENDEZ:** Right.

9 **PRESIDING COMMISSIONER BARTON:** And when did the
10 two of you, or did the two of you first discuss doing
11 something to your father and mother, or father?

12 **ERIK MENENDEZ:** I went to him the Tuesday before
13 to tell him what was -- I didn't go to him specifically to
14 tell him. I had seen an incident with my mother in the
15 foyer, uh, with my brother. And so, I went to the guest
16 house, and I just broke down and started telling him. Uh,
17 but there was no talk about doing anything to my parents.
18 The talk was, "You're coming back to Princeton with me." I
19 told him that the -- the -- the sexual violence was still
20 going on, and he was very upset. He -- he was very angry
21 at me, and, uh, I think he felt very guilty. But he, uh,
22 he -- he believed that I would be able to go back to
23 Princeton with him, and that he was gonna take me away
24 from it and end it. It's when that did not work, and his
25 confrontation with dad turned very bad on Thursday night

1 that, uh, that was the first talk of buying guns. But the
2 buying guns -- the talk of the buying guns was not, "Let's
3 buy guns and kill them." That wasn't the conversation. Uh,
4 the talk of buying guns was because now it had become, uh,
5 very dangerous, and I had broken the one rule that my
6 father told me never to break. So, uh, and that's --

7 **PRESIDING COMMISSIONER BARTON:** So, you had never
8 told Lyle before that that you were being sexually abused?

9 **ERIK MENENDEZ:** No.

10 **PRESIDING COMMISSIONER BARTON:** And you had never
11 talked to him about his sexual abuse of you at that point?

12 **ERIK MENENDEZ:** No. Lyle and I never discussed
13 that until --

14 **PRESIDING COMMISSIONER BARTON:** You said in court
15 he apologized for something.

16 **ERIK MENENDEZ:** Exactly.

17 **PRESIDING COMMISSIONER BARTON:** So, while you were
18 in county jail during the trial, did you have that
19 discussion?

20 **ERIK MENENDEZ:** No, not until after he was on the
21 stand.

22 **PRESIDING COMMISSIONER BARTON:** Were you
23 suppressing that, or did you think he didn't remember it,
24 or you just didn't wanna talk about it?

25 **ERIK MENENDEZ:** I didn't wanna talk about it. Lyle

1 and I were raised purposely to -- to not talk to each
2 other about emotional or -- or -- or traumatic things. We
3 just were not -- we were raised to keep that inside, that
4 -- that talking about something like that was considered a
5 great weakness. And, uh, the shame of what he did to me,
6 there was -- I couldn't imagine bringing it up to him.

7 **PRESIDING COMMISSIONER BARTON:** So, when you
8 talked about getting the guns, what was the purpose, if
9 not to use them?

10 **ERIK MENENDEZ:** I -- I -- the purpose was to use
11 them if my dad -- when I -- when we -- when we talked
12 about getting the guns, I had made the decision I was
13 never going to let dad come in my room and do that again.
14 That was never going to happen. And now, Lyle, I had -- I
15 had -- Lyle was my ally, and, uh, Lyle had wanted to run
16 away. He wanted to leave, go somewhere, talk to someone,
17 do something, and I told him that that was impossible. And
18 so, the decision --

19 **PRESIDING COMMISSIONER BARTON:** Well, stop. Why?
20 Why would you tell him that?

21 **ERIK MENENDEZ:** Because in my mind, leaving meant
22 death. There was -- there was no consideration. I -- I was
23 -- I was totally convinced that there was no place I could
24 go. It was not a consideration to me. It didn't matter
25 where I was.

1 **PRESIDING COMMISSIONER BARTON:** So, you were --
2 you were 18, right?

3 **ERIK MENENDEZ:** Yes.

4 **PRESIDING COMMISSIONER BARTON:** You know at 18 you
5 can leave home. People do it all the time, especially in
6 bad situations.

7 **ERIK MENENDEZ:** Yes. Yes.

8 **PRESIDING COMMISSIONER BARTON:** You had family
9 members, in fact, some of them are here, that would've
10 taken you in. Right?

11 **ERIK MENENDEZ:** Yes.

12 **PRESIDING COMMISSIONER BARTON:** You had your
13 brother now who was saying, "Let's leave. Let's get out of
14 here."

15 **ERIK MENENDEZ:** Yes.

16 **PRESIDING COMMISSIONER BARTON:** And so, there
17 wasn't any part of you, you don't think, that was
18 thinking, "I'm gonna end this my way by killing him,"?
19 Because you kind of put yourself in that position.

20 **ERIK MENENDEZ:** Right. Right. It's difficult to
21 convey, uh, but I'm gonna try, uh, how terrifying my
22 father was. The idea that -- that I could walk into a room
23 and shoot him was inconceivable to me. I -- I fantasized
24 about him not being alive when I was a teenager. But the
25 idea of me pulling a trigger and killing him? My dad was

1 the most terrifying human being I've ever met. He still
2 is.

3 **PRESIDING COMMISSIONER BARTON:** Okay. But wait a
4 minute. You're -- you're -- you're shifting the question.
5 My question was, if you had these opportunities and people
6 basically telling you, your brother, "Hey, let's just
7 leave," and the alternative is, "I'm gonna get a gun
8 knowing that he's gonna come at me again, and I'm gonna
9 shoot him," in self-defense or whatever, versus, "I'm
10 gonna leave, go to the authorities, go to family, go to
11 whoever. I've already disclosed to Lyle. Let's just leave
12 so I can get away from this monster." Why didn't you make
13 that choice? What kept you in the house?

14 **ERIK MENENDEZ:** My absolute belief that I could
15 not get away. It sounds -- maybe it sounds completely
16 irrational and unreasonable today, but at the time, there
17 was -- I was --

18 **PRESIDING COMMISSIONER BARTON:** Well, I've dealt
19 with a lot of sexual assault victims, and I get that
20 learned helplessness. I understand the syndrome. I didn't
21 need the psychologist to write me and explain it. I've
22 seen it. So, I understand that. But also, oftentimes,
23 those people that have no other options, in other words,
24 if they were to leave, they'd literally be homeless with
25 nothing. You weren't in that situation. You're a smart

1 guy. At that point, you had, what, a 4.0 or something in
2 high school?

3 **ERIK MENENDEZ:** I wish. Uh, uh, a 3.1.

4 **PRESIDING COMMISSIONER BARTON:** Okay. Still --

5 **ERIK MENENDEZ:** But I was still smart.

6 **PRESIDING COMMISSIONER BARTON:** Still could have
7 gone to college.

8 **ERIK MENENDEZ:** Yes.

9 **PRESIDING COMMISSIONER BARTON:** Even if it was a
10 junior college, you could have gotten a job. Right? It
11 would've meant the end of your tennis, would've meant the
12 end of your lifestyle, and that's one of the things that
13 I'm curious about too. Because in your writings you say
14 there is, I quoted it, "I have no justification for what I
15 did."

16 **ERIK MENENDEZ:** Right.

17 **PRESIDING COMMISSIONER BARTON:** And -- and that's
18 your belief today, correct?

19 **ERIK MENENDEZ:** Correct.

20 **PRESIDING COMMISSIONER BARTON:** Was there any part
21 of this that you believe was self-defense?

22 **ERIK MENENDEZ:** No.

23 **PRESIDING COMMISSIONER BARTON:** No. There was no
24 imminent -- I mean, I get it if he's pounding, coming
25 through your door. But you're basically --

1 **ATTORNEY RUMMEL:** I'm gonna object to him making
2 legal conclusions, because we have a pending habeas.
3 There's an order to show cause in the habeas. His mindset,
4 his beliefs, his fears is -- is what's relevant here, not
5 his legal --

6 **PRESIDING COMMISSIONER BARTON:** Well, counsel, you
7 should -- you should then advise him not to answer the
8 question before he answers it. So, I -- I'm not asking him
9 for a legal conclusion. I was asking him about the
10 statement that he said, "I have no justification for what
11 I did." He actually wrote that.

12 **ATTORNEY RUMMEL:** Are we asking about self-defense
13 and perfect self-defense. If we're gonna go down a legal
14 analysis pathway (inaudible) --

15 **PRESIDING COMMISSIONER BARTON:** No, I'm not asking
16 him for a legal analysis, and I think he understood the
17 question.

18 **ERIK MENENDEZ:** Yeah. I -- I --

19 **PRESIDING COMMISSIONER BARTON:** The point of the
20 question was what -- 'cause he was telling me, or I -- or
21 you were telling me, Mr. Menendez, about this fear and
22 that you had got the guns not to kill them. And I said,
23 "Why'd you get 'em?" And then, you digressed. You didn't
24 really answer. You said, "I'm not gonna --"

25 **ATTORNEY RUMMEL:** I'm gonna --

1 **PRESIDING COMMISSIONER BARTON:** "I wasn't gonna
2 ever let him do that to me again."

3 **ATTORNEY RUMMEL:** I'm -- I'm gonna object again. I
4 -- because the com -- uh, the Panel cut him off when he
5 was talking about his father and his fear of his father,
6 which is the ex -- is the answer to that question, and --
7 and he wasn't allowed to finish that discussion. But --
8 but his mindset is -- is the -- the -- the basis for his
9 choices. And I -- I think he needs to --

10 **PRESIDING COMMISSIONER BARTON:** Well, I'll go back
11 --

12 **ATTORNEY RUMMEL:** -- a full opportunity to answer.

13 **PRESIDING COMMISSIONER BARTON:** I appreciate your
14 -- I appreciate your objection. It's not really an
15 objection. It's just a comment on what I was saying. But
16 as far as you, Mr. Menendez, I'll ask the question again.
17 What was your purpose in getting the guns?

18 **ERIK MENENDEZ:** Uh, I -- I will -- I will, uh, I
19 assume we'll get to the night of August 20th, and I -- and
20 --

21 **PRESIDING COMMISSIONER BARTON:** Yep.

22 **ERIK MENENDEZ:** -- we'll -- okay.

23 **PRESIDING COMMISSIONER BARTON:** We're about there.

24 **ERIK MENENDEZ:** Uh, okay. Uh, my purpose in
25 getting the guns was to protect myself in case my father

1 or my mother, uh, came at me to kill me, uh, or my father
2 came in the room, uh, to rape me. That is why I bought the
3 guns.

4 **PRESIDING COMMISSIONER BARTON:** Okay. And how many
5 guns were purchased?

6 **ERIK MENENDEZ:** Two.

7 **PRESIDING COMMISSIONER BARTON:** Why was that?

8 **ERIK MENENDEZ:** One for me and one for Lyle.

9 **PRESIDING COMMISSIONER BARTON:** So, Lyle, you
10 believed, was going to assist you or was going to help you
11 in some way if you were attacked?

12 **ERIK MENENDEZ:** Yes. Uh, but he -- he -- telling -
13 - telling Lyle and exposing the family secrets, and my dad
14 believing that we were gonna go and tell other people,
15 meant that our lives were in extreme danger immediately.
16 So, Lyle did not feel comfortable. If I -- if I wasn't
17 leaving, he wanted to have a gun.

18 **PRESIDING COMMISSIONER BARTON:** Okay. So, why use
19 fake ID to get those guns?

20 **ERIK MENENDEZ:** That was the -- it was the ID I
21 had on me. I didn't have an ID. And two, even if I had an
22 ID, I wouldn't have used it. I wouldn't have used my own
23 driver's license.

24 **PRESIDING COMMISSIONER BARTON:** Why?

25 **ERIK MENENDEZ:** Uh, because on Friday, we didn't

1 have an intention to kill, uh, my parents. And if we buy
2 the guns, and I have my ID, and I put my -- my address,
3 then paperwork's gonna show up at the house. My parents
4 are gonna know I went and bought guns on Friday. We -- we
5 were trying to conceal that.

6 **PRESIDING COMMISSIONER BARTON:** Okay. Had you
7 bought guns before?

8 **ERIK MENENDEZ:** No.

9 **PRESIDING COMMISSIONER BARTON:** How do you know
10 paperwork would show up at the house?

11 **ERIK MENENDEZ:** I'm just assuming that brochures,
12 whatever will show up at the house.

13 **PRESIDING COMMISSIONER BARTON:** Okay. So, you go
14 back home, and you see the interaction between your
15 parents, and they go in the den. Was it your idea then, or
16 Lyle's? Who -- who first acted in terms of the violence?

17 **ERIK MENENDEZ:** Lyle came to the top of the stairs
18 after my dad had ordered me to my room and said he was
19 coming up, uh, and -- and said, "It's happening now." But
20 I -- my focus was, "Dad's coming to my room. I can't let
21 dad come to my room." Uh, and Lyle said, "You understand
22 it's happening now." And -- and I knew what that meant,
23 and we were about to die now. And I told him, "My gun's in
24 my room," and I ran to my room to get the gun. All I knew
25 was that I gotta get to that den. Fear was driving me to

1 that den, uh, and -- and rage. Uh, the idea that dad was
2 gonna come to my room -- dad was going to come to my room
3 and -- and rape me that night. That was going to happen
4 one way or another. If he was alive or -- or that was
5 going to happen. And so, I just -- I went, and I ran, and
6 I got the gun in my room, and I went down to the car, and
7 I loaded it, and I ran into that -- that den before Lyle
8 could. Without -- without a discussion, before Lyle. I
9 didn't even wait for Lyle. I knew I had to get to that
10 den.

11 **PRESIDING COMMISSIONER BARTON:** Okay. But again,
12 from an outside objective, I get it. Not thinking
13 straight. You had the trauma, all of that. But you do see
14 that there were other choices at that point.

15 **ERIK MENENDEZ:** I get that. Looking back as a
16 healthy individual today, that there were obviously o --
17 other choices. When I look back as -- at the 18-year-old
18 that I was, and I don't mean to minimize it by saying I
19 was 18, just the person I was then, uh, and what I
20 believed about the world and my parents, running away was
21 inconceivable. Running away meant death. There -- that was
22 never going to happen. It wouldn't matter where I was. My
23 father sent me on tennis trips when I was 12. He didn't
24 think that I was gonna tell anybody or run away. He had no
25 fear of that. He had trained me to believe that -- that

1 running away meant death. I knew it. And so, at that car,
2 it's logical. I get it. I'm at the car. Why didn't I get
3 in the car and drive away? I understand that question.

4 **PRESIDING COMMISSIONER BARTON:** And you had a
5 shotgun.

6 **ERIK MENENDEZ:** Uh, right. It -- it was
7 inconceivable to run away. You would have to live my
8 experience to understand that there was no way I was
9 running away, and if my dad exited that den before I got
10 to that den, I was dead.

11 **PRESIDING COMMISSIONER BARTON:** Okay. So --

12 **ERIK MENENDEZ:** That's what I believed. I believed
13 it.

14 **PRESIDING COMMISSIONER BARTON:** -- at the time,
15 you're gonna go kill dad as preemptive. Right? Uh, 'cause
16 you're -- you had this fear. Why kill mom?

17 **ERIK MENENDEZ:** I -- I saw my mom when -- when my
18 mom told me on Thursday that she had known all of those
19 years, it was the most devastating moment in my entire
20 life. It changed everything for me, and it -- it changed
21 the way I -- I had been protecting her by not telling her.
22 When she told me on Thursday that she knew I saw her and
23 dad, my -- my mom, all my life had been my dad's ally,
24 telling my dad everything that I did wrong, getting my --
25 getting -- watching me get whipped in front of her. But I

1 still believe --

2 **PRESIDING COMMISSIONER BARTON:** Do you still think
3 so, or -- or have you rethought that?

4 **ERIK MENENDEZ:** Rethought which part?

5 **PRESIDING COMMISSIONER BARTON:** Well, whether she
6 was his ally. What if she was his victim?

7 **ERIK MENENDEZ:** She was his victim. She was
8 definitely his victim. And a lot of what she did and
9 blaming me was -- was to avoid her getting hit. When my
10 dad would beat my mom, and I would see blood on the sheets
11 the next morning, I knew it was because of me. He was
12 beating her because I failed. She was his victim.

13 **PRESIDING COMMISSIONER BARTON:** You wrote about
14 all that too. Again, I'm not trying to have you revisit
15 it. I'm trying to figure out that night, why, if -- if you
16 -- if you knew that this was happening to your mom, I get
17 the betrayal that she knew, and you thought you were
18 protecting her by not telling her, but she knew. Still, if
19 you have this burning hatred towards your dad, you had no
20 thought about rescuing your mom at all?

21 **ERIK MENENDEZ:** What -- a series of incidents told
22 me that my mom would not just not take our side, but egg
23 him on. When we -- when I found one of my mom's suicide
24 notes, and I called my brother and said, "Mom's going to
25 commit suicide. We need to -- we need to do something," my

1 brother had gone to my mom. This was a few years before,
2 and said, "Leave dad. We'll leave with you. We'll go back
3 to New Jersey." And my mom said, "I'm never leaving your
4 father. Your father is a great man, and I'm his wife, and
5 that's -- that's who I am." It -- it -- through step by
6 step, my mother had shown, uh, uh, that she was united
7 with my dad, but I still didn't believe she knew. And when
8 I found out that she knew, I no longer saw him and her as
9 different. They were different. She was his victim. I
10 should have known that. I should have -- I should have --
11 I should have separated it in my mind. But at -- but at
12 that night, I -- I saw them as one person. Had she not
13 been in the room, maybe it would've been different. It
14 would've been different, but --

15 **PRESIDING COMMISSIONER BARTON:** Well, but wait a
16 minute. I'm going to ask you about that. Because when you
17 shot him the first time, she was still alive. You had to
18 go out and reload to kill her.

19 **ERIK MENENDEZ:** Yes. Yes. All -- all I heard was -
20 -

21 **PRESIDING COMMISSIONER BARTON:** So --

22 **ERIK MENENDEZ:** -- was a -- was a -- was a, "No."
23 And -- and -- and I -- and I ran out. Uh, uh, that --
24 that's -- that's the, uh, that's -- that's the part of
25 this that is the -- is the hardest, and -- and you're

1 right. Um, I -- I wish to God I did not -- I did not do
2 that.

3 **PRESIDING COMMISSIONER BARTON:** Well, so, after
4 the murders -- are you doing okay? You need a break?

5 **ERIK MENENDEZ:** Yeah. No, no, that's fine.

6 **PRESIDING COMMISSIONER BARTON:** Well, you're not
7 fine. No one would be fine after discussing this. Take
8 some deep breaths. Like I said, don't hold your breath. I
9 don't want you passing out in there.

10 **ERIK MENENDEZ:** Okay.

11 **PRESIDING COMMISSIONER BARTON:** So, after the
12 murders, you -- and I've read what you wrote. It wasn't
13 immediate but then you realized police weren't coming, and
14 you were gonna figure out a way to cover it up. Right?

15 **ERIK MENENDEZ:** Yes.

16 **PRESIDING COMMISSIONER BARTON:** So, did it ever
17 occur to you that maybe you're putting other people in
18 danger by just disposing of guns?

19 **ERIK MENENDEZ:** Not at that time, no.

20 **PRESIDING COMMISSIONER BARTON:** Where'd you dump
21 'em?

22 **ERIK MENENDEZ:** Off of Mulholland Highway.

23 **PRESIDING COMMISSIONER BARTON:** Okay. Chance
24 anybody could find them, right?

25 **ERIK MENENDEZ:** Yes.

1 **PRESIDING COMMISSIONER BARTON:** What about, um,
2 and this -- I know I've -- I've read both briefs, but what
3 about the money afterwards and the spending sprees?

4 **ERIK MENENDEZ:** That's shameful.

5 **PRESIDING COMMISSIONER BARTON:** I mean, why do you
6 think you --

7 **ERIK MENENDEZ:** I --

8 **PRESIDING COMMISSIONER BARTON:** Why -- why do you
9 think that was?

10 **ERIK MENENDEZ:** You know, I -- I was -- I was torn
11 between hatred of myself over what I did and wishing that
12 I could undo it, and trying to -- trying to live out my
13 life as did -- making teenager decisions and buying the --
14 I bought a Rolex. Buying a Rolex, which is just an
15 incredibly callous act, uh, maybe to make myself feel a
16 little more like a man, to say, "Okay, I'm a man now," as
17 if that's gonna make me a man. Buying a suit. Uh, I -- I -
18 -

19 **PRESIDING COMMISSIONER BARTON:** Well, what was
20 your plan for your life after that?

21 **ERIK MENENDEZ:** I had no plan for my life. I
22 didn't know what to do with my life. The only thing I knew
23 in my life was to play tennis. I -- I -- it was the only
24 thing I was good at, the only thing that gave me any kind
25 of self-worth. Uh, I -- I didn't -- I didn't have

1 direction in my life. My self-worth didn't come from my
2 belief in God or my -- my -- my goodness to other people.
3 My self-worth came from achievement of what success was.
4 And, uh, I -- I -- the only thing that I was really good
5 at was tennis. I wasn't that good at academics. I wasn't
6 that good at -- so I -- so I knew I can play tennis and
7 it'll keep my mind off of things, but it -- it didn't.

8 **PRESIDING COMMISSIONER BARTON:** Well, what about -
9 -

10 **ERIK MENENDEZ:** It just didn't.

11 **PRESIDING COMMISSIONER BARTON:** What about you and
12 Lyle? Did you talk about, um, potentially getting caught?
13 I know you talked about not confessing or, you know, "Tell
14 me if you're gonna confess." I read that. But after you'd
15 gotten away with it, basically, were there more
16 discussions about keeping it quiet?

17 **ERIK MENENDEZ:** Just, Lyle assumed that I was not
18 going to confess. Uh, he didn't -- I couldn't go to him
19 with the pain that I was in. I couldn't -- I could not
20 talk to Lyle about this personal anguish that I couldn't
21 live with what -- what we had done, and I needed to talk
22 about it. I needed --

23 **PRESIDING COMMISSIONER BARTON:** What about the
24 spending? Did you guys talk to each other about that?

25 **ERIK MENENDEZ:** No. I -- I knew about some of the

1 -- the purchases that Lyle made, and I was -- I was not in
2 agreement with them. I just -- I spent the money that I
3 spent because I believed that it was -- I didn't intend to
4 go on -- my purpose wasn't to go on spending sprees. My
5 purpose was not to live at the house, to rent a
6 condominium, and I bought a Jeep, uh, and I thought that
7 it was a conservative purchase. I did it because I
8 thought, "This is -- this is not a Porsche. This is --
9 this is a Jeep." And I gave my car to my cousin, uh, the
10 car that I had, a Ford. And so, I was -- I was trying to
11 live just normally in the way that I was living before,
12 uh, but it --

13 **PRESIDING COMMISSIONER BARTON:** Okay. So, you talk
14 about your anguish and, you know, suicidal thoughts,
15 things of that nature. You go to see Dr., I think it's
16 Oziel, and that's who you were seeing as a result of your,
17 um, was that ordered by the court, by the way, after the
18 burglaries?

19 **ERIK MENENDEZ:** No. It was, uh, uh -- actually, it
20 might have been ordered by the court. I believe that --
21 that it was -- well, we had, uh, an attorney that said,
22 "The court's gonna order this. You should go do it to
23 preempt what the court's gonna do," and I believed that.

24 **PRESIDING COMMISSIONER BARTON:** And that was some
25 of the way that they were able to get you, like, diversion

1 instead of doing juvenile hall time or something?

2 **ERIK MENENDEZ:** Exactly.

3 **PRESIDING COMMISSIONER BARTON:** So, you were
4 already familiar with -- and I don't know how to pronounce
5 Dr. Oziel's -- is that right? Oziel?

6 **ERIK MENENDEZ:** O -- Oziel.

7 **PRESIDING COMMISSIONER BARTON:** Oziel, okay. And
8 you end up confessing, and then that ends up being what
9 ultimately gets you caught. Right?

10 **ERIK MENENDEZ:** Yes.

11 **PRESIDING COMMISSIONER BARTON:** But after you're
12 caught and you're in custody, you continue -- at that
13 point, even though you've confessed, you continue to do
14 things to thwart being prosecuted. Right? As far as
15 getting people to set up alibis or lie for you, or was --

16 **ERIK MENENDEZ:** No, I did not.

17 **PRESIDING COMMISSIONER BARTON:** Okay. Were you
18 aware about --

19 **ERIK MENENDEZ:** Uh, I was aware that Lyle was --

20 **PRESIDING COMMISSIONER BARTON:** -- your brother.
21 Were you aware of what he was doing?

22 **ERIK MENENDEZ:** Yes. Uh, Lyle did not want to
23 testify. Lyle wrote me a long letter asking me not to
24 testify. He did not want the secrets exposed. He thought
25 that would be like killing our parents again. And, uh, the

1 idea of him taking the stand, talking about what had
2 happened to him was, uh, devastating to him. It was
3 devastating to me but I -- I had a different attorney, uh,
4 and Dr. Vicary and Leslie Abramson began to heal me, began
5 to -- to at least work on my trauma to a point where I
6 felt like I could and should, uh, talk about it. Lyle was
7 not in that space. And I had -- I had long conversations
8 with Father Ken about how this is something that I should
9 do and I can do, and Lyle's conversations with Father Ken
10 were different. He does not want to do it. He does -- this
11 is -- this is -- he's against it. And so, he encouraged
12 other people to testify for him and lie. And, uh, I -- you
13 know, he is my older brother. I wasn't for it, but I
14 wasn't gonna stop it. And --

15 **PRESIDING COMMISSIONER BARTON:** Well, were you in
16 the same trial together?

17 **ERIK MENENDEZ:** We were in the same trial
18 together. No, those -- yeah. They -- they -- one of those
19 people, I believe, lied at the trial. The rest of them, he
20 told be -- before -- before, uh, they testified not to
21 testify, and they did not testify. He said he -- he -- at
22 some point, Lyle changed his mind and said that he's going
23 to testify, and chose to, and then called them and said,
24 "You don't need to take the stand. Uh, I'm -- I'm going to
25 testify."

1 **PRESIDING COMMISSIONER BARTON:** But you are aware
2 that there were those attempts?

3 **ERIK MENENDEZ:** Yes.

4 **PRESIDING COMMISSIONER BARTON:** With Perry, with
5 Jamie, with Traci, with Brian.

6 **PRESIDING COMMISSIONER BARTON:** Traci, Brian, and
7 Jamie.

8 **PRESIDING COMMISSIONER BARTON:** Jamie, okay.

9 **ERIK MENENDEZ:** Yes.

10 **PRESIDING COMMISSIONER BARTON:** And so, Perry was
11 never asked to provide an alibi that you were aware of?

12 **ERIK MENENDEZ:** Well, on that night, Perry was who
13 we were supposed to meet. We were supposed to meet, uh, we
14 were supposed to meet someone at the movie theater. That
15 didn't -- we didn't, obviously, show up, and then we
16 wanted to connect with Perry, but we didn't, uh, because
17 we were disposing of the guns and clothing and so on. So -
18 - so, the only alibi we had were two people that said that
19 we weren't with them, that we must have been someplace
20 else. Uh, he couldn't manufacture an alibi after the
21 point. He never asked, uh, Perry to say he was with him.

22 **PRESIDING COMMISSIONER BARTON:** Did you think that
23 you lied at any point in either of the trials?

24 **ERIK MENENDEZ:** I was doing my -- genuinely doing
25 my best to tell the truth, and -- and did. And in fact, I

1 -- I testified about the reloading, which I did not have
2 to. There was no evidence for it, but it happened, and my
3 attorney said, "It happened. You're gonna testify to it."
4 And I -- I -- I knew it was what I should do, even though
5 it was gonna hurt my family. Uh, and I -- and so, I did my
6 best to testify truthfully about what I did and did not
7 do.

8 **PRESIDING COMMISSIONER BARTON:** All right.
9 Commissioner Stern, do you have any follow-up questions as
10 far as the life crime goes for Mr. Menendez?

11 **DEPUTY COMMISSIONER STERN:** Um, I do. Thank you,
12 Commissioner. Uh, just a couple of questions. Uh, just let
13 me check. Uh, Mr. Menendez, can you hear me okay?

14 **ERIK MENENDEZ:** Yes, I can.

15 **DEPUTY COMMISSIONER STERN:** Okay. Um, let me just
16 look at my notes here. You mentioned to Commissioner
17 Barton that, uh, after the murders you tried to live
18 normally. Right? Was part of your, um, was part of your
19 life living normally spending money? Is that something
20 that you regularly did before the murders?

21 **ERIK MENENDEZ:** Yes.

22 **DEPUTY COMMISSIONER STERN:** Okay. So, you had --
23 did you have credit cards?

24 **ERIK MENENDEZ:** Yes. Credit cards, a lot of cash.

25 **DEPUTY COMMISSIONER STERN:** Okay.

1 **ERIK MENENDEZ:** My mom would take us on --

2 **DEPUTY COMMISSIONER STERN:** Go ahead.

3 **ERIK MENENDEZ:** -- shopping, spending, uh, sprees,
4 uh, when she felt -- my mom would go through mood swings,
5 and -- and sometimes she would just spend, or -- or I
6 remember I had a girlfriend that said that I didn't know
7 how to dress and picked out \$1,500 worth of clothing. And
8 then I told my dad, "I -- I'm gonna need this clothing,"
9 and --

10 **DEPUTY COMMISSIONER STERN:** So, you had --

11 **ERIK MENENDEZ:** -- he gave me his credit card.

12 **DEPUTY COMMISSIONER STERN:** So -- so, you had
13 access to your family's money, is the point.

14 **ERIK MENENDEZ:** Yes.

15 **DEPUTY COMMISSIONER STERN:** Okay. Um, I also just
16 wanted to follow up on something you said about -- you
17 said you had no ID. Did you lose your license because of
18 the speeding tickets?

19 **ERIK MENENDEZ:** I was -- I was, uh, I lost my
20 license in July, a month before I was actually given a
21 ticket for not having my license. I didn't -- I -- I no
22 longer had my license.

23 **DEPUTY COMMISSIONER STERN:** Why?

24 **ERIK MENENDEZ:** So, I don't know. I don't know. I
25 don't know where -- where my license went. Uh, but I

1 didn't -- I didn't have, uh, I didn't have a license on
2 me. I didn't need it for anything, and so, I was just --

3 **DEPUTY COMMISSIONER STERN:** Well, but -- but you -
4 - what -- so, the question is whether you lost your
5 license because of a lot of, like, driving infractions, or
6 you just didn't have it on you at the time? Do you
7 remember? Do you have any idea?

8 **ERIK MENENDEZ:** I lost it sometime in the spring
9 of 1989. I lost my physical license.

10 **DEPUTY COMMISSIONER STERN:** Okay.

11 **ERIK MENENDEZ:** So, I didn't have a physical
12 license.

13 **DEPUTY COMMISSIONER STERN:** So, you were driving -
14 - so, you were driving without a -- a -- a driver's
15 license.

16 **ERIK MENENDEZ:** Right. I had -- I -- I was allowed
17 to drive, but I was supposed to drive with my physical
18 license. I didn't have one.

19 **DEPUTY COMMISSIONER STERN:** Okay. Okay. And so,
20 going back to then purchasing the guns, you -- you did not
21 physically have an ID to hand to -- you know, when you're
22 purchasing a gun, you have to give your ID. So, you did
23 not have an ID with which to purchase guns, or a gun?

24 **ERIK MENENDEZ:** The ID -- the ID I had with me was
25 the Donovan Goodreau ID --

1 **DEPUTY COMMISSIONER STERN:** Right.

2 **ERIK MENENDEZ:** -- which I kept with me because he
3 was older than 21. And so, that was a useful ID for me. If
4 I wanted to get into a nightclub --

5 **DEPUTY COMMISSIONER STERN:** Okay.

6 **ERIK MENENDEZ:** -- if I wanted to --

7 **DEPUTY COMMISSIONER STERN:** And is -- that's --
8 and that was, um, that the ID belonged to a friend of
9 Lyle's from college?

10 **ERIK MENENDEZ:** Yes.

11 **DEPUTY COMMISSIONER STERN:** Okay. Um, I wanna go
12 back to -- then, I have another question about the
13 burglaries. And this is, I think, my last one, my last
14 sort of area. Um, you talked about with the Commissioner,
15 you were sort of trying to stick it to your dad, even
16 though, you know, he had, like, you -- you didn't wanna do
17 -- you weren't -- you knew you weren't supposed to do a
18 burglary, but like, you wanted to kind of stick it to your
19 dad, right?

20 **ERIK MENENDEZ:** Yes.

21 **DEPUTY COMMISSIONER STERN:** But weren't you also
22 living your life with, like, trying to not make your dad
23 mad, because that would make -- that would affect your
24 mother, and that was, I mean, that was part of like your
25 driving force in your life?

1 **ERIK MENENDEZ:** I was afraid -- I was afraid to
2 make my dad mad. So, I wouldn't purposely go about making
3 my dad mad. But this -- this was something that -- I don't
4 know how two things can be true that seem opposite at the
5 same time and yet be true. Uh, but in my mind, I -- I
6 believed I shouldn't do this, this is gonna upset dad, but
7 this is also gonna piss him off in a way that's gonna --
8 that -- that, like, I wanted to, at the same -- resisting
9 my father in little ways, putting cinnamon in his coffee,
10 hiding when he's coming to my room, these were the ways
11 that I could passively resist him and -- and to just feel
12 like -- like I can live with what he's doing until I go to
13 college. And -- and so, the -- the -- the -- the
14 burglaries, it was one of those things where I could stick
15 it to him, and yet, I was terrified of doing that at the
16 same time. So, it -- it -- it -- it's -- maybe the
17 thinking of an -- of a 17-year-old -- well, the thinking
18 of a 17-year-old doesn't always make sense. And at looking
19 back on it, it was thirdly, not just criminal, but stupid.
20 But at the time, I was -- I was thinking -- keep in mind,
21 I wasn't gonna go to my dad and say, "I just -- I just
22 committed a burglary."

23 **DEPUTY COMMISSIONER STERN:** Right.

24 **ERIK MENENDEZ:** That wasn't the plan. But I knew
25 in my heart that I committed it and was -- and was

1 resisting him.

2 **DEPUTY COMMISSIONER STERN:** But you're also sort
3 of poking the bear, right? You're -- you're sort of like -
4 -

5 **ERIK MENENDEZ:** Right.

6 **DEPUTY COMMISSIONER STERN:** -- "I'm really afraid
7 of this bear, but also I'm gonna sort of do something to,
8 you know, push the boundaries and see what happens."

9 **ERIK MENENDEZ:** But I was poking the bear when the
10 bear was asleep. Like, I -- I didn't wanna poke him and --
11 and confess and say, "Dad, I just did this burglary. What
12 do you think?" I -- I -- I -- I poked it behind the
13 scenes, uh, and it was almost like me poking him was a way
14 that I could just resist him. Uh, and I also thought in
15 the back of my mind maybe he'd be proud of me. Maybe I
16 would do this well, and he would be like, "You know, you -
17 - you -- you did that well," but I also knew that this
18 could harm him. This could harm his reputation. And so,
19 all of those different ideas were -- were -- were a part
20 of my thinking, which was --

21 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

22 **ERIK MENENDEZ:** -- uh, not -- not good thinking.

23 **DEPUTY COMMISSIONER STERN:** Um, you also said the
24 idea that you could shoot your father was inconceivable to
25 you.

1 **ERIK MENENDEZ:** Yeah. Yeah.

2 **DEPUTY COMMISSIONER STERN:** So --

3 **ERIK MENENDEZ:** Inconceivable.

4 **DEPUTY COMMISSIONER STERN:** So, again, the purpose
5 of having the gun was to do what? Because the --

6 **ERIK MENENDEZ:** The -- the -- okay. Firing the gun
7 was not inconceivable. Being able to kill my dad was --
8 was inconceivable. When on Saturday night, my dad was
9 pounding on my door, telling me to open the door, and I
10 was sitting on the bed with the gun across my lap, I was
11 thinking to myself, "What am I gonna do with this gun?
12 He's gonna walk in this room and take the gun from me. I'm
13 -- I'm gonna be able to fire it. But what is -- how is
14 that gonna kill him?" It just, yeah. He was such a larger-
15 than-life figure to me that I -- I just couldn't imagine
16 it. On that night, the terror I had of -- of mom and dad
17 was -- was -- was enough where I knew I had to get to that
18 room first, or I was gonna die. The idea of -- of facing
19 my dad -- my dad, but at the same time, I was not gonna
20 let him come to my room. So, I was gonna do everything I
21 could to resist when he entered my room.

22 **DEPUTY COMMISSIONER STERN:** But the guns were --
23 but -- but the guns weren't loaded. Right? You had the
24 ammunition in your car.

25 **ERIK MENENDEZ:** I had two shells in my gun.

1 **DEPUTY COMMISSIONER STERN:** You had two shells in
2 your gun. Okay. So, you had extra ammunition. Because you
3 -- the night of the murders, you went back -- you went out
4 to your car to load --

5 **ERIK MENENDEZ:** Right.

6 **DEPUTY COMMISSIONER STERN:** -- the guns. Correct?

7 **ERIK MENENDEZ:** On -- on Saturday morning, the,
8 uh, uh, the clerk at the gun store told us that --

9 **DEPUTY COMMISSIONER STERN:** Right.

10 **ERIK MENENDEZ:** -- the -- the -- the -- the bird
11 shell was -- was basically not effective at stopping a
12 person. And, uh, so, I knew that Saturday night. Uh, so,
13 the only thought that I had was, "I need to load this
14 gun." With what I had --

15 **DEPUTY COMMISSIONER STERN:** With the -- with the
16 different -- with the, like, different or upgraded ammo
17 that you had in your -- in your car.

18 **ERIK MENENDEZ:** The buckshot, yes.

19 **DEPUTY COMMISSIONER STERN:** The buckshot. Okay.
20 Um, Commissioner, I think at this point, I don't have any
21 other questions. Thank you.

22 **PRESIDING COMMISSIONER BARTON:** All right. It's
23 10:15 a.m. I know we've lost some people that may be
24 trying to get back in. I'm going to take a five-minute
25 break, and we'll be in recess for five minutes. We'll

1 reconvene at 10:20 a.m. Everyone understand, again, this
2 is an open conference, so, uh, if you're going to speak
3 behind the scenes, that's fine, but please don't unmute
4 and speak on this conference line because it is subject to
5 everyone hearing. And for you, Mr. Menendez, if you want
6 to contact your attorney, simply ask the staff to put you
7 in touch with her. Otherwise, we'll be back in about five,
8 six minutes. If you need to use the restroom or something,
9 this would be a good time. We're in recess.

10 **RECESS**

11
12 **DEPUTY COMMISSIONER STERN:** All right. We're
13 recording.

14 **PRESIDING COMMISSIONER BARTON:** All right. We are
15 back on the record in the matter of Mr. Menendez's initial
16 parole consideration hearing with all the principal
17 parties that were here before. I did note that we had lost
18 some people. We just took our first break, um, and I
19 readmitted people. So, as far as I can tell in the lobby
20 at this time, uh, we have everybody that was waiting to be
21 admitted. So, and they're all people that were previously
22 identified. I don't see anyone new that has joined us. All
23 right. Uh, Mr. Menendez, you -- you okay after the break?

24 **ERIK MENENDEZ:** Yes. Thank you.

25 **PRESIDING COMMISSIONER BARTON:** All right. So, I

1 told you at the beginning we look at various risk factor
2 areas, and I note in your writing you've written multiple
3 Relapse Plans. I'm assuming that's because you recognize
4 what your risk areas are?

5 **ERIK MENENDEZ:** Yes.

6 **PRESIDING COMMISSIONER BARTON:** And not just
7 because you have two of the most experienced and probably
8 knowledgeable attorneys representing you for parole
9 hearing?

10 **ERIK MENENDEZ:** Uh, I think that having them as my
11 attorneys, it would be impossible for me not to know what
12 my -- my vulnerabilities and risks are.

13 **PRESIDING COMMISSIONER BARTON:** I -- I would tend
14 to agree. So, why don't you tell me what the areas are?

15 **ERIK MENENDEZ:** Criminal thinking, uh, substance
16 abuse, violence, anger, impulsivity, cell phone use. Uh,
17 and then, I have a healthy relationship plan, uh, in which
18 I go into detail on what I believe healthy relationships
19 are. Uh, codependency is certainly a very big risk for me,
20 as well. Uh, and in addition, uh, I put in three, uh,
21 Relapse Prevention Plans for depression, anxiety and
22 stress, and toxic shame.

23 **PRESIDING COMMISSIONER BARTON:** Okay. So, that
24 pretty much runs the gamut. Um, some of those are included
25 within some of the others. Like, I would include, you

1 know, the cell phone within the criminal thinking and
2 antisocial behaviors. I would include the codependency
3 with the healthy relationship issues. Um, and also, I
4 mean, one you kind of left out, but maybe it falls under
5 one of those is the need for acceptance from negative
6 peers. Would you agree?

7 **ERIK MENENDEZ:** Yeah, definitely. Uh, I -- I
8 believe that would fall in within codependency, and I also
9 --

10 **PRESIDING COMMISSIONER BARTON:** Yeah.

11 **ERIK MENENDEZ:** -- talk about it within, uh, the
12 criminal thinking.

13 **PRESIDING COMMISSIONER BARTON:** Right. And -- and
14 you're right. It falls within both of those to some
15 extent. So, what I'm gonna do now is not any different
16 than anyone else when I perform an initial hearing, and
17 that is, I want to go over what your conduct has been in
18 prison. And there's two things I wanna point out to you
19 before we get started. Um, we recognize that you've served
20 a lot of time. Even as horrific as these murders are, um,
21 they are not necessarily the thing that would cause us to
22 believe that you have a current risk of unreasonable risk
23 to public safety. So, we do look at people's conduct
24 because that is a pretty good indicator of who they are,
25 what they will do, how they think. And so, this may seem

1 laborious to you, but I'm not doing it to beat you up with
2 it necessarily. I -- I'm doing it because I wanna see, uh,
3 if you recognize, if you've gained insight into your
4 various behaviors. So, let me ask you, generally speaking,
5 do you think you developed more antisociality after coming
6 to prison?

7 **ERIK MENENDEZ:** In the -- in the first -- the
8 first decade, absolutely.

9 **PRESIDING COMMISSIONER BARTON:** Okay.

10 **ERIK MENENDEZ:** No question.

11 **PRESIDING COMMISSIONER BARTON:** And we also get it
12 that when you come to prison as young as you were, you
13 know, you're trying to survive. And I've read your
14 accounts of what occurred, and I am not ignorant to what
15 happens in prison. I've been working in and around prisons
16 for many, many years. Um, that being said, I would have to
17 say, looking at your record, that it is, um, not only
18 replete with violations, but they're very diverse, uh, in
19 nature. In other words, you have violence, you have
20 manipulation, you have misuse of things, you have, um,
21 criminal acts, you have substance abuse. I mean, there's a
22 lot of different things that you've done over the years
23 while you've been incarcerated. Fair enough?

24 **ERIK MENENDEZ:** Absolutely true.

25 **PRESIDING COMMISSIONER BARTON:** So, starting out

1 when you, um, and -- and make this one step easier.

2 Starting out in 1997, okay, you would've been 27 years
3 old, right?

4 **ERIK MENENDEZ:** I was born at the end of 1997, so
5 yeah, 26, 27.

6 **PRESIDING COMMISSIONER BARTON:** Okay. Um, and --
7 and do you understand why that's important?

8 **ERIK MENENDEZ:** I'm sorry. Did I say it was born
9 at the end of 1997? I was born at the end --

10 **PRESIDING COMMISSIONER BARTON:** I know what you
11 meant.

12 **ERIK MENENDEZ:** Uh, okay. Yeah. All right.

13 **PRESIDING COMMISSIONER BARTON:** I -- I didn't take
14 it to mean that you were born then.

15 **ERIK MENENDEZ:** Okay.

16 **PRESIDING COMMISSIONER BARTON:** You're -- you're
17 saying your birthday would've occurred at the end of the
18 year.

19 **ERIK MENENDEZ:** Yes.

20 **PRESIDING COMMISSIONER BARTON:** Yeah. And we
21 already established at the beginning of this hearing, your
22 birthday was November 27th, right?

23 **ERIK MENENDEZ:** Right.

24 **PRESIDING COMMISSIONER BARTON:** So, my point is,
25 when we consider youth offender factors, just like you

1 said, a lot of people before their brain is fully formed,
2 before they have the ability to mature emotionally,
3 neurologically, et cetera, do very stupid things. And
4 sometimes even when I have youth offenders as young as 18,
5 like yourself, or 17, and I ask the question, "Why did you
6 do this? Why did you do that?" I'm not really expecting a
7 reasonable answer because a lot of 17-year-old and 18-
8 year-olds certainly, even without your trauma background,
9 do stupid things. But at the point that it's 1997, you are
10 now becoming older, more mature, certainly physiologically
11 you're mature. Um, but your behavior at that point, from
12 what I can see, continues to evidence all of those same
13 character defects that you told me you had as a 17 and 18-
14 year-old. Would you agree?

15 **ERIK MENENDEZ:** Many of them, yes, if not all of
16 them. I would have to go through the list, but yes.

17 **PRESIDING COMMISSIONER BARTON:** Okay. So, for
18 example, in March of 1997, um, there was a writeup for
19 doing personal letters on a work diskette that you weren't
20 supposed to be doing. Do you have any memory of that?

21 **ERIK MENENDEZ:** I do.

22 **PRESIDING COMMISSIONER BARTON:** Okay. And what
23 character defect do you suppose that demonstrates?

24 **ERIK MENENDEZ:** Uh, entitlement, disobeying, uh,
25 authority, uh, uh, laziness. I could go on.

1 **PRESIDING COMMISSIONER BARTON:** Okay. Fair enough.

2 And then in April of that same year, there is a, uh, a
3 writeup for you basically lying and manipulating staff,
4 uh, involving the visiting room. Do you remember that?

5 **ERIK MENENDEZ:** I think that one involved me, uh,
6 going to the chapel and then down to the sally port. And
7 was that the disobeying direct order, or was that the --

8 **PRESIDING COMMISSIONER BARTON:** Um, let's see. It
9 says that, "The MAC chairman and I were gonna meet with
10 the captain."

11 **ERIK MENENDEZ:** Right.

12 **PRESIDING COMMISSIONER BARTON:** And then they
13 checked on your story, and your story was wrong. I thought
14 it was coming out of the visiting room, but you're right,
15 it was chapel. So --

16 **ERIK MENENDEZ:** Right.

17 **PRESIDING COMMISSIONER BARTON:** That -- that one
18 involved, um, your statements basically trying to, again,
19 justify some behavior with a lie. Is that what you recall?

20 **ERIK MENENDEZ:** Yes.

21 **PRESIDING COMMISSIONER BARTON:** Okay. Um, and I
22 think I confused that because in my notes in 1997, I have
23 first incident, uh, in the visiting room, um, and this was
24 in May of 1997. Was that with your current wife?

25 **ERIK MENENDEZ:** I believe so, yes. I believe that

1 was -- was it written by Officer Rocha?

2 **PRESIDING COMMISSIONER BARTON:** Well, um, it was
3 May 23, 1997 --

4 **ERIK MENENDEZ:** Hold on.

5 **PRESIDING COMMISSIONER BARTON:** -- by my notes.

6 **ERIK MENENDEZ:** No, it -- if it was May 23, 1997 -
7 - I don't remember.

8 **PRESIDING COMMISSIONER BARTON:** Okay. Here --
9 here's what it says. It says, "Menendez was excessive
10 physical contact with the visitor, um, rubbing the inside
11 of her thighs, hugging her, kissing her neck, uh, engaged
12 in excessive conduct. Uh, he was told to stop. He
13 continued to ignore repeated instructions regarding his
14 behavior and, um, was insubordinate, defiant, disruptive
15 in the visiting room." So, that's -- do you remember that
16 one at all? It's a long time ago.

17 **ERIK MENENDEZ:** Uh, I remember that I was, uh, I -
18 - yes. I mean, I remember it. I don't remember the
19 incident --

20 **PRESIDING COMMISSIONER BARTON:** Okay.

21 **ERIK MENENDEZ:** -- particularly, but I remember
22 that -- that I had gotten the writeup, and then my visits
23 were suspended.

24 **PRESIDING COMMISSIONER BARTON:** Well, and one of
25 the reasons I have it noted is because it happened again

1 in 2006, and that was with your current wife, right?

2 **ERIK MENENDEZ:** Yeah. Yes.

3 **PRESIDING COMMISSIONER BARTON:** So, some, almost
4 19 years later, you were doing the same type of behavior,
5 even though you knew that it would result in losing those
6 privileges. Why would you do that?

7 **ERIK MENENDEZ:** I was pushing the line in, uh, uh,
8 occasionally in the visiting room with my wife, because I
9 was attracted to her. And we were -- we were -- we had
10 sexual feelings for each other, and we had no way to, uh,
11 really express those, and it was a -- it was -- it -- it's
12 difficult sitting next to a woman that I -- I love and
13 that I'm attracted to and I want to be with, and I can
14 only hold her hand. Uh, so, I, uh, uh, it was a -- it was
15 a lapse in judgment. This is not something I did every
16 day, uh, and, uh, my emotions got -- got carried away from
17 -- with me.

18 **PRESIDING COMMISSIONER BARTON:** Well, I guess one
19 of the concerns was that her daughter was there. How old
20 was her daughter at the time?

21 **ERIK MENENDEZ:** 1996. Nine.

22 **PRESIDING COMMISSIONER BARTON:** Okay.

23 **ERIK MENENDEZ:** Nine or ten.

24 **PRESIDING COMMISSIONER BARTON:** And that didn't --

25 **ERIK MENENDEZ:** It was --

1 **PRESIDING COMMISSIONER BARTON:** -- provide any
2 deterrence?

3 **ERIK MENENDEZ:** We were not being sexual. Uh, she
4 was -- she was -- she was rubbing my -- my -- the inside
5 of my thigh, uh, but we were not engaging in -- in sexual
6 activity.

7 **PRESIDING COMMISSIONER BARTON:** Okay.

8 **ERIK MENENDEZ:** I -- I -- I wanna be clear. My
9 daughter was sitting across the table reading a book, and
10 we were talking and snuggling, and it wasn't like my
11 daughter was sitting right in front of us and we were
12 doing this in front of my daughter. That's -- my wife
13 wouldn't do that.

14 **PRESIDING COMMISSIONER BARTON:** So, she couldn't
15 see what was going on.

16 **ERIK MENENDEZ:** No.

17 **PRESIDING COMMISSIONER BARTON:** She wasn't beside
18 you. It doesn't say where she's sitting.

19 **ERIK MENENDEZ:** Right.

20 **PRESIDING COMMISSIONER BARTON:** But, you know,
21 we're both males. I know what happens when someone rubs
22 your inner thigh. You can't say it wasn't sexual.

23 **ERIK MENENDEZ:** No, I -- okay. What I meant is it
24 wasn't like contact sexual activity type of thing. It was
25 -- it was -- it was sexual. It's -- I just don't want to

1 characterize it as, uh, we were doing it in front of my
2 daughter. That would be an outrageous thing. But my -- but
3 it was deeply inappropriate. I recognize that. I'm not
4 justifying it, or -- and I don't wanna minimize it. I just
5 -- for my wife's sake, I -- I would like it understood
6 that -- that my -- my daughter was across the table
7 reading a book and -- and her -- my -- my wife and I were
8 snuggling. It -- but it was not intended to -- to be a --
9 it was poor judgment, but it was not intended to -- to
10 harm the -- the child. That's not --

11 **PRESIDING COMMISSIONER BARTON:** And -- and just to
12 be clear, I -- you've written about every single one of
13 these RVRs practically, so I have your writings. I'm not
14 asking these questions because I haven't read them. Trust
15 me, I've read them. Um, but sometimes, when people are
16 talking about certain things or writing about them, they
17 may not put down, you know, comprehensively what was going
18 on, just as you just indicated, or may not -- 'cause you
19 said -- you said that in your writing, that she was, you
20 know, engaged in a book, reading or coloring or something.
21 So, you know, I had already read that. Um, and again, I
22 don't know that it's the most egregious thing. I think the
23 concern is, I'm looking at your development over time and
24 your willingness to do things that you know are wrong,
25 even though you've been prior warned. Right? What about

1 your first fight? At least, I know it wasn't your first
2 fight. I know you were assaulted prior to this, but in
3 November 1997, you have, uh, the fight with Mr. Brown. Um,
4 and I know you wrote about it, but was that something that
5 you feel now you couldn't have avoided?

6 **ERIK MENENDEZ:** No, I definitely could've avoided.
7 I look back on that fight with shame. Uh, I -- I -- I
8 acted -- while he struck me first, I acted aggressively
9 with him, and I -- the -- my -- I did not deescalate the
10 event. I escalated it through my behavior. Uh, and, uh,
11 and I've learned that de-escalation comes with
12 communication, and my communication with him was, uh, was
13 I -- I was coming from an angry place. I was frustrated. I
14 -- I -- I saw he was purposely, uh, trying to show that --
15 that -- that he was, uh, stronger than me in front of
16 other people. It was a time in my incarceration that I was
17 being bullied a lot, and I needed to stand up for myself
18 in -- in my eyes at that point. I look back on it now, and
19 it's ridiculous. I should clearly have deescalated the
20 situation. I could have avoided that fight very easily if
21 I had changed my posture, the way I spoke to him, my
22 voice, my whole demeanor. That incident did not need to
23 happen.

24 **PRESIDING COMMISSIONER BARTON:** Okay. And this
25 wasn't a fight, but on September 24, 1998, there's a -- a

1 memo regarding an enemy concern with, uh, Inmate Quarles.
2 It said you felt that he, um, was an enemy and you
3 couldn't be on the yard with him. What was going on with
4 that? Do you remember?

5 **ERIK MENENDEZ:** I -- I don't. I -- I said that I
6 could not be on the yard with him?

7 **PRESIDING COMMISSIONER BARTON:** Yeah. And then it
8 says when you went to committee, they asked you about it,
9 and you conveyed that he's not an enemy of yours. So, it's
10 two different notes. It says in September you said he was
11 an enemy, and then in October you said, "No, he is not an
12 enemy," which is typically when somebody has interaction
13 with somebody, there's friction, there's threats or
14 whatever. They think they're enemy. But then a couple
15 weeks go by, and they realize, "Okay, nothing's happening,
16 and nothing's going to happen." But you don't recall what
17 that was about?

18 **ERIK MENENDEZ:** This was during a period of time
19 when -- when -- well, during that whole -- that whole
20 decade and -- and beyond, uh, there was a great deal of
21 violence. I don't, uh, just in terms of violence on the
22 yard, I -- I could have been afraid of him. I could have -
23 - I -- I -- I -- I simply don't remember the incident.

24 **PRESIDING COMMISSIONER BARTON:** That's fine. And
25 like I said, it didn't result in a fight that I can tell

1 or write up or anything like that. Um, and then in 1998,
2 the next year, you, um, there was a sweep, a -- a search
3 of the cell block, um, and they confiscated a bunch of
4 items out of your cell. Now, granted, you had a cellmate,
5 but they took out a paint roller frame, paint brush with a
6 cut handle, two-inch masking tape, enamel paint, plastic
7 buckets, spray bottles, five wax candles, all this stuff
8 that you're not supposed to have. Right?

9 **ERIK MENENDEZ:** Yes.

10 **PRESIDING COMMISSIONER BARTON:** How much of that
11 was yours?

12 **ERIK MENENDEZ:** Probably most of it. I think I
13 took the blame for all of it. Uh, I -- it -- it -- I -- I
14 honestly don't remember. I was --

15 **PRESIDING COMMISSIONER BARTON:** Okay.

16 **ERIK MENENDEZ:** I was living with my roommate.

17 **PRESIDING COMMISSIONER BARTON:** That's fine.
18 (inaudible) --

19 **ERIK MENENDEZ:** Some of it was probably his, but
20 I'm sure a lot of it was -- most of it was mine.

21 **PRESIDING COMMISSIONER BARTON:** Okay. But what was
22 the purpose of having all those items? Or is this stuff
23 you -- was this a store? Was this stuff you were using?
24 Some of it looks like it could be used to create fake
25 compartments, things that we see in prison all the time.

1 **ERIK MENENDEZ:** I think, if I'm -- if I'm not
2 mistaken, I was painting the cell, uh, so I had paint
3 rollers and tape, and I believe there's dice on there. Uh,
4 candles was because I was getting into meditation at the
5 time, uh, just -- just various contraband that, uh, that I
6 shouldn't have had. I don't think I was creating fake
7 compartments at the time. But --

8 **PRESIDING COMMISSIONER BARTON:** Well, you've --

9 **ERIK MENENDEZ:** -- I think --

10 **PRESIDING COMMISSIONER BARTON:** -- done a lot of
11 time, you know guys make fake --

12 **ERIK MENENDEZ:** Oh, I know all about fake
13 compartments. There's no -- I -- I'm well -- I know about
14 fake compartments. Uh, I'm just saying that at the time I
15 think that I was painting the cell. Most of that is --
16 comes from, uh, I think they were paint supplies. So, I
17 was painting the lockers, the -- the -- the -- the beds,
18 not stuff I should have been doing. Uh, but, uh, but
19 that's what it was for.

20 **PRESIDING COMMISSIONER BARTON:** Well, and I -- I -
21 - I guess I was more interested in the things that would
22 cause harm and your lack of consequential thinking. So,
23 the candles, for example, you start a fire in a prison
24 block, what's gonna happen?

25 **ERIK MENENDEZ:** The alarm is gonna go off. The --

1 the fire -- the water is going to, uh, get -- and a lot of
2 property damage is gonna happen, and -- and then outside
3 services need to get called, puts stress on the prison.
4 It's -- it's -- it's a -- it's a cascading effect.

5 **PRESIDING COMMISSIONER BARTON:** Yeah. And you
6 didn't get to the worst cascading is the guy that gets
7 blamed for that, what happens to him? Cellies -- I mean,
8 other people don't like their property destroyed.

9 **ERIK MENENDEZ:** Right. Right. Yes.

10 **PRESIDING COMMISSIONER BARTON:** And -- and I say
11 that only because a lot of these things that you've been
12 involved in, it's like you don't go to the next level to
13 figure out what the consequences will be. I mean, you look
14 at some superficial ones, but there are usually things
15 bigger picture outside of that. In, um, 1999, you had a
16 cellie, and they found some Pruno starter in your room.
17 Were you drinking Pruno at that point?

18 **ERIK MENENDEZ:** Yes.

19 **PRESIDING COMMISSIONER BARTON:** Okay. And did you
20 learn how to make it from the cellie, or what?

21 **ERIK MENENDEZ:** My -- my roommate, uh, my cellie,
22 Cecil Naverette, considered himself a hard apple cider
23 connoisseur. Uh, he believed it. And so, I -- I didn't
24 learn how to make it. He didn't teach me how to make it,
25 but he was, uh, he was an old timer, uh, inmate and, uh,

1 enjoyed drinking. And he's, uh, he actually is the one
2 that gave me the -- the, uh, the heroin that I tried, uh,
3 in 1998. He was -- he was -- he was a heroin addict, as
4 well. Um, and, uh, he was actually the MAC chairman, uh, a
5 -- as well for a period of time, uh, during that other
6 incident, um, uh, the disobeying a direct order. Uh, so
7 that's when I, uh, drank Pruno, yes.

8 **PRESIDING COMMISSIONER BARTON:** Okay. But how long
9 did -- how long did -- because it -- the only thing I read
10 in -- in your writings and in the -- what you've told the
11 CRA is that you used alcohol early in your incarceration.
12 So, when did that stop?

13 **ERIK MENENDEZ:** Before 2000. I -- I didn't like
14 alcohol. Even in high school, I drank it, but I -- I drank
15 it to -- to be cool, not because I enjoyed it. Uh, I did
16 not have a -- heroin, I was allergic to, and alcohol just,
17 uh, disrupted my body. Uh, it gave me headaches and -- and
18 hangovers the next morning. I did not enjoy drinking it,
19 but I didn't not drink it because it was wrong. I drank it
20 -- didn't drink it because I didn't like the effects it
21 had on me.

22 **PRESIDING COMMISSIONER BARTON:** Well, I guess --

23 **ERIK MENENDEZ:** So, I stopped early in the two
24 thousands. I mean, uh, before 2000.

25 **PRESIDING COMMISSIONER BARTON:** -- the better

1 question is were you drinking it -- did you wanna drink it
2 because of emotional issues? Because of acceptance issues?
3 Because of curiosity? That's, I guess, what I want to
4 know.

5 **ERIK MENENDEZ:** I used, uh, uh, alcohol and drugs.
6 Uh, well, marijuana I began to use because of my Crohn's
7 disease, but I used it because I was miserable. I was
8 depressed. I was miserable. I was doing life without in
9 prison 600 miles away from my family. That was just in LA.
10 The rest of my family was -- was on the East Coast. And I
11 was -- if -- if I could numb my sadness with alcohol, I
12 was gonna do it. If I could numb it with anything else
13 that the -- the -- the drugs that are in my file, it's
14 only because I was limited and there weren't other ones
15 available. Uh, I would've taken -- I would've taken other
16 -- other drugs to -- to numb that pain. I didn't like
17 Neurontin. I didn't like Tramadol. I -- I didn't like a
18 lot of the drugs. But, uh, but I was looking to -- to ease
19 that -- that sadness within me.

20 **PRESIDING COMMISSIONER BARTON:** Okay. Then in, um,
21 the next year, 1999, there's a memo that you were placed
22 on temporary non-contact status with your wife, 'cause it
23 gives her name, um, in accordance with the provisions of,
24 it gives the title section, based on a -- an RVR from 1999
25 that I couldn't find. It says for aggressive behavior. So,

1 this is January 17, 1999. So, it's well beyond the last
2 one that we talked about. Do you remember what that was
3 about? What kind of -- 'cause the May incident in 1997
4 would've been almost a year and a half prior.

5 **ATTORNEY RUMMEL:** Can I--

6 **PRESIDING COMMISSIONER BARTON:** Do you know why
7 you lost your visiting?

8 **ATTORNEY RUMMEL:** Can I--

9 **ERIK MENENDEZ:** I definitely -- I -- I do.

10 **PRESIDING COMMISSIONER BARTON:** Do you know --

11 **ERIK MENENDEZ:** I -- I --

12 **ATTORNEY RUMMEL:** (inaudible) I'll let -- I'll let
13 him answer. But there -- there is a, um, a director-level,
14 um, documentation that all the videos were reviewed and
15 that there was no aggressive conduct. I have that. I just
16 wanted to be sure the Panel has that, too.

17 **PRESIDING COMMISSIONER BARTON:** Yeah. I'm just
18 asking about the underlying conduct. 'Cause like before,
19 he said, "That wasn't the whole picture," so I'm trying to
20 get the whole picture from --

21 **ATTORNEY RUMMEL:** Okay, that's fine.

22 **PRESIDING COMMISSIONER BARTON:** -- him.

23 **ATTORNEY RUMMEL:** But you have that documentation?

24 **PRESIDING COMMISSIONER BARTON:** Yeah. So --

25 **ATTORNEY RUMMEL:** Thank you.

1 **ERIK MENENDEZ:** Uh --

2 **PRESIDING COMMISSIONER BARTON:** I didn't say it
3 was an RVR or anything like that. It's just a memo, and I
4 wanted to get his take on it.

5 **ERIK MENENDEZ:** Right. I, uh, uh, thank you. I was
6 -- my -- my visits were suspended for aggressive contact
7 with a -- a -- my wife. Uh, and, uh, and -- and so, I was
8 -- I was not allowed visiting, which is where -- what
9 that, uh, conduct was from. Uh, an investigation, uh,
10 'cause I was obviously very upset about -- about being
11 accused of being aggressive with my wife. I was not. An
12 investigation, uh, they reviewed the videotape, and it was
13 determined that I was not. But, uh, uh, I was still -- I -
14 - I was still accused of it, and -- and fortunately, the
15 entire visit, or almost all of it was on vis -- was on
16 video.

17 **PRESIDING COMMISSIONER BARTON:** Right.

18 **ERIK MENENDEZ:** And, uh, so, but no. I -- I was --
19 I was not aggressive with her.

20 **PRESIDING COMMISSIONER BARTON:** Yeah. Because I
21 mean, the video shows what's happening. It doesn't pick up
22 sound. And like you, yourself, said before, things can be
23 verbally escalated. I didn't know if it was a verbal
24 argument you were having with her and they took it outta
25 context or blew it out of proportion, or if you raised

1 your voice, or she raised her voice. But you're telling me
2 nothing like that happened.

3 **ERIK MENENDEZ:** No. I was accused of -- of -- of
4 like grabbing her neck or -- or -- or something like that.
5 I did not do that. The video made it clear.

6 **PRESIDING COMMISSIONER BARTON:** Okay.

7 **ERIK MENENDEZ:** And -- and so, I had my arm around
8 her. But, um, but I -- I was not guilty of the -- of the
9 offense. It was not -- I mean, I understand the -- that
10 domestic violence can be verbal abuse, emotional abuse,
11 and -- and -- and -- and the whole litany. Uh, but, uh,
12 but that was not what was going on.

13 **PRESIDING COMMISSIONER BARTON:** Okay. And then,
14 um, you had spray paint again in your cell in 2002. Do you
15 remember that?

16 **ERIK MENENDEZ:** Oh, yes. I remember that very
17 well.

18 **PRESIDING COMMISSIONER BARTON:** So, what was going
19 on there?

20 **ERIK MENENDEZ:** It didn't mention that I had tape.
21 It did not mention that I had tape on the -- on the floor,
22 and, uh, spray paint just covered -- covered the area
23 better. Uh, uh, you probably know. You have extensive
24 history in CDCR that a lot of the cells are -- have
25 graffiti on them, have rust, are -- are just in terrible

1 shape. So, I, again, against the rules, not trying to
2 minimize the situation. Uh, when I went into a cell,
3 because I'm LWOP, I knew that I could spend the next five,
4 ten years there. So, I, uh, tried very hard to repaint it
5 and, uh, and make it look good and put up shelves and make
6 it kind of like a home. And, uh --

7 **PRESIDING COMMISSIONER BARTON:** I get it. I get
8 it. And that's not what (inaudible) --

9 **ERIK MENENDEZ:** -- so, I had the spray paint. Oh,
10 I had the spray paint and, uh, the officer walked by, saw
11 the spray paint, and wrote me up.

12 **PRESIDING COMMISSIONER BARTON:** I get all that
13 part about making your cell livable. I've seen a lot of
14 guys do that kind of thing. That wasn't really where I was
15 going with it. Where I was going with it is, in order to
16 get that spray paint and get it to your cell, you gotta be
17 sneaky.

18 **ERIK MENENDEZ:** Yes.

19 **PRESIDING COMMISSIONER BARTON:** You don't just
20 walk out and walk into your living unit holding a can of
21 spray -- spray paint. Right?

22 **ERIK MENENDEZ:** I -- I'm pretty sure I bought it,
23 uh, from someone on the yard.

24 **PRESIDING COMMISSIONER BARTON:** And still smuggled
25 it into your cell.

1 **ERIK MENENDEZ:** Uh, absolutely. Yes.

2 **PRESIDING COMMISSIONER BARTON:** Yeah. And the
3 person that you buy it off the yard from, they're not
4 getting it legitimately either.

5 **ERIK MENENDEZ:** No.

6 **PRESIDING COMMISSIONER BARTON:** And as we said
7 before, you can have, in fact, you used the word, two
8 things can be true. Right? You can get spray paint and
9 have it for a totally reasonable purpose of spray
10 painting. And -- and -- 'cause I saw they had newspaper. I
11 mean, I could tell you were painting your cell because
12 they have newspaper around the shelf, et cetera, and
13 you've sectioned it off to paint it. Um, my problem with
14 that is that's also used by a lot of guys to cover up
15 hidden compartments, which you know about. And it's also
16 indicative of basically doing things, um, you're not
17 supposed to be doing as far as black-market issues and
18 buying things off people and so on. And so, it just kind
19 of perpetuates that criminality on the yard, right?

20 **ERIK MENENDEZ:** Yes. Yes, it does. It shows, uh,
21 lack of consequential thinking. It certainly shows poor
22 intrinsic values and, uh, it, uh, shows a disregard for,
23 uh, institutional rules.

24 **PRESIDING COMMISSIONER BARTON:** Okay. So, then, if
25 we go to 2003 and -- and still not clear about what was

1 going on here, but you had the, um, I guess the Bible with
2 the cutout in it.

3 **ERIK MENENDEZ:** They had just recently -- I -- I
4 smoked. Uh, I -- I picked up smoking in prison, and, uh,
5 so I smoked for a few years, and they had just taken
6 tobacco. Uh, it was not a Bible, uh, uh, um, to be clear.
7 It was a -- a -- a -- a Christian book, um, but, uh, it,
8 uh, and so, the only way to keep the tobacco was to -- was
9 to hold it, uh, they -- it -- because it was wrapped up in
10 cellophane so that it wouldn't go stale. Uh, so that was
11 definitely, uh, criminal thinking. I concealed it and
12 tried to hide it from staff so that I could continue to
13 smoke.

14 **PRESIDING COMMISSIONER BARTON:** Well, and in that
15 case, it was tobacco, which I get wasn't regulated until
16 shortly before that. But you do understand that's the same
17 way people secrete other drugs.

18 **ERIK MENENDEZ:** Of course.

19 **PRESIDING COMMISSIONER BARTON:** Um, so when they,
20 uh, seized that, I guess, did you continue to use tobacco
21 after that?

22 **ERIK MENENDEZ:** No. Uh, well, yes and no. I got --
23 I was transferred in 2005 to Pleasant Valley where it was
24 being sold on the canteen. So, they -- they had stopped it
25 at Folsom, uh, and in 2005, it was being sold on the

1 canteen. Uh, and so, I probably picked it up, uh, uh,
2 smoking again, and then they -- they discontinued it at
3 the end of that year in 2005 in Pleasant Valley. But I
4 already knew that I needed to wean myself off because the
5 tobacco --

6 **PRESIDING COMMISSIONER BARTON:** It was going away.

7 **ERIK MENENDEZ:** It was going away.

8 **PRESIDING COMMISSIONER BARTON:** But in 2003, you
9 were at CSP SAC, right?

10 **ERIK MENENDEZ:** Yes.

11 **PRESIDING COMMISSIONER BARTON:** So, there's a memo
12 here indicating that, um, they found a letter in a legal
13 library research book addressed to, uh --

14 **ERIK MENENDEZ:** Hysell.

15 **PRESIDING COMMISSIONER BARTON:** -- incarcerated
16 person Hysell, signed by you. Did you write the letter?

17 **ERIK MENENDEZ:** Yes, I did. Okay. And, you know,
18 it talks about basically transferring contraband, right?

19 **ERIK MENENDEZ:** Right, books and coffee, uh, the
20 things that -- right, exactly. Uh, yes, 100 percent.

21 **PRESIDING COMMISSIONER BARTON:** So, you were still
22 involved in -- in that process?

23 **ERIK MENENDEZ:** Yes.

24 **PRESIDING COMMISSIONER BARTON:** And I read, again,
25 I've read everything you wrote and how you were basically

1 doing some of these things you felt you needed to do for
2 self-protection to get in with guys that otherwise might -
3 - either they would jeopardize you or to keep you from
4 being, uh, jeopardized by other groups. Right?

5 **ERIK MENENDEZ:** No, I didn't -- that wasn't for
6 that, though. That was --

7 **PRESIDING COMMISSIONER BARTON:** Okay.

8 **ERIK MENENDEZ:** I believed I was an AD-SEG, and I
9 wanted coffee and some books.

10 **PRESIDING COMMISSIONER BARTON:** Okay. So, that was
11 purely just out of selfishness, entitlement, criminal
12 thinking, not wanting to follow the rules.

13 **ERIK MENENDEZ:** Yes.

14 **PRESIDING COMMISSIONER BARTON:** So, you jumped to
15 2005. That's when you were at Pleasant Valley, and you
16 talk about, um, getting in with the Two Fivers. Right?

17 **ERIK MENENDEZ:** Yes.

18 **PRESIDING COMMISSIONER BARTON:** Um, what was the
19 hunger strike about?

20 **ERIK MENENDEZ:** When I was moved in, uh, two thou
21 -- uh, well, in 2004, uh, you -- you didn't mention, but,
22 uh, I'm -- I'm sure you read about it, uh, it was the
23 clerk typing on a man -- a manuscript on a, uh, a
24 typewriter, or on a state computer. Okay. So, when I was
25 transferred in January 2005, I was given a, uh, job as a

1 porter in the program office, and the lieutenant said he
2 didn't want me working in the program office because of
3 that incident and then went further and said he didn't
4 want me living in any building that had a computer, uh, or
5 a clerk that could type on a computer, which meant that I
6 was restricted to only one building on the yard. And --
7 and there -- I was not allowed to choose my roommate. A
8 lot of restrictions were suddenly being placed on me and
9 me alone, and I tried to talk to staff about it and was
10 not successful. And so, I realized I'm at a new prison,
11 and I felt -- I had the victim stance going on. And so, I
12 felt like, uh, this is not -- and I was also not happy
13 because I had asked to be transferred to Mule Creek to be
14 with my brother. So, now, I'm at a new prison, I'm alone,
15 and I -- I was in self-pity, and it was an extremely
16 violent prison, so it wasn't like I was excited to be
17 there. Uh, and, uh, so, I went on a hunger strike, and,
18 uh, and then the -- the associate warden worked it out
19 with me.

20 **PRESIDING COMMISSIONER BARTON:** So, eventually,
21 when you're on a hunger strike, it goes up the chain, and
22 somebody higher up comes and talks to you. And so, you
23 knew that was a way to get to somebody that you could talk
24 to.

25 **ERIK MENENDEZ:** Correct.

1 **PRESIDING COMMISSIONER BARTON:** And the other
2 incident you talked about, um, was the calls. Well, I
3 think there were calls on a chapel phone and then typing
4 the book on a state computer in May 2004.

5 **ERIK MENENDEZ:** Yes. Right. I -- I said that I
6 wasn't guilty of the calls on the chapel phone, but I was.

7 **PRESIDING COMMISSIONER BARTON:** And I also skipped
8 over the misuse of phone time, which --

9 **ERIK MENENDEZ:** That happened in Pleasant Valley
10 in 2005, uh, when I -- while working as a porter.

11 **PRESIDING COMMISSIONER BARTON:** Yeah. And again, I
12 mean, it's selfish, but -- and -- and could result in
13 violence. Right?

14 **ERIK MENENDEZ:** Absolutely.

15 **PRESIDING COMMISSIONER BARTON:** So, still no real
16 awareness at that point. Um, I didn't quite understand
17 what was going on with the Wellbutrin. If you were
18 prescribed it or not prescribed it, or if you just didn't
19 take it on time. What was that all about in February?

20 **ERIK MENENDEZ:** Uh, I was prescribed it. I didn't
21 want to be on it, but they didn't wanna take me off. I
22 didn't wanna get in trouble for not taking it, so I just
23 pretended to take it and was throwing it away, and I
24 simply wasn't very good at pretending to take it. The
25 officer saw that, asked me for the Wellbutrin, and I gave

1 it to him, and he -- I didn't realize that the
2 consequences were to lose my visits for six months, uh,
3 but they were.

4 **PRESIDING COMMISSIONER BARTON:** Well, so, let's
5 again look at it big picture. What do guys do when they
6 don't take their own meds? What do they -- I mean, I know
7 you said you're gonna throw it away, but what do other
8 guys do with it?

9 **ERIK MENENDEZ:** Oh, without a doubt, especially
10 Neurontin and Tramadol, Suboxone, and all kinds of
11 medication. Yes, yes. They sell it.

12 **PRESIDING COMMISSIONER BARTON:** You --

13 **ERIK MENENDEZ:** Yeah. I -- I wasn't going to sell
14 it, but yes.

15 **PRESIDING COMMISSIONER BARTON:** No, I understand
16 that. But you -- you made it sound like the rule was
17 unreasonable, or the consequence.

18 **ERIK MENENDEZ:** Oh, I -- I -- I'm sorry if I gave
19 that impression. Uh, uh, the -- the rule is there
20 specifically for that reason. I had -- my roommate after
21 that was hooked on Neurontins and -- Tramadols and
22 Neurontins that people were not taking was -- ended up
23 nearly destroying that -- that facility. I -- I -- I -- I
24 recognize the damage of that.

25 **PRESIDING COMMISSIONER BARTON:** Okay. Um, there's

1 another memo, another one of these compatibility chronos
2 that I was trying to figure out 'cause there's -- I
3 couldn't find anything associated with, uh, and that's
4 with, uh, in -- incarcerated person Fish back in July 2001
5 as a potential enemy. And they both acknowledged, but, uh,
6 but said they could feel comfortable programming together.
7 Was there a -- a problem with that particular guy?

8 **ERIK MENENDEZ:** I saw that during my Olson Review,
9 and I cannot remember what that was about.

10 **PRESIDING COMMISSIONER BARTON:** Okay. Well, and I
11 couldn't find, um, anything else involving that, uh, to
12 explain it any more. So, I just thought maybe, again, it
13 might have been one of those other situations that you
14 previously talked about. Um --

15 **ERIK MENENDEZ:** Sometimes -- sometimes, I think
16 what happens is someone will put me on their enemy list,
17 and then, uh, a lot of people put me on their enemy list
18 because they knew that they wouldn't be housed on the same
19 facility as me, uh, and if they -- if they said there was
20 a problem. And then they asked to come to the facility,
21 and I'll sign of chrono saying I don't have a problem with
22 them. So, I was trying to think if it was something like
23 that, but I don't remember the incident.

24 **PRESIDING COMMISSIONER BARTON:** Okay. You said
25 that you and your brother had requested -- or let's just

1 speak for you, that you had requested being celled with
2 him. When did you first start making those requests?

3 **ERIK MENENDEZ:** Uh, not so much cell, but -- but
4 to live together on the facility. Uh, immediately. We --
5 we asked when we were at the reception center in 1996, uh,
6 the -- and then we continued to ask for 21 years.

7 **PRESIDING COMMISSIONER BARTON:** Okay. And when was
8 it when that was finally allowed?

9 **ERIK MENENDEZ:** In March or February 2018.

10 **PRESIDING COMMISSIONER BARTON:** Okay. And do you
11 recall, um, being interviewed sometime in 2016 about, um,
12 I think it's March 15, 2016, about your relationship with
13 your brother?

14 **ERIK MENENDEZ:** Yes.

15 **PRESIDING COMMISSIONER BARTON:** And you lied in
16 that discussion. Was that just because you didn't think
17 they'd understand, or you didn't want them to know so it
18 wouldn't keep you from being housed together, or -- or
19 what?

20 **ERIK MENENDEZ:** If you could give me a little
21 color --

22 **PRESIDING COMMISSIONER BARTON:** Sure.

23 **ERIK MENENDEZ:** -- on the lie.

24 **PRESIDING COMMISSIONER BARTON:** Sure. So, you told
25 them -- they asked you specifically what -- how your prior

1 relationship with your brother was. Um, and I mean, you
2 know, knowing what we know today about you as children,
3 you said that there'd never been any problems, and as chi
4 -- a child, he always protected you. Remember saying that?

5 **ERIK MENENDEZ:** Okay. Yeah. Well, right. Uh,
6 clearly, that was a lie. We committed a heinous crime
7 together. Uh, he --

8 **PRESIDING COMMISSIONER BARTON:** Well, no, no, no.
9 I'm talking about your brother assaulting you.

10 **ERIK MENENDEZ:** I was not going to discuss, uh,
11 Lyle molesting me when I was a kid.

12 **PRESIDING COMMISSIONER BARTON:** Okay.

13 **ERIK MENENDEZ:** Uh, I was -- absolutely.

14 **PRESIDING COMMISSIONER BARTON:** Well, I get it.
15 But you could have simply said, um, "No, we didn't always
16 get along. In fact, sometimes he picked on me." In fact,
17 you said in all your writings, your brother would, um, be
18 told to pick on you.

19 **ERIK MENENDEZ:** Right. I -- I -- I could have. I
20 didn't think that -- you're right. I -- I didn't think
21 that was -- would be helpful for them putting me together.
22 I didn't. So, I lied.

23 **PRESIDING COMMISSIONER BARTON:** Okay. Um, there
24 was a -- I'm trying to find it. I -- I wanna be fair to
25 you and give you the exact wording that you discussed,

1 because you were -- it looks like you were both
2 interviewed. Yeah. You were both interviewed, um, for that
3 potential transfer. Um, so, you knew -- you knew he was
4 being interviewed too, right?

5 **ERIK MENENDEZ:** Yes.

6 **PRESIDING COMMISSIONER BARTON:** And around that
7 same time, um, frame, there were issues, uh, with you
8 doing things still for the Two Fivers?

9 **ERIK MENENDEZ:** Three years before that.

10 **PRESIDING COMMISSIONER BARTON:** Not in 2013.

11 **ERIK MENENDEZ:** Yeah. In 2013. I thought you were
12 referring to the memo of 2016.

13 **PRESIDING COMMISSIONER BARTON:** Oh, no, no. Not
14 the -- no. Your -- your -- your interview was in 2016. I -
15 - what I'm trying to link up or see if there's a link
16 between, um, you wanting your brother to come live with
17 you and the problems you were experiencing with these
18 various other groups up until that time.

19 **ERIK MENENDEZ:** No, no. Uh, by 2016 -- a lot
20 changed for me in 2013. I'm sure you read about it. Uh, by
21 -- by that time, I'm now on a level three. I'm at -- I'm
22 at RJD.

23 **PRESIDING COMMISSIONER BARTON:** Right.

24 **ERIK MENENDEZ:** I'm away from the Two Fivers. Uh,
25 and, uh, I just hadn't seen my brother in 11, ten years,

1 and I -- I -- I wanted to be with -- with family.

2 **PRESIDING COMMISSIONER BARTON:** Okay. Yeah. 'Cause
3 the -- the exact question that was asked, the first one
4 was, "What was your relationship like?" And you said, "He
5 was my older brother. We always had a very close
6 relationship, bonded young. Um, we've always been very
7 close." And then it says, um, uh, "Did Lyle at any time
8 have any type of control over you?" You said, "No, just an
9 older brother that protected me always as a child and
10 growing up." So, at this point, you hadn't learned
11 anything about codependency?

12 **ERIK MENENDEZ:** I -- I mean, I was aware that Lyle
13 had great control over me. He was three years older. I
14 don't think that it's possible, uh, that a three-year-
15 older brother doesn't. I -- I -- I -- I was aware of it. I
16 was not -- I was just beginning to understand toxic shame
17 and, uh, and the dynamics of codependency. I certainly did
18 not understand it like I understand it today and the
19 magnitude and -- and the depth of it. But, uh, I -- I -- I
20 guess it's hard to remember exactly what I knew in 2016,
21 but I -- I would've minimized it. I -- I certainly wasn't
22 going to -- I was aware that they were evaluating on
23 whether or not we -- we could live together. And I wasn't
24 going to highlight that Lyle could be a -- a -- a
25 controlling influence over me or that harmed me as a

1 child. Um --

2 **PRESIDING COMMISSIONER BARTON:** And that makes
3 perfect sense. I -- I'm just -- I mean, this kind of goes
4 back to what we talked about before. You didn't use these
5 words, but I'm sure you've heard the phrase, "The ends
6 justify the means."

7 **ERIK MENENDEZ:** Of course.

8 **PRESIDING COMMISSIONER BARTON:** You know, you
9 wanted to live with your brother. And as you -- I actually
10 appreciate the statement there, or the phrase you used,
11 "Two things can be true." Right? You wanna live with your
12 brother 'cause you miss your brother, but on the other
13 hand, you're lying so that they don't actually know the
14 history and use that against you.

15 **ERIK MENENDEZ:** Yes.

16 **PRESIDING COMMISSIONER BARTON:** Um --

17 **ATTORNEY RUMMEL:** I'm just gonna object to the
18 characterization of that as a lie. The -- the question how
19 was he --

20 **PRESIDING COMMISSIONER BARTON:** You can object all
21 you want, Counsel. I'm gonna overrule you. You don't get
22 to object to how I view something. You can argue that in
23 your argument, but your client's -- you can ask him not to
24 answer. If you think the question's unfair, feel free to
25 do that. Um, I asked him the question, and he said, "Yes."

1 So, I -- his answer's on the record. Go ahead, and -- and
2 you can certainly argue it as an unfair characterization
3 if you choose. I actually appreciate his candor today, so
4 I appreciate that he recognizes that it wasn't honest. It
5 certainly wasn't honest in light of everything else we
6 know today. So, um --

7 **ATTORNEY RUMMEL:** Well, when someone asked how
8 your relationship is, I don't think that calls for every
9 single detail of every minute of a relationship. It was a
10 generally good relationship. Something that happened when
11 they were six and eight years old doesn't make it a bad
12 relationship or isn't necessarily a required disclosure to
13 CDCR personnel that his brother sexually molested him
14 mimicking his father's abuse.

15 **PRESIDING COMMISSIONER BARTON:** And Counsel --

16 **ATTORNEY RUMMEL:** But I'll argue it in my closing.

17 **PRESIDING COMMISSIONER BARTON:** -- you just argued
18 it. You just got your chance to argue it, so you can --

19 **ATTORNEY RUMMEL:** Well, I appreciate it.

20 **PRESIDING COMMISSIONER BARTON:** You can -- you can
21 re-argue it later again, if you like.

22 **ATTORNEY RUMMEL:** Thank you.

23 **PRESIDING COMMISSIONER BARTON:** Um, when I look at
24 your confidentials though, in terms of time and when these
25 things are happening, they're fairly consistent with your

1 RVR history. I mean, did you get -- you got the notice,
2 right, on what the various confidentials are?

3 **ERIK MENENDEZ:** I have the paper in front of me.

4 **PRESIDING COMMISSIONER BARTON:** Okay. So, in
5 looking at that, it looks like, um, there's a discussion
6 of you having a cell phone as early as 2004. Did you see
7 that?

8 **ERIK MENENDEZ:** Right. Yeah. I did not have a cell
9 phone in 2004. I searched my memory of what -- what that
10 was about, partly because I was in AD-SEG at that time for
11 five months. Uh, and the -- the only thing I can attribute
12 that to, because I never even saw a -- a -- I didn't even
13 know there was really, I don't remember, cell phones at
14 that point. I -- I certainly never saw a cell phone in
15 2004. Never handled one and never got one into the
16 facility. The only thing I can think of, 'cause I want to
17 -- I just wanna be as transparent as I can, and I don't
18 have the confidential, and I had never heard of the
19 confidential until just recently, um, is -- is that my
20 roommate was working in the laundry. So, if it has -- and
21 -- and -- and he was getting tobacco or whatnot from guys
22 in the laundry. So, if it had something to do with that,
23 then -- then -- then that's what I can attribute it to.
24 But I -- I never got in a cell phone or handled a cell
25 phone or gave anyone a cell phone in 2004.

1 **PRESIDING COMMISSIONER BARTON:** When was the first
2 time you did access a cell phone?

3 **ERIK MENENDEZ:** Well, I held a cell phone when I
4 was at Pleasant Valley, I think in 2011, the first iPhone.
5 Uh, uh, and my roommate had a cell phone in 2016, um, that
6 I wanted to use. Uh, and --

7 **PRESIDING COMMISSIONER BARTON:** But you answered
8 my question. Your -- your memory or you're -- you're
9 remembering, your memory, is 2011?

10 **ERIK MENENDEZ:** Correct.

11 **PRESIDING COMMISSIONER BARTON:** Okay. Now, when
12 you get to Pleasant Valley, you talk about how violent it
13 is. You talk about, um, making a conscious decision to be
14 involved in some pretty serious criminal activity with
15 people, um, and it looks like, uh, some of this is
16 consistent with that as far as your rule violations. Um,
17 before we get there, I did leave off one that occurred
18 before that. Let me cover that. And that was the fight
19 with, uh, Mr. Farmer. Do you remember that?

20 **ERIK MENENDEZ:** Yes, I do.

21 **PRESIDING COMMISSIONER BARTON:** Okay. And, uh, I
22 didn't see you write about that one. Maybe I missed it.

23 **ERIK MENENDEZ:** Oh.

24 **PRESIDING COMMISSIONER BARTON:** Did you not write
25 an explanation for that one?

1 **ERIK MENENDEZ:** I -- I -- I -- I discussed it with
2 the psychologist in the CRA.

3 **PRESIDING COMMISSIONER BARTON:** Okay.

4 **ERIK MENENDEZ:** I don't remember if I wrote about
5 it specifically. I don't think I did. I thought that the -
6 -

7 **PRESIDING COMMISSIONER BARTON:** Yeah.

8 **ERIK MENENDEZ:** -- what -- what I said in the CRA,
9 uh, was -- was accurate -- was accurate.

10 **PRESIDING COMMISSIONER BARTON:** Okay. Yeah. And --
11 and again, that's true. You talked about it in the CRA. I
12 was just curious because you gave, um, explanations for
13 other things. Um, in the risk -- or in the Risk Assessment
14 when you're talking about that, again, same question as
15 last time, do you look back now and think that that's
16 something that you could have avoided?

17 **ERIK MENENDEZ:** Right. Uh, that is different than
18 1997 where I escalated the situation. This was a day when,
19 uh, I think his first name was Johnny, uh, uh, Farmer was
20 having a bad day and decided to take it out on me and
21 approached me on the exercise yard and, uh, swung at me in
22 the middle of the field. And -- and so I -- I hit his arm.
23 And I know that the -- the -- the writeup says that we
24 were swinging back and forth at each other. That is a -- a
25 form writeup where they literally insert your name. At the

1 time, that's how they were writing it up, and insert your
2 CDC number, and it was a -- it was a standard form for --
3 for mutual combat. What I did and what was on the
4 videotape is I -- I blocked his swing. I hit him in the
5 back of the shoulder, and I held him down until staff came
6 and started to get booed on the yard for it. I don't know
7 what else I could have done other than curl up in a ball
8 and allow him to hit me.

9 **PRESIDING COMMISSIONER BARTON:** Well, and I'm not
10 saying that's what you have to do. Um, apparently, there
11 was a -- a video of it. Correct?

12 **ERIK MENENDEZ:** Yes.

13 **PRESIDING COMMISSIONER BARTON:** And the striking
14 each other, I'm sure the blow to the shoulder looks like
15 you striking him to somebody looking at it. Right?

16 **ERIK MENENDEZ:** Yes. Well, I was -- I was guilty
17 of mutual combat. I fought back.

18 **PRESIDING COMMISSIONER BARTON:** Well, okay. But I
19 mean, um, the part that bothers me always in these
20 writeups, because trust me, I -- I know how reports get
21 written creatively and in conjunction sometimes,
22 especially in the old days. Um, I actually had walked into
23 rooms and was shocked that someone had a writing up on the
24 board, and then everybody was writing the same report,
25 which is always problematic. But this one, what bothers

1 me, and -- and -- and what apparently is on the video is
2 that it says, "They fell to the ground and continued to
3 fight." So, do you think that's just a mischaracterization
4 of what was going on?

5 **ERIK MENENDEZ:** Yeah. Yes, I do. Uh, uh, just, as
6 God is my witness, what happened is he came and he -- and
7 he swung at me. I grabbed his arm. He didn't connect with
8 me. I grabbed his arm, ended up taking his wrist, hit him
9 on the back of the shoulder, pinned him down at the
10 ground, and he's struggling and wrestling, so it might've
11 looked like we were -- we were, uh, striking each other.
12 But I wasn't letting him up because I knew that he was
13 going to continue, uh, trying to punch me, and I held him
14 down. Uh, and I argued about it at the 115 and called him
15 as a witness and so on. Um, but I knew I was gonna lose
16 the 115. I mean, I didn't -- I didn't curl up in a ball.
17 And if you didn't curl up in a ball and you fought back,
18 you were gonna get found guilty. And at the time, I -- I
19 didn't -- I didn't, uh, I didn't -- I think -- I think I
20 needed, you know, I -- I certainly could not walk away
21 from the hearing being found not guilty. That wouldn't
22 look good on the yard. To -- to me at that time,
23 maintaining my status as someone that's gonna fight back
24 and is going to -- and, uh, is not a informant was a big
25 deal to me. So, that's what mattered more to me. But I

1 wanted it clear.

2 **PRESIDING COMMISSIONER BARTON:** Okay.

3 **ERIK MENENDEZ:** I wanted the 115 clear.

4 **PRESIDING COMMISSIONER BARTON:** Yeah. I -- I -- I
5 don't think they -- well, I don't know what other
6 incarcerated people would've thought. But, um, so you have
7 a confidential in 2013, and this is after you're at
8 Pleasant Valley. Right? And this one says that, um, this
9 person had a debt owed. Um --

10 **ERIK MENENDEZ:** You talking about April 18th of
11 the one -- I'm not gonna say his name, but the one by --

12 **PRESIDING COMMISSIONER BARTON:** April 16, 2013. It
13 talks about April 12, 2013. It -- this says that, um, the
14 debts, according to this person, were the result of
15 falsifying the federal income tax documents. Uh, it says,
16 uh, "Menendez duped several inmates on building five,
17 buying narcotics on credit, and telling them he wasn't
18 going anywhere. And, you know, he'd basically pay them
19 later. Um, then he was transferred." And, um, according to
20 these guys, you left the debt. As you know, when you
21 leave, sometimes cellies or friends get pressured for that
22 debt. Do you know anything about that?

23 **ERIK MENENDEZ:** Yeah. Uh, one's written by Corey
24 and the other one's written by Melvin. Um, one was my
25 roommate. The other one lived two doors down from me. Uh,

1 I'm not gonna say their last names.

2 **PRESIDING COMMISSIONER BARTON:** Sure.

3 **ERIK MENENDEZ:** Um, and, uh, I -- I did not. My
4 roommate had -- Melvin had a lot of debt that I was trying
5 to help him pay off. They -- to be fair to him, it was for
6 Neurontins and Tramadol's at the time, uh, which was a
7 major problem in the facility. I'm sure you remember in --
8 in your years of that time that -- that -- that it was a
9 massive problem, uh, in the -- in that prison and probably
10 other prisons. I -- so, what happens is this. Uh, because
11 I'm a DRB-controlled case, they had just allowed inmates
12 that were LWOP to go from a level four to a level three.
13 But there was 40 people on the waiting list, and I was
14 told by the counselor that I will be at the bottom of the
15 list, that I'm not gonna jump to the top. And, uh, and --
16 but what happens is the director makes a decision of my
17 transfer, and I'm moved to the top of the list. So, all of
18 a sudden, I think it was March 25th or March 23rd, I'm
19 told to pack up my stuff. I'm moving to the level three
20 yard. I left my roommate with a lot of debt, uh, because
21 he could not pay it off, and I was helping him pay it off.
22 And he went to staff.

23 **PRESIDING COMMISSIONER BARTON:** How? How were you
24 helping him?

25 **ERIK MENENDEZ:** I was paying -- I was using

1 canteen. I was negotiating with the people that he had
2 debt with, that he would pay them off in packages. He was
3 just slowly, like a payment plan, which they were
4 comfortable with 'cause they don't want him to lock up.
5 And I believe in that same confidential, uh, he says that
6 I locked it up.

7 **PRESIDING COMMISSIONER BARTON:** No, he says you
8 were transferred. They -- they say you were transferred.

9 **ERIK MENENDEZ:** Oh, okay.

10 **PRESIDING COMMISSIONER BARTON:** Basically, there's
11 two of 'em. One on April 16th, one on April 18th, two
12 separate guys. And I'm not gonna confirm or deny that
13 you've identified them, but that's basically their
14 complaint is you left them with your debt. I mean, they
15 may have had debt, too, but basically the point is that
16 you had debts for drugs. And I already know you were using
17 drugs 'cause you admitted it.

18 **ERIK MENENDEZ:** I -- I --

19 **PRESIDING COMMISSIONER BARTON:** You said you
20 regularly used marijuana and meth --

21 **ERIK MENENDEZ:** Absolutely.

22 **PRESIDING COMMISSIONER BARTON:** -- 12 to 15 times
23 up to October 2013.

24 **ERIK MENENDEZ:** Uh, some of that debt may well
25 have been mine. I'm not gonna say that it wasn't. I

1 would've been planning to pay it off. I was removed from
2 the yard in -- in -- in a -- in a period of two hours.
3 "Roll up your stuff, you're leaving." So, uh, so, I'm --
4 I'm sure some of it, uh, was mine, and some of it was my
5 roommate's. Uh, but it was go -- it wasn't like I was
6 locking up or leaving or running away from a debt. I had
7 plenty of funds. That wasn't my intent.

8 **PRESIDING COMMISSIONER BARTON:** Well, it has less
9 to do with, with that than it does with your other
10 criminal activity. And maybe -- and you've explained it,
11 so maybe it wasn't, uh, you know, "forget them" mentality,
12 you know, "If they're left behind, tough, too bad," kind
13 of mentality. 'Cause like you said, you get rolled up in
14 two hours, you don't have a chance to necessarily make it
15 right. But even on the same -- you're not on the same
16 yard, but we both know that there's way you can get word
17 back to that yard that, "Hey, I'm still gonna take care of
18 my part."

19 **ERIK MENENDEZ:** I did. Uh, I -- I absolutely did.
20 Uh, I -- I wrote a -- a letter over there specifically. My
21 -- that individual ended up going to ISU within days
22 locking up. And so, the whole -- and -- and saying I can't
23 --

24 **PRESIDING COMMISSIONER BARTON:** Yeah. He couldn't
25 pay his debts.

1 **ERIK MENENDEZ:** Right. So, uh, and the only reason
2 they allowed him to have debt is 'cause he lived with me,
3 uh, just to be honest with you. They felt that I would pay
4 it back and that -- and that I would make sure. But once I
5 was gone, they felt that he was not gonna be able to pay
6 his debts, and he wasn't going to be able to pay them. So,
7 um, but I think the other criminal activity you're
8 referring to is the, uh, taxes.

9 **PRESIDING COMMISSIONER BARTON:** Yeah. And there's
10 more confidentials about that. But again, you admitted it.
11 So, what was the -- what was the scam going on?

12 **ERIK MENENDEZ:** The -- the -- the scam, the Two
13 Five who was running the yard, and they were doing -- they
14 were in charge of the tax scheme on the yard, and the guy
15 that they had filling out the forms left the facility in
16 2012, and they didn't know how to do the numbers. And so,
17 they came to me, and I jumped at the opportunity. Uh, I,
18 uh, it's -- it's just shameful to say, but I -- I want to
19 give some color to -- to -- to why I -- I would jump at
20 the opportunity. My closest friend was just stabbed in the
21 head, and another one was raped just recently, uh, at that
22 time. And, uh, it was just an extremely violent yard that
23 I was trying to survive. And -- and I don't say that to
24 minimize my behavior. I'm just trying to explain what
25 motivated me. I was in tremendous fear. And, uh, I -- when

1 -- when the -- when the Two Fivers came and asked for
2 help, I thought, "This is a great opportunity to align
3 myself with them and survive." And keep in mind, this was
4 the time when I was thinking I was going to spend the next
5 40 years in prison. So, I -- on a level four yard, not on
6 a level two like I'm on now. And so, uh, when they said
7 that they needed, uh, help, I -- I knew how to -- I mean,
8 I -- I knew numbers and -- but I wasn't gonna give them
9 sort of the keys to it, because then they wouldn't need me
10 anymore. So, I -- when they needed it, I would -- I would,
11 uh, show them how to do a tax form.

12 **PRESIDING COMMISSIONER BARTON:** Okay. Well, one of
13 these, and I -- I didn't understand the underlying part. I
14 thought it had to do with the tax stuff. But one of these,
15 um, confidentials from July 28, 2013, says that, uh, an
16 incarcerated person, um, who was debriefing, giving
17 information, indicated that you had checks that would be
18 sent to certain addresses. And once --

19 **ERIK MENENDEZ:** That was part of the --

20 **PRESIDING COMMISSIONER BARTON:** Okay, go ahead.

21 **ERIK MENENDEZ:** I'm -- I'm sorry. I didn't mean to
22 interrupt you.

23 **PRESIDING COMMISSIONER BARTON:** No, I was just
24 gonna give you the rest of the context. Sounds like you
25 know what I'm talking about.

1 **ERIK MENENDEZ:** Yeah. So, I -- they, they didn't
2 allow me to have control of any of the funds, but, uh, it
3 was -- part of it is that they would fill out the tax
4 form. They would send the tax form in. The individual who,
5 uh, was -- name was on the tax form would receive the, uh,
6 would receive the check but couldn't cash it. And so, the
7 check would then go to another individual who could -- who
8 could cash it. That individual was, uh, associated with
9 the Two Five. It would go to one of the Two Five's guys,
10 and, uh, and the -- and the money would get cashed and
11 dispensed to the Two Five. My payment was marijuana and
12 protection, but they did not allow me to personally
13 control any of the checks. However, when I was
14 transferred, one of the checks came up missing that was
15 supposed to go from one guy to another guy, and they were
16 -- they were trying to blame me. Things got -- when --
17 when you leave a yard, everybody blames you for
18 everything, uh, uh, and -- in -- in my experience. Um, and
19 so, suddenly, I was being called an informant. I was being
20 told that I stole money. I was -- and, uh, it just wasn't
21 true. But -- but the underlying -- I didn't know what that
22 was, but I assumed that that confidential had something to
23 do with, uh, taxes.

24 **PRESIDING COMMISSIONER BARTON:** Yeah. Everything
25 you just said.

1 **ERIK MENENDEZ:** Yeah. Okay.

2 **PRESIDING COMMISSIONER BARTON:** And then there's a
3 -- now, some of these confidentials reference things that
4 happened years before, some don't. The one from February
5 27, 2019, is actually talking about your behavior back in
6 2002, 2003, while you were at CSP SAC. And all it
7 basically says is you invited this guy in, you and your
8 cellie, to smoke marijuana, and you already said you were
9 doing that. Right?

10 **ERIK MENENDEZ:** Yes.

11 **PRESIDING COMMISSIONER BARTON:** So, that's not new
12 information. Um, other than --

13 **ERIK MENENDEZ:** He gave that information a decade
14 and a half later?

15 **PRESIDING COMMISSIONER BARTON:** Well, that's how
16 debriefs work. You say everything that's happened to you
17 throughout your entire time that you can possibly
18 remember. And you -- you're not the only person that's
19 listed in here. So, um --

20 **ERIK MENENDEZ:** Okay.

21 **PRESIDING COMMISSIONER BARTON:** While you may
22 think it was, like, specially targeted, it also talks
23 about, uh, other people. So --

24 **ERIK MENENDEZ:** Okay.

25 **PRESIDING COMMISSIONER BARTON:** Um, the only --

1 the only thing I saw in it was that there was still some -
2 - I mean, almost like when you were a kid, "Hey, I'm gonna
3 do this, you know, with these guys so I'm cool." In this
4 instance, however, you're using it for your health issues,
5 but you're inviting other people to kind of join you
6 'cause he was housed next to you. I'm not gonna give
7 names.

8 **ERIK MENENDEZ:** Okay.

9 **PRESIDING COMMISSIONER BARTON:** And you and your,
10 uh, cellie basically invited him. And, um, he doesn't say
11 that you were trafficking it or anything like that. Just
12 basically that, um, at that point in time throughout his
13 progression, that's something -- he's admitting what he
14 was doing wrong. You happen to be named in it.

15 **ERIK MENENDEZ:** Right. Uh, it may have been so. It
16 was not -- it doesn't matter. But it -- it wasn't reg --
17 oftentimes, on a level four, you already know that they --
18 that they will leave the doors open for day room. And so,
19 that would happen. Uh, someone would go. People would hang
20 out in other people's rooms. Uh, and so, I'm sure that
21 happened. I'm sure it happened, uh, much more than once.
22 Uh, so, I don't --

23 **PRESIDING COMMISSIONER BARTON:** It happened when I
24 was walking tiers. I could smell the marijuana. I knew
25 something was going on.

1 **ERIK MENENDEZ:** Right. Right.

2 **PRESIDING COMMISSIONER BARTON:** So, again, I --

3 I'm just, like I said at the beginning of this, many of
4 these things you've already admitted and are consistent
5 with your rule violations. Let me ask you now, we'll start
6 the cell phone discussion. Um, well, before I do that,
7 there's another drug issue I want to ask you about. Uh, in
8 November 5, 2020, and before you say it, Ms. Rummel, I
9 know it was found unfounded. But as you also know, I'm
10 asking about the underlying conduct, not the resulting
11 decision or conclusion of somebody at CH -- uh, CDCR. And
12 I say that because I do the -- how do I say this? In -- in
13 both instances, sometimes they find people guilty, and I
14 look at it and I think, okay, that's -- I -- I don't
15 necessarily think it's guilty. And sometimes, I see 'em
16 and they find someone not guilty, and I look at it and I
17 say, "Yeah, but there's still some things that they should
18 take responsibility for." In this particular one from
19 November 5, 2020, uh, it talks about a package being sent
20 to you, um, being addressed to you, and, um, having what
21 they believed to be marijuana inside it. Do you remember
22 that?

23 **ERIK MENENDEZ:** Oh, very well.

24 **PRESIDING COMMISSIONER BARTON:** Okay. So granted,
25 anybody can send something to anybody in prison. Um, how

1 were you getting your marijuana when you were using it?

2 **ERIK MENENDEZ:** The Two Five was giving it to me.

3 **PRESIDING COMMISSIONER BARTON:** Okay. You never
4 had it brought in from the outside or mailed in?

5 **ERIK MENENDEZ:** No.

6 **PRESIDING COMMISSIONER BARTON:** Okay. And --

7 **ERIK MENENDEZ:** Uh, this -- this -- this incident
8 though, I -- I would -- if you're interested, I'll tell
9 you what happened.

10 **PRESIDING COMMISSIONER BARTON:** Go ahead.

11 **ERIK MENENDEZ:** Um, ISU was never able to, uh,
12 determine who sent the package. It was sent from a city
13 close to here, uh, called El Cajon. And in the package,
14 there were only three things, uh, a -- a used roll of
15 tape. We were allowed to receive, uh, packages from a
16 company called Blick Art Materials. So, it -- it -- it was
17 a package ostensibly from Blick Art Materials, but all the
18 packages from Blick Art Materials come from Illinois that
19 where -- where -- so, this one was mailed from El Cajon.
20 So, that's already gonna raise flags. In the -- in the
21 package is, uh, a used roll of tape, a pad of paper, and
22 15 used markers stuffed with marijuana. So, the box was
23 reeking while it was just waiting in R&R. There was no
24 chance that package is going to be delivered to me because
25 the officer looking at it would say, "You can't get used

1 markers, and, uh, I don't understand what's going on
2 here." Um, so, the package was sent purposely to get me in
3 trouble. Uh, I asked, uh, ISU at the time because it would
4 seem to me that if you smell a package that has marijuana
5 in it -- it was never given to me. It was -- it was
6 captured in -- at R&R. Uh, the --

7 **PRESIDING COMMISSIONER BARTON:** I got that.

8 **ERIK MENENDEZ:** The first thing you -- the first
9 thing you would do is bag it up for fingerprints, um, but
10 there was no fingerprints. There was no -- it was, uh, it
11 was a very distressing thing for me 'cause I -- they put
12 me in AD-SEG for 30 days before they -- before they
13 cleared me of that. Um, but I don't know who sent it, and
14 I don't know why other than that it was purposely to get
15 me in trouble.

16 **PRESIDING COMMISSIONER BARTON:** Well, you don't
17 know why. I mean, that -- that's one observation, could
18 have been. Could have been they sent it in thinking
19 someone else was gonna get it from you. That happens also
20 in prison.

21 **ERIK MENENDEZ:** True.

22 **PRESIDING COMMISSIONER BARTON:** People --

23 **ATTORNEY RUMMEL:** Mr. Menendez gets lots of --
24 lots of things sent to him in prison, including -- I
25 recently learned --

1 **PRESIDING COMMISSIONER BARTON:** Ms. Rummel.

2 **ATTORNEY RUMMEL:** UberEats --

3 **PRESIDING COMMISSIONER BARTON:** Ms. Rummel, you
4 don't get to testify.

5 **ATTORNEY RUMMEL:** Okay.

6 **PRESIDING COMMISSIONER BARTON:** You don't get to
7 testify. If it's in the record, that's fine, but you don't
8 get to testify. Um, Mr. Menendez, now that you've heard
9 your attorney testifying on your behalf, uh, if you want
10 to elucidate, and are there other things sent to you that
11 you don't solicit?

12 **ERIK MENENDEZ:** Yes.

13 **PRESIDING COMMISSIONER BARTON:** Okay. And I, quite
14 frankly, don't disagree with you, that if somebody's
15 really trying to surreptitiously send you the marijuana,
16 this wouldn't be the way to do it. Um, but I also know
17 that the fact that there were no fingerprints and very
18 poor investigative techniques taken with this does not
19 surprise me at all either, um, not just in your case, but
20 in many cases that I reviewed. So, um, again, I appreciate
21 your candor and explaining it as far as your understanding
22 of what -- what it was and what was going on with it. Um,
23 there is another case that was unfounded or
24 unsubstantiated, uh, as being unreliable from September
25 2020. Just want to ask you if, um, you know what could

1 have brought, uh, brought this about, the -- the
2 allegation.

3 **ERIK MENENDEZ:** Yeah. It --

4 **PRESIDING COMMISSIONER BARTON:** 'Cause even if the
5 allegation's not true, it might have been a -- a problem
6 with somebody. So, this particular person said that he was
7 housed with you from January 2005 to March 2013 when you
8 were moved. He said he believed that you wanted him
9 assaulted, um, and it has something to do with, um, your
10 wife and his wife communicating. Do you have any knowledge
11 of what that was about?

12 **ERIK MENENDEZ:** I do not have a clue. Uh, there
13 was no chance that I was trying to get anyone assaulted.
14 That's simply not my -- my -- my behavior. What it sounds
15 like is that he wanted to put me on his enemy list or
16 something of that nature. But I -- I -- please do not
17 believe that I -- I would be wanting someone assaulted.
18 That's just not -- not -- not the case.

19 **PRESIDING COMMISSIONER BARTON:** Okay. Well, and it
20 -- the reason it intrigued me is because it, again, has to
21 do with relationships and whether or not there was some
22 friction caused because your wife talked to somebody
23 else's girlfriend or wife in visiting, and they might have
24 said something, which then your wife got back to you, and
25 you got upset about it. You don't remember anything like

1 that happening?

2 **ERIK MENENDEZ:** That kind of stuff happens all the
3 time, uh, when someone's visiting every weekend with --
4 with wives. And, uh, but to rise to the level of -- I -- I
5 have -- I'm really just -- I'm fishing here. I -- I -- to
6 -- to -- that you would wanna assault someone over it, I
7 cannot imagine. You try to be -- in -- in visiting, I --
8 I've learned be extremely respectful, do not talk to other
9 people's wives, and avoid getting -- I've seen people
10 killed over it. So, that -- that -- that is -- that is
11 behavior that could definitely lead to violence. I
12 certainly was not engaged in anything that would -- would
13 -- would cause someone to believe that I wanted them
14 assaulted.

15 **PRESIDING COMMISSIONER BARTON:** Okay.

16 **ERIK MENENDEZ:** I don't --

17 **PRESIDING COMMISSIONER BARTON:** You don't recall
18 any words between you and another person about your
19 significant others having a conversation?

20 **ERIK MENENDEZ:** No, I do not. Uh, I -- I wish that
21 I did just so that I didn't have to tell you I don't, but
22 I -- I --

23 **PRESIDING COMMISSIONER BARTON:** Well, again, it
24 was, um, the -- the allegation that you were gonna have
25 him assaulted was unfounded, unsubstantiated. And even he

1 said he had no direct evidence other than this potential
2 motive. I was less concerned about the allegation that you
3 were gonna have him assaulted, which I don't think was
4 proven here, than whether or not there was some, uh,
5 relationship issues going on with you at the time.

6 **ERIK MENENDEZ:** There were a lot of relationship
7 issues. I was on a very vi -- you know, I was on a very
8 violent level four yard. So, navigating --

9 **PRESIDING COMMISSIONER BARTON:** No, I'm talking
10 about jealousy issues with your wife.

11 **ERIK MENENDEZ:** Oh, oh, oh, I see what you're
12 saying. Oh, I understand the context you're referring to.
13 Uh, I didn't think my wife was flirting with another guy
14 in the visiting room, if that's what you mean. No, that --
15 that -- that did not occur.

16 **PRESIDING COMMISSIONER BARTON:** Okay. Well, and
17 yeah, and -- or vice versa.

18 **ERIK MENENDEZ:** That would be a very serious, uh,
19 underground rule violation. Uh, if -- if -- if -- if
20 someone -- I could -- I've never seen that. That's never
21 happened to me and my wife.

22 **PRESIDING COMMISSIONER BARTON:** Okay. Um, all
23 right. So, now, let's get back to, uh, the cell phone. So,
24 what we have in the confidentials -- well, let me ask you
25 this first. Give you a chance to -- 'cause I think you've

1 been trying to be as honest as you can. I'll give you a
2 chance to continue that. You stated that you've rented
3 phones from other people. Have you ever rented your phones
4 out, the ones you bought?

5 **ERIK MENENDEZ:** No.

6 **PRESIDING COMMISSIONER BARTON:** Have you ever let
7 other people use your phones?

8 **ERIK MENENDEZ:** Yes.

9 **PRESIDING COMMISSIONER BARTON:** Why?

10 **ERIK MENENDEZ:** I was in -- uh, for multiple
11 reasons. Uh, I was in the community of people using
12 phones. So, if it was someone that I trusted or someone
13 that -- that knew I had a phone, I didn't want to tell 'em
14 no. Uh, if it's my roommates, I -- I live in a six, uh, a
15 six-man dorm. Uh, it's a -- it's a -- it's a locked room.
16 You can call it a cell, but it's -- we call it rooms. Some
17 people call it pods. Uh, so any roommate in -- in the room
18 would be allowed to use it, um, in part, because they're
19 keeping the secret. Some of them are using it a lot and --
20 and maybe paying the bill. Uh, and, uh, so, as part of --
21 as part of their use, they paid the bill. And, uh, so, the
22 -- the -- a lot of phones got passed around, and I used
23 other people's phones and -- and they might use my phone.
24 Uh, so, it -- it -- it could be a laundry list of reasons.

25 **PRESIDING COMMISSIONER BARTON:** Okay. Well, I'm

1 looking at your explanation, which is found in the 10-day
2 file, of your cell phone use. Um, and you indicated
3 earlier that the -- that while you held one, the first
4 time you used one, make sure I'm getting it right, was
5 what year?

6 **ERIK MENENDEZ:** 2018 in April.

7 **PRESIDING COMMISSIONER BARTON:** Okay. Was this
8 after Lyle came to live in the same facility?

9 **ERIK MENENDEZ:** Yes.

10 **PRESIDING COMMISSIONER BARTON:** Did you and he use
11 phones together?

12 **ERIK MENENDEZ:** He had a separate phone. I don't
13 believe that we --

14 **PRESIDING COMMISSIONER BARTON:** So, you didn't buy
15 phones together?

16 **ERIK MENENDEZ:** He might -- no. He might have used
17 my phone occasionally, but I -- we didn't -- we were not
18 in that practice.

19 **PRESIDING COMMISSIONER BARTON:** Okay. And in 2016,
20 you said you knew your roommate had a cell phone, but he
21 never yet let you use it?

22 **ERIK MENENDEZ:** Yeah, he was very -- he didn't
23 trust the publicity around me and thought that that would
24 get his phone, uh, caught and was -- had very strong
25 boundary issues when it came to his cell phone.

1 **PRESIDING COMMISSIONER BARTON:** Okay. Well, you
2 did, too, didn't you?

3 **ERIK MENENDEZ:** I'm not saying that it was wrong.
4 Uh, uh, I -- I -- I -- I'm -- I -- in terms of boundary
5 issues with my phones, I'm sure I did. Yeah. I -- I -- I
6 think we can discuss that.

7 **PRESIDING COMMISSIONER BARTON:** Well, let me ask
8 you this. Did you pay other people to hold your phone so
9 you wouldn't get caught with it?

10 **ERIK MENENDEZ:** Not with cash. I would pay them
11 with them using it. I was -- it got to a point where I --
12 one of the reasons that the confidentials mirror my -- my
13 115 so closely is -- is that it's -- this is a product of
14 me being Erik Menendez and -- and -- and having -- and
15 having this notoriety, uh, is that I -- it's difficult for
16 me to do things in prison and everyone not know about it.
17 And, uh, people knew I had phones. ISU, uh, knew I had
18 phones, so my area was searched so much that I would make
19 deals with roommates to say, "Hey, you don't have to do
20 anything but hold it, and I will, uh, I'll pay the bill,
21 and you can use it." And we would have times when he would
22 use it, I would use it, or a different roommate would use
23 it. Uh, yes.

24 **PRESIDING COMMISSIONER BARTON:** Okay. Because this
25 particular confidential in May 23, 2022, indicates that

1 you would, uh, hide phones or have other people hide
2 phones in their lockers for you. Um, you would also have
3 them be lookouts for you when you'd utilize the phone.
4 That's --

5 **ERIK MENENDEZ:** I would do that. I would -- yes, I
6 would do that. I -- I think that it doesn't explain enough
7 that, uh, I would be lookout as well if they were using
8 the phone. It's -- it's like -- it's -- it --

9 **PRESIDING COMMISSIONER BARTON:** I get it.

10 **ERIK MENENDEZ:** It's like a little organization.
11 Yeah.

12 **PRESIDING COMMISSIONER BARTON:** That, I -- I get
13 it. I appreciate your honesty, but that doesn't make it
14 better. That actually makes it worse.

15 **ERIK MENENDEZ:** No, it -- it -- it -- it does not
16 make it better.

17 **PRESIDING COMMISSIONER BARTON:** Um, so, by this
18 time in 2022, what was your attitude towards, you know,
19 the potential, um, for your having a chance at release at
20 some time? I mean, it was in the works, right?

21 **ERIK MENENDEZ:** Not really. Uh, I -- I did not
22 believe that I -- I believed that I would spend the rest
23 of my life in prison until all the way up to --

24 **PRESIDING COMMISSIONER BARTON:** Until when?

25 **ERIK MENENDEZ:** Up until the end of 2024. Even

1 when my attorneys talked about filing a habeas, uh, the
2 success of habeas is -- is like one percent. Uh, it -- it
3 -- it's -- I just -- I didn't believe, and I didn't allow
4 myself to believe that I could ever get out of prison. I
5 believed that I would die in prison. And, uh, and so, the
6 -- the -- what I got from using the phone in terms of my
7 connection with the outside world was far greater than the
8 consequences of me getting caught with the phone.

9 **PRESIDING COMMISSIONER BARTON:** So, let's talk
10 about that. What do you think are the consequences of cell
11 phones in prison? Because everybody seems to think, that's
12 commented on it in your letters, are that it's no big
13 deal.

14 **ERIK MENENDEZ:** Yeah. I -- I think that that's the
15 -- the common perception, and that's certainly what I told
16 myself for years, uh, until I woke up to the reality, uh,
17 and I woke up through hitting rock bottom. I woke up to a
18 hard reality where I realized, well, now the consequences
19 mattered. Now, in November 2024, now the consequences
20 meant I was destroying my life. And but still, the ethical
21 considerations. I -- I -- I look at -- I look at behavior
22 in terms of guardrails and -- and the -- the -- the
23 internal guardrail of -- of just morally what's right, the
24 consequences guardrail, and then, uh, my commitments that
25 I make to other people. And, uh, the consequences

1 guardrail became very clear in November 2024. Uh, the
2 damage that cell phone -- I woke up to -- what the true
3 damage, to get to your -- your answer to your question, of
4 really understanding the impact in January 2025, not just
5 when I was taking the Criminal Thinking classes, uh, but
6 also when I had a -- a -- an in-depth conversation with
7 Lieutenant Garvey about one of his partners who committed
8 suicide because he was caught bringing in cell phones and
9 it destroyed his life. The impact of cell phones on the
10 institution is multifaceted. They must search the
11 institution. It puts pressure on ISU. It corrupts staff.
12 It can lead to staff suicide. It, uh, uh, it -- it builds
13 the black market. That can also have violent implications.
14 People use cell phones to try to traffic narcotics, to
15 commit violence, and it corrupts the -- the -- the overall
16 culture of a prison that is trying to rehabilitate
17 prisoners. So, the -- the damage, uh, that cell phones can
18 do is extraordinary. I understand the -- the -- the idea
19 that, "Oh, someone using a cell phone, what damage is he
20 doing?" But it's just like someone using drugs. Drugs,
21 there is no tentacle to drugs that isn't destructive. The
22 getting it in, the financing, the financing violence, the
23 behavior --

24 **PRESIDING COMMISSIONER BARTON:** Well --

25 **ERIK MENENDEZ:** -- that could lead to violence.

1 **PRESIDING COMMISSIONER BARTON:** -- let's keep it
2 to phones. I know you helped move drugs --

3 **ERIK MENENDEZ:** Uh, so it's --

4 **PRESIDING COMMISSIONER BARTON:** -- into 2013.

5 **ERIK MENENDEZ:** It's the same. The -- the damage
6 of using a phone, uh, is -- is as -- as corrosive to a
7 prison environment as -- as drugs are in the sense that it
8 -- someone must bring them in. They must be paid for. It
9 corrupts staff. It creates massive problems for ISU and
10 their investigations, and phones can be used to -- to
11 illicit more criminal activity. As well as the individual.
12 I mean, let's face it, I'm facilitating groups, and I'm --
13 I'm trying to become a good person, but at the same time,
14 I'm using a phone, and that tension within me, it's not
15 acceptable. It was unacceptable behavior.

16 **PRESIDING COMMISSIONER BARTON:** Well, and you
17 named some of the dangers, but I don't know that
18 everyone's educated to all of the dangers of cell phones.
19 Like you said, people have to bring 'em in, so people lose
20 their jobs, uh, maybe the livelihood for their family, or
21 in extreme cases feel their life is over. That's tragic.
22 But even those that, you know, let's say aren't officers
23 that lose their jobs because they've been corrupted or
24 blackmailed or threatened, there's also the use of the
25 phones. What were you using your phones for?

1 **ERIK MENENDEZ:** Everything. Connection with my
2 wife, watching YouTube, uh, listening to music, watching
3 movies, porn. Anything that you can do on a phone, I did.

4 **PRESIDING COMMISSIONER BARTON:** Well, and so, in
5 doing so, especially with your wife, talking to your wife
6 or any other support people, what were you doing?

7 **ERIK MENENDEZ:** I was -- I was, uh, having
8 intimate conversations with her. I was -- I was --

9 **PRESIDING COMMISSIONER BARTON:** No, no, no. I mean
10 -- I mean, as far as making them a party to your actions,
11 were they --

12 **ERIK MENENDEZ:** Oh. Uh, uh, that's emotionally
13 abusive. It's emotionally abusive. Just like using drugs
14 is a form of domestic violence, I was, uh, in -- I -- I
15 was bringing them into, uh, uh, a very terrible act and
16 making them complicit.

17 **PRESIDING COMMISSIONER BARTON:** Well, and when
18 guys -- what I hear from a lot of guys is they're -- they
19 honestly, they'll say, "Well, you know, we're locked up in
20 prison. We haven't been with a woman in a long time, so we
21 -- we watch the porn." What's the problem with that?

22 **ERIK MENENDEZ:** And that's very corrosive to a --
23 a marriage.

24 **PRESIDING COMMISSIONER BARTON:** Well, it also,
25 even if a guy's not married, it further causes him to

1 objectify women. There are women employees in the prison.
2 It further allows them --

3 **ERIK MENENDEZ:** Yes.

4 **PRESIDING COMMISSIONER BARTON:** -- if they do have
5 some type of, um, prior sexual, uh, deviance or disorder
6 that they have to address, I mean, they're -- they're
7 right back in it. And even when you lent out phones, you
8 don't ask guys what they're using it for, do you?

9 **ERIK MENENDEZ:** No.

10 **PRESIDING COMMISSIONER BARTON:** Guys use phones to
11 check paperwork, and then if they check paperwork,
12 somebody gets beat up. Guys use phones to talk to gang
13 members in other places so they can perpetuate all kinds
14 of nefarious acts. And I -- I don't know if it's just
15 people on the outside don't understand, but do you think
16 that using phones inside a prison is the same as using 'em
17 on the outside?

18 **ERIK MENENDEZ:** It's completely different.

19 **PRESIDING COMMISSIONER BARTON:** Yeah. So, it
20 concerns me when I see a lot of your support letters
21 telling me what a model inmate you've been, and that means
22 that either they don't understand the problems that you've
23 caused, or worse, you're giving them a false perception.
24 Why do you think that is?

25 **ERIK MENENDEZ:** I -- I think I -- I certainly do

1 not intend to be giving anyone a false perception. Uh, m -
2 - my support network and I have had serious conversations
3 about how, uh, destructive phone use can be. I had a long
4 conversation with my Aunt Terry about this in January
5 2025, when I made a commitment to her to do everything I
6 could to get out of prison. And I was explaining why I got
7 into using phones and -- and -- and how that was -- it's
8 an unacceptable behavior for me. I believe that because
9 it's something that people use every day out there, that -
10 - that in their minds, "How bad can it be? I use this
11 every single day," without really being able to understand
12 the pressure that it puts on the security services and the
13 line staff in a prison environment. Uh, and -- and really
14 going through the -- the mental -- the -- the -- the sort
15 of mental deductive, uh, reasoning. Uh, being in prison,
16 working with the administration, it's very clear to me,
17 uh, how -- how serious it is now. Listening to the story
18 of someone committing suicide is tragic. It is -- it's
19 being immersed in, it gives one perspective. I think when
20 they're outside of it and never have been incarcerated and
21 using an item every day in their own mind, they -- they,
22 uh, minimize it. But I do not.

23 **PRESIDING COMMISSIONER BARTON:** Well, and it's
24 tragic, the story about the lieutenant, but I know from
25 personal experience, people that I knew personally that

1 lost their careers, not because they were corrupt, but
2 because when they went in to search for the cell phone and
3 the guy was tearing it up and trying to flush it, he
4 cracks his knee on a cell and ends up with a broken knee
5 and loses his career. So, it doesn't have to be the person
6 who's corrupt that's harmed by it. Staff, I mean, anytime
7 staff is searching, and you know that some guys will go to
8 any lengths not to have it found. Right?

9 **ERIK MENENDEZ:** Of course. Of course.

10 **PRESIDING COMMISSIONER BARTON:** And so, it could
11 be a fight. It could be an injury like that that ends
12 somebody's career. And there's a lot of that sort of, like
13 I said before, next level consequential thinking, um, that
14 you didn't give thought to. Did you -- when did you file
15 your -- for your clemency?

16 **ERIK MENENDEZ:** That was in -- I started going
17 through the clemency process in March 2025.

18 **PRESIDING COMMISSIONER BARTON:** Okay. Um, and at
19 the time that you were caught with this phone -- well,
20 that was November of 20 -- I know it's dated December, but
21 I think that's when the RVR took place.

22 **ERIK MENENDEZ:** Right.

23 **PRESIDING COMMISSIONER BARTON:** But it happened in
24 November. Um, at that point, if you hadn't been caught,
25 you would've continued using the phone. True or not?

1 **ERIK MENENDEZ:** For a period of time. For a period
2 of time. I was in -- I mean, if you look at the five
3 stages of change, I was definitely in the, "I can't be
4 using this anymore," phase. I'm now transitioning. I'm no
5 longer gonna be LWOP or I have a potential. I recognized
6 at that point, this is -- this is bad, but I was still
7 using it, and I was still, uh, I was still -- you know
8 what? Let me -- let me -- let me -- let me bring myself
9 back to that moment. I had -- I had not decided to stop
10 using a phone at that point. I was still using it, and I
11 still would've used it. I was thinking about January. Uh,
12 in November, I was u -- I was still using it, and I was
13 thinking about using it. The wake-up call happened when
14 that phone got taken. That's when, uh, that's when I
15 realized, "Oh, wait a minute. I'm destroying my -- I'm
16 destroying my life." That -- that --

17 **PRESIDING COMMISSIONER BARTON:** But you're using
18 that term. What do you mean "destroying my life"?

19 **ERIK MENENDEZ:** What I mean is I -- from 2013 on,
20 I was living for a different purpose. But my -- my -- my
21 purpose in life was to just to -- to be a -- to be a good
22 person. Uh, I know that in talking about disciplinary, uh,
23 uh, reports, it -- it sounds silly, but I genuinely just
24 wanted to be a good person. I asked myself, "Who do I want
25 to be when I die?" What -- what -- I believe that I'm

1 gonna face a different Parole Board after I die. And that
2 became very important to me, and I read certain books, and
3 they -- and -- and -- and I realized I want to -- I wanna
4 live a different life. I did not like who I was in 2013. I
5 didn't like using drugs. I didn't like helping the Two
6 Five and -- and tax fraud. It just made me feel ugly and
7 dirty, and -- and I didn't want to do it. Uh, I did it, so
8 I'm not minimizing it, but what I mean is afterwards I
9 wanted to be clean. And -- and so, I was living a
10 different life. But the -- but I really became addicted to
11 this -- to the -- to the phones and said, "You're doing
12 life without. This is not really harming anyone," is what
13 I told myself. My denial patterns were strong: minimizing,
14 rationalizing, justifying, blaming my circumstances,
15 saying that everyone else did it. And -- and -- and so,
16 but when I -- when the November 14th happened, I realized,
17 "Wait a minute. I might actually not be LWOP in the
18 future." And now -- and now, I'm doing -- my consequential
19 thinking kicked in, and I realized -- not my ethical
20 considerations yet. That came a few months later. But that
21 consequential thinking of, "I -- I can't -- I can't be
22 doing this." Uh, I -- I don't know how people that are --
23 know they're gonna go to Board five, ten years in the
24 future do it. I -- I -- I just realized this is -- this
25 behavior, I can't do this. This is destroying my life, and

1 everyone who supports me and believes in me and wants to
2 see me free, they know about it now. They -- they knew
3 about that writeup, and it's --

4 **PRESIDING COMMISSIONER BARTON:** How -- how much --
5 how much did you pay for your phone?

6 **ERIK MENENDEZ:** A thousand dollars.

7 **PRESIDING COMMISSIONER BARTON:** For each one?

8 **ERIK MENENDEZ:** Each, yes.

9 **PRESIDING COMMISSIONER BARTON:** Where'd you get
10 that money?

11 **ERIK MENENDEZ:** A friend of mine paid for it. A
12 friend of mine that was in, uh, this prison and then
13 paroled before Covid.

14 **PRESIDING COMMISSIONER BARTON:** Okay. Well, that's
15 not very good to hear. So, it's someone who got out is
16 actually helping you do something that he knows is
17 criminal?

18 **ERIK MENENDEZ:** Yes.

19 **PRESIDING COMMISSIONER BARTON:** And what do you
20 have to do in return?

21 **ERIK MENENDEZ:** I didn't have to do anything. Uh,
22 he just liked me and -- and, uh, wanted to help me. He had
23 a phone when he went in. He didn't go through the parole
24 process. Uh, he had a flat term, and, uh, he -- he -- he
25 bought them. He -- he dropped off during Covid, so I don't

1 know where he is anymore. But he, uh, basically, I had to
2 continue to stay in contact. He -- he wanted to be my
3 friend.

4 **PRESIDING COMMISSIONER BARTON:** Okay. As far as,
5 um, who got that, you know, that money, somebody got it to
6 bring it in. Right?

7 **ERIK MENENDEZ:** Yes.

8 **PRESIDING COMMISSIONER BARTON:** Okay. So, you knew
9 that. He knew that. You know you're perpetuating whoever's
10 in charge of that. On your yard, probably not a gang, but
11 on many yards, especially GP Yards, it is the gangs who
12 control that and tax it and everything else. Right?

13 **ERIK MENENDEZ:** Yes.

14 **PRESIDING COMMISSIONER BARTON:** So, how did you
15 justify that part of it?

16 **ERIK MENENDEZ:** Honestly, I knew of -- and I, uh,
17 I knew of 50, 60 people that had phones. I just -- they
18 were just available. And so, I -- buying it off the yard
19 was -- I justified it by saying, "If I don't buy it,
20 someone else is gonna buy it." I mean, it was just -- and
21 -- and the phones were going to be sold, and I longed for
22 that connection. Uh, and so, I -- I rationalized it in my
23 head saying, "I blame my circumstances." I said, "Everyone
24 else's that I'm close to," 'cause everyone else, under no
25 circumstances am I saying that everyone else is using it,

1 and that's the case. Uh, it was mostly the LWOP community,
2 but it wasn't all the guys in the LWOP community. I'm sure
3 you face a lot of guys that are going to Board that use
4 'em. Uh, and -- and so, I -- I just rationalized in my
5 head that, "It's gonna happen with or without me, and I --
6 I want to use one."

7 **PRESIDING COMMISSIONER BARTON:** Okay. Commissioner
8 Stern, should we take another break? Let's take another
9 break. Give people a chance to stretch their legs. Give
10 Mr. Menendez a chance to regroup.

11 **DEPUTY COMMISSIONER STERN:** Okay.

12 **PRESIDING COMMISSIONER BARTON:** And, uh, my
13 intention would be to turn over questioning to you. So,
14 uh, it's almost noon. We'll break until 12:10 p.m. Um, let
15 the officers know if you need to use the restroom or
16 something, and then --

17 **ERIK MENENDEZ:** I do.

18 **PRESIDING COMMISSIONER BARTON:** -- have them back
19 at 12:10 p.m. Okay.

20 **DEPUTY COMMISSIONER STERN:** Okay.

21 **ERIK MENENDEZ:** Okay. Thank you.

22 **DEPUTY COMMISSIONER STERN:** Okay. And we're gonna
23 go off the record.

24 **RECESS**

1 **DEPUTY COMMISSIONER STERN:** All right. We are back
2 on the record.

3 **PRESIDING COMMISSIONER BARTON:** We're back on the
4 record in the matter of Mr. Menendez's initial parole
5 consideration hearing with all the parties previously, um,
6 well, the principal parties previously identified. I'm not
7 going to do a roll call of everyone else. As I indicated
8 before, if they leave the call and they're not back at the
9 time we start, we will bring them back in at the next
10 break. Uh, Mr. Menendez, are you doing all right?

11 **ERIK MENENDEZ:** Yes, sir. Thank you.

12 **PRESIDING COMMISSIONER BARTON:** I -- I should have
13 asked you, do you have something to drink, or did you need
14 food or anything there?

15 **ERIK MENENDEZ:** I have water and a banana and
16 apple.

17 **PRESIDING COMMISSIONER BARTON:** Are you okay?

18 **ERIK MENENDEZ:** Yes. Thank you.

19 **PRESIDING COMMISSIONER BARTON:** All right. Um,
20 when we broke, uh, I was going to turn over the
21 questioning to Commissioner Stern, but during the break, I
22 saw -- looked at my notes. I forgot one question I was
23 gonna ask regarding your, um, drug use. We already talked
24 about the motivations for it, and, um, I'm not sure that
25 I'm real clear on why you stopped using drugs.

1 **ERIK MENENDEZ:** I -- a couple of reasons. I -- I
2 didn't like who I was when I was using drugs. I, uh,
3 wanted to make significant changes in my life. I, uh, was
4 both, uh, I was -- I was transferred to a different
5 facility. I had been in the -- in the mindset that I did
6 not want to use anymore. I -- I just came to believe that
7 this is not who I am, who I want to be. It's not who I
8 want to be when I die. I don't want to be in this
9 addiction. I was going to AA, uh, but -- and NA, but that
10 was -- that was -- that was awakening me a little. Uh, it
11 was getting me to maybe a pre-contemplation about it. Uh,
12 um, but I hadn't started working the steps, and I started
13 doing that in 2013. And on October 14, 2013, I made a
14 commitment to my mother, that's my mother's birthday, that
15 I would -- I -- I -- that I was sorry that I used, and I
16 would no longer use again.

17 **PRESIDING COMMISSIONER BARTON:** Because that's
18 really something you picked up in prison. I mean, that
19 particular criminal --

20 **ERIK MENENDEZ:** Yes.

21 **PRESIDING COMMISSIONER BARTON:** -- enterprise and
22 -- and process of -- of getting drugs and illegal drugs
23 and using them.

24 **ERIK MENENDEZ:** Yes.

25 **PRESIDING COMMISSIONER BARTON:** Um, and they

1 haven't diagnosed you as having any type of -- I think
2 they said a mild cannabis use disorder. Um, and I'm -- I'm
3 familiar with your affliction, and actually, I have people
4 I know who utilize marijuana, uh, here in California
5 medicinally for that purpose. If you were released, is
6 that something you would do?

7 **ERIK MENENDEZ:** I -- I never want to use again. I
8 will never use again, uh, and I will honor the commitment
9 that I made in -- in October 13th, I mean, October of
10 2013. I -- I found I've been -- I've become very
11 proficient at -- at pain management through meditation,
12 and I have a good relationship with my doctor. It doesn't
13 work when I have a kidney stone, I'll be honest. Um, but,
14 uh, but, uh, otherwise, I may be able to manage my
15 condition through -- through meditation, and I -- and I'm
16 going to continue doing that.

17 **PRESIDING COMMISSIONER BARTON:** Well, and I don't
18 want you or anyone else to misunderstand. Um, I think if
19 someone needs something that's medically available, it
20 doesn't mean that they can't necessarily use it. I think
21 that just like anything else, there have to be healthy
22 boundaries and accountability and things of that nature.
23 Um, having said that, I, you know, I don't see that it was
24 -- you weren't on drugs when you committed these crimes,
25 were you?

1 **ERIK MENENDEZ:** No.

2 **PRESIDING COMMISSIONER BARTON:** No. And again, I
3 think it was a very poor choice for a coping mechanism at
4 the time. But it appears from everything I can see, um,
5 that at least that addictive behavior, uh, has stopped
6 over a decade ago. Unfortunately, you replaced it with
7 another one.

8 **ERIK MENENDEZ:** Yeah.

9 **PRESIDING COMMISSIONER BARTON:** Why'd you wait so
10 long to use the cell phones?

11 **ERIK MENENDEZ:** Part of it was access. I wanted to
12 use my roommate's phone, um, and, uh, availability. I was
13 put into a cell when I got transferred to Echo Yard, the,
14 uh, the non-designated, uh, programming facility, uh, in a
15 room with the guy who was renting it out. So, uh, it -- it
16 -- I -- I just -- I said, "I -- I wanna rent it. Don't
17 bother renting it out (inaudible)."

18 **PRESIDING COMMISSIONER BARTON:** When did you first
19 meet Dr. Hauser?

20 **ERIK MENENDEZ:** 2021 maybe. Four years ago, maybe.
21 Five years ago.

22 **PRESIDING COMMISSIONER BARTON:** I'm -- I'm pretty
23 familiar with him. He's done a lot of good work there.
24 Works with a lot of people, runs a lot of programs. What
25 do you think he'd say about your cell phone?

1 **ERIK MENENDEZ:** Great. Uh, it's a female. Dr.
2 Hauser is a female.

3 **PRESIDING COMMISSIONER BARTON:** Okay.

4 **ERIK MENENDEZ:** Um, uh --

5 **PRESIDING COMMISSIONER BARTON:** It's funny because
6 I've never -- I've never met Dr. Hauser. I've only seen
7 the writings, so I appreciate that.

8 **ERIK MENENDEZ:** Uh, Dr. Hauser is a phenomenal
9 person, um, uh, but also is someone that likes to hold
10 people accountable and takes positive programming very
11 seriously. I know exactly what Dr. Hauser, uh, thinks
12 about cell phone use because she has told me, and that it
13 is incompatible with, uh, with positive programming. And
14 it is an addiction that I had to understand. Because I
15 believe it was an addiction I -- I -- I've got. Having
16 studied and understood through 12 Steps and Toxic Shame, I
17 believe that one person is not -- addictions get
18 supplemented with other addictions unless the underlying
19 problem of self-worth gets resolved. Uh, and the addiction
20 is not to cell phones, to meth, to -- to -- to marijuana
21 or anything else. The addiction is to that sense of lack
22 within us that needs to be cured. Uh, it -- it certainly
23 was for me. And, uh, and so, uh, I have been in -- that's
24 why I said I'm not in the CCCMS program, but I've been in
25 therapy now working with her to understand and -- and deal

1 with that internal struggle and that addiction, and
2 recognizing that it comes from, uh, a deep-seated sense of
3 lack that I must and -- and had to conquer, uh, which is
4 fully outlined in my Relapse Prevention Plan.

5 **PRESIDING COMMISSIONER BARTON:** Yes. And we do
6 have those, and we have read them, and they are extensive.
7 I'm gonna turn it over to Commissioner Stern. She'll talk
8 to you about, um, well, any of the things that I've talked
9 to you about, but also your other post-conviction factors
10 to the degree that we feel it's necessary. Go ahead,
11 Commissioner.

12 **DEPUTY COMMISSIONER STERN:** Okay. Thank you. All
13 right. Just checking in again, Mr. Menendez, that you can
14 hear me okay?

15 **ERIK MENENDEZ:** Yes, I can.

16 **DEPUTY COMMISSIONER STERN:** All right, great. So,
17 let's -- before we leave the, um, topic of cell phones for
18 the moment, I just have a couple of follow-up questions.
19 Um, you told Commissioner Barton that you woke up to the
20 true damage of the cell phones in January. And is that
21 when you had the conversation with Lieutenant Garvey, was
22 January?

23 **ERIK MENENDEZ:** In January, yes. Uh, January -- a
24 series of conversations from January to March, uh, when I,
25 uh, when I first, uh, approached him about cell phones and

1 began talking to him, yes. So, uh, yes.

2 **DEPUTY COMMISSIONER STERN:** Okay.

3 **ERIK MENENDEZ:** January.

4 **DEPUTY COMMISSIONER STERN:** But the phone was
5 confiscated in November, correct?

6 **ERIK MENENDEZ:** Yes. The phone was confiscated in
7 November.

8 **DEPUTY COMMISSIONER STERN:** Okay. Um, what -- that
9 was while you were, um, undergoing, or while it was -- you
10 were in the process of requesting a resentencing in LA
11 County, correct?

12 **ERIK MENENDEZ:** Yes.

13 **DEPUTY COMMISSIONER STERN:** Okay. Um, I know you
14 wrote about this a little bit and, but, um, I -- I just --
15 I need to ask some questions about it. When you talked
16 about, like, I think you said, oh, that, um, hold on, I'm
17 checking my notes here, "The benefits far outweighed the
18 consequences," of having -- you know, the benefits of
19 having a phone outweighed these consequences, although you
20 -- you knew what the consequences were, at least some of
21 them. Um, knowing that you had renewed interest in your
22 case and that you were undergoing court proceedings, you
23 still thought it was worth it to have the phones?

24 **ERIK MENENDEZ:** No. Uh, by -- by, uh, if I may --
25 if I may elaborate.

1 **DEPUTY COMMISSIONER STERN:** Yeah.

2 **ERIK MENENDEZ:** Um, when I say benefit outweighed
3 the consequences, I do not mean in any way that from an
4 objective point of view, looking back, that I believed the
5 benefits outweighed the consequences. I want to be clear
6 about that. The consequences far outweighed any -- any
7 emotional benefit that I got from using the phone.

8 **DEPUTY COMMISSIONER STERN:** But at the --

9 **ERIK MENENDEZ:** I --

10 **DEPUTY COMMISSIONER STERN:** At the time, you did
11 not know that, or you didn't recognize that.

12 **ERIK MENENDEZ:** At the time, I was justifying it
13 and rationalizing it, and I -- and I had not yet woken up
14 to just how -- understanding of those consequences as well
15 as the ethical considerations, uh, and in conjunction.
16 When -- and on November 14th, you're -- you're correct
17 that the -- that the resentencing filing had to happen
18 about 20 days beforehand.

19 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

20 **ERIK MENENDEZ:** Um, but when that resentencing had
21 happened, the idea of -- of saying, "Oh, the District
22 Attorney is thinking about resentencing me. Well, then I
23 want to stop my phone use right now," uh, was simply not
24 where I was at emotionally. If anything, I felt an even
25 greater need, uh, or a desire to connect and know what was

1 going on. It -- I had yet to wake up to the reality of,
2 "Yeah, Erik, but what happens when this phone gets
3 caught?" Because they all do, really. "And -- and -- and
4 now you are responsible and using it." And that happened
5 within a span of weeks, and it's hit me like a Mack truck,
6 and I realized, "Oh, this is devastating. These
7 consequences are not -- I'm not in the same -- the same
8 arena that I was a year ago." And -- and so, I woke up
9 very fast to the consequential part of it. The morality of
10 it, uh, took me a couple of more months.

11 **DEPUTY COMMISSIONER STERN:** And just -- just to
12 add to that sort of unusual situation, okay, it's -- it's
13 understandable that when you have this, you know, very
14 highly publicized case that's getting renewed attention,
15 of course, you know, it's -- I think it's human nature to
16 wanna know what's being said, or you know, what the
17 coverage is. But it's not like you didn't have other, you
18 know, family members or people that could -- that could
19 report that to you. It's not like you're an isolated, you
20 know, person in prison who doesn't talk to a wife and
21 other family members who can tell -- who can give -- and -
22 - and attorneys who can give you that sort of information.
23 So, it's a little more confusing to me that, like, you had
24 these other avenues where you could have gotten this. And
25 also, you had a tablet by that point, right?

1 **ERIK MENENDEZ:** Yes.

2 **DEPUTY COMMISSIONER STERN:** Okay. And are you --

3 **ERIK MENENDEZ:** Yes.

4 **DEPUTY COMMISSIONER STERN:** Are you permitted to
5 watch the news or look at the news on your tablet?

6 **ERIK MENENDEZ:** No, I -- I have a television, so I
7 can do that on television.

8 **DEPUTY COMMISSIONER STERN:** Okay.

9 **ERIK MENENDEZ:** And the tablet is harder. There
10 are -- there are some articles. Um, there's other
11 components, uh, that were involved. Uh, uh, I don't wanna
12 give the impression that it's -- it's just one thing or
13 another.

14 **DEPUTY COMMISSIONER STERN:** Yeah.

15 **ERIK MENENDEZ:** It's sort of a cycle. There --
16 there was -- I was also facing, and this is not minimizing
17 in any way, please, I do not want to give that impression,
18 but -- but one of the components and one of the driving
19 factors for me was a desire to have private conversations.
20 Um, I was in a situation where staff was listening to my
21 phone calls, reading my texts, and -- and reporting on it.
22 And I was not able to, uh, I -- I -- I believed the things
23 that I said were going to get back to the District
24 Attorney and -- and be put on YouTube and so on. And it --
25 it turns out that I was -- that that was -- that was the

1 case. We had known it was the case. We had made complaints
2 about it. So, there was a part of a -- a driving factor of
3 wanting privacy, as well. But -- but that was only part of
4 it. The other part was wanting the connection, wanting the
5 -- to the -- the intimacy, wanting to -- to -- to -- to
6 know what was happening on a level where I -- I didn't --
7 I didn't -- I'm -- I'm very conscious. I have a tablet.

8 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

9 **ERIK MENENDEZ:** But I'm -- and it's a very
10 interesting thing knowing that I'm -- that -- that there's
11 always a third party on the phone listening while I'm
12 talking. It -- it creates a -- a -- a fractured
13 conversation. And, uh, it was -- these were very stressful
14 times. These continue to be stressful times, but I have
15 put in place very sound, uh, boundaries and guardrails
16 now.

17 **DEPUTY COMMISSIONER STERN:** Well, and it sounds
18 like -- it sounds like now that you've taken your, you
19 know, the cell phone programs and you've talked to the --
20 to staff about it, you maybe have a better understanding
21 of why there's that third party monitoring phone calls.

22 **ERIK MENENDEZ:** Yeah. Without a doubt. Uh, I --
23 what I -- what -- no question. Uh, what I -- I guess where
24 I was going is that they -- they -- I would -- I would
25 have staff stop me on the yard and talk to me about my

1 conversations. It was very -- it's very -- it, you know,
2 uh, about my text messages.

3 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

4 **ERIK MENENDEZ:** And so, it was -- it was -- it's a
5 sort of a jarring thing, but the monitoring and the need
6 for monitoring and security in prisons is -- is very
7 apparent to me, and I don't begrudge it.

8 **DEPUTY COMMISSIONER STERN:** Okay. So, just a
9 couple other things on the -- on the phone specifically.
10 Um, so how does your -- your wife, Tammi, you've been
11 married to for a long time, how -- did she know that you
12 were calling her on a contraband cell phone that it was
13 illegal for you to have?

14 **ERIK MENENDEZ:** Yes, she did.

15 **DEPUTY COMMISSIONER STERN:** How'd she feel about
16 that?

17 **ERIK MENENDEZ:** She wanted me to stop using. She -
18 - she -- I -- by calling her on the phone, I did damage to
19 my relationship with her.

20 **DEPUTY COMMISSIONER STERN:** Yeah.

21 **ERIK MENENDEZ:** Uh, it -- it is the reason it -- I
22 -- I did damage for multiple, uh, reasons. One, uh,
23 getting her -- because at times, she felt that it was --
24 that it was immature and that I was not being smart in
25 using a phone, I would talk to her about -- it was the

1 reason we don't have family visits. Uh, CDC is, uh, uh,
2 doesn't allow family visits for when you get caught with
3 the phone. Uh --

4 **DEPUTY COMMISSIONER STERN:** And just to interject
5 for a second. I -- I found that like, I -- if I'm not
6 mistaken, you lost family visits for three years because
7 of this phone that you had in November.

8 **ERIK MENENDEZ:** Right. I did.

9 **DEPUTY COMMISSIONER STERN:** That's -- that's quite
10 a consequence.

11 **ERIK MENENDEZ:** Extreme. Uh, that's -- that's --
12 that -- that is a -- that's a -- that's a -- that's a real
13 consequence. I did not -- I've never had a family visit.
14 I, uh, you have to be disciplinary free, if you have a
15 case of domestic violence, for ten years, and you guys
16 know my record. Um, and so, I -- I, uh, I -- I -- I saw it
17 as years away and --

18 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

19 **ERIK MENENDEZ:** -- um, and it -- it -- I -- I
20 could have -- I can have intimacy with my wife on a -- on
21 a phone that's -- that's obviously digital and artificial.

22 **DEPUTY COMMISSIONER STERN:** Right.

23 **ERIK MENENDEZ:** But, um, but in a way that I can't
24 on a public phone, on -- and -- and my wife would not have
25 -- with me, even just intimate conversations. I don't mean

1 sexual conversation, just intimate. Um, just that -- that
2 -- that sort of closeness. And so, uh, I convinced her
3 that we're not gonna have family visits for a decade now,
4 especially after I was caught in 2018. And that -- that
5 this is the only time we're gonna be able to have
6 closeness, and I'm not gonna get out of prison. And it's
7 depressing things. Those are depressing conversations. And
8 I, uh, it's not an excuse. And I -- I -- I -- they were
9 very poor decision making.

10 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

11 **ERIK MENENDEZ:** That's just clear.

12 **DEPUTY COMMISSIONER STERN:** Okay. Um, thank you
13 for helping explain that a little bit more. Um, I'm gonna
14 ask you a couple of other -- I'm gonna move on to some
15 other things, and I'm sure we'll come back to -- it's --
16 it kind of all weaves together. But I'm gonna ask about
17 some different things. I wanna ask you, um, about a couple
18 areas we really haven't talked about yet, some of the
19 programming that you've completed. Um, it's -- it's
20 voluminous. I'm just gonna state you've done just gobs of
21 programming. You've really, um, engaged in, I mean, the
22 list is really long. We are not gonna talk about all the
23 programming you've completed 'cause we'd be here until
24 next week. It's all part of the record. What we are gonna
25 ask about is the things that we have some questions about,

1 or things that we need more information about to help make
2 our decision today. Um, I wanna actually start with
3 Criminal Thinking. And I'm going to -- I have -- I have a
4 couple of direct questions about it. I was really struck
5 by the fact that you just took Criminal Thinking this
6 year. Is that right?

7 **ERIK MENENDEZ:** Yes.

8 **DEPUTY COMMISSIONER STERN:** Okay. Was that like a
9 -- like an active choice? I mean, I know that there's
10 Criminal Thinking, um, modules on the tablet that you can
11 do if -- if -- if you're not able to get into a live
12 group. But Criminal Thinking seems like it was a really
13 helpful program for you, but I'm really, um, it's -- why
14 did you only just decide to take it in 2025?

15 **ERIK MENENDEZ:** I was under the impression that
16 Criminal Thinking was about committing crimes, and, uh, I
17 didn't believe -- I didn't want to commit crimes. I saw
18 Criminal Thinking as a specific course for people who were
19 career criminals.

20 **DEPUTY COMMISSIONER STERN:** But you were a
21 criminal starting at age 16.

22 **ERIK MENENDEZ:** Without a doubt. There's no
23 question. You are right. Um, I should have. I was not
24 taking programs because I believed that it would -- the
25 programs that I was taking -- first of all, the reason I

1 took Criminal Thinking is because Dr. Hol -- Hauser said,
2 "This is criminal thinking, and you need to take Criminal
3 Thinking." Uh, but I wanna be clear about that.

4 **DEPUTY COMMISSIONER STERN:** Okay.

5 **ERIK MENENDEZ:** Um, and, uh, uh, but the programs
6 that I was taking in prison were there because they --
7 they spoke to me. Life Care and Hospice, working with the
8 elderly, spoke to me. How to change --

9 **DEPUTY COMMISSIONER STERN:** And we'll get to that.
10 But -- but Criminal Thinking --

11 **ERIK MENENDEZ:** So, so that's why --

12 **DEPUTY COMMISSIONER STERN:** You did not think the
13 Criminal Thinking was relevant for you at all?

14 **ERIK MENENDEZ:** I -- maybe not at all, but I -- it
15 wasn't the most, uh, prominent thing on my list, uh, of --
16 of -- of classes to take.

17 **DEPUTY COMMISSIONER STERN:** Okay.

18 **ERIK MENENDEZ:** Big error.

19 **DEPUTY COMMISSIONER STERN:** So, once -- so, tell
20 me like the top three and, you know, and we -- I read your
21 Relapse Prevention Plan about criminal thinking, but tell
22 me what you sort of got out of it. You had this kind of an
23 epiphany in -- in -- in that group, and then maybe also
24 Denial Management. I know you took that twice this year.

25 **ERIK MENENDEZ:** Uh, Criminal Thinking, uh, that

1 really -- that -- that's had a profound effect on me. I --
2 I remember, uh, after -- after the class, I was speaking
3 in front of another class, uh, uh, uh, called PEP, and we
4 were talking about Criminal Thinking. And -- and I was
5 discussing it, and I felt like I still need -- while I had
6 a much greater understanding of Criminal Thinking, I still
7 needed to know more and to understand where it came from.
8 And I remember I went home that night and I turned off the
9 television, and I turned off the radio, and I sat with a
10 nightlight. And I said, "I'm going back to the beginning
11 and understanding how criminal thinking relates to me."
12 And I started with negative childhood experiences, and I
13 worked through it, uh, of how I could get to a place where
14 -- where I could justify using criminal thinking. And
15 really, the proof -- the -- the -- my proclivity and the -
16 - and the -- and the ubiquitous nature of -- of criminal
17 thinking in -- in terms of the criminal thinking is --
18 includes lying and speeding and thinking about, uh, the
19 other -- the other day, I was running a -- I was running
20 one of my classes, and one of the hard things we have in
21 our class is that we have a dry erase board, but very few
22 dry erase markers. And there was one from the class
23 before, and I thought, "Man, I can really use that dry
24 erase marker," because all my -- and I thought to myself,
25 "That's criminal thinking. That's not my, uh, that's not

1 my marker." That the -- the -- the recognizing ju -- that
2 it comes -- where it comes from and how -- and how
3 pervasive, linking it back to -- to shame, to hurt --

4 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

5 **ERIK MENENDEZ:** -- or my core feeling. It was --
6 that was a big deal for me. That class has had a
7 significant impact on me as well as Understanding
8 Boundaries.

9 **DEPUTY COMMISSIONER STERN:** Okay. Tell us about
10 denial management 'cause I think that's another big area
11 that's come up many times this morning already.

12 **ERIK MENENDEZ:** I had no idea how -- or let's --
13 let's just say I -- I did not understand the depth which I
14 used, uh, denial management skills in my life. The -- the
15 idea of -- because realistically, I understand that I'm
16 doing this behavior but still trying to say that I'm a
17 good person, so, rationalizing my behavior. And so, the
18 idea of me rationalizing my behavior, justifying it,
19 minimizing it, blaming my circumstances, saying that
20 everyone else does it. Democratic Disease State was a
21 major one. Strategic Hopelessness was major in my life,
22 uh, of saying, "Well, I'm just harming myself." And, uh,
23 there's, "I can't change my circumstances. There's nothing
24 I can do." These are -- these are fundamental thinking
25 errors and recognizing it's -- it -- it -- I have this

1 belief that I -- I -- it's difficult to -- to -- to really
2 identify with an emotion until I can name it. And I --
3 naming these behaviors allowed me to -- to recognizing
4 just how pervasive they had been throughout my life in my
5 evolution and growth, and now I identify them immediately
6 and see them in other people, and it's important to me.

7 **DEPUTY COMMISSIONER STERN:** Tell me about, um, one
8 of the things that has not really come up a whole lot is
9 anger. I know you have a Relapse Prevention Plan for anger
10 management. Um, but you know, with all of the things you
11 talked about, about your -- your life crimes, you talked
12 about many, many things and a lot of character defects.
13 Were you angry at the time?

14 **ERIK MENENDEZ:** Yes. I was -- I was angry, if not
15 rageful, uh, when -- at my dad still wanting to come into
16 my room and not letting me go to college, at my mom
17 knowing. That brought me a -- a boiling anger and pain.
18 Uh, I believe that pain underlies anger. And so, that --
19 that I -- that I was deeply angry. That night I was -- I -
20 - yes, I was terrified for -- for my safety, but I was
21 also angry. And -- and anger is -- was a part of my
22 childhood.

23 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

24 **ERIK MENENDEZ:** Throughout -- throughout my young
25 adult life, I -- I was angry that this was happening to

1 me, and I felt like a coward. And me feeling like a coward
2 and feeling like I couldn't -- I -- not that I couldn't,
3 that I could -- I would -- I -- I was too afraid to stand
4 up my dad. I felt I was a coward, and I was angry at
5 myself for it. So, uh, anger, uh, is a -- is a -- is
6 something that I've had to deal with. Uh, it's a
7 significant, uh, point in my life.

8 **DEPUTY COMMISSIONER STERN:** What about the anger
9 at your mother?

10 **ERIK MENENDEZ:** The anger at my mother was -- was
11 incredible. I felt incredibly betrayed by my mother in
12 that last week. I remember -- I remember a time when I was
13 getting whipped by my dad, and I looked up at my mom, uh,
14 and I felt -- I felt betrayal by her. There were times in
15 my childhood, uh, that I felt that kind of betrayal. But
16 that last week, uh, when I found out she knew, it was
17 devastating, and my -- I was angry. Um, but it's -- that
18 night, it -- it exploded out of me, and I can't imagine
19 being angry at my mom now. Uh, I -- I -- I wasn't angry an
20 hour afterwards. And I -- I -- as I've grown, I realized
21 just how severe the trauma was that she experienced and
22 why she did, and I see her in a completely different
23 light. I have no anger towards my mother anymore. I love
24 her.

25 **DEPUTY COMMISSIONER STERN:** So, this -- this kind

1 of goes into another area I wanted to ask you about, which
2 is the toxic shame. So, you've done a, um, it's V-I-V-E,
3 Victim Impact, Victim something else, um, like --

4 **ERIK MENENDEZ:** Victim Empathy.

5 **DEPUTY COMMISSIONER STERN:** Thank you. A Toxic
6 Shame group, and you, um, you not only took that, I think
7 you facilitate that, as well. Is that right?

8 **ERIK MENENDEZ:** Yes.

9 **DEPUTY COMMISSIONER STERN:** Okay. So, tell us a
10 little bit about that group and what you've -- not
11 specifically about the group, but what you've learned
12 about yourself from that group.

13 **ERIK MENENDEZ:** What I -- what I've learned, uh, I
14 -- well, AA and NA are significant, uh, are very
15 significant in my life and Life Care and Hospice,
16 certainly. What I tell the guys when I stand up in front
17 of them, uh, there's about 25, 30 guys that -- that take
18 it, uh, is that this is the most significant knowledge
19 that -- and -- and --and understanding I have of myself
20 that I -- for my life. And whether they're going to the
21 Parole Board and need to understand insight or step four,
22 or they're ne -- or they're never going in front of a
23 Parole Board and just have to live with the pain that's
24 inside of them, this has changed my life. To understanding
25 that my negative experiences, some of them external, some

1 of them internal, getting hit, sexually -- sexually
2 violated, but even -- even just that sense of -- of lack
3 of nurturing, lack of love, lack of empathy, lack of --
4 lack of just a deep connectivity to -- translated to me
5 into complete belief that I was flawed and defective, that
6 there was something fundamentally wrong with me, and that
7 that's why my parents were being cruel to me or punishing
8 me. That understanding of myself translated throughout my
9 entire life and drove my need for validation, acceptance,
10 love. And, uh, it -- it -- it is -- it was so pervasive in
11 my life that without me knowing it, that it was driving
12 everything inside of me. I believe it is the most
13 fundamental part of, uh, much criminality is that need --
14 that need to be -- to be loved and validation. It drove me
15 understanding it, understanding Brene Brown's, uh, relapse
16 -- I mean, uh, uh, resilience theory and how to manage it
17 changed me.

18 **DEPUTY COMMISSIONER STERN:** Is that B -- Brene
19 Brown? Is that who you're talking about?

20 **ERIK MENENDEZ:** Brene.

21 **DEPUTY COMMISSIONER STERN:** Okay.

22 **ERIK MENENDEZ:** Yeah. Brene Brown. Uh --

23 **DEPUTY COMMISSIONER STERN:** And how do you -- how
24 do you live with, like, as a -- as a 54-year-old man, how
25 do you live with that? Um, it's -- it's -- it's a lot of

1 toxic shame to carry. So, what are the strategies that you
2 use to -- to live with it today and not let it destroy
3 you?

4 **ERIK MENENDEZ:** One, I have to be aware of it.

5 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

6 **ERIK MENENDEZ:** So, that's -- that's the key,
7 recognizing that it exists when it flares up. The second
8 part is, uh, parenting myself. I used to think parenting
9 myself was a silly concept. I remember when I first heard
10 that, your inner child, and I thought that's -- I don't
11 buy it. It's deep and true. I revert back to an eight-
12 year-old Erik, or a 12-year-old Erik, or a 14-year-old
13 Erik, and me telling myself, "You know what? You are
14 worthy. You are -- you are." That life is about self-
15 realization, realizing the beauty that I have an internal
16 soul, and that I'm a part of God. It's a very significant
17 thing that I -- that I talk to myself about and -- and --
18 and constantly reinforced. When that shame flares up, I
19 have to tell myself, I'll say it a hundred -- I mean, not
20 a hundred, but I'll say it a dozen times, uh, "You're
21 worthy. You're worthy. You're worthy. You're loved. It
22 doesn't matter what the outcome is." I had to say it to
23 myself before this hearing. "You're loved. You're good
24 enough as -- as you are right now." The other part is
25 speaking shame. It's -- it's step five in the steps. It's

1 -- it's -- it's talking to God, another person, being able
2 to speak. There's a power and a cathartic nature in being
3 able to -- to tell someone, "Hey, this -- this -- these
4 are my deepest shames."

5 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

6 **ERIK MENENDEZ:** So, understanding them and being
7 able to speak them is critical. Having someone to go to
8 and then having a support network, people that you can
9 rely on. Another key part that's not in the resilience
10 theory, but I think is extremely important that I talk
11 about in the class, is recognizing the things that are
12 high-risk situations and working them out ahead of time,
13 knowing I may get yelled at over here, and it's gonna be
14 okay when I am. Uh, just that forethought of situations
15 that are going to -- that are going to potentially, uh,
16 trigger me, work through them in my mind, work through de-
17 escalation. "Hey, if this guy calls me a name, don't let
18 it flare up. It's okay. You -- you are not -- you are not
19 that thing he's calling you." Uh, so, really understanding
20 that on an intellectual level, and emotionally. Telling 25
21 guys last Tuesday that I love them in class is a big deal.
22 These are -- these are hard criminals.

23 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

24 **ERIK MENENDEZ:** And they -- and to say, "Listen,
25 you guys are -- are great. You're perfect. You're growing.

1 You're becoming self-aware. You've got things you're
2 working through but -- but we can love each other," is a -
3 - it's a big deal.

4 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

5 **ERIK MENENDEZ:** And it's changed who I am.

6 **DEPUTY COMMISSIONER STERN:** Um, that sounds like
7 it has -- it's had a huge impact on not just you, but on
8 the people in the class, um, which is great. Do you -- so
9 -- so then, I'm gonna tie this back to the cell phones a
10 little bit because, you know, you're -- you're still,
11 like, sort of undercover. Right? Like you've said several
12 times, you know, two things can be true. And like, it's --
13 it's a, you know, it's -- it's -- it's hard to reconcile
14 some of that. So, here you are leading this, you know, and
15 we're gonna talk about the Hospice thing in a minute, but
16 you're facilitating other groups, and you're telling
17 people that, you know, to -- to think about the
18 consequences of actions and to really like, you know, be
19 good -- good citizens, and yet, you're, you know, frankly,
20 engaging in a criminal conspiracy to have phones when you
21 know that that's not what you're supposed to be doing. And
22 you're, you know, you're trying to set yourself up as an
23 example for people, but also you've kind of got this
24 secret, you know, life going on.

25 **ERIK MENENDEZ:** Right. Right. Uh, and -- and --

1 and that's -- that tension inside of me --

2 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

3 **ERIK MENENDEZ:** -- uh, was uncomfortable. Uh, that
4 there was -- that's a bad tension. And that -- that --
5 that idea that -- that I'm working on my -- my -- on
6 myself, my spiritual salvation, my -- my growth as a
7 human, and yet I'm doing this -- this thing that is --
8 that I should not be doing it -- really rationalizing it
9 to myself created a great deal of energy. I tried. I went
10 through fits and starts. I really didn't want to be
11 violating the rules. I remember telling my wife, "If only
12 I could only just, like, just being able to talk and
13 nothing else about the phone was just legal, I would just
14 --". It -- it, uh, there's no -- I -- I can't sit here and
15 rationalize it from a -- from a point of view today
16 knowing the damage I know that it does and how horrible it
17 is. And so, I -- I feel -- I feel free today in that
18 respect. But at the time, it was a real problem for me and
19 a significant embarrassment when, of course, I would get
20 115s and my cell would get searched.

21 **DEPUTY COMMISSIONER STERN:** Right.

22 **ERIK MENENDEZ:** And I would get told on. You have
23 -- you have, like, three confidentials. They've probably
24 gotten a hundred kites over the last, uh, I mean, the
25 captain is sitting here. He's probably, you know, when in

1 his time as a lieutenant, he probably ran a dozen of them.

2 **DEPUTY COMMISSIONER STERN:** Did you --

3 **ERIK MENENDEZ:** There's only three that --

4 **DEPUTY COMMISSIONER STERN:** Let me just interject
5 for a second. Did you, um, were you facilitating groups
6 when you got caught with that phone in November?

7 **ERIK MENENDEZ:** I was either on break or
8 facilitating. I don't specifically remember, but I was --

9 **DEPUTY COMMISSIONER STERN:** So, well -- and so,
10 I'm asking because I'm wondering whether you had to, like,
11 go into your group and say, "Hey," --

12 **ERIK MENENDEZ:** Oh.

13 **DEPUTY COMMISSIONER STERN:** "I'm, you know, I'm
14 leading this group because I'm, you know, qualified to do
15 it, and I have all this insight, but also I just got an
16 RVR that I need to, you know, maybe be honest with you
17 about."

18 **ERIK MENENDEZ:** Absolutely.

19 **DEPUTY COMMISSIONER STERN:** How'd that go?

20 **ERIK MENENDEZ:** It was a very, uh, embarrassing
21 moment. Uh, and I actually w -- would've prefer -- I -- I
22 told them in 12 Steps and in -- in Toxic Shame, if, you
23 know, this is -- this is unaccept -- I had to have that --
24 that that sort of come to Jesus reckoning, uh,
25 conversation with all of them and just say, "You guys,

1 let's be honest. You guys know that I've been using
2 phones. You guys are aware -- this is not a secret." I
3 don't -- I can't do anything on this facility without
4 people knowing it. And it's -- it's -- it's understood.

5 **DEPUTY COMMISSIONER STERN:** Right.

6 **ERIK MENENDEZ:** And, um, but they liked me, and
7 they -- they knew that I was genuinely walking -- walking
8 the walk of -- of -- of being -- of my life of service.
9 But they also knew I was doing this thing. And I -- and I
10 told them that "You guys are all now part of my
11 accountability network. I'm -- I'm no longer going to be
12 doing this. I'm putting it out there. If you hear -- if
13 anyone says that I am, if you hear it, come to me. I'm
14 telling you. I'm being honest. I'm being -- and I -- and
15 I'm just -- I'm gonna tell you." And I also had to do that
16 a couple of years ago with my drug use and the taxes. When
17 -- in the Toxic Shame group, we do a lot of processing,
18 and I had to be open to them about me, and that's a
19 humiliating thing because I don't use drugs.

20 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

21 **ERIK MENENDEZ:** They see me as running -- I was
22 chairman of AA and NA. I -- I -- I'm one of the guys that
23 started this 12 Step, uh, study group. Uh, they were
24 shocked. And, uh, you know, it's given me an ability to
25 understand addicts in a way that if I had not been an

1 addict, it would not be possible. So, I've been able to do
2 a lot of good with it, but coming clean is such a
3 cathartic experience. Being able to -- do you know, I
4 can't even tell you how much I dreaded this moment, just
5 being able to talk. I talked about it in the CRA about how
6 I'm afraid that -- that the taxes is gonna get out and
7 it's gonna destroy my credibility in the male sexual abuse
8 community. It is humiliating. This is -- this is -- this
9 is -- was terrifying. I used to wake up in cold sweats
10 just thinking about having this conversation, but there's
11 some deeply cathartic about being clean and being open and
12 living that life that I --

13 **PRESIDING COMMISSIONER BARTON:** Well, Mr.
14 Menendez, once you -- once you speak it, like you said, it
15 doesn't control you.

16 **DEPUTY COMMISSIONER STERN:** Right.

17 **ERIK MENENDEZ:** That's exactly -- that's why step
18 five is step five.

19 **PRESIDING COMMISSIONER BARTON:** Yeah. And so,
20 what's concerning to me is, even though you said, "I'm not
21 trying to minimize it. They all knew I was doing it." Do
22 you know how many folks we have coming here, and I ask
23 'em, "Why aren't you going to this group or that group?"
24 And they tell me, "Because the people running it are
25 hypocrites."

1 **ERIK MENENDEZ:** I -- I can imagine.

2 **PRESIDING COMMISSIONER BARTON:** Yeah.

3 **ERIK MENENDEZ:** I can imagine.

4 **PRESIDING COMMISSIONER BARTON:** So, the fact they
5 knew that you were doing this may have actually prevented
6 other people from going to a group that could have helped
7 them.

8 **ERIK MENENDEZ:** Possibly. Possibly. Uh, in
9 fairness, I wasn't running a cell phone prevention
10 workshop, but, uh --

11 **DEPUTY COMMISSIONER STERN:** Well --

12 **ERIK MENENDEZ:** I -- I -- I -- I --

13 **PRESIDING COMMISSIONER BARTON:** But -- but if you
14 wanna go down that road, we can talk about the 12 Steps
15 and which ones apply to your cell phone use, but know
16 which ones --

17 **ERIK MENENDEZ:** You put it a hundred percent
18 correctly. I did a 12 Step, uh, uh, I did the 12 Steps on
19 cell phones, in fact. I am very --

20 **DEPUTY COMMISSIONER STERN:** Yeah.

21 **ERIK MENENDEZ:** You are a hundred percent correct.

22 **DEPUTY COMMISSIONER STERN:** Well, I -- I was
23 actually a little more interested in you saying that,
24 like, "They know that I walk the walk." Do they? Because
25 it sounds like you weren't.

1 **ERIK MENENDEZ:** You, uh, I meant that in the
2 context of my work with the disabled and the elderly and -
3 - and the infirm. Um --

4 **DEPUTY COMMISSIONER STERN:** But see there --
5 there's a little bit of that criminal thinking in there
6 again about like, "Oh, well, this doesn't really count."
7 You know?

8 **ERIK MENENDEZ:** Without a doubt. I -- I absolutely
9 minimized.

10 **DEPUTY COMMISSIONER STERN:** Yeah.

11 **ERIK MENENDEZ:** There's no question. My -- my
12 minimization and rationalization of distorted thinking,
13 uh, and denial patterns and using the cell phone are
14 evident, clear, and, uh, uh, incontrovertible.

15 **DEPUTY COMMISSIONER STERN:** Well, and -- and some
16 of them go back to you being a teenager. Right? Like your
17 -- your justification of the -- the burglaries and the,
18 you know, the murders of -- you had your parents' credit
19 cards. You could -- you and you could have bought a plane
20 ticket to, you know, Europe and gotten -- and -- and
21 escaped and done many other things. It's just -- it's just
22 one of those things. It's --

23 **ERIK MENENDEZ:** I was -- yeah. I -- I was --

24 **DEPUTY COMMISSIONER STERN:** You're a work in
25 progress.

1 **ERIK MENENDEZ:** Uh, I could not -- I could have
2 left.

3 **DEPUTY COMMISSIONER STERN:** Yeah.

4 **ERIK MENENDEZ:** And looking back now, that's --
5 that's clear. And I used criminal thinking to justify the
6 burglaries.

7 **DEPUTY COMMISSIONER STERN:** Right.

8 **ERIK MENENDEZ:** And to -- to justify. Yes.

9 **DEPUTY COMMISSIONER STERN:** Okay. I wanna move on
10 for a minute. I wanna -- I want you to please tell me
11 about this -- this Hospice group. So, you, um, tell us a
12 little bit about what it -- like, how you got involved in
13 this specifically.

14 **ERIK MENENDEZ:** I, uh, I was given a job as a
15 caregiver in, uh, in 2013. It has me down on my vocation
16 list as a janitor, but that's because there were no
17 caregivers. So, I was put on the yard with no caregivers.
18 And so, they gave me a -- they gave me the job number that
19 was assigned to a janitor. And, um --

20 **DEPUTY COMMISSIONER STERN:** Thank you for
21 explaining that. I -- I was, I was actually wondering
22 that, so thank you.

23 **ERIK MENENDEZ:** Okay. Um, and so -- and -- and
24 that's -- that's the case with some of the -- the -- the
25 jobs. Like they -- the Life Term, uh, job in, in SOMS, or,

1 or class, that's really Life Care Hospice just so you --
2 just so -- for clarity, um, the -- the -- the Lifer class.

3 **DEPUTY COMMISSIONER STERN:** Okay.

4 **ERIK MENENDEZ:** Um, it -- it's just classified in
5 that classification. Um, so, I was given a job as a
6 caregiver, and I was, uh, I was assigned -- at that time,
7 I was assigned to an individual, and I was assigned to an
8 individual named Thomas. And Thomas was just an older man,
9 a World War II vet, and believed that nobody loved him,
10 and that he was -- he was no good. And I -- I came. He was
11 a sex offender. Um, and I, uh, I just came to really love
12 this man. And I would take him to chow, and I would -- I
13 would help him eat dinner and, uh, help him with his
14 bedding. I would -- I just -- I just saw the goodness. I -
15 - I saw it as a way to -- to make amends for my father,
16 um, and I -- I -- 'cause I saw my father in him, but I saw
17 just the gentleness of him and -- and the sadness within
18 him. He was very alone. He had no one in his life. Um, but
19 -- but in that job, I saw the amount of bullying that was
20 happening to the elderly and how they were marginalized in
21 recreational activities in -- and in -- and just
22 activities in the facility. And I, uh, I was the -- I
23 became the lead caregiver. And I, um, I just realized
24 there needs to be a lot more education on this facility to
25 understand the -- the guys that were dying, the elderly,

1 the disabled. There was no -- there was no comfort groups
2 for them, no one taking care of them. They were on their
3 own. And I just -- I -- I created Life Care and Hospice
4 to, one, educate. I brought in the bullies.

5 **DEPUTY COMMISSIONER STERN:** Hmm.

6 **ERIK MENENDEZ:** That was -- that was -- that was
7 something I had to do. I had to bring in the guys that
8 were kind of tormenting and because they saw all the sex
9 offenders. And -- and -- and -- and you know what? I
10 remember having a conversation with my wife, and she was
11 saying, "You know what? I'd rather be in Walmart next to a
12 sex offender than a murderer," and I had to explain to the
13 -- the -- the -- the guys that, "You -- you classify these
14 crimes as one is better than another, as your hierarchy of
15 what's acceptable in prison, and it's just not reasonable,
16 and it's not acceptable, and I think people outside of
17 prison maybe see it differently." I don't know. But we
18 needed to -- to -- to -- to love these guys.

19 **DEPUTY COMMISSIONER STERN:** Mm-hmm.

20 **ERIK MENENDEZ:** And just because they're in a
21 wheelchair, they're also not sex offenders either. They're
22 -- they're just many different people.

23 **DEPUTY COMMISSIONER STERN:** And --

24 **ERIK MENENDEZ:** And so --

25 **DEPUTY COMMISSIONER STERN:** -- and so, when you --

1 so, you saw this need, and you created a program. You
2 wrote a program guide for it, correct?

3 **ERIK MENENDEZ:** I wrote the manual and the guide,
4 and we've been running it for nine years.

5 **DEPUTY COMMISSIONER STERN:** And how many, um, what
6 is -- what is your role currently in that today? Do you,
7 like, train the new people?

8 **ERIK MENENDEZ:** Yes. So, we -- we get people to
9 work one-on-one with -- with, uh, people that are -- are
10 struggling. Uh, either elderly, disabled, or people that
11 have life-limiting illnesses. And, uh, I -- I'm -- I was
12 the chairman of it for, well, since it's inception. And I
13 -- I'm one of the -- the guys that just facilitates that
14 practice and does it myself. I'm -- I'm currently a
15 caregiver.

16 **DEPUTY COMMISSIONER STERN:** Um, thank you for
17 doing that. It sounds like there was a need that, you
18 know, you saw, and you acted on it, and that sounds like a
19 great program. I appreciate your work on that. Um, I wanna
20 also ask you, I'm just gonna sort of state for the record,
21 you're a recent college graduate, correct?

22 **ERIK MENENDEZ:** I am, UCI.

23 **DEPUTY COMMISSIONER STERN:** Congratulations. That
24 was the -- that was like a couple months ago, right? May
25 or June?

1 **ERIK MENENDEZ:** Right. The graduation was in June.

2 **DEPUTY COMMISSIONER STERN:** Okay. And, um,
3 congratulations on earning your degree with, it looks
4 like, excellent grades.

5 **ERIK MENENDEZ:** Thank you.

6 **DEPUTY COMMISSIONER STERN:** Um, all right. I wanna
7 -- I just have a couple of other questions, then I'm gonna
8 hand it back to Commissioner Barton. Um, tell me about
9 your understanding of the boundaries that you have between
10 yourself and your brother.

11 **ERIK MENENDEZ:** My, uh, understanding of healthy
12 relationships and specifically boundaries has, uh, been,
13 uh, a -- a growth as I've -- as I've learned about toxic
14 shame and my understanding 'cause I believe that -- that
15 poor boundaries come specifically from toxic shame. Uh,
16 so, boundaries is the rules and regulations that I -- that
17 I have with my brother. And my brother, as the older
18 brother, uh, uh, had different boundaries, uh, uh, has a
19 different sense of boundaries than I did. And I was
20 codependent and had -- and -- and had poor boundaries. I
21 now recognize that I stand up for myself, that I don't put
22 his needs ahead of mine, that I, uh, I -- when he's
23 overstepping his bounds, I'm very clear about it. We tend
24 to do different programming.

25 **DEPUTY COMMISSIONER STERN:** Right.

1 **ERIK MENENDEZ:** He's in a Green Space program. I
2 tend to do -- paint on a mural. He doesn't facilitate any
3 classes with me. He doesn't wear my clothing anymore. Um,
4 and, uh, I also, uh, I -- I have to talk to him when he
5 thinks that he's going to schedule my visits or make
6 decisions for me and not discuss them for me, you know,
7 when family comes to town and whatnot. So, understanding
8 our boundaries, his role, he's my brother. He's my older
9 brother, so I respect him. Uh, and -- but that -- but that
10 I am an individual and have -- have my goals, my dreams,
11 my needs, my desires, uh, is, uh, now a fundamental part
12 of our relationship.

13 **DEPUTY COMMISSIONER STERN:** Okay. And -- and does
14 he respect those boundaries?

15 **ERIK MENENDEZ:** Yes. Yeah. He has them, too. In
16 fact, he'll say to me if, uh, we'll -- we'll -- we have a
17 good relationship now about it. Uh, we -- we have a very -
18 - we've -- we've been developing it over several years,
19 but we're very firm in our boundaries now. So -- so, we're
20 -- we're clear. If I'm in his office and he's not there,
21 he tells me I'm crossing his boundaries. Uh, and -- and
22 even though it's -- it's not technically his office. It
23 belongs to the captain. Uh, it, uh, so, I -- I -- I should
24 be allowed in it. But he -- we -- we -- we have very clear
25 understanding of boundaries and -- and the needs of -- I

1 want to have a healthy relationship with my brother. I'm
2 gonna be with my brother, hopefully, for another few
3 decades, uh, of life. And I -- we need -- I -- I
4 understand what is needed in a healthy relationship. And
5 if we don't have healthy boundaries, we're not gonna be
6 able to coexist.

7 **DEPUTY COMMISSIONER STERN:** Okay. Um,
8 Commissioner, I'm gonna hand it back to you at this time.
9 Thank you.

10 **PRESIDING COMMISSIONER BARTON:** All righty. We're
11 gonna go, uh, to questions by the attorneys. Again, just a
12 reminder, these are clarifying questions. Cover those
13 issues that are relevant to the Board's decision. Uh,
14 we'll start with the People. Uh, Mr. Balian, do you have
15 any questions you'd like me to ask Mr. Menendez?

16 **DEPUTY DISTRICT ATTORNEY BALIAN:** Sorry, can you
17 hear me now?

18 **PRESIDING COMMISSIONER BARTON:** I can.

19 **DEPUTY DISTRICT ATTORNEY BALIAN:** Thank you. Um,
20 yes, please. Um, Mr. Menendez, um, had mentioned that he
21 was, uh, truthful to the best of his ability, and he was,
22 in fact, truthful -- and this is going to his insight
23 today -- at his initial trial. Um, but I believe he also
24 said that Lyle, during this joint trial, had solicited
25 more than one individual to commit perjury on their

1 behalf. Um, I wanna ask him specifically about a witness
2 named Traci Baker. It was Traci Baker, uh, testified that,
3 uh, Kitty Menendez had tried to poison the family at a
4 dinner. Was, uh, was Mr. Menendez aware, at the time that
5 Lyle did this, uh, was he aware that Lyle had written a
6 script for Traci Baker, uh, as to exactly how she should
7 testify?

8 **PRESIDING COMMISSIONER BARTON:** Again --

9 **ERIK MENENDEZ:** I was not aware --

10 **PRESIDING COMMISSIONER BARTON:** -- I'm not gonna
11 hold him responsible for what his brother was doing, but,
12 uh, were you aware of it at the time?

13 **ERIK MENENDEZ:** I was not aware that he had
14 written that script.

15 **PRESIDING COMMISSIONER BARTON:** Okay.

16 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Um, so, at
17 the time Mr. Menendez testified, is he telling the Panel
18 today that he was unaware that Lyle had written that
19 script for Traci Baker?

20 **PRESIDING COMMISSIONER BARTON:** I think that's
21 what he just said. Is that what you just said?

22 **ERIK MENENDEZ:** Yes.

23 **PRESIDING COMMISSIONER BARTON:** He told me earlier
24 he was aware that his brother was soliciting, or suborning
25 perjury, but also called some of it off.

1 **DEPUTY DISTRICT ATTORNEY BALIAN:** Right.

2 **PRESIDING COMMISSIONER BARTON:** Of then at least
3 one person, uh, as I understood his testimony, but that he
4 was not the one doing the soliciting.

5 **DEPUTY DISTRICT ATTORNEY BALIAN:** Right.

6 **PRESIDING COMMISSIONER BARTON:** Did I get that
7 correct, Mr. Menendez?

8 **ERIK MENENDEZ:** Yes, sir.

9 **PRESIDING COMMISSIONER BARTON:** Okay.

10 **DEPUTY DISTRICT ATTORNEY BALIAN:** Uh, would the --
11 would the Panel ask the inmate then to please explain how
12 it was then that Erik testified at the trial, both trials
13 actually, and resuscitated as if true, the same exact
14 facts that were written in the Traci Baker script as if
15 Erik was there and present and watched this happen?

16 **PRESIDING COMMISSIONER BARTON:** Well, I don't
17 know. Do you think you lied about that in your testimony?

18 **ERIK MENENDEZ:** I -- I believe that I testified
19 that my mom had threatened to poison the family, which was
20 true. I don't believe that I testified about the incident
21 that Traci Baker is referring to. Is -- is Mr. Balian
22 under the impression that I did?

23 **PRESIDING COMMISSIONER BARTON:** We're -- we're not
24 gonna go back and forth.

25 **ERIK MENENDEZ:** Okay.

1 **PRESIDING COMMISSIONER BARTON:** And, um, I -- I
2 understood his question. I understood your answer. What
3 else, Mr. Balian?

4 **DEPUTY DISTRICT ATTORNEY BALIAN:** Is -- is the
5 inmate saying he did or did not testify that he was
6 present at a dinner with Traci Baker also present where
7 his father, um, pushed the food away and said, "Mom --" I
8 mean, uh, "What did she do to the food?" Is he saying he
9 did not testify to those facts?

10 **PRESIDING COMMISSIONER BARTON:** No. He's saying
11 that he testified that his mother had said something about
12 the poisoning. I -- I don't know if he recalls his exact
13 testimony, but it's in the transcript. I can see what he
14 testified to. So, do you recall that, Mr. Menendez?

15 **ERIK MENENDEZ:** No.

16 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Um, so is
17 -- is he --

18 **ATTORNEY RUMMEL:** Sorry, did he say yes or no? I -
19 - I --

20 **PRESIDING COMMISSIONER BARTON:** He said no. He
21 doesn't recall what he said. He doesn't recall his exact
22 testimony on that issue. He told me he did testify about a
23 gen -- in general, his mom saying something about
24 poisoning, but he doesn't recall his testimony at trial
25 specifically being what the testimony was that was read by

1 Mr. Balian.

2 **DEPUTY DISTRICT ATTORNEY BALIAN:** Um, if I --
3 okay. Um, the inmate had, um, or Mr. Menendez earlier this
4 morning had -- well, let me just while we're on the
5 question of the witnesses. Um, when, during this joint
6 trial, after he heard Traci Baker testify, um, did the
7 inmate go back and discuss with Lyle, um, this letter to
8 solicit perjured testimony?

9 **PRESIDING COMMISSIONER BARTON:** Did you have any
10 conversations with Lyle at all between the trials about
11 suborning perjury?

12 **ERIK MENENDEZ:** I was not happy that it was going
13 on, and it -- it was agreed that it would not happen
14 again. I know -- I remember that. I don't remember this
15 letter being brought out at trial.

16 **PRESIDING COMMISSIONER BARTON:** Okay. And I've
17 heard enough about it. You can certainly make your
18 argument, Mr. Balian, from what you've elicited.

19 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Uh, was
20 the inmate aware that Lyle had solicited his girlfriend,
21 Jamie Pisarcik, to testify that his father had violently
22 drugged and raped her?

23 **PRESIDING COMMISSIONER BARTON:** Again, I'm -- I'm
24 not interested in what Lyle did. Uh, as far as his
25 understanding, I think he's covered that already.

1 **DEPUTY DISTRICT ATTORNEY BALIAN:** Well, I just
2 wanna know during the trial if the inmate was aware that
3 that was going on.

4 **PRESIDING COMMISSIONER BARTON:** Well, you told me
5 earlier when we listed the names that you were aware, and
6 you weren't happy about it. Is that still your testimony?

7 **ERIK MENENDEZ:** Yes, that is my testimony.

8 **PRESIDING COMMISSIONER BARTON:** So, Mr. Balian, I
9 take notes throughout the hearing.

10 **DEPUTY DISTRICT ATTORNEY BALIAN:** Yeah.

11 **PRESIDING COMMISSIONER BARTON:** And I -- I know
12 it's a lot to take in as we go, but I'm not gonna repeat
13 stuff that I've already asked him.

14 **DEPUTY DISTRICT ATTORNEY BALIAN:** Absolutely. Um,
15 has the inmate -- if you would inquire, has the inmate,
16 uh, other than for the first time here today, ever
17 admitted publicly that he was aware of this solicited
18 perjury, or that -- or did he ever take any actions to
19 correct those, um, those false solicited testimony to the
20 public or to the courts, or to anyone else?

21 **PRESIDING COMMISSIONER BARTON:** So, that's a
22 compound question. The first part of it, um, he's already
23 answered as far as, you know, whether or not, uh, today is
24 the first time is irrelevant to me. And today isn't a
25 determination as to whether or not he's gone back and

1 corrected the records, et cetera. I know what the record
2 is. I know what he's testified to today, and where his
3 head is at today is what's relevant. So, again, you know
4 as well as I do, the record is devoid of that. So, if you
5 wanna argue that, go right ahead.

6 **DEPUTY DISTRICT ATTORNEY BALIAN:** Thank you. Um,
7 the Commissioner, uh, are you -- Commissioner, you were
8 asking the inmate questions about why he killed his
9 mother.

10 **PRESIDING COMMISSIONER BARTON:** Right.

11 **DEPUTY DISTRICT ATTORNEY BALIAN:** And I -- I kind
12 of heard his response or attempt to respond to that, but I
13 -- I don't think I ever heard a definitive response. I
14 would ask you to clarify with him, uh, as he -- as he sits
15 here today, going back to his mindset back then, why did
16 he kill his mother?

17 **PRESIDING COMMISSIONER BARTON:** Well, I have three
18 reasons that he stated during the hearing, all three of
19 which I wrote down. Um, do you wanna restate your
20 testimony, Mr. Menendez, as far as why you believe you
21 killed your mother?

22 **ERIK MENENDEZ:** If you would like me to, yes.

23 **PRESIDING COMMISSIONER BARTON:** Well, let's do it
24 for clarification. Go ahead.

25 **ERIK MENENDEZ:** I -- I saw my mother and my father

1 as one person, uh, a -- after I learned that she knew. And
2 so, when I was running into the den, I -- I was in a state
3 of terror, of panic, of rage. And I -- I didn't -- I
4 didn't parse out in my mind, my mother, my father. I ran
5 in, uh, because fear was compelling me to run to the den.
6 So, I -- I didn't, uh, I didn't -- I didn't think mom or
7 dad. I -- I -- I just thought, "I've gotta get there
8 before my dad exits the den, or I'm gonna die."

9 **PRESIDING COMMISSIONER BARTON:** Well, I -- and
10 maybe where the confusion comes is this idea that was
11 entered into the record at some point that it was a mercy
12 killing. That's absolutely ridiculous in my mind.

13 **ERIK MENENDEZ:** That -- that was an idea that Dr.
14 Oziel, uh, stated, uh, uh, and believed, uh, or concocted
15 of some sort. But that is absolutely absurd.

16 **PRESIDING COMMISSIONER BARTON:** Okay.

17 **DEPUTY DISTRICT ATTORNEY BALIAN:** Did -- did he
18 believe that his mother was going to kill him on August
19 20, 1989?

20 **PRESIDING COMMISSIONER BARTON:** Let me rephrase
21 it. If you had killed your father and your mother was
22 still alive, did -- and you had a shotgun, did you think
23 she would've been able to kill you?

24 **ERIK MENENDEZ:** Yes.

25 **PRESIDING COMMISSIONER BARTON:** And how would that

1 happen?

2 **ERIK MENENDEZ:** I didn't -- please understand that
3 I'm -- I'm -- I'm trying to, uh, to reason it out through
4 my brain as an 18-year-old that's -- that's in this
5 traumatic situation.

6 **PRESIDING COMMISSIONER BARTON:** Yeah. And -- and
7 obviously today --

8 **ERIK MENENDEZ:** Uh, uh, so, I --

9 **PRESIDING COMMISSIONER BARTON:** -- you already
10 established you don't think that way.

11 **ERIK MENENDEZ:** Right.

12 **PRESIDING COMMISSIONER BARTON:** So, but back at
13 the time --

14 **ERIK MENENDEZ:** At -- at the time, one of the
15 things that was exploding in my mind was my dad's gonna
16 come up to my room and rape me. He intended --

17 **PRESIDING COMMISSIONER BARTON:** No, no. Dad's out
18 of it. Dad's out of it.

19 **ERIK MENENDEZ:** Okay.

20 **PRESIDING COMMISSIONER BARTON:** Let's say you shot
21 your dad.

22 **ERIK MENENDEZ:** So, I didn't -- I was not -- I was
23 not thinking in those terms. When -- when -- when the
24 reloading happened, all I knew is that they're still alive
25 and it's -- my brain was not processing what -- in any

1 capacity to have logical and rational thought. It was so
2 irrational, uh, that I -- I can't -- I can't put it into
3 logical terms.

4 **PRESIDING COMMISSIONER BARTON:** Did you know if
5 your mom even had a gun?

6 **ERIK MENENDEZ:** Oh, my mom had purchased a gun on
7 June 29th, uh, the year before, and told me specifically
8 that she was going to kill somebody.

9 **PRESIDING COMMISSIONER BARTON:** Okay. What else --

10 **DEPUTY DISTRICT ATTORNEY BALIAN:** Did he -- yes.
11 Um, as mom was lying on the floor, today, he said he heard
12 her say, "No." Uh, in his previous written statement and
13 previous statements and trial testimony, he said that he
14 had heard her moaning and saw her on the ground. Uh, is
15 that what -- which version is it, or is it both?

16 **PRESIDING COMMISSIONER BARTON:** Counsel, is there
17 really some relevance to that?

18 **DEPUTY DISTRICT ATTORNEY BALIAN:** Yes. I'm trying
19 to ascertain whether the inmate, uh, perceived any threat
20 from his mother at that point while she was on the ground
21 moaning covered in blood.

22 **PRESIDING COMMISSIONER BARTON:** Well, again --

23 **ATTORNEY RUMMEL:** My objection is --

24 **PRESIDING COMMISSIONER BARTON:** Don't worry,
25 Counsel. I'm ahead of you. We -- we accept as true the

1 convictions. It's first-degree murder, and so, you don't
2 have to prove premeditation. It's not relevant to our
3 decision today. So, let's move on.

4 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Um, when
5 he went to the car to reload, to help Lyle reload, there
6 was, uh, was there any conversation between him and Lyle
7 in reload, or was this just instinctively he picked up
8 shells and handed 'em to his brother?

9 **PRESIDING COMMISSIONER BARTON:** Do you have any
10 memory of the conversation?

11 **ERIK MENENDEZ:** There was no conversation. It was
12 exactly as he just described it.

13 **PRESIDING COMMISSIONER BARTON:** Okay.

14 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. So, uh,
15 did his -- he and his brother then have a plan ahead of
16 time to finish both of his parents off?

17 **PRESIDING COMMISSIONER BARTON:** Well, if they
18 didn't have a conversation, not sure how they could have a
19 plan. I mean, did you talk on your way back in?

20 **ERIK MENENDEZ:** No.

21 **PRESIDING COMMISSIONER BARTON:** So, the answer is
22 no.

23 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Prior to
24 that day, did they have a conversation about killing their
25 parents?

1 **ERIK MENENDEZ:** No.

2 **PRESIDING COMMISSIONER BARTON:** Do you -- okay.

3 Wait until -- wait until he's done.

4 **ERIK MENENDEZ:** Oh.

5 **PRESIDING COMMISSIONER BARTON:** It has to go
6 through me. Some of these questions may not be relevant.
7 You may not have to answer, or they may have been answered
8 already as I previously indicated, and I will let, uh, Mr.
9 Balian know that. So, he answered, no. Go ahead. What
10 else?

11 **DEPUTY DISTRICT ATTORNEY BALIAN:** When they
12 purchased the shotguns, did they have a conversation about
13 killing their parents?

14 **PRESIDING COMMISSIONER BARTON:** He testified
15 earlier that his conversation was about he was going to
16 shoot his dad if it came to that, if his dad came into his
17 room again. Um, and that's his testimony today as I
18 understand it. Is that correct, Mr. Menendez?

19 **ERIK MENENDEZ:** Yes, your Honor.

20 **PRESIDING COMMISSIONER BARTON:** So, there was no
21 conversation about, "We're gonna go down to the den," or,
22 "We're going to, um, set something up where we can kill
23 our parents." It was, "I'm gonna kill him if he tries to,
24 uh, uh, assault me again."

25 **ERIK MENENDEZ:** Yes.

1 **DEPUTY DISTRICT ATTORNEY BALIAN:** The inmate
2 indicated he felt extreme anger and betrayal at his
3 mother. Um, was that part of the reason why he killed her?

4 **PRESIDING COMMISSIONER BARTON:** Well, I think --
5 well, that was one of the reasons I wrote down that he
6 stated earlier. And, um, I think when we asked him in
7 clarification a little while ago, he left that one out,
8 but it actually was what he testified earlier. Is that
9 still your testimony?

10 **ERIK MENENDEZ:** Yes. That, uh, it's -- it's
11 impossible for me to sparse out, uh, this was anger and
12 that was fear. The, uh, I know that I was angry. I was
13 being driven by fear, but I know that I was angry, so I --
14 I -- I know that I had a lot of rage inside of me.

15 **PRESIDING COMMISSIONER BARTON:** Well, and I wrote
16 down what you testified earlier, that you felt betrayed,
17 she'd known all along, hadn't done anything to help you,
18 and that was a, um, something you -- you didn't realize
19 prior to that. Um, at least that's what I wrote when you
20 and I were having the conversation. Anything else, Mr.
21 Balian?

22 **DEPUTY DISTRICT ATTORNEY BALIAN:** Yes. Uh --

23 **PRESIDING COMMISSIONER BARTON:** Go ahead.

24 **DEPUTY DISTRICT ATTORNEY BALIAN:** Earlier --
25 earlier today, the inmate response to your questions

1 regarding the burglaries said that he was just, "just
2 there for the first burglary" in an attempt to minimize
3 his role. I would like you to ask the inmate if he, in
4 fact, um, helped search for the keys for the van to get to
5 the burglary, found the piece of paper with the code to
6 the safe himself, helped search for the actual safe, took
7 this active role in the burglary, the first one.

8 **PRESIDING COMMISSIONER BARTON:** All of that is in
9 the record. And is that true?

10 **ERIK MENENDEZ:** Yes. I'm -- I'm -- I apologize,
11 uh, to Mr. Balian if it sounded like I was minimizing. I
12 did not mean to, and I -- and I -- and I regret using the
13 word "just". I was fully --

14 **PRESIDING COMMISSIONER BARTON:** Yeah. Apologies
15 not necessary to --

16 **ERIK MENENDEZ:** Okay.

17 **PRESIDING COMMISSIONER BARTON:** -- myself or Mr.
18 Balian, but you did use that wording, and it would be
19 sometimes construed as minimizing. So --

20 **ERIK MENENDEZ:** Sure.

21 **PRESIDING COMMISSIONER BARTON:** What else?

22 **DEPUTY DISTRICT ATTORNEY BALIAN:** The inmate indi
23 -- with respect to the burglary, the inmate had indicated
24 that, um, the burglary made him feel like he could do
25 something. He wanted to stick it to his dad. Um, at that

1 point in time, did he have animosity towards his father?

2 And was that --

3 **PRESIDING COMMISSIONER BARTON:** The answer is yes.

4 **DEPUTY DISTRICT ATTORNEY BALIAN:** Yes. And did
5 that animosity, um, play a part as to why he killed his
6 father?

7 **PRESIDING COMMISSIONER BARTON:** I asked about
8 this. Commissioner Stern asked about this. He, I think,
9 elaborated on that as far as his motivations for doing the
10 burglaries and how that would affect his father, and how
11 it wasn't really consequences of his dad doing something
12 to him as much as it was hurting his reputation. And he
13 said he was hoping he wouldn't get caught, and it would
14 remain quiet, and it would be like poking the bear in
15 their sleep. Extensive testimony about this. So, I think
16 it's sufficient at this point. You can certainly argue,
17 uh, what you intend to.

18 **DEPUTY DISTRICT ATTORNEY BALIAN:** Um, did -- the
19 inmate had an defense expert, uh, Dr. Vicary, uh, who he
20 first had disclosed his alleged abuse to. Uh, in Dr.
21 Vicary's notes, uh, he had written regarding conversations
22 he had with Mr. Menendez pending trial, "I knew I hated my
23 mother. I hate this man and this woman. They're not my
24 parents. I want them outta my life. I want to kill them."
25 Those were in Dr. Vicary's notes. Does he -- can you

1 inquire of the inmate whether he did, in fact, why he made
2 those statements to Dr. Vicary?

3 **PRESIDING COMMISSIONER BARTON:** Do you recall
4 making those statements?

5 **ERIK MENENDEZ:** I don't recall making those
6 specific statements, but those sentiments would've -- they
7 felt right. I was dealing with tremendous anger and rage
8 over the violent -- the -- the -- the sexual abuse that my
9 dad -- I don't like using the word sexual abuse. It was
10 violent sexual acts against me. And -- and so, I felt
11 anger and -- and I felt anger at my mom for not knowing.
12 And then I felt extreme anger at my mom when I found out
13 that she knew. There's no question that those feelings
14 would've felt right. The idea that I wanted to kill them
15 at the time? No, I -- I don't remember saying that to Dr.
16 Vicary. I'm not saying that I didn't, if he wrote it in
17 his notes. I'm just saying that -- that I don't understand
18 the context in which -- in which, uh, in which, uh --

19 **PRESIDING COMMISSIONER BARTON:** And quite frankly,
20 Mr. Menendez, I don't see it as very relevant given the
21 fact that you did kill your parents. So, whether you had
22 that animosity, like I said, we're not here to prove
23 premeditation. You've already been convicted of that. So,
24 while I'm giving Mr. Balian some leeway, I'm not gonna
25 give him much more because I'm not gonna retry this case.

1 And if all of this goes to his premeditation, I've already
2 got a jury verdict. So, what else, Mr. Balian?

3 **DEPUTY DISTRICT ATTORNEY BALIAN:** It's not so much
4 as to go into premeditation, your Honor. It's -- it's
5 going into his motivation for these murders versus what he
6 said today, and it goes to his insight. And I guess I
7 wanted to ask is prior to the murders, did he want his
8 parents out of his life? And did he hate his father and
9 want him out of his life?

10 **PRESIDING COMMISSIONER BARTON:** I think he's
11 testified that he did. Is that true?

12 **ERIK MENENDEZ:** Yes.

13 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Thank you.
14 Um, with respect to, um, his insight, or lack thereof, I'd
15 like to ask a couple, ask -- have you ask a couple
16 clarifying questions with respect to the purchasing of the
17 firearms, um, with respect to his testimony. Um, did the
18 inmate understand at the time that, uh, for self-defense,
19 a shotgun would not have been a reasonable weapon to use
20 for self-defense against people you live with?

21 **PRESIDING COMMISSIONER BARTON:** Counsel, he didn't
22 even know what type of shot to put in the shotgun, so I
23 doubt he had classes. Did you have any experience with
24 shotguns?

25 **ERIK MENENDEZ:** No. I'd never held one.

1 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Um, but I
2 guess my question goes to, at the time, whether he
3 believed he had to say, to make it sound reasonable, that
4 he purchased handguns.

5 **PRESIDING COMMISSIONER BARTON:** Oh, is this --

6 **DEPUTY DISTRICT ATTORNEY BALIAN:** Did he find this
7 --

8 **PRESIDING COMMISSIONER BARTON:** -- all about the
9 handguns versus shotguns --

10 **DEPUTY DISTRICT ATTORNEY BALIAN:** Yes.

11 **PRESIDING COMMISSIONER BARTON:** -- dilemma? Again,
12 you can argue what's in the record. I have, based upon
13 what he used that day, what he admitted that day. Um, was
14 there some reason that you felt it necessary to talk about
15 handguns, Mr. Menendez?

16 **ERIK MENENDEZ:** Only -- only, uh, in the context
17 of I was at that Big 5, and I -- our first instinct was to
18 purchase handguns. Uh, that is simply true. I was there at
19 that store, and I -- I -- I get that -- that people
20 question that, but that's just a fact. I was there.

21 **DEPUTY DISTRICT ATTORNEY BALIAN:** How does the
22 inmate explain the fact that the senior management from
23 the store ex -- testified that that would be physically
24 impossible because they didn't sell handguns at that time
25 at Big 5?

1 **PRESIDING COMMISSIONER BARTON:** Well, number one,
2 that doesn't mean someone can't be at the store. It means
3 they couldn't buy a handgun at that store. But number two,
4 you have the testimony. You -- you have his testimony. You
5 can argue that, Counsel. Again, I -- I know you're a
6 seasoned prosecutor, so I know you know how this works. If
7 you've already got in the facts, you can certainly argue
8 it. I'm not going to belabor these points. Uh, this is not
9 the time for closing argument. If you have those facts and
10 you want to argue them, be my guest. All right? Let's move
11 on.

12 **DEPUTY DISTRICT ATTORNEY BALIAN:** So, I guess I
13 would ask the inmate then, or ask you to ask the inmate,
14 did he in fact look at real handguns at the Big 5 that
15 day?

16 **PRESIDING COMMISSIONER BARTON:** I don't care. Next
17 question.

18 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. I -- the
19 inmate has indicated that he did not kill his parents
20 because he wanted their money. That is my understanding.
21 Um, and it had been his testimony, consistent, and his
22 statements today. I would ask you to ask him, uh, it --
23 it's also clear from the record, um, that his father had
24 told him he would be disinherited. Um, after he killed his
25 -- his parents for the reasons he stated, um, I believe

1 he's stated that he contemplated suicide several times. I
2 would ask you to ask the inmate if in the days following
3 the murder, um, he was basically an emotional wreck
4 consumed with what he had just done, uh, to his parents
5 and that consumed him.

6 **PRESIDING COMMISSIONER BARTON:** Okay. If -- if
7 this is a setup for what else he was doing the days after
8 the murder, it's really not relevant. Um, his emotional
9 state to me at this point, as an 18-year-old who just shot
10 his parents, would be pretty fairly obvious. Um, but
11 again, um, I think he's already testified to that, and you
12 have what the record says. If you're going to point out
13 the discrepancy in his other actions afterwards, you're
14 welcome to do that.

15 **DEPUTY DISTRICT ATTORNEY BALIAN:** I guess I would
16 ask you --

17 **PRESIDING COMMISSIONER BARTON:** Me. Menendez, I'll
18 just ask it just in sake of time. Were you, um, an
19 emotional wreck after killing your parents?

20 **ERIK MENENDEZ:** Yes.

21 **PRESIDING COMMISSIONER BARTON:** Okay.

22 **DEPUTY DISTRICT ATTORNEY BALIAN:** Uh, why is it
23 within 24 hours of the murder --

24 **PRESIDING COMMISSIONER BARTON:** I'm not gonna do
25 that, Counsel.

1 **DEPUTY DISTRICT ATTORNEY BALIAN:** -- he -- he was
2 -- he was --

3 **PRESIDING COMMISSIONER BARTON:** I just told you.
4 You can argue what you're about to ask. It's in the
5 record.

6 **DEPUTY DISTRICT ATTORNEY BALIAN:** Well, I guess
7 I'd like to know from the inmate is --

8 **PRESIDING COMMISSIONER BARTON:** What?

9 **DEPUTY DISTRICT ATTORNEY BALIAN:** -- is what was
10 so important to him about finding out if there was a
11 competing will such that they needed to go talk to a
12 lawyer about it and then, uh, erase any mention of a
13 competing will from their father's computer?

14 **PRESIDING COMMISSIONER BARTON:** So, my
15 understanding --

16 **ATTORNEY RUMMEL:** I'm gonna join in the Panel's
17 objections here. This is fishing for a -- a retrial or a
18 new -- you know, this is -- this is to defend the habeas
19 for the new trial. This is not relevant to parole.

20 **PRESIDING COMMISSIONER BARTON:** Okay. Let -- hang
21 on. One at a time. So, I'm not concerned about the habeas.
22 That's not my jurisdiction. I'm concerned about, uh,
23 what's relevant to our decision here today. My
24 understanding of the record is that his brother, uh, took
25 part in erasing the disc. Um, whether or not that makes

1 him a current unreasonable risk to public safety today is
2 not very relevant. So, I know what's in the record, and as
3 does everyone. You can certainly argue these points. It's
4 like I said before, these questions seem to be asked so
5 that you can then put them in your argument. You can put
6 them in your argument anyway, because you have those
7 facts. So, let's move to something that actually clarifies
8 testimony.

9 **DEPUTY DISTRICT ATTORNEY BALIAN:** Um, regarding
10 his cell phone violations --

11 **PRESIDING COMMISSIONER BARTON:** Mm-hmm.

12 **DEPUTY DISTRICT ATTORNEY BALIAN:** -- um, I believe
13 he testified that, um, one of the reasons that the phones
14 are monitored, the jail phones are monitored in prison is
15 for the safety of the prison itself. I don't think he was
16 asked that, and I apologize if he was.

17 **PRESIDING COMMISSIONER BARTON:** He was, and --

18 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay.

19 **PRESIDING COMMISSIONER BARTON:** Commissioner Stern
20 asked him, and he understands that now.

21 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Uh, I
22 guess I wanna ask him, is one of the reasons he had, uh,
23 the cell phone was to have private secret unmonitored
24 conversations with people, and did he ever use those
25 phones to commit criminal activity?

1 **PRESIDING COMMISSIONER BARTON:** Well, first of
2 all, he admitted that that's -- that it was to have the
3 intimate phone calls with people with that couldn't be
4 monitored. Um, before you answer this next question, I'm
5 not, uh, asking you to admit to any other crimes that you
6 could potentially be charged with. So, I want you to -- if
7 you don't want to answer the question, you're not required
8 to. Um, I believe I asked you what you were using the
9 phones for in general, and we talked in general about what
10 phones are used for as far as drugs, et cetera, et cetera.
11 As far as any things you've already admitted, um, you
12 know, the -- the tax fraud stuff or anything like that,
13 did you use phones for any of those things?

14 **ERIK MENENDEZ:** No, sir.

15 **PRESIDING COMMISSIONER BARTON:** Okay. Do you want
16 to answer the question, you're under no obligation to do
17 so, as to whether or not you used the phones for any other
18 criminal purposes other than the obvious use of the phone?

19 **ERIK MENENDEZ:** No, I did not.

20 **PRESIDING COMMISSIONER BARTON:** Okay.

21 **DEPUTY DISTRICT ATTORNEY BALIAN:** Um, is that --
22 would that also include the purchasing and trading of
23 narcotics? Did he use the phone for that?

24 **PRESIDING COMMISSIONER BARTON:** Uh, that's what I
25 just took him to say. Uh, and -- and the phone use

1 actually was subsequent to the -- all the information we
2 have about his narcotic use by a few -- several years. Is
3 that correct, Mr. Menendez?

4 **ERIK MENENDEZ:** That's right, sir.

5 **PRESIDING COMMISSIONER BARTON:** Do you know if the
6 folks that were trafficking narcotics were using cell
7 phones?

8 **ERIK MENENDEZ:** They probably were. Uh -

9 **PRESIDING COMMISSIONER BARTON:** Yeah, probably.

10 **ATTORNEY RUMMEL:** Are you asking about people ne -
11 - on his phones or --

12 **PRESIDING COMMISSIONER BARTON:** No, no, no. I'm
13 just --

14 **ATTORNEY RUMMEL:** -- just previously when he --

15 **PRESIDING COMMISSIONER BARTON:** -- as an aside.

16 **ATTORNEY RUMMEL:** -- was buying phones.

17 **PRESIDING COMMISSIONER BARTON:** As an aside. It
18 really had nothing to do with Mr. Balian's question. Um,
19 again --

20 **ERIK MENENDEZ:** I assumed at Pleasant Valley --

21 **PRESIDING COMMISSIONER BARTON:** -- Mr. Menendez has
22 done a lot of time, so he knows what those are. I didn't -
23 - I didn't want the record to make it sound like he's
24 acting naive that phones aren't used for that purpose. I
25 understand his answer to be he hasn't used them for that

1 purpose, but they probably have been used in the past for
2 that purpose. Not his phones, but others. Anything else,
3 Mr. Balian?

4 **DEPUTY DISTRICT ATTORNEY BALIAN:** Yeah. He -- he
5 testified he, uh, used -- they drove 120 miles to San
6 Diego to purchase, uh, these shotguns, not to distance
7 himself from the murders, um, that were pre-planned, but
8 because they were just down there and they wanted to get
9 shotguns. I -- that's my understanding of his testimony
10 today. Um --

11 **ATTORNEY RUMMEL:** That misstates the testimony.

12 **PRESIDING COMMISSIONER BARTON:** I -- I agree,
13 Counsel. Let's let him finish before I give my response
14 before you give your response.

15 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Would you
16 ask the inmate if he drove to San Diego to buy the
17 shotguns 120 miles away to distance himself from the
18 purchase of the shotgun?

19 **PRESIDING COMMISSIONER BARTON:** Um, was that one
20 of the reasons you went that far?

21 **ERIK MENENDEZ:** That wasn't the reason --

22 **PRESIDING COMMISSIONER BARTON:** With the
23 understanding that his prior comments, Mr. -- I'm not
24 accepting his prior comments. I already heard your
25 testimony on why you got the shotguns. This isn't that

1 same question. The question is why go all the way to San
2 Diego?

3 **ERIK MENENDEZ:** We -- we had a cousin that lived
4 in San Diego, and we were -- we were driving for the day.
5 I know it seems like, "Oh, that must have been the
6 reason," but it wasn't the reason. Did I feel more
7 comfortable buying them in San Diego? Yeah, of course I
8 did. I didn't want, uh, reports of my buying 'em to get
9 back to my parents.

10 **PRESIDING COMMISSIONER BARTON:** And that's
11 consistent with your testimony today. And again, it's
12 something that if you feel is not reasonable, Mr. Balian,
13 you can argue.

14 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Thank you.
15 Did you lie at trial when you testified that you were so
16 fearful of your parents that you stayed away from the home
17 all day Saturday?

18 **PRESIDING COMMISSIONER BARTON:** Not relevant. What
19 else? I already asked the questions about perjury. He
20 previously said he -- to the best of his knowledge today,
21 he told the truth. So, if you wanna argue the opposite and
22 you have that in the record, be my guest.

23 **DEPUTY DISTRICT ATTORNEY BALIAN:** Did he stage the
24 murders to look like a mafia-style hit?

25 **PRESIDING COMMISSIONER BARTON:** Again, not

1 relevant to me today.

2 **DEPUTY DISTRICT ATTORNEY BALIAN:** Was he aware --
3 he was present when, uh, Brian Eslamania stated that Lyle,
4 um, tried to get him to say that they tried to borrow
5 handguns from him?

6 **PRESIDING COMMISSIONER BARTON:** That's also in the
7 record and something Lyle did. What else?

8 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. Does he
9 admit that that was false and he knew about it?

10 **PRESIDING COMMISSIONER BARTON:** Um, I think it's
11 obvious. Uh, Mr. Menendez, did you know that was false?

12 **ERIK MENENDEZ:** I believe Brian -- yes. Brian
13 Eslamania testified that Lyle had called him before and
14 told him not to testify to those and to tell the truth.

15 **PRESIDING COMMISSIONER BARTON:** That's not the
16 question. The question goes more to your mindset. Did you
17 know --

18 **ERIK MENENDEZ:** Oh, yes. Without a doubt. A
19 hundred percent.

20 **PRESIDING COMMISSIONER BARTON:** Okay.

21 **DEPUTY DISTRICT ATTORNEY BALIAN:** And when he was
22 testifying at trial, why didn't he correct the record on
23 that?

24 **PRESIDING COMMISSIONER BARTON:** Again, I'm not
25 going to play that game, Mr. Balian. It's not relevant to

1 me whether he's corrected the record.

2 **DEPUTY DISTRICT ATTORNEY BALIAN:** Did the witness
3 lie when he testified under oath that Dr. Oziel was
4 blackmailing him into confessing on tape to the murders?

5 **PRESIDING COMMISSIONER BARTON:** I'm also not gonna
6 go into those questions 'cause it would subject him to
7 potential perjury charges. I don't know. I'm pretty sure
8 the statute's run, but --

9 **DEPUTY DISTRICT ATTORNEY BALIAN:** These all go to
10 his insight or that lack thereof.

11 **PRESIDING COMMISSIONER BARTON:** Well, and I have
12 the records just as you do, and to the degree that those
13 things can be argued, you can argue those without seeking
14 admissions from him on this record.

15 **DEPUTY DISTRICT ATTORNEY BALIAN:** Then I -- I
16 guess I have no further questions at this point.

17 **PRESIDING COMMISSIONER BARTON:** All right, that's
18 fine. And like I said, this isn't like a trial where you
19 cross-examine someone to, uh, you know, elicit statements
20 that can be used in argument. Everything that's in the
21 record that you already have from the trials, et cetera,
22 can be argued by both sides. All right. Um, I'm assuming
23 Ms. Rummel, that you have questions.

24 **ATTORNEY RUMMEL:** I always have questions,
25 Commissioner. I do.

1 **PRESIDING COMMISSIONER BARTON:** All right. Well,
2 it's 1:32 p.m. I'm gonna give your client another chance
3 to use the restroom, and we're gonna take another short
4 break. We'll try to come back at 1:40 p.m. this time, and
5 then we'll take questions from, uh, Counsel from Mr.
6 Menendez.

7 **ATTORNEY RUMMEL:** Thank you.

8 **RECESS**

9
10 **DEPUTY COMMISSIONER STERN:** We are back on the
11 record.

12 **PRESIDING COMMISSIONER BARTON:** Back on the record
13 in the matter of Mr. Menendez's initial parole
14 consideration hearing. We're at that point where we are
15 taking questions from counsel as far as clarifying the
16 record. Um, as I indicated to the DA representative, I'll
17 tell you the same Ms. Rummel, this is not a time for, uh,
18 new testimony necessarily, or closing statements, but, uh,
19 questions for clarification. The difference, Mr. Menendez,
20 for your benefit, is she may ask you those questions
21 directly, and you may answer them directly. If I feel that
22 it is, um, something that's not relevant to the Panel in
23 making our decision, I'll butt in and -- and say so. But
24 go ahead, Ms. Rummel.

25 **ATTORNEY RUMMEL:** Thank you, Commissioner. Um, I

1 have one clarifying question related to Mr. Balian's
2 questioning, only one, but I think it also speaks to your
3 -- the -- the fear you had of your mother. Um, the
4 testimony you gave at your trial about your mother trying
5 to poison the family. Can you give us a real quick
6 synopsis of if that was true, what that looked like? Can
7 you explain that to the Panel and to Mr. Balian?

8 **ERIK MENENDEZ:** Uh, my -- my mother in, uh, after
9 we moved to California was deteriorating. Uh, her alcohol
10 -- alcoholism increased, her prescription drug use, uh,
11 and abuse, addiction had increased due to her moods were
12 becoming increasingly unstable, and she was making a lot
13 of, uh, she was suicidal and making a lot of threats. And
14 my father, uh, was concerned about her. Uh, my father
15 didn't know that she bought the gun, I don't believe, uh,
16 um, uh, but he was concerned, uh, about what she would do
17 and her talk of, "I can just poison everybody in the
18 family." So, that was not -- that was something that was
19 just, uh, out there that, uh, was --

20 **ATTORNEY RUMMEL:** And how did you personally know
21 that he believed that she might -- took those threats
22 seriously? Can you just give us -- just describe that.

23 **ERIK MENENDEZ:** Because there was one dinner where
24 he pushed the tray away and, uh, and said, "We're going
25 out to eat." That happened. And so, uh, he -- he -- he

1 was, you know, he brushed it off as, "Your mom's just --
2 just --" He knew that it was -- that it was partly his
3 fault. What I didn't understand at the time was that part
4 of what was driving her is that she knew about what was
5 happening with dad. Uh, she told her --

6 **ATTORNEY RUMMEL:** That -- that answers my question
7 on that. Um, when you talked about the burglaries, you
8 gave a variety of reasons for the burglaries, but one was
9 resistance to your dad. Were there other ways, um, that
10 you quietly or, resisted your dad, whether -- actually,
11 whether loudly or quietly?

12 **ERIK MENENDEZ:** Resistance to my dad was how I
13 maintained sanity. Uh, so, I resisted him by pretending I
14 was asleep when he was coming into my room. I remember I
15 would be on the floor shaking and -- and -- and -- and --
16 and putting my fists up screaming in my mind because I
17 couldn't handle what he was doing. I called myself Hurt
18 Man, and I signed letters Hurt Man. I was putting cinnamon
19 in his coffee. I was drowning all of my food in lemon. I
20 was -- and I was not --

21 **ATTORNEY RUMMEL:** Why were you drowning your food
22 in lemon?

23 **ERIK MENENDEZ:** Because I had heard that it would
24 reduce my taste buds to semen. I -- I -- I -- I was -- and
25 I was thinking that I was protecting my mom by not telling

1 her. And I was -- I thought I was being a hero by not
2 telling my mom.

3 **ATTORNEY RUMMEL:** In 2013, you talked about, uh,
4 major changes in your life in 2013. What were the
5 components, what were the things that, um, happened in
6 your life to drive your turnaround in 2013?

7 **ERIK MENENDEZ:** I was disgusted by my behavior,
8 uh, on -- I -- I was in deep despair in 2013 on the level
9 four yards. I was -- I was -- I was -- SB 9 had passed.

10 **ATTORNEY RUMMEL:** Let -- let me ask you specific -
11 - let me ask -- let me ask you specifically what I'm at --
12 what I'm -- what I'm -- what I'd like you to talk about.
13 Was faith a component of your deciding to become a
14 different person from the drug use, from the despair, from
15 the criminality with the Two Fives? Was faith a component
16 of that change and how?

17 **ERIK MENENDEZ:** I think it was -- it was a
18 fundamental component. What I began to live for was, I
19 don't know where I would've been without my faith. But
20 what I began to live for was this greater purpose, this
21 meaning in my life, this -- this sense of who do I want to
22 be when I face God, because I believe I'm going to --
23 there's a different Parole Board when I die, and, uh, and
24 it's an eternal one. And so, I -- that -- that driving me,
25 uh, uh, uh, uh, was -- was a part of my internal -- my

1 internal thinking. Uh, reading Thomas Merton was a major
2 component. I -- I -- I loved what he talked about in terms
3 of, uh, the -- the -- he -- he talked about really living
4 by your faith and doing the acts that mattered and -- and
5 -- and that -- and that the mat -- the world, the material
6 world didn't matter. He went into Gethsemane. He became a
7 monk, and I saw myself as a mo --

8 **ATTORNEY RUMMEL:** And how did you live those
9 principles? How did you live the pri -- those principles?

10 **ERIK MENENDEZ:** I -- I didn't want to do any -- I
11 -- I didn't want to break the rules anymore. I didn't want
12 to pass kites anymore. I didn't want to use drugs anymore.
13 I didn't want to take food from the chow hall. I didn't --
14 I became, uh, I -- I became someone who I believe the
15 staff could rely on me to supervise other inmates and be
16 responsible for tools. I used to misuse paintbrushes and -
17 - and spray cans, and now I was in -- I -- I joined IDL
18 and was -- and was -- was given the responsibility to
19 handle serious dangerous tools responsibly. I --

20 **ATTORNEY RUMMEL:** So -- so --

21 **ERIK MENENDEZ:** And --

22 **ATTORNEY RUMMEL:** I'm -- I'm sorry to keep cutting
23 you off, but I wanna make sure that I'm keeping the
24 questions focused on clarifying the record. Um, so, from
25 2013, we talked a lot about your cell phone use, and I'm

1 gonna ask you a few questions about that. But were there
2 instances where you were avoiding criminal thinking,
3 making prosocial choices, avoiding denial between 2013 and
4 your cell phone usage?

5 **ERIK MENENDEZ:** Ninety percent of my life was now
6 focused on, uh, wanting to do, you know, to do good. I
7 just wanted to do good. By 90 percent, I mean --

8 **ATTORNEY RUMMEL:** Could you give us some examples?

9 **ERIK MENENDEZ:** Uh, yeah. I -- I, uh, instead of,
10 instead of working with the bullies on the yard and the
11 Two Fives, I challenged them and brought them into Life
12 Care and Hospice so that they could look at their own
13 behavior and -- and think about taking care of the
14 elderly. I -- I -- I had great responsibility in
15 maintaining the wheelchairs, having the tools. I didn't
16 mis -- misuse the day room phone privileges like I had in
17 2005. I -- I -- I -- I cared about the -- the -- the
18 community, the rules, not littering. I -- I just wanted to
19 be a good person, and the rules make a difference.
20 Breaking small rules in a community deteriorate the
21 community. It's -- it's -- it makes other people see you.

22 **ATTORNEY RUMMEL:** And how do you -- how do you
23 contextualize your cell phone use, which is not a small
24 rule. It's a big rule. You've spent a lot of time talking
25 about that today. How do you contextualize your cell phone

1 use in the scheme of your change, your faith, your
2 caregiving, and your sobriety?

3 **ERIK MENENDEZ:** Ha -- having L -- it's not an
4 excuse. Being an LWOP prisoner is not an excuse, but it is
5 a devastating sentence. Hopelessness in prison is
6 devastating. And, uh, I -- I was getting older, and I
7 wanted -- I -- I wanted private conversations that weren't
8 being overheard. I shouldn't have wanted that, but I -- I
9 had this deep need for connection and intimacy and
10 acceptance, and I -- I -- I filled that need through cell
11 phones, and I rationalized to myself that this one thing
12 that I do isn't -- isn't altering the great change that I
13 -- that I'm doing or the good work that I'm doing. And --
14 and -- and frankly, I was use -- those are denial
15 management patterns, and they're not acceptable.

16 **ATTORNEY RUMMEL:** Were there other instances in
17 your life where you were using denial management between
18 2013? I mean, there's not much documented. We haven't
19 spoken about much, but, um, today. But what other -- were
20 there patterns of denial management that you were actually
21 recognizing and not engaging in?

22 **ERIK MENENDEZ:** Sure. Sure. I -- I manipulated the
23 -- the -- the bullies on the yard to go and join Life Care
24 and Hospice. I rationalized that I was lying to them in
25 order to get them in the room with these elderly people. I

1 -- I did -- I -- I was -- I -- I would -- I would use
2 rationalization for good. Uh, uh, and -- but I, you know,
3 I -- I was aware when I was -- I was rationalizing or
4 justifying because I was cognizant of my behavior. With
5 the phones, I knew it was wrong. I mean, let's -- let's
6 not be -- I just put it on a hierarchy of I have this deep
7 need and I'm never getting out of prison, and I want to
8 fill it. And it's not an acceptable, uh, it's not an
9 excuse, but I need to be honest with the Panel about how I
10 was feeling.

11 **ATTORNEY RUMMEL:** How do you -- how do you, today,
12 you fill the need for connection or whatever other needs
13 your cell phone use was filling?

14 **ERIK MENENDEZ:** I -- I -- I worked on every aspect
15 of myself. The, uh, the phone was the -- and my -- my
16 growth is an evolution. It wasn't a demarcation. I'm --
17 this wasn't a Paul Saul situation or a Saul Paul situation
18 where just one day, now I'm a -- I'm a different person.
19 This was a growth that I -- I came to prison when I was
20 18. I -- my whole life has been in prison. I've become an
21 adult in prison, spent all of my adult life. Uh, so, um,
22 so when it comes to cell phones, it was that -- that --
23 that -- that final step where I had to say, "You're not
24 living up to your expectations of your community and being
25 a man. You're not living up to my -- I'm not living up to

1 expectations of being a facilitator, of being someone that
2 -- that -- that is -- deserves to be a sponsor to several
3 people on the yard, that deserves to have positions of --
4 of trust with the administration." And I -- I am so glad
5 that I -- I am -- I'm so glad that I took the classes,
6 that I -- that I had the conversations with staff, that I
7 -- that I went to staff, that I -- I'm so glad that I'm in
8 a different shift. I don't worry about keys anymore.
9 There's no need to keep point for anything anymore. I live
10 a clean -- I -- I feel good about who I am in the way I'm
11 living, and I'm gonna live this way for the rest of my
12 life, inside or out of prison, it makes no difference.

13 **ATTORNEY RUMMEL:** What guardrails have you put in
14 place? What coping skills do you have, um, for the -- the
15 issues that led to your cell phone use?

16 **ERIK MENENDEZ:** I -- I --

17 **ATTORNEY RUMMEL:** The criminal thinking and the
18 denial, the entitlement.

19 **ERIK MENENDEZ:** Well, there's -- there's a --
20 there's a lot in -- in -- in criminal thinking. Uh,
21 reminding myself, asking myself, "Is this rule -- is this
22 a rule violation? Does this align with your -- my
23 spiritual principles? How -- how -- how would I feel if
24 this got out?" I believe that -- that -- that there --
25 I've come to understand that there are internal

1 guardrails, and there are -- there are extrinsic
2 guardrails. The internal ones are the most important,
3 right? So -- so, understanding -- not doing something
4 because I just, I wanna be a good person. I am a good
5 person, and I want to be judged by God to be a good
6 person, because ultimately, most of my life is unseen,
7 right? So, but I have to live with myself, and I have to
8 live with, with -- with -- with what is seen by the
9 Unseen. And so, that -- that's a critical guardrail. Does
10 -- does what -- does my behavior violate my intrinsic
11 motivations, my moral values? And then there's -- there's
12 -- there's consequential thinking. There --

13 **ATTORNEY RUMMEL:** When's the last time you were --
14 when's the last time you were tempted to go outside of
15 your internal, moral guardrails? And how did you handle
16 that situation?

17 **ERIK MENENDEZ:** It happened last week, uh, when I
18 was Xeroxing, uh, uh, going to the library to Xerox, and
19 it's -- it was hot. We had a little bit of a heat wave,
20 and you're supposed to wear your blues into the library.
21 And I -- a lot -- so, what a lot of guys do is they put on
22 their blue shirt and they walk into the library and nobody
23 says anything. And I put on my blue shirt, and I was
24 thinking, "Do I have -- do I have to put on my -- my -- my
25 blues pants?" And I said to myself, "Erik, that's entitled

1 behavior. That's laziness. And that's thinking you can get
2 away with it." I called myself on it immediately. I --
3 it's not that I don't have the thoughts. I catch them
4 immediately, and I looked for rules that I could do. I
5 can't even live outside the gray areas. Getting on a video
6 call and saying hello to someone else's video visit, I
7 didn't think it was a rule violation. I know -- I -- I
8 stay away from it. I -- I don't wanna live in a space of -
9 - of ambiguity. And, uh, so, I try to catch myself.

10 **ATTORNEY RUMMEL:** And do you have confidence that
11 your Relapse Prevention Plans, your accountability, um,
12 partners will help you continue in this path if you are
13 released from prison? There will be a lot of different
14 stressors and a lot of different kinds of temptations in
15 the community. How confident are you in the plans you put
16 in place to avoid that type of behavior in the community?

17 **ERIK MENENDEZ:** I believe that I'm gonna face
18 unique and particular stressors and challenges, uh, uh,
19 should I be released, and I have, uh, I've put a lot of
20 thought into the Relapse Prevention Plans, like my
21 internal triggers and my coping skills. My warning signs
22 are just genuine. They're -- they're -- they're who I am.
23 And I believe in my -- myself, and I believe in my support
24 network, and I do not believe that I will ever fall back
25 into drugs. I believe an addict is always an addict, and

1 that AA and NA are extraordinary programs, and I'm gonna
2 continue them for the rest of my life. But I believe that
3 I -- I am ready to be successful upon parole.

4 **ATTORNEY RUMMEL:** What's the most important step
5 for cell phone use?

6 **ERIK MENENDEZ:** Well, step one is always -- always
7 critical, trusting in God. And two and three is critical.
8 Uh, but I would say step four and understanding the damage
9 the cell phone use can do, being able to talk about it in
10 step five, understanding our character defects, maybe even
11 step 10. But for me, step 11 is critical. I -- I work step
12 11, prayer and meditation. I -- I -- I -- I hold myself
13 accountable, and I will always do that from now on. I will
14 never use another phone in prison, ever.

15 **ATTORNEY RUMMEL:** You -- the Panel asked you a few
16 questions about boundaries with Lyle, your relationship,
17 your current relationship with Lyle. Can you describe the
18 experience of being apart from him for 20 plus years, and
19 then reconnecting in 2018 and -- and how your relationship
20 has developed since that time?

21 **ERIK MENENDEZ:** When I -- when I left Lyle, I was
22 25, 25, 26. I was -- while I was 25, 26, I was a very
23 young, immature 25, 26-year-old, and I was still in a
24 codependent, toxically codependent relationship with him.
25 Uh, I -- I -- I -- as much as I didn't want to be

1 separated from him, and as much as I fought to be, uh,
2 together, sometimes we don't like the poison we have to
3 drink. We don't want the chemotherapy that's gonna heal
4 us. This was in my best interest. There's no question,
5 looking back, recognizing who the person I have become,
6 uh, my understanding of healthy relationships and my
7 boundaries, growing into the man that I am today. I'm not
8 saying it wouldn't have happened if I was around Lyle. I'm
9 not saying that at all. But I'm saying that -- that --
10 that having to live, having to -- to -- to -- to go into
11 hell and into the depths of level four Pleasant Valley,
12 that dangerous yard and rise out of it, just -- just --
13 just -- just -- just -- just become -- become broken and
14 then -- and then, uh, begin to heal. I don't know that I -
15 - I wouldn't have -- I wouldn't have become that broken. I
16 wouldn't have fallen into the drug use around Lyle. Lyle's
17 heavily anti-drugs. I wouldn't have had a chance to break
18 myself and then redeem myself, uh, were I with Lyle. I
19 wouldn't be the person I am today with the -- with -- with
20 the -- the sort of the arc of my journey, uh, had I been
21 with Lyle. Re -- reuniting with Lyle --

22 **ATTORNEY RUMMEL:** And how did that time apart
23 impact your reconnecting with him, being on the same yard
24 and, um, the currently being -- what's your relationship
25 like with him now? You talked about drawing boundaries,

1 but tell us what your relationship is like with him now,
2 given that situation.

3 **ERIK MENENDEZ:** I was excited. I was excited to
4 see Lyle. I was excited to show him the programs that I
5 was involved with, that I was deeply passionate about,
6 Life Care and Hospice and Meditation. I was excited about
7 letting him see the man I had grown into. I -- I thought
8 that he would be proud of me. I was -- I was proud for him
9 to see the -- the evolution of my self-worth and my
10 growth. Um --

11 **ATTORNEY RUMMEL:** And was he?

12 **ERIK MENENDEZ:** I -- I believe he was. I hope he
13 was. He told me he was. Uh, I was also ashamed. I had to
14 tell Lyle about my drug use. I had to tell Lyle about tax
15 fraud. I had to -- I had to -- I had to tell Lyle about
16 things that were -- were deeply shameful for me. Uh --

17 **PRESIDING COMMISSIONER BARTON:** Let -- let me stop
18 you there, because since counsel has opened this door,
19 when you and Lyle discussed cell phones, why didn't one of
20 you check the other?

21 **ERIK MENENDEZ:** Uh, that's a -- that's a great
22 question. Uh, w -- we -- we -- we didn't. We -- we
23 actually, Lyle -- Lyle using it told me it's, uh, you
24 know, I can use it. I mean, it -- it's -- I -- I compared
25 myself to him and every other person that had LWOP. Uh, I

1 -- I was -- I -- I was focused on being a better person,
2 and I convinced myself that I could do it even while I had
3 -- was doing this one thing, and Lyle should have been my
4 checks and balances. After November 14th, him and I had a
5 long conversation on the -- on the, uh, on the bleachers,
6 and we became serious accountability partners. It's -- it
7 -- it -- it can happen. Just like Bill Wilson and -- and
8 Dr. Bob, you can become accountability partners through
9 your worst trauma and your worst things. And we -- we now
10 hold each other extremely accountable. And if we have an
11 itch or -- or fall into a trigger, we discuss it with each
12 other. And, uh it should --

13 **PRESIDING COMMISSIONER BARTON:** Okay. Well, did he
14 come in from somewhere else already using those phones?

15 **ERIK MENENDEZ:** No.

16 **PRESIDING COMMISSIONER BARTON:** So, you introduced
17 him to the phone?

18 **ERIK MENENDEZ:** He started using a -- uh, he -- he
19 -- he was using a phone before I got there.

20 **PRESIDING COMMISSIONER BARTON:** And wait a minute.
21 That's not what you just said.

22 **ERIK MENENDEZ:** He -- he came to RJ Donovan Echo
23 Yard in -- in February 2018. I came in April.

24 **PRESIDING COMMISSIONER BARTON:** Okay. And you're
25 saying he was already using phones?

1 **ERIK MENENDEZ:** Yes.

2 **PRESIDING COMMISSIONER BARTON:** Okay. But he's not
3 the one that introduced them to you?

4 **ERIK MENENDEZ:** No, he didn't. He didn't introduce
5 me and say, "Hey, you should use this." I had already --
6 my roommate had a phone.

7 **PRESIDING COMMISSIONER BARTON:** Yeah.

8 **ERIK MENENDEZ:** I just wasn't using --

9 **PRESIDING COMMISSIONER BARTON:** He already had the
10 mindset of using it and wanting to use it, et cetera. You
11 -- I guess what I'm trying to establish is, did one of you
12 give the other permission? I mean, you said implicitly he
13 did. Um, or was one of you, uh, already using it before
14 the other one? And -- and -- and I think you've answered
15 my question. Um, basically, your words were, "If Lyle's
16 using it, it tells me I can use it," even though he didn't
17 say those words.

18 **ERIK MENENDEZ:** Yeah. I don't wanna make it sound
19 like if Lyle does something wrong, that means I can do
20 something wrong. That wasn't the case. Uh, I just knew he
21 wasn't gonna --

22 **PRESIDING COMMISSIONER BARTON:** Well, it kind of
23 was.

24 **ERIK MENENDEZ:** Okay. Well, that -- but I -- my
25 roommate had a -- a -- a -- just to push back a little, my

1 roommate had a phone in 2016, and I had wanted to use it.
2 I just happened to land in a room that had a phone for
3 rent. Uh, but it was -- what I was trying to say, it was -
4 - it was different than say, drugs. If I had said to Lyle,
5 "I want to use drugs," he would've had a -- he would've
6 freaked out on me. Um, and so, uh, it -- it -- it -- I --
7 we co-minimized it. There's no question. We minimized it,
8 uh, uh, uh, together. Um, but I didn't use phone -- I
9 would've used the phone whether he was in that prison or
10 not once I was --

11 **PRESIDING COMMISSIONER BARTON:** I understand that.
12 I understand that. Did you -- did your same friend get the
13 phone for him?

14 **ERIK MENENDEZ:** No, he was not in contact with my
15 friend.

16 **PRESIDING COMMISSIONER BARTON:** All right. All
17 right. Go ahead, Ms. Rummel.

18 **ATTORNEY RUMMEL:** I'm more interested in -- thank
19 you. I'm more interested in how you and Lyle hold each
20 other accountable for the cell phone usage or any other
21 sort -- any other rules violations today.

22 **ERIK MENENDEZ:** Lyle's one of my accountability
23 partners in -- in -- in prison context. I think he -- he
24 would be if we were not in prison together. I have a very
25 robust, strong family that would be, uh, my accountability

1 partner, my wife. And, uh, I -- I think that I have a lot
2 of people that love me, that do not want me to return to
3 prison. Lyle is a strong accountability partner for many
4 things, drug use, criminal behavior, using -- using cell
5 phones. Uh, he has become, uh, someone that I, uh, I'm
6 proud to have as -- I -- I'm -- I'm proud of -- of our
7 connection that -- that is very strong and no longer using
8 phones. That is something that --

9 **PRESIDING COMMISSIONER BARTON:** Well, if he's your
10 -- okay. There's something I don't understand. I mean,
11 I've read the Blue Book, too. I know who Bill and Bob are.
12 But as far as Lyle, I -- as I understand it, he's -- he
13 doesn't have a drug issue.

14 **ERIK MENENDEZ:** He doesn't. No, I didn't mean it
15 in the context of dr -- drugs was -- right. He's -- he's
16 an accountability partner in terms of drugs, in terms of,
17 he's very anti-drugs. Lyle --

18 **PRESIDING COMMISSIONER BARTON:** But he's not in
19 the 12 steps or recovery for --

20 **ERIK MENENDEZ:** No.

21 **PRESIDING COMMISSIONER BARTON:** Okay. All right. I
22 just wanted to make sure. That was --

23 **ERIK MENENDEZ:** He's not.

24 **PRESIDING COMMISSIONER BARTON:** -- for
25 clarification for me --

1 **ERIK MENENDEZ:** No, no.

2 **PRESIDING COMMISSIONER BARTON:** -- because you
3 brought it up.

4 **ERIK MENENDEZ:** Okay. I'm sorry if I -- if I, uh,
5 gave the wrong impression.

6 **PRESIDING COMMISSIONER BARTON:** No, you just kind
7 of crossed over into it, and like I said, I'm conversed in
8 the Blue Book. You obviously are. I've read the history of
9 AA, so, I -- I know that vernacular, but then when you
10 talked about him and I thought, well, wait a minute. I
11 thought he was anti -- so it makes sense to me now. What
12 else, Ms. Rummel?

13 **ATTORNEY RUMMEL:** Um, Mr. Menendez, shifting
14 gears, what would your father think of you if he could see
15 you today?

16 **PRESIDING COMMISSIONER BARTON:** Counsel, not
17 relevant at all to me.

18 **ATTORNEY RUMMEL:** So, you're not gonna let me ask
19 that, what his mother would think of him?

20 **PRESIDING COMMISSIONER BARTON:** No. What does that
21 clarify? What -- what -- what -- what relevance does that
22 have to me today as to what his father thinks of him? It's
23 not --

24 **ATTORNEY RUMMEL:** The lessons that he --

25 **PRESIDING COMMISSIONER BARTON:** It might be of

1 interest, but --

2 **ATTORNEY RUMMEL:** I think it's relevant to the
3 lessons he internalized as a young person and the man he's
4 grown to be beyond and different from those lessons.

5 **PRESIDING COMMISSIONER BARTON:** His father's
6 opinion of him has no relevance for me whatsoever. What's
7 your next question?

8 **ATTORNEY RUMMEL:** Um, can you talk about the
9 impact of understanding these crimes through conversations
10 with your family members?

11 **ERIK MENENDEZ:** Yeah. Um, yeah. Yes. The -- see --
12 seeing my crimes through my family's eyes has been a huge
13 part of my, uh, evolution and my growth. Just seeing the
14 pain, the suffering, understanding the magnitude and the
15 impact of what I have done, the generational impact of
16 what I've done has become so evident and clear to me when
17 I see new cousins being born that were not even born yet.
18 And understanding, you know, I think part of -- part of
19 amends is understanding not just the impact that I've done
20 is -- is -- is, you know, making restitution and having
21 repentance and -- and -- and -- and -- and holding myself
22 accountable. And so, finding ways that I can be of -- of -
23 - make amends to my family through in -- indirectly or
24 through living it, uh, based on their pain and their
25 suffering. I -- it's -- it's -- it's -- it's unexpressible

1 how much suffering and pain I've put my Aunt Terry in, uh,
2 and my Aunt Marta, my Aunt Joan, my Uncle Brian, my
3 Milton, my Uncle Carlos. It's unexpressible. Uh, and as
4 I've gotten older and I grow, understanding the impact of
5 it just -- it continues to expand. The magnitude begins --
6 I believe that it is forever. I've called it a forever
7 crime. It will impact every generation to be born, and I
8 cannot express sorrow and remorse enough. Uh, doing it for
9 the rest of my life will not be enough.

10 **ATTORNEY RUMMEL:** One more question. You have, um,
11 many, many, many people who have submitted support letters
12 for you. Um, you have laudatory chronos and family support
13 and friend support, formerly incarcerated people support,
14 organizational support, many, many, many letters. What is
15 the most meaningful support letter that you received for
16 this hearing and why?

17 **ERIK MENENDEZ:** As much as I value all of the
18 letters that I've received from my family, from my wife,
19 from my -- my friends, uh, people that -- that I have
20 known, um, there was one letter, uh, that I -- I received
21 from a el -- a disabled guy, older disabled guy, uh,
22 talking about a hat that I bought him and, uh, and how he
23 had this old hat, and -- and I bought him a new hat, and -
24 - and he just was so grateful. And he wheeled up to me one
25 day and said, "I -- I know you're going for re-sentencing.

1 Can I give you this -- this -- this letter?" And -- and it
2 was just the story of -- of -- of how he felt about me
3 buying him his hat. And I, to be honest, I -- I didn't
4 even remember it. Uh, it was -- it was just a -- it was
5 just something I wanted to do for him. I mean, I hadn't
6 forgotten it, but it wasn't on my mind, and -- and it was
7 just very touching. Um, so, those are the -- those are the
8 little things that I hope -- I hope God sees. Those are
9 the things I might have to point out to God. But, uh, but
10 it was very, very deep for me, uh, and -- and those little
11 things. 'Cause ultimately, I think it's just the little
12 things that matter, not -- not -- not the creating groups.
13 It's -- it's -- it's the ways we take care of people
14 outside of group that matters.

15 **ATTORNEY RUMMEL:** I have no other questions. Thank
16 you, Commissioners.

17 **PRESIDING COMMISSIONER BARTON:** All right. We're
18 now gonna go to closing statements. Uh, I'm gonna start
19 off with a ten-minute rule just as I do in any other case.
20 This case is not any more complicated than any other case
21 we routinely hear. Although there is a high-profile nature
22 to it, doesn't warrant more time than is usually allotted
23 all our other cases. And both of you are highly skilled
24 attorneys who have submitted very thorough comprehensive
25 written arguments, which have been fully read and will be

1 fully considered by this Panel. And I know that you've
2 been listening to the hearing, you've been taking notes.
3 Uh, I would simply suggest to you that you focus on those
4 items in the hearing discussed, such that your closings
5 deal with the most relevant issues. If at the end of that
6 time limit, there's more that you want to say for either
7 one of you and I feel that you haven't simply been
8 redundant in what you've already submitted in writing, I
9 will, um, consider granting more time. But, uh, what I
10 don't want to do is have these 30-page briefs that you've
11 written, uh, read into the record because they're already
12 part of the record. So, that's where we'll start. We'll
13 see how it goes. Um, but for now, that would be my
14 tentative. We always start with the People. So, the DA's
15 office will go first. Uh, it is 2:10 p.m. Mr. Balian, the
16 People's position regarding current suitability, go ahead.
17 You have to unmute.

18 **DEPUTY DISTRICT ATTORNEY BALIAN:** I apologize. I'm
19 used to doing these in person, uh, or hearings in person,
20 not these. Um, before we go on, uh, I don't know that it's
21 possible to state the People's position in ten minutes,
22 uh, to get to the truth of this matter as to this inmate's
23 level of insight. I would petition or ask for more time.

24 **PRESIDING COMMISSIONER BARTON:** Well, let's see
25 how you do, because I have your brief here, and if you

1 start reading to me from it, you're not gonna get more
2 than ten minutes.

3 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. All right,
4 thank you. I'm ready to begin whenever you're ready.

5 **PRESIDING COMMISSIONER BARTON:** Uh, it's now 2:11
6 p.m. Go ahead.

7 **DEPUTY DISTRICT ATTORNEY BALIAN:** Thank you. Um,
8 the focus today is rehabilitation. That's always gotta be
9 the most important focus in a Board's analysis whether to
10 release someone. Uh, does this person pose an unreasonable
11 risk to society? What have they learned during their time
12 in incarceration? How have they improved themselves? No
13 doubt Mr. Menendez has sat in many classrooms and earned
14 many achievements. No doubt he sat in many group meetings
15 and he's, uh, making -- made many prosocial efforts to
16 improve himself. Um, we don't dispute that. There's many
17 laudatory comments about him, and we applaud him. The
18 People of the State of California always applaud those
19 attempts at redemption, and we hope he one day achieves
20 redemption. But the real question is, did he learn in all
21 those classes, in all this prosocial programming, did he
22 learn the most important lesson of all? Does he understand
23 the full severity and depravity of his conduct? Has he
24 acknowledged his crimes and the extent of his deceit to
25 cover up the severity of those crimes? Is he owning what

1 he did, or today is he still just offering excuses,
2 attempting to minimize his behavior for his conduct in
3 prison as well as the life crime? Is what he's saying
4 genuine, or is it calculated to get the result that he
5 wants today? Uh, much like most -- much of his actions are
6 in prison, he really starts making substantial efforts,
7 and it was elicited in the testimony today, towards his
8 positive programming and, um, once he knows he is eligible
9 for possible release one day -- his cell phone use, I
10 think he said, "Oh man, once the clemency was real and I
11 thought I could get out, that's when I knew it was
12 consequential behavior, and I should really mind my Ps and
13 Qs." That's not positive programming because you want to
14 change or you have changed. That's someone gaming a system
15 to achieve a desired result. That's not rehabilitation.
16 It's not insight. So, I'm gonna start with, uh, something,
17 it's kind of tangential, except it really elucidates my
18 point today of how this inmate is still minimizing his
19 conduct. To justify killing his mom, at trial he had to
20 claim self-defense because any purported sexual abuse
21 would not legally justify the killing. He was schooled by
22 defense experts and attorneys. So, he had to paint, to
23 sell this, a picture of his mom as a dangerous, violent
24 person who was capable of killing him. Now, I'm gonna talk
25 about Lyle, but these two were working together as cohorts

1 as conspirators. Lyle wrote a script to paint mom as
2 someone who would kill her family, as a violent person who
3 was capable of killing her -- killing her family. And Lyle
4 wrote this script and mailed it to Traci Baker and said,
5 "Here's what you're gonna say." It started out, "All
6 right, Traci, this is the information we discussed on the
7 phone. I'm gonna get right to the point because after you
8 read this and you've absorbed it, I want you to throw it
9 away. Do it right away so you don't forget." So, in other
10 words, hide this script, this false perjurious script.
11 "You were at my Beverly Hills house about to eat dinner
12 with me and my parents and my brother, Erik. We will
13 decide later about what date this incident occurred. We'll
14 come up with the details later in this lie, but this is
15 what you're gonna say. 'All of a sudden, Mr. Menendez,
16 Jose said in a stern voice to Mrs. Menendez, Kitty, "What
17 did you do to the food?" There was a long silence. He
18 knocked his plate over. He got up and said something like,
19 "Go outside and wait for me in the car."'" Now, this ob --
20 is obvious to anyone who reads this, nothing more than a
21 script to pull the wool over juror's eyes and commit
22 perjury. And Traci Baker testified to this false
23 narrative. She went along with it. Erik sat there while
24 she testified about this. He heard her. Did he correct
25 her? It's worse. What did he testify to? Now, remember

1 what I just read about what the fake testimony was gonna
2 be. Here's how Erik actually testified. He can feign he
3 doesn't remember today what it was because he doesn't have
4 insight. But here's what he actually testified to. Erik,
5 "She," Traci Baker, "was over eating dinner, and my mom
6 was serving. Apparently, the maid was off or something
7 like that." It would explain why there's no more
8 witnesses. "And we were all sitting down at the table, and
9 my mom had served dinner, and my dad pushed the tray away
10 towards my mom and spilled something. Told us to get up
11 from the table." "Well, do you recall whether or not your
12 father said anything to your mother as he pushed the plate
13 away or at any time during this?" "Yes. He looked at my
14 mom and he said something like, 'What did you do to the
15 food?'" That is almost the exact script, fake, phony
16 script, that Lyle scripted for Traci Baker to testify to,
17 which she testified to, and now that Erik testified to.
18 And for him to get up here today and tell this Panel,
19 "Well, I -- I don't remember that. I just remember
20 testifying there was some incident where the food was
21 pushed away." That's a lie to you. He's not being genuine.
22 He has no insight. He's still minimizing his behavior.
23 He's still covering up the same lies he told at trial.
24 Shaputis, the case tells us that when an inmate fails to
25 take full responsibility for the depravity of their

1 conduct and their violence, they lack insight, and they
2 continue to, uh, their past crime continues to be
3 probative of current violence, as does In re Lazor, an
4 inmate's minimizing responsibility despite processing some
5 responsibility is a relevant consideration of insight.
6 There's other cases that talk about an implausible
7 explanation of events or denial of events is a lack of
8 insight. I would submit that's what you have today. How do
9 we know this? Look at actions. Actions speak louder than
10 words. Within 24 hours of killing his parents, what's on
11 his mind? He goes immediately over to an attorney's house,
12 friends of the family, and what does he say? Well, the gun
13 is still smoking practically that he used to shotgun his
14 parents to death, and he's asking them, there may be a
15 competing will. He knows he's been disinherited. What's
16 this really about? What -- can we find a competing will on
17 a -- on a computer? Is that competing will legally valid?
18 And then what those actions show? Him and Lyle then within
19 ten days of that have an expert over, and they're
20 searching for a competing will, and they delete all
21 references of it to the computer. What do his action show?
22 They then go on a spending spree. Courtside at the Knicks,
23 Rolex watches, new car, tennis coaches. His actions speak
24 louder than words, and it goes to insight. He has no
25 insight into his criminal responsibility for these crimes,

1 therefore, he still poses an unreasonable risk of danger
2 to the community. In his 30 pages or 50 pages that he
3 wrote about these life crimes and what he's learned in
4 prison that was submitted to you, what does he not mention
5 once, not once? There's an explanation for a lot of
6 things. But what is there no explanation for? That he lied
7 at trial about trying to purchase a handgun at Big 5.
8 That's to fabricate a false self-defense narrative. He can
9 try to say today, "Well, I remember going there." No, the
10 trial testimony, I'm not gonna read it to you because I've
11 only been given ten minutes, the trial testimony was very
12 specific. "We were at Big 5. We were pointing out specific
13 handguns. The -- the clerk was explaining them to us, and
14 then he told us we couldn't buy those handguns because of
15 a two-week waiting period." Okay. That's all false. It's
16 all false because we know as fact that Big 5 didn't even
17 sell handguns at that time. He never accepts anything. He
18 had to create a false, fake self-defense narrative, a
19 false narrative he's still pushing today. He doesn't admit
20 all the evidence of pre-planning and financial motive.
21 That's why his parents were killed. Is this self-defense
22 story true, or was it conjured? And I just need to know if
23 I need to speed up. Will I be given more time, or no?

24 **PRESIDING COMMISSIONER BARTON:** Well, I'll give
25 you a warning when you're close. Go ahead.

1 **DEPUTY DISTRICT ATTORNEY BALIAN:** All right. I
2 will highlight some of the facts which are germane to this
3 question of whether this self-defense story was true. If
4 it's self-defense, why do they need to get their friend
5 Brian Eslamania? Who by the way, Lyle wrote that -- that
6 fake request for perjury to Brian Eslamania, but let's
7 keep in mind Brian is Erik's best friend, not Lyle's. Lyle
8 never met Brian until he was in prison, in jail pending
9 trial. In fact, Brian, the first person he visited in jail
10 was Erik, and then Erik introduced him to Lyle. There's no
11 reasonable conclusion that Lyle's gonna ask Erik's best
12 friend to come into court and perjure himself in front of
13 Erik if Erik is not on board and know about it ahead of
14 time. That's not reasonable. So, they -- they try to get
15 Brian Eslamania to perjure himself and falsely say that
16 they were so afraid of their parents that they tried to
17 borrow his handgun the week before the murder. They've
18 never admitted they did that. Erik has never admitted he
19 did that. He has no insight. They -- the Traci Baker thing
20 I've already talked about. Lyle tries to get his
21 girlfriend, Jamie Pisarcik, to falsely say that his father
22 had violently drugged her and raped her. Drugged her and
23 raped her.

24 **PRESIDING COMMISSIONER BARTON:** All right. Now,
25 Counsel, I'll warn you.

1 **DEPUTY DISTRICT ATTORNEY BALIAN:** Yeah.

2 **PRESIDING COMMISSIONER BARTON:** It's 2:21 p.m.,
3 and all of this is in your brief. In fact, there's a chart
4 with Xs and check marks. So, go on.

5 **DEPUTY DISTRICT ATTORNEY BALIAN:** All right.

6 **PRESIDING COMMISSIONER BARTON:** If you want to get
7 to current dangerousness, that's probably where you wanna
8 focus.

9 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay, thank you.
10 The, uh, let me go to his current dangers. I would rely on
11 the CRA, your Honor. Is he ready to parole? Does he have
12 current insight and sufficient insight into his crimes?
13 What do the prison experts say? They're the experts. "His
14 antisocial features of his personality have been so
15 intermittently present during his incarceration, including
16 a failure to conform to social norms, with respect to
17 lawful behavior, impulsivity and deceitfulness or
18 conning." That's going back to what he's been doing all
19 long. That's no insight. He's still in prison conning,
20 deceitful, impulsive, antisocial. "His antisocial," this
21 is a quote, "behaviors have persisted despite his
22 significant involvement in treatment and other
23 rehabilitative efforts." But what are those behaviors that
24 you're continuing despite his prosocial behaviors?
25 Smuggling contraband into prison, falsifying tax documents

1 for others, purchasing, using, and exchanging drugs,
2 having advanced knowledge of an escape plan from prison.
3 These demonstrate, and you very astutely and deftly
4 question him to show that this pattern has continued
5 through his time in prison to the present, despite his
6 rehabilitative efforts. And he's on the road. He's on the
7 road, but he's not there yet. He doesn't have insight. He
8 still poses an unreasonable risk to the society. His
9 continued -- this is a quote from the Risk Assessment,
10 "His violation of institutional rules and the law, despite
11 his regular involvement and rehabilitative efforts,
12 implies that he may not be able or willing to consistently
13 self-monitor or manage his behavior. His continued
14 willingness to violate institutional rules also calls into
15 question the completeness of his gains and maturity." The
16 expert psychologist themselves note that he will say the
17 things for his personal benefit he thinks people want to
18 hear, but that's not for rehabilitation. He is a moderate
19 risk to commit future violence. When what you've done is
20 shotgun your parents to death, deleted any competing
21 wills, taken their control or taken their money, spent
22 their money, you're a violent person. And when that's what
23 you've done and you still pose a moderate risk of
24 violence, you are posing currently an unreasonable risk to
25 society. Society --

1 **ATTORNEY RUMMEL:** I object to the district
2 attorney directing his comments to my client.

3 **PRESIDING COMMISSIONER BARTON:** Counsel, he's not
4 -- he's not directing. He's using "you" in the sense of
5 third person.

6 **DEPUTY DISTRICT ATTORNEY BALIAN:** Yes.

7 **PRESIDING COMMISSIONER BARTON:** I -- I understood
8 how he was saying it. When "you", meaning when one person
9 does this. He wasn't directing it at Mr. Menendez.

10 **DEPUTY DISTRICT ATTORNEY BALIAN:** And I apologize.
11 I didn't mean to do that, and I was -- I was --

12 **PRESIDING COMMISSIONER BARTON:** I didn't take it
13 as such.

14 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay.

15 **PRESIDING COMMISSIONER BARTON:** But you may want
16 to change it to "when one does this" or "one does that".

17 **DEPUTY DISTRICT ATTORNEY BALIAN:** Yeah, yeah.
18 Well, when one continues to diminish their responsibility
19 for a crime and continues to make the same false excuses
20 that they made for 30 plus years, one is still that same
21 dangerous person that they were when they shotgunned their
22 parents to death, and one still poses a huge risk to
23 society, not just an unreasonable risk, despite their
24 prosocial programming. When he's ready to admit all of
25 these things and falsities he did, and own what he did,

1 then I believe that on behalf of the People of the State
2 of California, we can start talking about whether he has
3 truly re -- rehabilitated. But he has no insight. Um, an
4 example is he said, "Well, I -- I -- I didn't -- I was
5 just there during the first burglary." You were asking
6 very good questions, and he tried to minimize. "I was just
7 there during the first burglary." But when the truth is,
8 and you look at actually the facts of the case, he wasn't
9 just there. He found the note with the combination. He
10 found the safe. He emptied the safe. He loaded the --

11 **PRESIDING COMMISSIONER BARTON:** Counsel, you're --
12 you're being repetitive. At this point, I'm gonna give you
13 one more minute. I -- you've said all of this. I've got
14 all this.

15 **DEPUTY DISTRICT ATTORNEY BALIAN:** Thank you. Um,
16 are they truly -- is he truly reformed, or is he just
17 saying what wants to be heard? At trial -- before trial it
18 was, "We didn't do it 'cause you can't connect us to
19 anything." Once the guns were found and he confessed to
20 Dr. Oziel, it was, "Well, okay, we did it, but we had a
21 justification." It was molestation or sexual abuse. Once
22 they got to trial and realized that wasn't a legal
23 defense, it turned to a morphing of, "Well, it was self-
24 defense," and they conjured up and fabricated a bunch of
25 evidence to support that self-defense. Now, today, once

1 you get before this Board, he'll minimize with respect to
2 even the minorest of violations in prison, he has not
3 reformed. He's still an unreasonable risk to society. He
4 poses a complete, uh, he has a complete lack of insight
5 into his crimes. Thank you very much for your patience in
6 allowing me a couple of additional minutes. I could have
7 used a couple hours to really go through everything, but I
8 appreciate you giving me the couple extra minutes.

9 **PRESIDING COMMISSIONER BARTON:** Again, your --
10 your brief is extensive and thorough, and we've already
11 read it, and we will be considering it. And so --

12 **DEPUTY DISTRICT ATTORNEY BALIAN:** Okay. And may
13 that be incorporated by reference? May that be
14 incorporated by reference?

15 **PRESIDING COMMISSIONER BARTON:** It's already
16 incorporated by reference.

17 **DEPUTY DISTRICT ATTORNEY BALIAN:** Thank you.

18 **PRESIDING COMMISSIONER BARTON:** So, it's -- it's
19 part of the record, and it's something we consider. Same
20 is true for Ms. Rummel. I allowed you 15 minutes. I'm
21 going to allow her 15 minutes under the same guidelines.
22 Go ahead, Ms. Rummel.

23 **ATTORNEY RUMMEL:** Even with the five extra
24 minutes, as much as I would love to discuss the, uh,
25 problems with the trial and the misstatements of the

1 record by Mr. Balian, I am -- I am not gonna do that. I'm
2 gonna fast forward 36 years to today and who Mr. Menendez
3 is today. Thirty-six years is a lifetime. It's -- it's two
4 of Mr. Menendez lifetimes, um, at the time he committed
5 this crime. And the legal determination, and Mr. Balian
6 got to this, but the legal determination for this Board
7 today is whether Erik Menendez poses an unreasonable risk
8 of danger to society. Is he dangerous? Is he unreasonably
9 dangerous? Not whether he was dangerous to his parents in
10 1989, not whether he failed to turn himself in, not what
11 his brother did, not his lies to the police, um, not
12 whether his belief and fear of his parents was right or
13 wrong, reasonable or unreasonable. But as we sit here
14 today, is Erik Menendez a dangerous person? He was not a
15 dangerous person before this crime. And yes, he committed
16 burglaries, but I would argue he's not even a -- a
17 criminal or, you know, that -- that -- in terms of
18 criminality and antisocial behavior, he committed a
19 burglary, purely opportunistic with college friends, um,
20 felt good about it, decided to do it again on his own,
21 felt bad about it, and got caught because he returned the
22 items, and then was successful on supervision. Um, I don't
23 think it's lost on this Panel, in fact, I'm sure it's not,
24 so I won't spend as much time on it as I -- I had planned.
25 This crime, as the rest of the world seems to understand,

1 was driven by extraordinary trauma, cruel abuse -- sexual
2 abuse, physical abuse, relentless domination by his
3 parents, and an unresolved trauma and -- and a -- and a
4 conflation of circumstances where the abuse gets
5 disclosed. Um, his brother feels the need to protect him.
6 They feel fear. All the dynamics in the home change. His
7 parents stopped speaking. Um, everything is different. And
8 they -- they are in fear, and they commit -- yes, Mr.
9 Balian, it's a terrifying crime. It is. It's a terrifying
10 crime. But what was happening in that home to young boys,
11 to teenagers, was also terrifying. So -- so, here we are
12 today looking at who Mr. Menendez is today. And the Panel
13 spent a lot of time with -- and a lot of detail going back
14 through Mr. Menendez's misconduct, criminality, um, in --
15 within CDCR. And I'm glad you did that, and -- and because
16 he had the chance to really be candid and explain it. And
17 I know you know this, but I'm gonna remind you that in the
18 context of a very young person, very unsophisticated
19 person, the guy who calls out to the watchtower during the
20 first bloody fight he experiences to get them to stop it,
21 this is the person on a level four prison yard. Um, what
22 he did to survive and navigate and avoid violence and keep
23 himself safe pales in comparison to what most individuals
24 do in that situation. Um, low-level violence, mostly
25 defending himself. Yes, antisocial behavior. Yes, tax

1 fraud, um, in exchange for survival, in exchange for
2 marijuana related to Crohn's disease. But -- but let's put
3 Mr. Menendez's misconduct in prison, such as it is, in the
4 context of someone who goes to prison after unspeakable
5 childhood -- an unspeakable childhood, a terrible crime, a
6 public airing of every embarrassing, humiliating, shameful
7 thing that has happened to him, known to everyone on the
8 prison yard, um, with no protection, without his brother,
9 with Crohn's disease, and -- and -- and everything else
10 that accompanied it. And let's look at his choices in that
11 context. Um, he's been very candid with you about what his
12 choices are, how he felt with -- about them, taking
13 responsibility for them, and how he has continued to
14 navigate very difficult, um, circumstances of prison. And
15 notwithstanding those challenges, Mr. Menendez did not let
16 those things define him. Um, and I will say that the
17 District Attorney's office saw it when they petitioned for
18 re-sentencing what he was able to do with his life. The
19 court saw it, um, and we're asking this Board to see it
20 today. In 2013, with Life Without Parole, no remote
21 possibility of leaving prison, dying in prison, he made
22 dramatic changes in his life. He found his faith. He
23 became accountable to his higher power. He found sobriety,
24 a promise to his mother on her birthday. He found his
25 sobriety, and he stayed committed to it. And what is most

1 notable for me, especially with this discussion of anti --
2 antisociality, is the thing that drove him was taking care
3 of sick people, dying people, um, the people that no one
4 else wanted to protect and no one else wanted to take care
5 of. There's no glamor in that. There's no high praise in
6 that. That -- that is hard work. And he has people writing
7 and saying, "And then, and above -- above and beyond his
8 caregiving duties, he cleaned my wheelchair." He, you
9 know, you -- you've got the letters. I won't repeat them
10 all here, but that is the person he became. That is the
11 person who -- that is the -- those are the -- the things
12 he did to rise above his toxic shame, his -- his drug
13 addiction, all of the things that were holding him back.
14 He did that in 2013. And has he been perfect since 2013?
15 No. But he has been remarkable. His journey is inspiring.
16 He was raised in a family where wealth and success masked
17 complete dysfunction, where the lessons to him were lie,
18 lie at all costs. If you don't lie, you will be physically
19 punished for it. He has, -- I mean, every -- every lesson
20 that shouldn't have been taught to a young child was the
21 lesson he learned. And yet, and -- and surrounded in a --
22 in a -- a prison yard full of violence and, um,
23 antisociality, he decided to become a different person.
24 And it's so impressive who he became. Um, he engaged in
25 cell phone use, and that's obviously a big consideration

1 for this Panel. And we ask you to think about and context
2 -- just like Lawrence requires, contextualize what the
3 context of when he made -- of what -- of making the
4 choices to be involved in cell phones. There are all kinds
5 of circumstances, some related to being Erik Menendez in
6 prison, some not related to him, um, that drove his cell
7 phone use. And -- but what's -- what's important is where
8 he is now. Insight cannot be too recent. The case law
9 tells us this. Where is he now? What does he understand
10 about it? He's been extraordinarily candid about it. He
11 did a deep dive. He's done the five steps of change. He's
12 worked his 12 steps. He understands cell phones as an
13 addiction. He got help from -- from mental health. He and
14 his brother hold themselves accountable. He has a huge
15 accountability network. You can read his relapse
16 prevention from -- for cell phones. You can -- you can
17 look at what, um, his coping skills are and, you know, and
18 all of the other things related to his cell phone use. But
19 it has to be put in the context of someone who is working
20 very hard to be a very positive, empathic, prosocial
21 person despite all the odds, really, despite all the odds.
22 Um, I, he's been candid today about denial management and
23 criminal thinking. I'm gonna put to you that there is not
24 a nexus, which is required for you to deny him parole,
25 based on cell phone use. There is not a nexus to his --

1 from his cell phone use and the criminal thinking that was
2 involved in it back to this crime. This is not a crime of
3 criminality, about criminal thinking. Um, this is -- that
4 is not what made him dangerous. What made him dangerous
5 was unresolved trauma, um, uh, a myopic fear and, um, and
6 -- and an inability to ask for help, an inability to look
7 outside of himself, going to his brother for help instead
8 of going to relatives or police. Um, that's what made him
9 dangerous that day when he killed his parents. It wasn't a
10 criminal-thinking crime. There is no strong nexus here.
11 And given the life that he has lived since 2013 in prison
12 and all of the prosocial choices he's made, all of the
13 prison rules that he has followed, and we touched on it
14 today, but I'm sure it's not lost on you, Commissioner
15 Barton, that being Erik Menendez in prison means all eyes
16 on you. Staff love to write up the Menendez brothers for
17 things they've done and things that aren't even against
18 the rules. Other people on the yard love to talk about
19 what the Menendez brothers are doing. So, you don't have
20 to look at this record and wonder what he's gotten away
21 with because he's been candid to you today about what
22 those things are, and you have a pretty strong record,
23 more confidentials than I've seen in a case in many years,
24 of what he's done and what he hasn't done. And the vast
25 majority of his choices are prosocial, positive, rule-

1 abiding. Um, so, we ask you to consider the cell phone
2 conduct in that context. I won't go through all of his
3 programming, but it's interesting to me that his
4 programming is -- is so targeted on his healing. Um, in --
5 in his own words, I had the quote here. I -- "My path to
6 healing was through my own suffering." So, AVP is -- is
7 his heart song. Um, he -- he teaches AVP. He -- he -- he
8 leaves legal visits early so he can be at AVP because that
9 is the way that he understands himself, rids himself of
10 toxic shame, helps people on the yard. Every -- all the
11 work he's done with toxic shame, all the work he's done
12 with caregiving. It wasn't enough that he was just care --
13 taking care of people on the yard, but he brought, um,
14 many, many others in the institution into it on his yard,
15 and then it even expanded to other yards. So, we ask you
16 to look at Erik Menendez in context of his entire life
17 when you are answering the question, whether he's an
18 unreasonable danger to society as we sit here today. He is
19 not. He is not. Um, structured decision making favors a
20 grant in this case. Uh, the CRA, I have spent a lot of
21 time criticizing the components of the CRA. I know you --
22 you're familiar with it, and you're familiar with the
23 record, so I won't reiterate those. But there was a
24 fundamental misunderstanding of trauma, um, and I think
25 there was an overfocus on the cell phone use without a

1 real nexus to the reason he was violent in this crime. Um,
2 he has almost every desistance factor. If he hadn't used
3 cell phones, I think he'd have every one. He was a
4 youthful offender, extraordinarily youthful, immature for
5 his age, even at 18 because of his upbringing. Elderly
6 factors, chronic autoimmune disease, very limited criminal
7 history, and the criminal history he has, he was
8 successful on supervision, indicating he would be
9 successful on supervision if released today. Highly
10 situational, trauma-driven crime against his abusers. No
11 real violence -- no violence before the crime, and pretty
12 limited, um, you know, reactive violence and still very
13 limited during his time in CDCR on very violent yards. A
14 decade of committed sobriety, meaningful mental health
15 treatment and counseling, and a real ability to understand
16 when he needs to seek treatment and counseling to stay
17 mentally healthy, um, and programming. Um, the only
18 current, salient risk factors, they're all -- they're all
19 actually historical in the CRA, and I've gone through
20 that. So, but I'll just emphasize there are only two
21 current, um, salient risk factors that are current and not
22 historical, and those are the -- the cell phones and the -
23 - the questionable personality disorder diagnosis, which
24 I've spent a lot of time addressing in my written
25 submissions. Um, youth factors weigh heavily in this case.

1 Um, prison conduct certainly since 2013 weigh in favor in
2 this case. Offender change is -- should drive this
3 decision. Mr. Menendez is so far from the person he was
4 when he was arrested for this crime and when he entered
5 CDCR. He's not fear driven. Um, he's honest. He's
6 credible. He cares about other people. And offender change
7 should drive the decision to -- to grant him parole. And I
8 will let the family -- I know they will speak after Mr.
9 Menendez speaks. I will let them speak for themselves. But
10 never have I been in a hearing where so many family
11 members know him so well and who knew what happened in
12 that house and who loved his parents have gone so far out
13 of their way to support his release, to document his
14 rehabilitation, document his accountability, document his
15 remorse, and stand up in favor of him being released
16 today. And that should weigh heavily in this Panel's
17 consideration. It has not historically weighed heavily at
18 all. In fact, it's been mostly ignored in the court
19 proceedings, but it should be weighed heavily today
20 because they know him better than any of us can hope to
21 know him in the course of this hearing today. Mr. Menendez
22 is suitable for parole.

23 **PRESIDING COMMISSIONER BARTON:** Right at 15
24 minutes. Okay. Um, at this point, Mr. Menendez, did you
25 wanna read a closing statement? Do you wanna give a

1 closing statement?

2 **ERIK MENENDEZ:** Yes, sir.

3 **PRESIDING COMMISSIONER BARTON:** Okay. Go ahead.

4 **ERIK MENENDEZ:** Uh, I wanna thank Mr. Balian. I
5 was unaware of some of that -- that testimony. I want to
6 thank, uh, uh, uh, Ms. Rummel for bringing up AVP. AVP is
7 a program that I'm deeply proud of. I find it very
8 special, and ex -- has -- has led to extraordinary change
9 in me, uh, it -- it -- in seeing the change on the yard. I
10 believe that it's had a big impact, is what I mean. It's
11 had a large impact on me, and I've seen it have a large
12 impact on other people. So, I was remiss for not
13 mentioning it. Uh, I can't -- I can't ex -- I can't
14 express, uh, I can't express myself directly to, um, the
15 victim family that is here, my family, uh, so I will not.
16 I honor, uh, uh, the proceedings and -- and know that I
17 cannot do that. Um, but it is the first time that -- that
18 so many of us have been together in 35 years. And so, I
19 will speak directly to the Commissioners, uh, about
20 speaking about, um, this extremely meaningful moment for
21 me, uh, about that. Yesterday was August 20th. August 20,
22 1989, was the day that I killed my parents. Today is
23 August 21st. Today's the day that all of my victims
24 learned, victims for these life crimes, learned that my
25 parents were dead. So, today is the anniversary of their

1 trauma journey and, uh, and what they've experienced over
2 the last 36 years. And I -- I -- I just need to
3 acknowledge and -- and speak on -- on that fact that, uh,
4 that today is a very important day for them in -- in that
5 anniversary of -- of -- of tremendous sorrow and, uh,
6 harm. You know, we've talked about amends and -- and --
7 and insight and you know, I know that -- I know the
8 different components of amends, uh, but one of the largest
9 components is magnitude and impact of my crime. That's
10 probably the most significant. Obviously, responsibility
11 and -- and restitution and understanding my character
12 defects and repentance and everything else. But magnitude
13 and impact, I -- I don't think there can be amends without
14 it. And one of the -- one of the -- the things that's --
15 that disturbs me about my -- my case is the fact that it's
16 always been about me. From the time that I was arrested,
17 it was about me. From the investigation and the trials, it
18 was about me. The first trial is about me. The second
19 trial is about me. The sentencing, it's about me. The
20 years in between and the media is about me. The re-
21 sentencing is about me. This parole hearing is about me.
22 But this crime is about family. It's about my family. It's
23 about what they've endured, what they've suffered, what
24 they've gone through, and -- and that's not about me at
25 all. The real impact of this is about them, and there are

1 some people here, people that are not here. My Aunt Marta,
2 uh, no one supported me or loved me more, or had a greater
3 impact than -- than my dad's sister, who's a sister to my
4 dad, to -- to my Aunt Terry, who is here. Uh, Aunt Marta's
5 not here, but I'm speaking her name. My grandmother. My
6 grandmother's not here. She loved me. She was there every
7 day of my trial. She passed away in 2009. Andy Cano. Andy
8 Cano is not here. Andy Cano died on January 18, 2003, and
9 that was a devastating loss for me and this family. His
10 sisters are here. I want to speak his name. My uncle
11 Carlos passed away not too recently. He cannot be here. As
12 well as my uncle Brian and my uncle Melton, my aunt Joan.
13 My aunt Joan is not -- is not here. She's not doing well.
14 I wanna speak her name. I love that woman. My Aunt Terry
15 is here, along with my other relatives. In January, I had
16 a visit with my Aunt Terry and my cousin Erica, and I held
17 my aunt Terry's hand, and I looked in her eyes and I said,
18 "Tell me about the family," and she's telling me about
19 this remarkable family and all of her grandchildren, her
20 children and grandchildren. And -- and she was crying and
21 telling me the -- the stories, but I heard something else.
22 Erika was there, my -- my younger cousin. She was only 28,
23 so she wasn't even alive. And what I heard was the impact
24 on her and all my other cousins, and they don't even
25 realize it. I don't know how often you get to commit a

1 crime and then look back on it 35 years later. But the --
2 the impact of that crime generationally on my family has
3 created real trauma that a lot of my younger generation of
4 my family does not see. And I've mentioned it, and they're
5 like -- and they say, "Oh no, we're fine. We don't --" but
6 I see it. I see it profoundly, not just in the holidays
7 where we don't get together, and I don't mean me, them,
8 the divisions, the disassociations, the emotional trauma
9 that's brought up, the arguments, everything that can
10 happen in a family when my case becomes -- my -- my crime
11 happening period. My crime happening now in the media and
12 how they are then -- they have to have conversations with
13 their children because their children are gonna hear about
14 it in the media, and they don't want to have those
15 conversations. So, sometimes, their children will hear
16 about it in the media and then come home and say, "What's
17 going on?" When I sat with my Aunt Terry, this deep
18 generational impact of my crime became very, very, very
19 clear. It was clear before, but it -- there's nothing like
20 the clarity of it being in your face. And I held my Aunt
21 Terry, and I am very grateful to be able to apologize. And
22 -- but that's not what this is about. I just want my
23 family to understand that I am so unimaginably sorry for
24 what I have put them through from August 20, 1989, until
25 this day and this hearing. And I know that they have been

1 here for me, and they're here for me today, but I want
2 them to know this is -- this should be about them. It's
3 about them, and if I ever get the chance for freedom, I
4 want the healing to be about them, not about me. Don't --
5 don't -- don't think it's the healing of me. It is the
6 healing of the family. This is a family tragedy, and --
7 and it needs to be a family healing. I love every one of
8 them passionately, and there's nothing more that I want
9 than to bring healing for the deep wounds of suffering
10 that I created. That's all I have.

11 **PRESIDING COMMISSIONER BARTON:** All right. It's
12 2:52 p.m. Before we start hearing from victim family
13 members, I don't know if Ms. Emig or someone else is
14 organizing, uh, the order. Let's take a few minutes that
15 way we can also bring in anybody that's waiting on the
16 break that got lost. Uh, we'll try to reconvene at 3:00
17 p.m., and then we'll try to have an order. If you want to
18 go in any other order, then just what I have on my sheet,
19 I'll need to know it at that time. So, again, those
20 conversations need to take place offline, um, and then
21 I'll check in with everyone at 3:00 p.m. We're in recess
22 until that time.

23 **MAYA EMIG:** Commissioner, we have an order by the
24 way.

25 **PRESIDING COMMISSIONER BARTON:** Okay. Well, let's

1 come back at 3:00 p.m., and we'll pick that up.

2 **MAYA EMIG:** Okay.

3 **RECESS**

4
5 **DEPUTY COMMISSIONER STERN:** Okay, we're back
6 recording.

7 **PRESIDING COMMISSIONER BARTON:** We're back on the
8 record, uh, in the matter of Mr. Menendez's initial parole
9 consideration hearing. Uh, we finished closing statements
10 of the parties. It's now time to hear from victim family
11 members and representatives. Uh, we have a tentative order
12 that we're going to be going in. So, what I will ask each
13 person to do is when, um, I -- I ask for you to speak,
14 simply unmute and, uh, up to you whether you want to turn
15 your video or not. It's -- it's not required. So far, my
16 fingers are crossed, we haven't had, I don't think, too
17 many bandwidth issues. We have lost a few people, but I
18 think we've been able to bring 'em back into the meeting,
19 um, relatively soon. So, we'll hope that continues. And
20 Commissioner, did we start a new recording? Are we -- are
21 we good on the recording?

22 **DEPUTY COMMISSIONER STERN:** We did start a new
23 recording, and I'm just sort of checking it as we go. I
24 think we're fine. Thank you for asking.

25 **PRESIDING COMMISSIONER BARTON:** All right. Um, so

1 again, for everyone speaking, you are not allowed to speak
2 directly to Mr. Menendez, as much as you may want to. We
3 need you to address your comments to the Panel. Um, and as
4 far as, um, as I said, when you're speaking if you would
5 unmute. Start off by giving, um, however you identified
6 yourself at the beginning, and that way the transcriber
7 knows who's speaking. So, we'll start off with Mr. Hart.

8 **STUART HART:** Thank you. Uh, Stuart Hart, H-A-R-T,
9 uh, representing Terry Baralt. Uh, I have known Erik
10 Menendez for 33 years. Initially in the role of a child
11 development and child psychological maltreatment expert
12 serving in the pretrial and trial period -- periods, and
13 since the last trial as an available resource for his path
14 toward rehabilitation and wellbeing. While violent actions
15 are not excused by a history of abuse and fear, for
16 compassionate and reasonable human beings, knowing that
17 history fosters understanding. Erik Menendez has
18 demonstrated that he has made substantial progress in
19 becoming the good person he intends to be. He's been
20 incarcerated for most of his 54 years of life, the first
21 18, while living in his family under terrorizing,
22 demeaning, and corrupting cruelty without rescue. The last
23 35 years while behind bars, he's been challenged by
24 multiple adversities and encouragement for deviance. He
25 struggled with and overcame those pressures and

1 temptations. To his credit, he's chosen the opportunities
2 for redemption. Through self-understanding and purposeful
3 action, Erik has become a strong positive force for good,
4 for individuals and for the community as a whole -- or the
5 prison community as a whole. Under the severely
6 challenging conditions of his incarceration, you can't
7 fake the good qualities he's exhibited for many years.
8 He's been punished by life in the extreme, and yet, has
9 labored successfully to become a responsible citizen who's
10 accountable for his actions and who is not a threat to
11 anyone else. This is quite an exceptional accomplishment.
12 He has expressed deep remorse for his crime, and he's
13 grown to be a person professing faith who's well-educated
14 and full of prosocial capacities and purpose. And he's
15 planned for and will find at-ready supports, including a
16 network of caring persons to live constructively and
17 freely in society. Erik has told us that becoming a
18 caregiver transformed his life, that for him to live fully
19 is to continue to make a difference in his life, in the
20 lives of people -- the people he loves, and for people he
21 has not yet met, that he no longer believes there is any
22 other point to life. His history provides good reasons to
23 believe him. Like the rest of us, he's a work in progress,
24 and the progress he's made is quite remarkable and makes
25 him a very good bet for achieving a stable and beneficial

1 life if paroled. Thank you again for the opportunity to
2 provide perspective.

3 **PRESIDING COMMISSIONER BARTON:** Thank you. Next,
4 uh, Father Deasy?

5 **KEN DEASY:** I come --

6 **PRESIDING COMMISSIONER BARTON:** We can hear you.

7 **KEN DEASY:** Okay. Very good. Thank you, sir. My
8 name is Father Ken Deasy. I am a retired Catholic priest.
9 I'm an expert in nothing. I have lived my priesthood
10 dealing with kids in jail, adults in jail, good people who
11 don't believe they're good, who have been condemned by the
12 law as "one of those people". Now, we're even enforcing
13 that a lot more. I don't know about you, but that hurts
14 me. I don't know if it hurts any -- and I know it hurts a
15 lot of people. I was with Erik and Lyle about eight years
16 ago. Marta Cano called me, and then Erik called me back,
17 and down I went to jail. I had met them before. I thought
18 they were two spoiled brats, and I thought, "Well, I'll
19 never see them again," and I'd moved on in my life. Then
20 when they called me back, it was an honor. It's been an
21 honor ever since. I was just a baby priest then. I was
22 ordained only a year, and it was my first introduction
23 into adult jail. And I'm sorry, but when we say jail or
24 prison is a place of rehabilitation, I can't say I've
25 experienced that. Except, I mean, but through volunteers

1 and good people. I think the most damaging thing about
2 being in the county jail were the deputies, but we move on
3 from that. And, um, I'm gonna say this with all
4 conviction. I know what it's like to be part of an
5 institution. I know what it's like to have rules hanging
6 over my head that in my life make no sense. Imagine in
7 prison, which is not reality in any way, shape, or form.
8 Prison is negative, it's dark, it's injured, it's wounded,
9 and I can't imagine any type of rehabilitation going on
10 there, especially when there's so much despair,
11 hopelessness, not being understood. You know, when I met
12 Erik, uh, he always was remorseful, since day one. I often
13 wonder what it would've been like if he would've come to
14 me before all this stuff. What would I have done? Whether
15 he's being abused or whether he killed his parents, I -- I
16 -- but you know what? I don't look at what was. I look at
17 what's now. I don't look at what isn't in his letters. I
18 don't look at what isn't being said. I look at his
19 goodness. You know, you call it restoration. I call it
20 restoration to get him back to his original goodness. He's
21 a good guy. He's a great guy. Now, is he a superhero? No.
22 Is he kind and sensitive? Absolutely. Does he like
23 himself? Time will tell. But, you know, in an either/or
24 world, I'm hoping that he'll find and that he is finding
25 that in-between, that he's not one of those people, which

1 I'm afraid he's going to be looked at, and I've warned him
2 about that. And he does want to help people, but you know,
3 he's gotta also help himself, and he's worth helping
4 himself, but not when you're raised, like I was, to be
5 nothing. And even in priesthood to be told time and time
6 again, "You're nothing." Well, I take offense to that. You
7 know, we're not robots. At 16 or 17, we all don't know
8 right or wrong. At 18, we don't know we can leave the
9 house, especially when we don't know if we're gonna be cut
10 off by finances, et cetera. We're dealing with a young,
11 nurtured people being raised and without being, um,
12 hysterical, raised in evil, in sickness and how -- and you
13 know, that sense of instability. Again, nurturing the good
14 outta someone, how could it possibly happen in an
15 environment like that? And I met the two parents, and it
16 was like stone cold, and then I met Erik and Lyle, and I
17 knew about what they did, and it doesn't compare to what
18 they did to their parents. But at the same time, and I
19 hate to say it, but Erik's better than that. He's been
20 better. And ironically, he had to decide to do that. I
21 hope the world he gets into isn't level four. I've seen
22 evidences of that just in the last four hours. But what
23 I'm asking is, let's look at the records. Let's not worry
24 about cell phones. Oh, my gosh. We spent a half hour on
25 cell phones. And I know institutional living and we have

1 to set an example. I know it better than the Our Father,
2 and I do it myself. But you know, you gotta know the kid.
3 A lot of times institutions don't have a clue who they
4 are, especially in religion -- religion. I didn't give my
5 life to the religion. I gave my life to people like Erik
6 and Lyle and yourselves. Um, I'm gonna say that is he a
7 current danger? No. He's not violent. He speaks calmly and
8 gently. I've never seen him, um, actually, he was one of
9 the guys that said, "You know, Ken, I never knew
10 friendship until I met you, and I was locked up." And I,
11 as I put in my letter, so I'm sorry if I'm repeating
12 myself, but there's a -- a -- a padre named Andre Nolan
13 who talks about Wounded Healer. You know, Jesus was an
14 expert, but if he wasn't wounded, where would be the
15 credibility of him being a healer? You know? It's like
16 where's the bedside manner? When Erik was talking about
17 the very in his family, the list of family members, he
18 didn't have that 35 years ago. He didn't see that 35 years
19 ago. It was there, but he didn't see it, so he couldn't
20 rely on it. He talks about, uh, the day after the
21 anniversary, the day, you know, that since his parents
22 were killed, how awful it's been all these years. I
23 remember 9/11. The best thing about 9/11 was 9/12, you
24 know, when people got together and started helping each
25 other. Well, that hasn't happened because there's been 35

1 years of dragging this on, and fine, pay the dues, pay the
2 dues, but also give a guy a break. That law may not always
3 know, but law deals in externals, and here we have an
4 inner world. Software, you know? Let's go back to the cell
5 phone. I don't know how that thing works. I hate 'em.
6 Everyone hates 'em. Who doesn't use 'em? But the world is
7 addicted to cell phones, my god. You know? And, um, what
8 else could they do? Especially when you're blinded by
9 shame, which means, "I am not worth a Shizumi. I am dirt."
10 And have that reinforced over and over and over again. He
11 talks about I wish he had a -- he wishes he had a 4.0. He
12 had a 3.1. God, I wish I had a 2.1. But you know, he, like
13 myself though, didn't have that support initially, but as
14 time went on, he did get that support, and then people
15 discovered their power, not to condemn and judge, but to
16 actually see the power of their goodness and their healing
17 and make a difference in their lives. He's done that, and
18 I'm proud to have been there for eight long years, going
19 back and forth, back and forth. Um, but he's not a current
20 danger. Uh, I applaud him. I worry for him only because I
21 want the best for him, and I think I've said enough, guys.
22 Uh, thank you for the time, Commissioner.

23 **PRESIDING COMMISSIONER BARTON:** Sorry. I was still
24 muted, myself. Next, I have on my list now, uh, I received
25 the list, is Teresita.

TERESITA MENENDEZ BARALT:

My name is Teresita

Menendez Baralt, also known as Aunt Terry, and Erik Menendez is my nephew. His father Jose Menendez was my brother. I love my brother deeply, and I miss him every day. But I am writing today to express my unwavering and heartfelt support for my nephew, Erik, as he seeks parole and release from prison. I want to make clear that although I love my brother, I have long forgiven Erik. No words can fully capture just how much I love him. From the day he was born with his big smile and bright blue eyes, I adore him. Erik was a sweet, sensitive, and gentle soul who deserved to be loved and protected. I often find myself wishing I could go back in time to hold that little boy in my arms again, to shield him in the way he should have been protected. Today, I see a transformed man. Erik has taken that sensitivity and turned it into a type of service, compassion, and humility. I see him -- in him a quiet strength that reminds me of my late husband, his Uncle Carlos. Erik carries himself with kindness, integrity, and the strength that comes from patience and grace. Erik has asked for my forgiveness for the crime, for the trauma of two trials, for the 35 years of media attention that we never asked for, for the ongoing trauma including today for this meeting. Erik, I forgive him completely for everything. It is no secret that I am

1 battling stage-four cancer. The truth is, I do not know
2 how much time I have left. If Erik is granted parole, it
3 would be a blessing beyond words to be able to help him in
4 any way I can, whether by offering housing, financial
5 assistance, or simply the emotional support of family.
6 More than anything, I hope I live long enough to welcome
7 him into my home again. I want to share holidays with him,
8 to sit at the same table, and to wrap my arms around him.
9 That will bring me immeasurable peace and joy. Thank you
10 for taking the time to hear my words. I'm grateful for the
11 chance to share my heart and pray you consider my peace
12 with compassion.

13 **PRESIDING COMMISSIONER BARTON:** Thank you, ma'am.
14 Um, and so everyone's aware, we do have your letters as
15 well, and so, we have read those and, um, we will, of
16 course, consider everyone's letters that have been
17 submitted. Next, I have Natascha.

18 **NATASCHA LEONARDO:** Hi. Natascha Leonardo. I'm the
19 great niece of Kitty. Kitty's sister, Joan, is my
20 grandmother, and she is one of the biggest advocates for
21 Erik. Every story from her and memory that I have are
22 still front and center. Her love for both Erik and Lyle
23 always showed. We used to have the best family gatherings
24 until the crime, and then it slowly stopped. In 1995, our
25 family started to drift apart, and in 1996 everything

1 changed. I wanna begin with a short reflection written in
2 a poetic style because poetry is something that is really
3 important to Erik. I'm here today, not just for someone
4 who's been in prison for 36 years, but for someone who's
5 grown through 36 years. Erik's my cousin, and he's become
6 like a brother. He's someone I share the most joyful
7 laughter with while also having some of the deepest
8 conversations. Through his willingness to talk, to open up
9 to process pain, he's begun a profound journey of healing,
10 and through this healing I've also been able to face
11 things in my own life, things I kept buried until Erik
12 gave me the space to speak them aloud. We both carry
13 stories of trauma and strength. On my visits with Erik,
14 there's often laughter echoing from a one-on-one soccer
15 match which he lost, or a game of PIG with a child-size
16 hoop involved. We play -- we play like kids, and then we
17 sit like grownups talking through what triggers us, what
18 coping strategies help us stay grounded, and how we
19 respond, not react, with calm and strength. There's a
20 balance between goofiness and depth that brings it -- that
21 Erik brings into the world. It's not something you can
22 fake. It's something you grow into. That's who Erik is to
23 me. He's someone who listens, he laughs, he teaches, and
24 he's grown into a wonderful man. He's the man who has
25 faced his past with honesty and deep remorse and he's

1 transformed. I'm grateful for the chance to share with you
2 today, not to repeat what you already know about the crime
3 or the impacts of childhood trauma on the brain or all the
4 incredible programs that he's been a part of and even
5 started, or to repeat what I wrote in my support letter,
6 but to give you another glimpse into who Erik has now and
7 who he has become over these 36 years. Considering that is
8 why we are here today. Contrary to what Balian is saying
9 or thinking, especially considering he's never even spent
10 time with Erik, Erik's made a complete shift before the
11 opportunity with parole ever existed. Since 2013, Erik
12 completely shifted his mindset. He was still serving LWOP.
13 He chose to get -- dedicate himself to helping those who
14 would one day be released. That kind of selflessness says
15 so much about who he's become. I've seen this change in
16 real ways. During visits, we've shared some of the most
17 beautifully deep conversations about the crime, about
18 forgiveness, his experiences in prison to include those
19 things he shared about that he was ashamed of and things
20 he was proud of. And then, we also talked in great detail
21 about his spirituality, how his spirituality opened the
22 door to his transformation. It was how he was able to look
23 beyond himself and to give to others to find that greater
24 purpose. What a beautiful thing for somebody with an LWOP
25 sentence. However, while these visits are filled with

1 depth, they're also filled with laughter and good old
2 jokes. Erik is human. He's a 54-year-old man who has that
3 child side, just like the rest of us. Even after
4 everything he's been through, he's always Erik to me,
5 never the Erik Menendez that the public is (inaudible).
6 Just as Terry spoke and Erik spoke about, I'll also never
7 forget that January 4th visit. I remember exactly where I
8 was, the rock I sat down on. When Erik called, I could
9 hear the emotional pain in his voice. It was the evening
10 right after that visit, and his first instinct was not to
11 bother me with his emotions. We talked about what it means
12 to trust family, to share burdens, and to accept
13 forgiveness. Erik cried on the phone. He shared how deeply
14 sorry he was and the awareness of his impact that his
15 actions had on our family. He kept apologizing to me and
16 that any negative experience I had as a child were due to
17 his actions of 18. His remorse was so deep that I was in
18 tears by the end of the conversation. I share this not
19 only because it's important to know the remorse and
20 apologies from Erik, but I also think it's important to
21 know that Erik is no longer suppressing those emotions and
22 keeping them inside. He knows he can turn to his support
23 network. He can turn to me to be there during difficult
24 times. Erik does the same for me, and he shows up when I
25 need support in difficult situations. This is

1 accountability and support that will continue if he's
2 released. Through our conversations, I've witnessed Erik
3 take accountability for his actions. One example is from
4 his January writeup for using his cell phone in November,
5 as we've greatly discussed. He was definitely disappointed
6 in himself. He was hard on himself for making that choice,
7 especially since now here we are, beginning the re-
8 sentencing process. He felt like he was letting our family
9 down. He was letting himself down for not making the right
10 choice. It was a turning point for him to really look at
11 why he was addicted, why he felt the need for the cell
12 phone. We talked through it and realized one of his
13 triggers was the urge to look something up right away, and
14 we talked through how I could support him with that, and
15 anytime he felt triggered to look something up, he knew he
16 could call me, and we could look it up together. Trust me,
17 the things he's looking up and Googling are all the same
18 things you and I are, like side effects of a symptom of an
19 illness to looking up maybe a poem and who the poet was.
20 The point being, Erik's Googling all the random things you
21 and I find ourselves Googling daily. Again, he's human.
22 Erik is deeply aware of the impact of his actions. Many
23 times, he's telling me how sorry he is and how badly he
24 wishes he could go back in time and fix it all. It's with
25 sincerity in his voice, and it's heartbreaking at times.

1 Erik is in such -- Erik has been in such pain for so many
2 years that I know our entire family wishes we could all go
3 back and have helped. He understands the generational
4 ripple effect on our family as he just shared in his
5 closing statement and also how cyclical trauma is and that
6 the cycle must be broken. It's daily work for me as a
7 mother to be self-aware all the time in parenting, in the
8 hopes of breaking the cycle. I talk a lot about witnessing
9 the good with my kids and with students as an educator.
10 Erik's made such sweet connections with my children, and
11 will often ask about parenting. I think of how emotional
12 that my children are, and Erik once said, "I don't
13 remember being that emotional as a kid ever. Is this
14 normal?" I always laugh, and I tell him, "We were never
15 allowed or we never felt safe enough to express emotions
16 like this." My goal has been to make my kids feel safe,
17 and with a feeling of safety often come through real
18 emotions. So, of course, E -- Erik never had those
19 emotions to express them. If Erik calls when they're
20 having big emotions, he's wonderful with them and will
21 calm them down. He's able to talk through whatever it is.
22 All four of my children adore him. They often refer to him
23 as the "other Uncle Erik". My daughter's always asking
24 what she can do to help bring him home. She even felt
25 compelled to write a support letter that I know you have.

1 My oldest son and I had a deep conversation approaching
2 today, and he kept asking, "How could they not find him
3 suitable, mom? He was never a threat." And just as Ms.
4 Rummel also said, it wasn't an act out of criminality, it
5 was an act out of severe trauma and fear. Another one of
6 my sons, he struggled with reading the same way Erik did.
7 He could benefit from Erik's guidance. Erik's already
8 lived through that challenge, and now he's someone who
9 loves reading and learning about everything. We call him
10 the encyclopedia, although that might be outdated. We
11 should probably call him Google. He's such a wealth of
12 knowledge. It's something that Erik had looked up to his
13 father for, for having all the knowledge in everything.
14 Erik overcame his learning difficulties, and now he has
15 all the knowledge because of his determination and his
16 grit to overcome that obstacle. How cool for Erik to be
17 able to share those tools that worked for him with my own
18 son? One of the most beautiful stories I want to share,
19 similar to the one that Erik has shared about the hat a
20 little bit ago, is that during a call, we often put Erik
21 on speaker phone. My kids and I asked Erik how he was
22 doing, and he shared that he was okay, but missing his
23 favorite blanket. Long story short, Erik had given his
24 most favorite blanket to another inmate because the inmate
25 was (inaudible) and anemic and needed it more than him. It

1 moved every one of my children. They couldn't get over
2 that he would give a blanket away to someone that was so
3 special to him that he couldn't just replace while in
4 prison. My kids kept asking, "Can we buy him one, mom?
5 What if I pay for it? I'll pay for it. Can we send it to
6 him?" But they didn't understand we cannot replace it.
7 That moment of kindness is one of the many stories about
8 Erik, the way he has true kindness and has no expectations
9 in return and has impacted my own children. I have one
10 last story, and I think it talks a lot about the criminal
11 thinking, and that he has self-awareness. Ms. Rummel just
12 said that no insights can be too recent. This past
13 weekend, I took my kids backpacking. We hiked in about
14 three miles, or sorry, three hours to a beautiful lake. As
15 we approached the lake, there was a big wooden sign that
16 says, "No fires beyond this point." The kids looked at me
17 and said, "Mom, no one else is up here. We can build a
18 fire. That's crazy. It says we can't. We aren't on fire
19 restrictions right now." Once we get the tent set up, they
20 start begging me. And for a moment I also thought, "Yeah,
21 I guess we could get away with it." But then Erik came
22 into my head, his voice was there, his and I's
23 conversations over criminality, over entitlement. Those
24 words were ringing in my head, and he kept saying,
25 "Natascha, choosing to do wrong even though you know right

1 -- you know what to do is right -- even though you know
2 what's right and still choosing wrong, that's criminal
3 thinking." And that just kept playing in my head and the
4 thought about entitlement. Who are we that we get to build
5 a fire? And so, I told my kids no. We talked through it.
6 They were bummed and disappointed, but I was able to use
7 it as a teaching moment, and that's when I realized that
8 Erik's insights has helped shape me and make me a better
9 mother. And above all, as his accountability partner, I'll
10 hold Erik accountable for even the smallest of things,
11 just like that was to me in that moment. Looking ahead, I
12 know Erik will thrive if you give him the chance to come
13 home. I want you all to know that my family and I are
14 ready to provide him with unconditional love and
15 stability. We'll give him a home filled with food,
16 laughter, and, yes, kid chaos. We'll give him the space
17 for privacy so he can live peacefully away from the public
18 eye and also to support him fully. I also know that he had
19 lots of joy living and spending time in the woods outside
20 of his home in New Jersey. I live in Colorado, and I know
21 the woods will help bring him that joy. He'll have
22 transportation, a community, and as an educator, I can
23 support his love for teaching and guiding others. I have
24 no hesitation when I say that Erik will be an incredible
25 asset to society. He's already an incredible asset to our

1 family. There's nothing about Erik that's a threat. He's
2 deeply committed to living a life of service. We are ready
3 for him to come home, to explore the world, to sit at a
4 dinner table, and to be part of our entire family's lives.
5 I can promise you that we'll always be here, that I will
6 be here as his accountability partner and part of his
7 support network. I believe in rehabilitation. It's not
8 just a theory, but it's something real and is possible.
9 Erik has proven that through his actions, and I ask you,
10 Commissioners, to witness the good and to allow him a
11 chance to fully live beyond these walls. We're not asking
12 you to release Erik into uncertainty. We're asking you to
13 release him to his family, into love, and into a network
14 of support. Thank you for listening and giving me that
15 chance to share who Erik is today, which is what matters.

16 **PRESIDING COMMISSIONER BARTON:** All right. And uh,
17 I usually give this advisal at the beginning of the
18 hearing, um, in the opposite manner because I oftentimes
19 have to remind victim family members that counsel for the
20 incarcerated is doing a job, and it's not personal, and I
21 have to remind them not to take -- take things personally
22 said by, uh, counsel for the incarcerated person. This
23 situation is the opposite, and I know you didn't mean
24 anything by it, um, in your -- in your recitation, but
25 again, Mr. Balian is doing a job. Um, it is his job. It's

1 nothing personal. And so, if we can refrain from, um,
2 making, uh, comments against him, personally, not that you
3 did. I know it was about what he said, but, um, I'd ask
4 you to refrain from doing that. So, we'll go next to
5 Eileen.

6 **EILEEN CANO:** Dear members of the Parole Board, my
7 name is Eileen Cano, and I am Jose and Kitty's niece. I
8 adored my aunt and uncle dearly and had a very close
9 relationship with both of them. I looked up to my uncle as
10 a mentor, and spending time with my aunt was one of the
11 best treats for me. I will admit, my, um, my uncle was a
12 powerful, successful, and to some, an intimidating man who
13 expected the most of his kids. From early on, Erik was a
14 very loving, kind, compassionate, and empathetic younger
15 cousin who loved being with our family. I remember the
16 excitement we all shared when we would get together,
17 especially how much my little brother, Andy, would light -
18 - light up in anticipation of seeing Erik. They were very
19 close. I truly wish I had known Erik was so unhappy so I
20 could have helped him. I will never forget exactly 36
21 years ago from today, August 21, 1989, when on the big
22 screen on my work conference was a breaking news story
23 showing a clip of my aunt and uncle's bodies being taken
24 out of their Beverly Hills home. This is how I learned of
25 their deaths. I was stunned. The pain was excruciating. I

1 immediately worried about my mom, my aunt, and my
2 grandmother, so I took the next train to be with them.
3 Erik stayed with us during Christmas after the murders,
4 and I will never forget the screams he let out in the
5 middle of the night. I had never heard someone scream in
6 such pain. Seeing Erik in such distress broke my heart,
7 but nothing could have prepared me for the shock I felt
8 when I later learned that Erik had played a role. It did
9 not make sense. Never in a million years did I think Erik
10 could be capable of doing such a horrible thing. I was
11 angry. I felt betrayed and robbed of two people I really
12 loved, and I suppressed the pain and focused on supporting
13 my grandmother and my family. I just didn't deal with my
14 own feelings, and I buried them. Even though most of my
15 immediate family was testifying, I did not even watch the
16 trials until recently. I could not bear to go there. I
17 would like to speak on behalf of three people who can't
18 speak for themselves today and who I personally witnessed
19 advocating for Erik endlessly. First, Maria Carlota
20 Menendez, Jose's mother and my grandmother, or as we
21 called her, Mama. I was very close to her. I accom -- I
22 accompanied her several times to the Beverly Hills home in
23 the weeks that followed Jose and Kitty's death. Entering
24 that home and witnessing my grandmother process her grief
25 is something that will, unfortunately, stay with me

1 forever. Despite all the heart -- heartache and loss, her
2 unconditional love and support for Erik never wavered. She
3 visited him many, many times in prison all throughout the
4 trials, and I'm certain if she could, she would be here
5 telling all of you how she has forgiven Erik and wants him
6 released. One of Erik's biggest and most vocal supporters
7 is my mother, Marta. She's his godmother, loves him so
8 much, and always believed in him. It was her mission to
9 someday get him out of prison. She did all she could and
10 visited him many times in prison. Every chance she could,
11 she would talk about Erik. She went on talk shows and
12 participated in numerous interviews, and you can even find
13 some of her statements online advocating for him.

14 Unfortunately, she cannot be here since she's currently
15 suffering from Alzheimer's and in memory care. The most
16 painful part of this tragedy for me is my brother, Andy,
17 Erik's best friend and confidant. He was the one who
18 accompanied Erik up on the flight when Erik turned himself
19 in. Andy was only a teenager when he had the difficult
20 responsibility to take the stand to advocate for Erik's
21 life. Watching his testimony recently, I felt so proud
22 that he held his ground and principles to fight for Erik.
23 After the trials, and his mental health declined severely,
24 a direct result of the tragedy and its aftermath, his
25 premature death was devastating for all of us. I know Erik

1 has ca -- carried deep remorse and has expressed numerous
2 times this deep regret on how this affected Andy and all
3 of us. He recently said of Andy's passing, and I quote,
4 "Andy's impact on my life is immeasurable. His death is
5 not a thing that can be recovered from." I have no doubt
6 that Andy would be one of the strongest and most
7 passionate voices today fighting for Erik's release. I
8 know Erik wishes August 20, 1989, never happened, and I
9 know he lives with that pain and that remorse. When I
10 visited him in prison days after his conviction, he told
11 me how badly he wished he could take it back. I truly
12 appreciated Erik's word -- words at the resentencing
13 hearing, which I know were directed to me and the rest of
14 our family. I needed them. He took full accountability for
15 every single action, and I felt the anguish and the
16 remorse. His words deeply moved and healed me. Even though
17 I forgave Erik years ago, it affirmed to me that he has
18 grown beyond the Erik I once loved and believed in, still
19 carrying the same heart, but now stronger, wiser, and more
20 ready than ever to give back in a meaningful way. Thirty-
21 six years is a long time, and it is clear how he has used
22 his time to truly reflect on his actions and transform his
23 life to positively -- positively impact others. Today,
24 many will speak about Erik's countless contributions while
25 in prison. For the last 28 years, he has also been a great

1 stepfather to Talia making a difference in her life. And
2 in her words, I quote, "He has been the best father anyone
3 could wish for, my safe place, my teacher, and my greatest
4 source of strength and kindness." Erik did not waste his
5 time. He did not just get by, and I'm proud of him. His
6 actions reveal his true character, a person defined not by
7 his mistakes, but by his compassion, empathy, and
8 commitment to growth. Erik has clearly reached the highest
9 level of rehabilitation possible, not only in thought, but
10 in action. Today, Erik stands as a man who no longer poses
11 any risk to the community. Instead, he's prepared to
12 contribute positively using his experiences to mentor,
13 guide, and inspire others. His profound sense of remorse
14 for -- for his past is not something he merely carries. It
15 is something that actively drives him to ensure that the
16 remainder of his life is devoted to making a meaningful
17 difference. In my recent conversations with Erik, he has
18 expressed true remorse and a desire for reconciliation and
19 healing, saying, and I quote, "I can't wait for a second
20 chance. All I wanna do is help heal us all." Erik is fully
21 ready to take this next step. His release would not only
22 be a testament to the power of rehabilitation, but also a
23 chance for society to benefit from the wisdom, compassion,
24 and dedication of someone who has transformed his life in
25 the most complete sense. I ask that you please release

1 Erik now and not dele -- delay finding him suitable for
2 immediate parole. I have already witnessed my grandmother
3 and my brother pass away without ever having a chance to
4 fully heal and find peace after this tragedy. For my Aunt
5 Terry, my mother, and -- and Erik's Aunt Joan, it is not
6 too late, but time is of the essence. Their health is
7 delicate, and we are all ready for this nightmare to end.
8 We are also ready and committed to welcoming Erik
9 physically back to our family with open arms. And as you
10 can see here today, we have a very united family and
11 Erik's support system is strong, which will ensure he will
12 succeed when he's released. Thank you for your time and
13 consideration.

14 **PRESIDING COMMISSIONER BARTON:** All right. Next on
15 our list is Joan.

16 **TIFFANI LUCERO PASTOR:** Good afternoon,
17 Commissioner. This is Tiffani Lucero Pastor. I will be,
18 um, personal representative for -- for Joan who cannot be
19 here. I also wanted to just, so the record's clear, I -- I
20 and my support person had to change locations. We are now
21 in one room because we lost air conditioning, so I just
22 wanted to make sure you were aware so that, um, you knew
23 we were in the same place, but no one else is here. Um, I
24 am Joan Andersen VanderMolen's oldest grandchild. Joan is
25 93 years old, and she would like you to know that she

1 wanted to be here herself, but she must do what is best
2 for her physical and emotional wellbeing. My Grandma Joan
3 has asked me to be her voice today. My comments today are
4 based on information she shared with me over the course of
5 the last 30 years and in the months leading up to this
6 hearing. I have spent my entire adult life watching my
7 grandmother grapple with this tragedy. We have talked
8 about her feelings surrounding the loss of my Aunt Kitty
9 and her family. In any discussion with her as she runs
10 through the list of my cousins in birth order recounting
11 where everybody is and what they're doing, Erik and Lyle
12 are always part of that list. She never waivers in her
13 love and support for Erik or Lyle. My Grandmother Joan has
14 created a foundation of support for Erik that will carry
15 forward regardless of the outcome -- outcome of this
16 proceeding. As you know, Joan is com -- Kitty Menendez's
17 sister. She is Erik's aunt. She and Kitty enjoyed a
18 sisterly relationship, speaking for hours on a weekly
19 basis, talking about the things sister talk -- sisters
20 talk about: children, marriage, home life, recipes, work,
21 and the childhood they shared. The day Kitty died
22 devastated Joan beyond belief. Her sister was dead. She
23 was in agony. Joan wants you to know how much she loves
24 Erik and how much she loves her sister Kitty. She wants
25 you to know how much she misses them both. The last 35

1 plus years have taken its toll on my grandmother. She
2 still mourns the death of her sister and the memories they
3 could have created had things been different, but it was
4 not just the choices that Erik made that impacted Joan and
5 the rest of the family so profoundly. My grandmother
6 struggles with the shame and humiliation of knowing that
7 the boys suffered abuse and that her sister remained
8 silent, enabling an abusive perpetrator. Joan has had to
9 carry the burden of wishing she did more and the guilt of
10 not protecting Erik from their -- his own father who
11 brutalized him in unspeakable ways. She is also haunted by
12 the fact that her sister did not stand up to Jose or
13 protect Erik and Lyle and that Kitty's marriage to Jose
14 took priority over the safety and wellbeing of the boys.
15 Over the course of the last 35 years, Joan has come to
16 understand how trauma impacts the immediate victim and
17 reaches across generational lines to leave lasting scars.
18 She has prompted us to lead our own children down a better
19 path. Joan wishes so badly that she could go back in time
20 to protect the boys, as she still calls them. She also is
21 so troubled by her own inability to see things more
22 clearly and regretful for not speaking up more forcefully.
23 Regret is a heavy burden to bear for any of us, much less
24 a 93-year-old woman. She carries the regret of not having
25 the courage to stand up and speak up for Erik, who was

1 still a teenager when the crimes occurred, and she wishes
2 she had been the voice for a teenage boy who suffered in
3 silence and secrecy. My grandmother believes in truth. She
4 believed in accountability. Joan also believes in
5 redemption. She firmly believes that Erik has done
6 everything one could possibly ask of a person in his
7 situation. Erik never gave up on himself. He never gave up
8 hope that he could one day turn his life around to be a
9 force of good for himself or others, even if at times he
10 wasn't demonstrating that. Joan does not shy away from the
11 fact that Erik killed her sister, but Joan knows Erik has
12 earned a second chance. He has redeemed himself, and Joan
13 has forgiven Erik. Joan describes that what she has
14 witnessed in Erik over the last three decades is nothing
15 short of stellar. She is so proud of how he has worked
16 relentlessly on himself emotionally, spiritually, and
17 intellectually. Erik has taken full accountability for his
18 actions with my grandmother directly. He has expressed
19 deep remorse, and he does not try to make excuses for what
20 he did. The pride my grandmother expresses about Erik is
21 enough to light the night sky. She's a strong woman who
22 will tell us all what she thinks. She is one of the
23 loudest cheerleaders of Erik. She supports him
24 wholeheartedly. My grandmother is not a particularly
25 religious person and doesn't often reference the Bible,

1 but she wants you to know the abundance of her love and
2 belief in Erik, reminiscent of Corinthians 13. "And now
3 these remain: faith, hope and love. But the greatest of
4 these is love." Indeed, the greatest of these is love. But
5 we cannot lose sight of the fact that in life, in all of
6 our lives, faith and hope are so integral. Erik found his
7 faith. He lives his faith every day. He knows love and is
8 surrounded with the -- with love of his family. He has
9 love of self and love for others, love for the greater
10 good, and he knows the love his family members have for
11 him. It is only human nature that when he has -- that when
12 he was given the hope of life with -- with parole, of
13 course he changed. Erik's commitment to transform himself
14 helped Joan to see more clearly her own path toward
15 healing and forgiveness. But she would be the first to
16 tell you that if Erik continues to remain in prison, her
17 path would just seem to be going in circles. I cannot
18 emphasize enough Joan wants you to know that she has
19 forgiven Erik, and she wants to see him outside of prison
20 walls. She is proud of who he is today because he has done
21 the work to trans -- transform himself into being a better
22 man. Joan is our foundation of love, hope, and faith. As
23 she approaches her 94th birthday, right around Erik's
24 birthday, it is my grandfather -- grandmother's most
25 heartfelt wish that Erik be granted a second chance. He

1 cannot undo the past, but he can, and she firmly believes
2 he will continue to live a life of purpose and service to
3 others and in honor of those he hurt. Commissioner, I'm
4 also, um, my sister Tamara is next on your list. Um,
5 something is -- she's just -- she had to drop off, and so,
6 she has provided me her statement to read, if I may.

7 **PRESIDING COMMISSIONER BARTON:** Is -- is that the
8 same letter that she's already submitted?

9 **TIFFANI LUCERO PASTOR:** No, it's a different
10 document.

11 **PRESIDING COMMISSIONER BARTON:** Uh, all right.
12 What about your statement, because I see you've listed
13 further down, but I'd just as soon have you finish all of
14 your statements at one time.

15 **TIFFANI LUCERO PASTOR:** If that's what you wish.
16 If that's your preference.

17 **PRESIDING COMMISSIONER BARTON:** So, you pick
18 whether you wanna speak for yourself or your sister at
19 this point.

20 **TIFFANI LUCERO PASTOR:** Well, so are you saying I
21 have to make a choice?

22 **PRESIDING COMMISSIONER BARTON:** Oh, no, no. You
23 can speak for both. I'm saying --

24 **TIFFANI LUCERO PASTOR:** Oh.

25 **PRESIDING COMMISSIONER BARTON:** -- what order do

1 you want to go in? If you want --

2 **TIFFANI LUCERO PASTOR:** Oh, whether she goes first
3 or I go first.

4 **PRESIDING COMMISSIONER BARTON:** -- to either read
5 her letter or -- go ahead.

6 **TIFFANI LUCERO PASTOR:** Okay. I'm gonna read hers
7 --

8 **PRESIDING COMMISSIONER BARTON:** And state again
9 who this is.

10 **TIFFANI LUCERO PASTOR:** Uh, this is Tamara Lucero
11 Goodell, and so are -- I was supposed to go at the end?
12 You prefer I not do that is what I'm hearing?

13 **PRESIDING COMMISSIONER BARTON:** Yeah. There's no
14 sense in me going back and forth. Go ahead and state her
15 letter, and then we'll go ahead and take your statement,
16 as well.

17 **TIFFANI LUCERO PASTOR:** Okay. "Good afternoon,
18 Commissioners Bar -- Barton and Stern. My name is Tamara
19 Lucero Goodell. I am Kitty Menendez's great niece and
20 Erik's cousin. My earliest memories of Kitty, Jose, Lyle,
21 and Erik go back to when I was around four years old
22 during their visits to Arizona where I was born and
23 raised. While I firmly believe Erik should be granted
24 parole, revisiting the -- these memories brings forth
25 emotions and fears I've kept buried for many years. I've

1 worked in the healthcare profession for the past several
2 years. That work informs my understanding of the trauma
3 Erik endured and the trauma we experience as victims of
4 this awful crime. Given that the offenses Erik and his
5 brother committed occurred just before my ninth birthday,
6 trying to understand what had happened was very confusing
7 and traumatic for me to pro -- process. As I grew and
8 gained more understanding about the world around me, I
9 held a constant wish, or maybe a hope, to understand what
10 could have led Erik to make the dec -- decision he made on
11 August 20, 1989. As I watched and observed how Erik's
12 choices impact the family at multiple levels, it created a
13 deeper desire for me to understand how stressful and
14 traumatic experiences affect a growing and developing
15 child. During my studies in human development, I asked my
16 various psychology instructors and professors how a
17 stressful or traumatic home environment can impact
18 children and what lasting effects this could have into
19 adulthood. During the early 2000s, the answer was
20 consistently the same. Not enough research has been done
21 to really understand how stress and trauma creates lasting
22 effects on a person. Twenty-five years later, we now -- we
23 now understand these effects. Research in neuroscience,
24 psychology, and child development has shown us that the
25 stress and trauma of childhood sexual abuse can profoundly

1 affect a child's development. Early trauma and stressful
2 environments can dispute the systems responsible for
3 emotion regulation -- emotional regulation, stress
4 response, memory, and even physical health because the
5 brain is still wiring itself in childhood. The Erik that I
6 know and love has grown, matured, and transformed into a
7 thoughtful, resilient, and hardworking man. He dedicated
8 himself to building a career of reforming and improving
9 the rehabilitation programming with the correctional
10 system. He has dedicated himself to building a career
11 around making the environment for inmates in the
12 California correctional system better so that upon release
13 incarcerated individuals can reintegrate into society with
14 the ability to meditate and reflect on their choices while
15 working to maintain healthy choices to stay out of the
16 correctional system. Erik has fought to teach himself
17 healthy coping skills and behaviors while incarcerated so
18 that he can be a better role model for those around him.
19 Erik has in -- intentionally worked to maintain a life in
20 prison that avoids violence and a relapse into criminal
21 thinking. Erik has spent years working to help inmates
22 work through their journeys of healing while incarcerated.
23 This includes committing himself to learning American Sign
24 Language to help deaf inmates communicate. Erik has worked
25 hard to earn the approval to establish support groups for

1 disabled and elderly inmates that provides hos -- hospice
2 care, meditation classes, and Toxic Shame workshops to
3 help inmates through the trauma that brought them to
4 prison. If you should grant parole to Erik, I very much
5 look forward to supporting and insisting, uh, assisting
6 Erik continue this work. In my discussions with him, Erik
7 emphatically explained to me in detail how he would take
8 back every second of what he did On August 20, 1989. In a
9 visit with him, Erik went through the night of the
10 murders. I know in my mind and in my heart that Erik takes
11 responsibility for what he did that day. In the event of
12 his release, I am very much looking forward to supporting
13 Erik and working with him as an accountability partner in
14 his continued personal development, in his healthy
15 relationships, support networks, and Relapse Plans. The
16 very foundation of all these plans is self-awareness,
17 honesty, and accountability, and I'm ready to hold Erik to
18 a high standard with -- with all of these qualities.
19 Healthy relationship boundaries are about knowing
20 yourself, communicating openly, respecting differences,
21 and balancing closeness with individuality. They protect
22 your wellbeing while keeping relationships safe,
23 respectful, and sustainable. Ultimately, healthy
24 relationships and boundaries are about keeping yourself
25 and those around you safe. I'm ready to hold Erik

1 accountable to keep himself and those around him safe. I'm
2 also looking forward to helping him connect with other
3 leaders in healthcare to expand and deepen the hospice
4 program for correctional systems. Between leadership,
5 finance, regulatory quality, and operations, I can connect
6 Erik with leaders who can collaborate with him. The
7 actions that occurred on August 20, 1989, were tragic,
8 desperate, and unspeakable. However, over the years, Erik
9 has created the space for me to ask questions, express my
10 concerns, and discuss the crime. Between these discussions
11 with Erik and his work to improve the correctional system
12 and environment while incarcerated, I have come to
13 understand Erik in a completely different way. I have come
14 to understand how I process the crime in a different way.
15 I have come to understand forgiveness and repentance in a
16 different way. I have come to realize that I forgive Erik,
17 although I completely disagree with his actions. Given the
18 violence he survived, I have come to understand all of
19 this in a way that he has driven me to keep fighting
20 legacy -- that he has driven me to keep fighting for the
21 legacy that my grandmother started in 1990. I have
22 forgiven Erik, my family has forgiven Erik, and we are so
23 eager and would love nothing more than to welcome in --
24 him into our homes. Thank you, to you both."

25 **PRESIDING COMMISSIONER BARTON:** All right. And,

1 uh, go ahead and give your statement.

2 **TIFFANI LUCERO PASTOR:** I just need a -- a sip of
3 tea here.

4 **PRESIDING COMMISSIONER BARTON:** No, go ahead. I
5 know the feeling.

6 **TIFFANI LUCERO PASTOR:** You know who I am. I've
7 introduced myself twice. You know my name. I am the oldest
8 daughter of Karen VanderMolen-Copley, who you'll hear from
9 later, and Joan Andersen VanderMolen's oldest grandchild.
10 There are six years separating me and Erik, so in 1989, I
11 was just beginning my teen years, ready to take on the
12 world. What occurred in August 1989 shattered our family.
13 To say that our family has experienced pain does not quite
14 capture what the last 35 years have been like. This
15 tragedy has been nothing short of devastating. It has
16 divided us. It has caused us panic and anxiety, and
17 overall, it resulted in many of us retreating. I am one
18 such example -- example of someone who fled. When my
19 cousins experiences started unfolding, I fell deeper and
20 deeper into shame. I escaped. I didn't watch media
21 coverage. I've never watched a single show or documentary,
22 and but for less than a handful, I didn't even watch
23 interviews of my own family members, not my grandmother,
24 and not my mother, not even my little sister. I turned
25 away nearly every time a story was reported. You wouldn't

1 know I was a trial lawyer. Um, the media coverage of our
2 family tragedy was the salt in the wound of losing four
3 people in such horrific ways, but having a firsthand view
4 of the daily impact on my mother, her siblings, and most
5 of all, my grandmother, was nothing short of paralyzing
6 for me. Being more than I could bear, I ran away so that I
7 could create a life wholly independent of any of the
8 skeptical. I am now 48 years old. I am just a little older
9 than my Aunt Kitty when she died. What I know now is when
10 one has no hope, and then one is given hope, it follows
11 that one can change. I've been married nearly 19 years,
12 and I'm happy to say that while not always perfect, I have
13 quite a healthy marriage as we each commit daily to
14 productive and loving ways of working together. And we
15 have three amazing sons, the oldest of whom is nearly the
16 age Erik was in August 1989. I have watched my go -- my
17 boys grow and develop and know that a young man's brain
18 does not offer the rational thought processes of a mature
19 adult capable of seeing the forest for the trees. And now,
20 having ironically fallen into a professional arena that
21 has me working with survivors of childhood sexual abuse, I
22 cannot imagine the prison in which Erik lived even before
23 he turned 18. So, my teen and adult life, my deep shame
24 and need to run away meant I would turn away from my
25 grandmother as she repeatedly called upon me to visit my

1 cousins. She would share with me that they were curious
2 about me and my life, and I would change the subject. Once
3 I became a lawyer, she called upon me even more
4 frequently. Candidly, she was nothing short of relentless
5 in her ongoing effort to -- to just -- effort, not just to
6 bring me closer again to Erik or Lyle, but to see if there
7 was anything my legal training and experience could do for
8 the boys, as she always called them. To be clear, her hope
9 is resilient and contagious. Most recently, my staff was
10 walking the halls looking for me, smiling and giggling
11 about how Grandma Joan was on the phone again looking to
12 talk to me. She wanted to be sure she had my phone number
13 right so that Erik could call me. Eventually, Erik and I
14 reconnected. I can say with great clarity that while he is
15 still the kind, gentle soul that I knew as a child, that
16 he is still that but with the consoling maturity of a man
17 who has done great soul searching and great work. As a
18 girl, I always imagined that Erik and I would live our
19 twenties swapping stories about young adult life and that
20 maybe later we might have our families visit one another,
21 even vacation together. You see, he does not know this
22 because never before have I had the courage to shed my
23 shame of being related to an aunt and an uncle who could
24 promulgate such unspeakable horrors, and talk with my
25 cousins who took matters into their own hands in such a

1 stunning and awful way. Erik and Lyle changed that for me
2 in May 2025. I went to two hearings in May of this year as
3 the more experienced, elder, lawyer sister, who was not
4 going to allow my baby sister Tamara to testify without
5 being there. But it turns out, I was the one who ended up
6 needing the support as I faced what I had been avoiding
7 for my whole life. Erik's remorse, his ability to truly
8 see the impact of what he did and to be accountable and
9 take responsibility for it was life-changing for me. It
10 has inspired me to do better. It is teaching me how to
11 listen better to my clients, whether they're -- whether
12 they are struggling with how to live productively with
13 child sexual abuse, or grieving the loss of their family.
14 Erik has shown me the hope and light that my grandmother
15 Joan always has been. I will no longer turn away from my
16 grandmother's calling. I decided, in fact, that I'm
17 picking up where she has had to pause. She is 93 years old
18 and at a place in life where she needs a rest. Saint
19 Ignatius of Loyola famously said, "Love is shown more in
20 deeds than in words." The Erik Menendez before you today
21 shows his love in deeds and not just words. The decision
22 to put love into action breeds hope, and it allows faith
23 to grow in places that are dark and unbelieving. I am here
24 to support Erik. While I cannot be Joan and could never
25 fill those shoes, I will take the baton she has been

1 trying to give me for so long. I want Erik to know he is
2 where he is because of a choice he made. I have not been
3 around even when Joan asked me because of a choice I made.
4 I am here today because I choose to be. Erik and I have
5 not had the benefit of time together because of a choice I
6 made. I am a person who holds high standards and values
7 for those around me and will do the same for Erik. I love
8 my people hard and expect -- expect great things from
9 them. I, too, have done the work to shed the generational
10 dysfunctions of codependency, seeking love and validation
11 from outside of myself, and a lack of coping skills. I,
12 too, have learned that de-escalation comes with
13 communication. I, too, have learned that trauma doesn't
14 just magically disappear. These are all challenges passed
15 from generation to generation that can, have, and will
16 stop with us. I will support Erik. I will answer his calls
17 day or night. I will tell him the truth, even if it's
18 inconvenient, unpopular, or hard to hear. I will hold him
19 accountable for the man he has shown us he is. I will hold
20 Erik responsible for showing my children, three boys about
21 to embark on their own adulthood, our family's future. I
22 trust him. I love him. I have always held him close to my
23 heart, even if I didn't do a good job of showing him. Erik
24 has a family network here waiting to support him, to love
25 him, to laugh with him, to cry with him, and to remind him

1 of who he is and who he wants to be. I love him. My
2 grandma loves him. We all love Erik. Today, we have heard
3 from so many supportive family members who have and are
4 putting the pieces back together. We have all faced shame,
5 searched for our faith, questioned who we are, and
6 questioned how we can move forward. Our family of origin
7 was lacking on a lot of the lessons we've learned, but
8 individually and collectively, we have decided to be
9 better and to do better. I ask that you take what our
10 victim family has said to heart and to grant Erik parole.
11 Simply put, I ask that you help us to heal. We are ready
12 to close this wound that remains open with his continued
13 incarceration. Thank you.

14 **PRESIDING COMMISSIONER BARTON:** All right, thank
15 you. Next, I have Kathleen.

16 **KATHLEEN SIMONTON:** Hi. Um, my name's Kathleen
17 Simonton. I'm the daughter of Joan An -- um, Andersen
18 VanderMolen. Um, Kitty was my aunt. I was gonna say a lot
19 more, but it's been expressed over and over a about quite
20 a few things, and I'm quite nervous. So, I'm gonna just
21 say a few things. To start with, I really love Erik. I've
22 always loved Erik. Um, I forgave him a long time ago about
23 what he did. Um, he's always shown me remorse and has
24 shown my family remorse for what he did and it -- and how
25 important it is for him to do good from now on. I've been

1 able to see his transformation over the 35 years, and it's
2 genuine and it's real. Um, he's turned his -- turned the
3 reality of his upbringing, one that was hidden behind
4 appearance and affluence and discipline, into an
5 understanding that will allow him to be a productive man
6 in our community and society. I lived with them for a few
7 months, and it was probably one of the worst times in my
8 life. It was depressing and horrible, and I -- it's in my
9 letter to you, um, some of the stuff, so I won't go into
10 that. But I can understand what it would be -- I -- I
11 can't understand how he survived, um, what it was like
12 being small children growing up with an aunt and uncle
13 alone, growing older, not knowing how to get out of the
14 abuse, control, and depressing environment that I knew.
15 Erika has grown into an amazing man with the deep caring
16 for others and sense of responsibility and accountability
17 to others. I've watched his -- this development and -- and
18 he's grown into a mature man. Erik has accomplished so
19 much and helped so many. I'm extremely proud of him, and
20 he has not -- and he's not wasted his time in prison. We
21 are a family committed to continued support we -- for him.
22 We support his release and know his rehabilitation to be
23 true and meaningful. I will be available like everyone
24 else for any support he needs for phone calls and anything
25 else. I'm committed to being a source for grounding for

1 Erik if he needs it, like all of my family. I hope
2 everyone can see how far Erik has come and the good work
3 he will still accomplish, and that this is the time for
4 their -- his good work to continue beyond prison. Thank
5 you.

6 **PRESIDING COMMISSIONER BARTON:** And thank you. And
7 we do have your letter, and I'm mindful of it. Um, next, I
8 have Marta Cano Hallowell.

9 **MARTA CANO HALLOWELL:** Hello, Commissioner. Um, as
10 you said, my name is Marta Cano Hallowell. I am niece of
11 Jose Menendez and Erik's first cousin. My sister, Eileen,
12 spoke a little bit ago. She talked a little bit about my
13 brother, Andy, that I'd be remiss if -- if I didn't
14 mention Andy. My family moved to New Jersey in 1979 to be
15 close to the Menendez and the Baralts. Andy was five, Erik
16 was seven, and they hit it off. They were very close
17 friends. Shortly thereafter, Erik shared the molestations
18 with Andy, told him he didn't -- they did not have the age
19 or the maturity to understand what was going on, but Erik
20 told him. And as their relationship continued, they
21 continued to share these -- these secrets and these
22 stories, and Erik kept Andy abreast. And, um, I'm sure
23 you've heard there -- there's a letter out there that
24 actually shows some of the conversations that were going
25 on with them. Andy stood by -- stood strong, and it wasn't

1 until 1990 at the trials that Andy revealed that Erik --
2 that the -- Erik had told him about the molestations. None
3 of us knew. Andy was 16 and had kept the secret all that
4 time. In addition, in 1990, um, as Eileen mentioned, when
5 Erik flew from, um, Israel, he flew to Florida, and my --
6 both my mom and Andy joined him on his flight to turn
7 himself in. Um, and on that flight, Erik actually told
8 Andy that he'd committed the murders, another secret that
9 Andy felt inclined to keep, or that they discussed that
10 Andy should keep. A lot of secret to bear for a -- at the
11 time, Andy was 14. And, um, during the trials at 16,
12 again, this is when all this came about. That said, um,
13 keeping these horrendous secrets inside of him actually
14 really destroyed my brother. It was too hard for him. He
15 felt guilty. He felt that it was his fault, that he could
16 have done something about it because he knew what was
17 going on. He felt the murders and everything else had been
18 his fault, and that he should have stepped in and helped
19 Erik. Um, Andy spiraled into depression, which eventually
20 took his life, um, at 29 years of age in 2003. That's not
21 -- I could tell you that Andy would be here right now
22 being Erik's biggest advocate, talking about his
23 character, talking about how strong Erik can be and -- and
24 supporting him. Um, I know he would be talking. He would
25 be very proud of his cousin and his rehabilitation

1 efforts, and what I -- his outstanding accomplishments. I
2 am sure that he would tell Erik that he's very proud of
3 the man he has become. Though, um, I -- I -- I kept -- so
4 now I will switch. I kept abreast of what was happening,
5 and, um, similar to Tiffani, kept a little far from what
6 was going on. I was the older cousin. I -- I -- I was the
7 one actually that when my uncle, um, and Aunt Kitty died,
8 they were buried in Princeton, and I was the one that did
9 all the funeral arrangements 'cause I was there. So, I
10 wasn't four and I wasn't six. I was -- actually had, um,
11 was -- had just been married. I was in my twenties when
12 all of this happened. And, um, so, I kept my distance. I
13 knew what, through my mother, who was a huge supporter and
14 advocate of both Erik and Lyle, I knew what was happening,
15 kept abreast of her. And it wasn't until 19, uh, or 2019
16 when my mother came to live with me that I truly began to
17 see who Erik had become. My mother had constant
18 conversations with Erik, and she would listen to them on
19 speakerphone, so I would hear the conversations. And here,
20 I witnessed firsthand Erik's significant growth and change
21 and how he enthusiastically described the project that he
22 was working in, and what he had designed, and how proud he
23 was, and -- and all of this within prison walls. I didn't
24 even know that was even possible. Um, his resolve to make
25 a difference was impressive, and -- and the fact that he

1 was really determined to prevent others from taking the
2 same path and suffering the same fate that he had really
3 took me by surprise. I was touched. So, I really began
4 listening further and understanding what he was going
5 through and how he had changed. From my perspective, um,
6 Erik was more of a self-centered, uh, antisocial kid that
7 really didn't, you know, said "Hi," but felt like he was
8 entitled. And now, he was a different person. He had truly
9 changed. I was very taken back by that. His determination,
10 um, excitement and drive really, um, took me by surprise.
11 Um, he has become a caring, considerate, and intro --
12 introspective and empathetic adult, um, during -- and
13 trying to make a difference and motivated from within to
14 help others find themselves and succeed, all of which he
15 has been doing behind prison walls, truly without the
16 possibility of parole. I was deeply touched by his
17 expression of remorse and experiences as many
18 conversations ended up, "And I can't tell you how sorry I
19 am for all that -- that -- the hurt that I have caused all
20 of you and the whole family. Um, I was also so embarrassed
21 by my actions, and I wish I could turn back time and make
22 different choices." Quite frankly, I found Erik's positive
23 outlook, enthusiasm, and his resolve inspiring, especially
24 given his situation. I have now since reestablished my
25 communications with Erik, and we speak often. And during

1 one of my recent conversations after his re-sentencing, we
2 spoke about reconci -- his reconciliation journey, the
3 struggles that he went through to learn to forgive others,
4 as well as learning to forgive himself. The challenges of
5 overcoming the self-loathing that he felt and that he had
6 always felt throughout his childhood and that he carried
7 with him forever. He spoke about how being placed in a
8 position of having to care for others, which as he
9 explained was his first job, changed his life, and it gave
10 him purpose and meaning, and he was thankful for the --
11 purpose and meaning. He was very thankful for the support
12 from his family and especially from my mom, his godmother,
13 who helped him through the tough times. We spoke about the
14 future and his plan to be an advocate for prison reform
15 and his determination to raise consciousness of the need
16 for elderly care at an LWOP prison. Erik believed that it
17 was his responsibility to spread awareness about child
18 abuse and the lifelong impact that it has on those
19 affected. "I need -- I need to be the voice of those who
20 are not heard or cannot speak for themselves," said Erik.
21 "Lyle and I have received thousands of letters from, uh,
22 people who were abused and molested as children, and I
23 believe it is my calling to speak out for them." It is
24 clear to see that Erik understands the unique position
25 that he is in to make a difference in the lives of many

1 and is ready, determined, and committed to follow that
2 path. Um, I will be also part of Erik's accountability
3 network and helping him reintegrate into society and
4 pledge to have weekly contact with him, providing
5 guidance, support, oversight, and open communication in
6 the integration process. By no means do I, um, think that
7 Erik is perfect or he's done. I know he still has a light
8 -- a long road ahead of him, a long journey, but he has
9 all of us there with him to support him. We will be
10 standing by him, make -- keeping him accountable, making
11 sure that he's making the right choices, and making sure
12 he second guesses himself if there's anything that we
13 consider not quite how it's supposed to be. We will keep
14 him accountable. On behalf of myself, my brother, my
15 mother, and the rest of the Cano Menendez family, I thank
16 you for taking the time for listening and for taking into
17 consideration our experiences and commitment as you
18 determine Erik's qualifications for parole. We're hopeful
19 for a life which includes Erik back in it, in our family,
20 and we feel that he's ready. Please take that into
21 consideration that as family of the victims of Jose and
22 Kitty Menendez, we have no doubt that Erik will thrive
23 outside the prison, and we assure you that we have the
24 support from -- he will have the support from his entire
25 extended family. I love Erik, and I am willing to do

1 whatever it takes to support him and help him through the
2 process and ensure his success.

3 **PRESIDING COMMISSIONER BARTON:** Thank you. Next, I
4 have Sarah on the list.

5 **ERIK MENENDEZ:** Commissioner, can I ask to use the
6 restroom before?

7 **PRESIDING COMMISSIONER BARTON:** Yeah, that's
8 perfectly fine. We've been at it for a while. It's 4:20
9 p.m. Let's take a break.

10 **KAREN VANDERMOLLEN-COPLEY:** I think I got skipped.
11 This is Karen. Do you have me not after Marta?

12 **PRESIDING COMMISSIONER BARTON:** On -- oh yeah,
13 you're -- I'm sorry. I have you under, unfortunately,
14 Marta's is too -- I -- the way I have it printed out, it
15 didn't come to me probably the way you have it, but, um,
16 yeah. We'll come back to you after we've taken a break.

17 **KAREN VANDERMOLLEN-COPLEY:** All right, thank you.

18 **PRESIDING COMMISSIONER BARTON:** Let's go in
19 recess. We'll be back at 4:30 p.m. to continue statements.

20 **KAREN VANDERMOLLEN COPLEY:** Thank you.

21 **RECESS**

22
23 **DEPUTY COMMISSIONER STERN:** Okay. We are back
24 recording.

25 **PRESIDING COMMISSIONER BARTON:** We're back on the

1 record in the matter of Mr. Menendez's initial parole
2 consideration hearing, um, with the primary parties that
3 were present, and we are also bringing back victim family
4 members who are speaking. Uh, Mr. Balian, are you there?
5 Can you just acknowledge?

6 **DEPUTY DISTRICT ATTORNEY BALIAN:** Yes, I -- I am
7 here.

8 **PRESIDING COMMISSIONER BARTON:** All right, thank
9 you. And I see Ms. Rummel. So, I think, um, we can go back
10 to taking statements. Uh, the next person I have on the
11 list is Karen.

12 **KAREN VANDERMOLLEN-COPLEY:** Yes. Um, this is Karen
13 May VanderMollen-Copley. I am the niece of Mary Lou Kitty
14 Menendez, daughter of Joan Andersen VanderMollen, who is
15 Kitty's older sister. Um, I'm here to share a complicated
16 truth, one that we as a family have been left to unravel
17 in the face of sensationalism and endless scrutiny. For 35
18 years, our families have endured the -- in the face of
19 sensationalism and endless scrutiny, um, we've been left
20 to unravel the truths. Um, we've endured not only the
21 grief of loss, but also the shame and ridicule of seeing
22 our truths distorted into entertainment. The public has
23 been shown only the scandalous parts, while the deeper
24 reality, including the abuse and suffering that led to it,
25 have been largely ignored, leaving a false and incomplete

1 picture of what did truly happen. On the night of August
2 20, 1989, our family was torn apart. Our family suffered a
3 heartbreaking loss of four people. And, but for me, the
4 sense of loss and fear began long before that night. Even
5 as a young woman and later as a mother whenever I visited
6 Jose, Kitty, Lyle, and Erik, there was always an
7 overwhelming sense that something was just not right. The
8 tension and dread were so palpable that I carried guilt
9 for years afterwards, feeling that I should have asked
10 harder questions, pushed for a response, or seen the truth
11 more clearly. I now know silence did not mean safety. It
12 meant concealed pain. Since Erik has been incarcerated, my
13 visits and calls with him have helped me on my own journey
14 of healing. Erik's remorse and apologies voiced sincerely
15 and humbly to me since my very first visit with him at the
16 LA County Jail, they've given me courage to begin facing
17 my own pain. As boys, Erik and Lyle lived under the
18 intimidation of their parents and the constant fear of
19 punishment and being raped by their father. My Aunt Kitty
20 could not or did not intervene, and that absence of
21 protection deepened their fear and confusion. She was
22 present, but unprotective, and her silence allowed the
23 abuse to continue. In the decades since, I have watched
24 Erik confront those wounds as they became scars. Um, I've
25 watched as he's grown and matured into a man of compassion

1 and responsibility. He has studied the impact of childhood
2 sexual abuse, first, to understand himself, and then to
3 create programs to help others heal. Through his work,
4 he's also learned how to better manage his own emotions.
5 Erik and I have had deep conversations about trauma, his
6 and mine. We talk about how the lack of affection and
7 direction from parents as children shaped patterns of
8 behavior that weren't always productive. We've spoken
9 about the betrayal I felt when I realized that my favorite
10 aunt was not the person I remembered as a little girl
11 growing up in Chicago, and how that left me questioning my
12 own judgment, even my trust in people close to me, to the
13 point of doubting who my own mother was for a time, and
14 about how sad and confused I was. The multiple times I
15 went to Kitty to talk about my concerns and the
16 embarrassment and shame I felt trying to become close
17 enough to her so that she would share. We have shared --
18 Erik and I have shared stories of being in codependent and
19 abusive relationships and how to stop these cycles of
20 abuse and codependency. Erik has shown me he's done the
21 work to identify these cycles. Sharing these truths with
22 Erik has been profoundly healing for us. He has learned to
23 face painful feelings rather than avoid them and recognize
24 how trauma shaped his reactions and how -- and how to
25 replace those old patterns with healthier choices. We have

1 recognized how lack of affection and direction in
2 childhood caused us to make immature decisions and fear
3 others, and how you learn to overcome and grow into
4 responsible adults. Our discussions remind us that healing
5 is a lifelong journey, one strengthened by honesty and
6 shared love. Erik's healing is also reflected in the way
7 he serves others. He continues working with elderly
8 inmates to support them in their later years in life, and
9 he helps prisoners develop skills to support their mental
10 health and healing. He has identified the need for
11 hospice-level care within the prison system and helped
12 bring that into action and earned his bachelor's degree
13 from UC Irvine. His artwork, including pieces painted in
14 the yard at Donovan reflects his depth, vision, and
15 healing. He's done all of this without the expectation of
16 release. He did it simply because it was the right thing
17 to do, and he's taken something that was once silent and
18 unimaginable and seemingly impossible to understand and
19 shown us how to grow, how to help, and what is possible
20 when you have true remorse. Through these conversations, I
21 have also begun my own healing. In learning from Erik
22 about abuse, trauma, and the process of recovery, I have
23 found a deeper understanding of myself. Knowing the truth
24 has allowed me to forgive, forgive what happened, forgive
25 the silence, and even forgive myself for the guilt I've

1 carried for so many years. My mother, who is now 93, has
2 been touched by Erik's compassion and wisdom. She requires
3 more help than previously, and from prison, he has offered
4 me guidance, encouragement, and emotional support as I
5 care for her. Erik loves my mother, and she loves him, and
6 she wants nothing more than to see him and hug him outside
7 of prison. As an accountability partner, I will hold Erik
8 accountable by being a steady presence in his life and
9 part of the accountability team committed to his success.
10 I will stay in close communication with him, checking in
11 regularly and as needed to be sure his choices reflect
12 responsibility, integrity, and care for others. I'll
13 encourage him to set meaningful goals, follow through on
14 them, and evaluate whether his activities are positive and
15 productive. When possible, I hope to accompany him in the
16 community setting to observe how he interacts and how he
17 adjusts, offering both guidance and honest feedback. My
18 role is to support him with compassion, but also to remind
19 him of the responsibility he carries as he builds a life
20 of contribution and accountability. Erik is now a mature
21 man, no longer the frightened boy reacting to intimidation
22 and abuse from his father or to the silence of a mother
23 who could not protect him. I believe wholeheartedly he is
24 no longer a danger to society and that he never was. In
25 fact, I believe he has the skills, compassion, and

1 determination to be an asset to any community. I'm proud
2 to stand in support of him and to be a part of the
3 accountability team that will help him succeed. I believe
4 we will see him blossom, not as someone defined by his
5 past, but as a man who has faced his mistakes, grown
6 through them, and is ready to live a life of contribution
7 and integrity. Thank you for allowing me to share these
8 words.

9 **PRESIDING COMMISSIONER BARTON:** Thank you, ma'am.
10 Next on our list is Sarah.

11 **SARAH MALLAS:** All right. Hello. Can you hear me?

12 **PRESIDING COMMISSIONER BARTON:** Yes.

13 **SARAH MALLAS:** All right. Uh, my name is Sarah
14 Mallas, S-A-R-A-H, Mallas, M-A-L-L-A-S. Uh, as stated, I'm
15 the great niece of Kitty and Jose Menendez. Uh, the most
16 important, um, connection I have to Erik is through my
17 father, Brian Alan Andersen, Jr., who you'll hear from,
18 uh, in a little bit. Uh, he is Erik's first cousin. Uh,
19 when he was younger, my dad spent time at his Aunt Kitty
20 and Uncle Jose's house. Uh, and as he will touch on later,
21 his time at the Menendez home was not always the happy
22 family time that other people might imagine when they
23 visit their families. Um, as I grew up, my dad had, uh,
24 has shared a lot of information with me about his
25 experience in their home. Uh, he described a lot of

1 ridiculous expectations, uh, unique and undue punishments,
2 and a general feeling of being tolerated rather than being
3 loved. While I am glad, um, that my dad was truthful with
4 me about his time there, it also hurt a lot to know that
5 he was treated this way by his own family members. Uh, I
6 love my dad, and knowing that this was an environment he
7 was put in multiple times made me grieve for him in a way
8 that most daughters never do. Most, uh, good dads are
9 always protective of their kids, uh, and I believe that
10 the experiences that my dad had while visiting his Uncle,
11 uh, Jose and Aunt Kitty had an enormous impact on the way
12 that he raised me. Uh, him and I have always had a really
13 close connection. The common theme, uh, that he had was
14 protection, um, from anyone who might hurt me. He, uh,
15 reiterated that lot, um, and still does. Uh, he felt and
16 still feels a weight on his heart that he wasn't able to
17 do anything about the home in which Erik was growing up,
18 despite, uh, trying multiple times to reach out to his own
19 family members about how something was wrong. Instead, he
20 channeled that protection to his parenting of me, and I'm
21 very grateful for it. Now, uh, throughout his time in
22 prison, Erik has expressed remorse, shown growth, and has
23 spent his time helping others. Erik has shown incredible
24 remorse for his actions on August 20, 1989. He has
25 expressed his full responsibility for that week and for

1 all of the actions that he took following. He has done
2 this in multiple ways through conversations with his
3 family members over the years, throughout documented
4 articles like his resentencing statement, and with us
5 today. Erik's involvement in programs while incarcerated
6 show his dedication to growth. He created the Life Care
7 and Hospice Connections program, which not only helps
8 inmates who are elderly or have disabilities, it also
9 seeks to educate other inmates to the physical and
10 emotional struggles of their less-abled peers. Uh, this
11 resonates with me a lot because I'm a teacher, and I work
12 with students with disabilities every day, and it's
13 important that those people are recognized and seen for
14 the gifts that they are. Erik has also been a part of the
15 VIVE Workshop, Alternatives to Violence Project, and
16 numerous other programs, and I know you have an amazing
17 list, um, while he's been incarcerated. Some common themes
18 of these programs have been understanding, empathy,
19 mindfulness, trust, and cooperation. He has chosen to make
20 the best of his situation by helping the people around
21 him, and he has committed himself to helping to
22 rehabilitate his peers who have the opportunity to really
23 -- to be released despite the fact that he knew for a long
24 time that he hadn't had that opportunity himself. Now, I
25 was born in 1986, uh, which means that I can't recall a

1 time when the strategy wasn't a part of my family. When I
2 was little, I only knew that sometimes our family was on
3 the news. And, uh, as I grew up, I became more aware of
4 the impact the publicity of this case had and continues to
5 have on all of, uh, our -- sorry, on all of us. The
6 experience of the last year alone has been stressful and
7 challenging. However, it has given me the opportunity to
8 spend time with the victims and family members you are all
9 here hearing from today. And I'll be honest, I didn't know
10 many of them well because our family has been so fractured
11 in our grief. I didn't get to grow up knowing all these
12 wonderful people, um, because we were so segmented. Coming
13 together to rally around Erik has been incredibly healing,
14 but the pain still hangs thick in the air for all of us.
15 All of these appearances and statements weren't for any
16 kind of show or anything like that. Uh, they were an
17 effort to demonstrate to the courts and to the world how
18 much we forgive Erik for his actions. I forgive Erik for
19 all that he did, and I want you to know that the Erik that
20 sits here with us today is very loved. We have suffered
21 for decades. My family wants to heal together. We need to
22 heal together, not fractured. We deserve this time to heal
23 our -- together, so please give us the clo -- this
24 closure, and allow us to move forward together as a
25 family. Thank you, Commissioner.

1 **PRESIDING COMMISSIONER BARTON:** All right, thank
2 you. Um, next I have Anamaria. We lost somebody. Is she
3 here?

4 **ANAMARIA BARALT:** Yes, I'm here. Uh, hello,
5 everyone. Uh, I -- I edited quite a lot out since so much
6 has been said by so many of these family members here,
7 which is really, um, a beautiful, beautiful thing to
8 witness and to be part of this family. My name is Anamaria
9 Baralt, and I am Erik's first cousin. Uh, his parents,
10 Jose and Kitty, were my aunt and uncle. Erik and I grew up
11 like twins. We are three months apart, and we lived in the
12 same town for most of our childhood. Along with Lyle and
13 our other cousin, Andy Cano, who you've heard quite a bit
14 about today, we were a close little group in a big and
15 often overwhelm -- overwhelming family, a little foursome,
16 if you will. The murders happened the day I arrived at
17 college as a freshman. Erik and I were 18 years old. It
18 was August 20, 1989, and I was shocked. I was even more
19 shocked when I learned that Erik and Lyle were the
20 perpetrators. I felt betrayed that they lied to us. I felt
21 hurt that they hadn't confided in us, and the next few
22 years were devastating. Under the weight of relentless
23 media attention and indescribable emotional devastation,
24 Andy and I both spiraled. We both turned to self-
25 destructive behaviors, and ultimately Andy lost his life.

1 And then there was one. The truth is, I was never angry
2 with Erik or Lyle. I just missed them desperately, and I
3 mourned the loss of them in my everyday life, as well as
4 the loss of my aunt and uncle, and I watched my mother and
5 father cry a lot. It breaks my heart now to look back to
6 see the difference in how our parents treated us. My
7 parents, full of love and encouragement, while his parents
8 ruled of pressure and intimidation. They embodied the
9 principle of first is first and second is last. Even as a
10 child, I didn't wanna play games with my -- card games
11 with my uncle because he cheated, even against children.
12 First was first, second was last. Contrast that with the
13 unwavering integrity of my own father, his Uncle Carlos.
14 But what heals me, what gives me hope is the man Erik has
15 become. His transformation is extraordinary. He has faced
16 his past with courage, as you saw today. He has devoted
17 himself to growth, to healing, and to service. Today, he
18 is grounded. He is intentional. He carries his sensitivity
19 with strength and grace, and he has that same integrity of
20 my father. His Uncle Carlos would be very proud. I saw
21 this most clearly in the way he cared for my mother when
22 she visited him this year. My mother is still grieving
23 from the death of my father, and Erik knew exactly how to
24 be with her in her grief. He didn't try to fix it. He
25 simply held space with compassion, with patience, and with

1 love. Today, Erik spoke about generational trauma. But
2 what I would tell him and what I have told him is that
3 through Erik and Lyle, my sons have learned the lessons of
4 redemption, of accountability, of forgiveness. My kids
5 know that in our family, we forgive. My kids know that it
6 is never too late to turn your life around. My kids know
7 that it is never too late to take accountability for
8 mistakes and make amends. If Erik is granted parole, I
9 will support him fully in every way that I can. I am
10 committed to walking beside him. We share a passion for
11 helping people heal from trauma through yoga and
12 meditation. We've talked about co-leading trauma-informed
13 retreats. We want to use our experiences to help others
14 heal, even as we continue to heal ourselves. Finally, you
15 heard earlier from my mother, Terry Baralt. If I had all
16 the time in the world, I could never truly describe the
17 trauma of the last 36 years for her, for my father, and
18 for our family. As it stands now with my mother, we are on
19 borrowed time. I don't actually know how much time we have
20 left, so I -- now, I'm speaking to you as a daughter. I am
21 pleading, begging you to allow my mother closure, to end
22 the torture for her and for all of us, to allow her to be
23 with her nephew again by granting him parole. Thank you
24 for listening.

25 **PRESIDING COMMISSIONER BARTON:** All right, thank

1 you. Um, next, I have Erik V.

2 **ERIK VANDERMOLEN:** Yes, sir. Okay. I'll try and
3 keep this short and reiterate what I would otherwise have
4 already written and everyone else has said. Um, so the
5 first time, uh, I heard from Erik after he was imprisoned
6 was, I think, Christmas of 1996 when he made a collect
7 call to family. Our family used to spend Christmas, the
8 holidays together. This is the full extended family of the
9 VanderMolens. Um, I, uh, accidentally hung up on him. Uh,
10 it was my first time receiving a collect call. I was, uh,
11 just a teenager then. And, um, the reason I'm sharing that
12 story is because, uh, just this week, Monday, I had called
13 my nephew, Natascha's son, and was wishing him a happy
14 birthday when, uh, he got another incoming call and also
15 accidentally hung up on Erik, who was also calling to, uh,
16 wish him a happy birthday. Um, so, a lot has changed
17 between, you know, those two incidents, um, a whole
18 generation, obviously. And I -- as excited as I always am
19 to speak with Erik, um, it's -- it was quite something to
20 see, uh, my nieces' and nephews' faces light up the way
21 they do when he calls. Um, and I guess my only worry is
22 that, uh, I'm gonna have to up my uncle game, um, 'cause
23 another Erik around is gonna be some stiff competition.
24 Um, that said, I've always held Erik in high regard. I
25 looked up to him as a tennis player, but also through all

1 the work that he's done, um, while in prison. Uh, it's
2 meaningful work to me, especially the -- the
3 rehabilitation stuff, improvements on the prison yard and
4 the space. Um, something that I've, you know, personally
5 sort of researched and -- and done on my own time, uh,
6 just through my interest in architecture and -- and the
7 like, and I'm also an artist and went to art school, et
8 cetera. Um, but then more recently, getting a chance to
9 actually speak with, uh, the folks that he's worked
10 directly with or, uh, served time with him, um, which I
11 hadn't really had any access to, uh, before the more
12 recent sort of incidents. Um, but getting firsthand
13 knowledge and -- and being able to speak directly with
14 them, and I -- and I believe that you also had received
15 letters from them, um, really validated the sort of
16 positive impact that I was hearing, you know, uh, about.
17 And I -- I think that it -- it -- it -- he played a
18 bigger, larger role than, you know, even I was giving him
19 credit for. So, I -- I don't think that can be overstated.
20 Um, but most importantly, um, his release would finally
21 let the family begin to heal. Um, you know, the media
22 treating this as a spectacle, our name is sort of
23 continuously dragged through the dirt. Um, I wouldn't say
24 our dirty laundry is aired, but certainly many of the
25 families' is, um, you know, with little account taken for

1 the truth. Uh, even today, there's a news reporter
2 listening in and witnessing our families' sort of most
3 private conversations. Um, I -- I find it a little
4 strange, everyone making our business their news headline,
5 and rather than fighting our way through the cameras and
6 microphones, um, maybe we can finally start this healing
7 process. And with any luck, um, you know, Erik can be in
8 the physical presence of my grandmother who is also, um,
9 fragile and barely holding on. So, that would be a real
10 treat. And with that, I turn it back to you guys. And
11 thank you for the time.

12 **PRESIDING COMMISSIONER BARTON:** All right, thank
13 you. Um, Alan?

14 **BRIAN ANDERSEN, JR.:** Yes, Brian Alan Andersen,
15 Jr. Um, everything's been said that I was gonna say, so
16 I'm gonna really cherry pick through all the stuff I have
17 notes on. And also, uh, Mr. Barton, um, I just wanted you
18 to know that Erik and I both share the dyslexic, um, uh,
19 gene. And so, if I sound like I'm stuttering or if I'm
20 wandering all over the place, I apologize. So, kind of
21 bear with me and hang with me as best you can. Um, my love
22 for Erik is, um, unbelievable. Um, I spent three separate
23 summers with them, and just, you know, like three weeks at
24 a time except for the last year. But, um, and, you know,
25 Aunt Kitty, you know, she was my aunt, my -- my father's

1 sister. You know, I loved her a lot. She was my favorite
2 aunt also. But once I was there in the Muncie house the
3 first year, I spent three and a half weeks there, and I'm
4 telling you, um, my love for her changed dramatically. Um,
5 not only was she a liar, but she loved to get the boys in
6 trouble with things that I did. She would lie to Jose and
7 tell her that, uh, Lyle did it, or Erik did, even though
8 Erik was a small -- a smaller child. Um, and then from
9 there, it was more like she wasn't a, um, a protector. She
10 was like a warden, um, and that nobody even knew behind
11 closed doors in that house. Um, it was just -- it was just
12 extremely hell-ful. Um, and like I say in my -- in my --
13 in my transcript, I said, you know, some of my worst
14 childhood memories and memories that stayed with me are
15 about Jose Menendez, um, and it just -- it's just
16 sickening is what it is, uh, to say the least. And, you
17 know, and our Andersen side of the family, they have a
18 history of abuse, not only with my father, Brian, but his
19 brother, Milton, and their father, Charles. Um, uh, to
20 their family, the -- the history has been repeated itself
21 in spades. Uh, they say that a girl marries like their
22 father. Well, Kitty showed that this was behind the quote,
23 showed that, no problem. Um, so, it -- it just makes no
24 sense that nobody believes us. You know, there's a lot of
25 ridicule and whatnot out there, uh, against the boys. And

1 unless -- unless you lived in the house, you know, and I'm
2 gonna be a little cold and crass here what I'm about to
3 say, but you know, unless you live in the house, their
4 death by the boys didn't surprise me. Um, I was kind of
5 glad they were no longer, uh, here to impact pain on other
6 people, because I know that would've -- would've kept on
7 occurring. But I mean, just because of that, as when I
8 came back from visiting with them to -- I go talk to my
9 father, Kitty and my father talked every day, sometimes
10 three times a day while I was there. Um, and for some
11 reason, Kitty had no problem finding my father, which I
12 found out my father had a pager that was only going to
13 Kitty. So, Kitty could dial that pager, and then my dad
14 would call her back right away. But when I went -- came
15 back from my trips, I would try to talk to my father about
16 the weird things and the things that I seen, things that I
17 heard, uh, things that his sister was doing, uh, so on and
18 so forth, and he just would look at me and say, "I'm not
19 gonna talk about it." He'd walk away from me. Well, I
20 would just totally feel defeated as a child. Um, so, I --
21 I didn't know where to go with that. Um, I was kind of
22 young. I was always between the ages of what, 12 and 14
23 when I, uh, was, uh, visiting with them. But, um, if you
24 think -- if, you know, if -- if people would just -- just
25 -- would just think back in their lives, um, the torment

1 because of the attitude that, you know, Erik, as a young
2 child, um, he had a temper, and there was a reason for
3 that temper because of the things that happened in that
4 house when, even as a small child, I mean, when his father
5 would have his brother beat the crap out of him as a
6 lesson. Okay? And then he would ask me to start jumping in
7 where I -- here I am, 12 years old, you think I'm gonna
8 start beating up on a five- and six-year-old? No, that's
9 not gonna happen. Um, so, I -- I just -- I just couldn't
10 understand that, you know, I could see and understand
11 totally, um, why they did what they did, um, because they
12 lived -- 'cause I lived part of that abuse. I mean, where
13 I was, and it, it's in my writings, um, where I was
14 punished by Jose so drastically, um, for a simple thing
15 that Kitty lied about again, that I was put in my room for
16 24 hours. I couldn't use the bathroom. I was only supplied
17 a sandwich, bag of chips, and water. It was like they --
18 they -- they made it a prison, is what they basically did.
19 And, um, what -- what's really sick about this, um, Board,
20 is that I had to go to the bathroom, and he told me to
21 figure it out. So, if I could do -- the only thing I could
22 do was open the window and -- and -- and urinate out the
23 window. Um, so, it doesn't, uh, it doesn't surprise me as
24 later in life, um, the things that I saw, um, at that
25 house and at the houses, um, the things I heard. Um, it

1 just, um, doesn't resonate with me at all, especially
2 after I've been growing. And like Sarah said, my daughter,
3 I -- I just was not gonna have any of that, any of that,
4 period, in my kind of family life, uh, that I was raised.
5 Um, my heart aches every year that Lyle and Erik and both
6 Erik and Lyle are in prison. Um, there should be no fear
7 for releasing Erik into -- into society. He -- he would --
8 society would just totally benefit having him out there in
9 the world with us. Um, Erik has been remorseful for many,
10 many, many years from the time that I've been talking with
11 him and, um, and so on and so forth. Um, I just don't
12 understand, um, why he's -- why they've been in there for
13 35 years. It just doesn't make any sense. Um, the love I
14 have for Erik is -- is unfettering. I mean, I just -- I
15 love -- I love the heck outta that kid, and, um, I always
16 will. Um, Erik's growth is so overwhelming with me,
17 especially with all the accomplishments that he's done and
18 so on and so forth. And then, um, um, but one -- one quick
19 thing about Kitty real quick is that she came to visit by
20 us, my wife and I, when we had our -- our youngest
21 daughter, um, before the murders. It was one week before
22 the murders. And the -- the factor is is that, you know,
23 one of the things that made me not be happy with her back
24 in the beginning was all the alcohol and drugs, you know,
25 the downers and the other things that she was doing, um,

1 that really altered her personality. And it really, um,
2 'cause you know, I was a streetwise kid, and I grew up in
3 a rough neighborhood, so I knew what all that stuff was,
4 um, growing up and how it affected the different parents
5 in the neighborhoods that we hung around with. But, um, it
6 -- it really -- it really resonated with me that, um, she
7 would do that. And, um, she was so messed up when she came
8 to visit us that my dad had to take her out of the house.
9 So, there's a -- was a fire lane in the back of our town
10 home there where we lived, and she had to -- he had to
11 physically hold her up to walk her around to the point
12 where when she came back from the house, my dad looked at
13 -- looked at my wife and I, and said, "We're leaving." And
14 they weren't even there for ten, 15 minutes. So, I mean,
15 it -- it was just -- it -- it just was a whole sad thing
16 about that, you know, that -- that Kitty put herself
17 through and what she put the boys through and not being a
18 protector. Um, the one thing that I wanna really thank is
19 I wanna really thank, uh, I wanna really thank Erik for
20 his truthfulness and his strength today. Um, it was
21 totally on display and shows what the true value of that
22 kid really is. I say kid because, you know, he's my
23 younger cousin. So, and that's just how I'm gonna, you
24 know, introduce myself to him, and it shows his character
25 and everything like that. Um, the one thing that you

1 should really know is when they're released, and let's say
2 for example, I don't know that that happened and they were
3 to show up at my house and I opened the door and there
4 they were, I would graciously let them in the house. I
5 would graciously give them a hug. My wife would graciously
6 make them a meal, and I would love to graciously give them
7 a pillow and a blanket and a place to sleep. Also, I would
8 love to be, for both of them, a sponsor, if that is
9 something that I am able to do through the courts, and
10 they do need sponsors when they get out. I would love to
11 be one of their sponsors. Um, I -- I support Erik and you,
12 just like you said, tremendously. Um, like I said, uh, a
13 lot of things were said that I was gonna say, so my notes
14 are all over the place. Uh, I really want to tell the --
15 tell you that I -- I -- I forget I keep saying it, I do
16 love Erik. Uh, I hope he gets out, and I hope he gets out
17 very soon. Um, I do feel for my Aunt Joan not being able
18 to see, um, him and also for the Menendez family and, um,
19 how, uh, they're having issues with their seniors, and
20 they may not be around to see Erik, and I -- I hope that
21 they get out so -- they get out so he -- he can go visit
22 them also. Um, everybody has done a tremendous job. I want
23 to say that to everybody right now. And, uh, gentlemen,
24 uh, Commissioners, thank you very much.

25 **PRESIDING COMMISSIONER BARTON:** All right, sir.

1 Next, I have Diane. Is Diane with us?

2 **DIANE HERNANDEZ:** I am. I'm right here.

3 **PRESIDING COMMISSIONER BARTON:** Okay. Again, state
4 your name and relationship.

5 **DIANE HERNANDEZ:** Yes, I am Diane Hernandez. My
6 mother is Joan VanderMolen, sister of Kitty Menendez. I am
7 the niece of Kitty and Jose. I am 12 years older than
8 Erik. I lived with my aunt and uncle and Erik and Lyle for
9 almost two years in total. I have always felt like their
10 older sister. I love my cousins dearly and support them
11 wholeheartedly. I have always known Erik to be kind and
12 gentle. Erik has demonstrated his remorse to me throughout
13 the years. I forgive my cousin for what he did. It is time
14 for him to rejoin us. It is time for us to heal. Living
15 with the Menendez family gave me a unique perspective and
16 one that I carry with me always. I'm going to edit through
17 what I have written. At first, it was fun to be around
18 Kitty. For a while, I was known as the daughter she never
19 had, and it felt so great. But then as time went on, it
20 became just awful. Kitty was controlling and demeaning and
21 accused me of flirting with my uncle, which was frankly
22 crazy because I was afraid of Jose. Jose was intimidating
23 and controlling, as well. I did not question him. No one
24 questioned him, but I still wanted to live up to their
25 expectations that one day I could gain their approval.

1 Even as an adult, I did things that I hoped would be good
2 enough, but I know now that there is nothing I could have
3 ever done that could have been good enough. It impacted me
4 so much but the impact on Erik was devastating. I remember
5 I was helping make Jose and Kitty's bed, and I began
6 talking about having children. Kitty stopped me and said,
7 "No, never have children. They only serve to cause a wedge
8 between a man and his wife." Sadly, Erik and Lyle were in
9 the adjoining den right behind us. These are the types of
10 things they grew up hearing. My heart broke for them, and
11 really, it is still broken for them. I can't express
12 enough how deeply I wish that I could have done something
13 to help Erik. All of this has had such a profound impact
14 on our family -- on our families. I have suffered and I
15 have felt so much guilt over not being able to do more. I
16 carry that guilt. My family carries that guilt. The impact
17 on my mom has been so profound. My mother lives each day
18 thinking of Erik, Lyle, and of course her sister, who she
19 loved so much. It would be so incredible for my mother to
20 know Erik is being released and even better for her to be
21 able to give them a hug and for them to see each other.
22 She loves Erik deeply. The impact on my mom -- excuse me.
23 Erik has taken full responsibility for what he has done to
24 me personally and to the family. I welcome Erik in my
25 home. He is remarkable. He has accomplished more in this

1 life than -- in his life in prison than most people do in
2 our community outside of prison. Erik has grown so much.
3 He has worked towards doing good things in any way he can
4 each day. He is not perfect, but no one -- none of us are.
5 He has learned so much and has grown so much over the 35
6 years he has spent in prison. He has found ways to do good
7 and has dedicated himself to them even when there is no
8 hope for release. Erik has found joy in his art. He shares
9 with me how painting brings him such a happiness and that
10 it is deeply satisfying to look at his work and to think
11 it is actually well done. It is a thousand-foot mural that
12 is fantastic. As someone who saw how there was rarely
13 anything that he would be praised for as a child, I feel
14 so grateful that he has found this for himself and that he
15 has gotten to a place in his life that he is able to
16 identify the joy he feels and the satisfaction and pride
17 it leaves him with. I know he is ready to continue his
18 journey outside of prison. He has our family support. He
19 has my support. A grant of parole for Erik would be so
20 healing for me, for my family, and especially my mother,
21 Joan, really just for all of us. It will allow us to move
22 on in a positive way. I wish nothing more than for my
23 mother to know that Erik is walking free on this earth
24 before she leaves it. We want this part of the process to
25 end. The pain will never go away, but I -- but it can heal

1 little by little. That's what I want for Erik, for myself,
2 for my mother, and my whole family, and even for our
3 society as a whole, we need to move forward. My hope for
4 Erik is that he is given the opportunity to continue the
5 path that he has been on for a while now, and to be
6 afforded the freedom to continue what he has learned to do
7 while in prison, that he be given the opportunity to give
8 his insight. With his humility, I know he can help others
9 do good work, too, and I know he would continue to do that
10 upon release. He has become a humble leader. I hope that
11 he finds himself with the peace and freedom that he has
12 earned. That's it.

13 **PRESIDING COMMISSIONER BARTON:** Okay, thank you. I
14 next have Marta Menendez Cano. Is that correct? Is she
15 with us?

16 **MARTA CANO HALLOWELL:** I apologize. Yes. I'm
17 speaking for, uh, reading something from my mom, um, Marta
18 Menendez Cano. Thank you. Um, Mom, Marta Menendez Cano,
19 deeply loved her brother, Jose, and sister-in-law, Kitty,
20 as well as her nephews, Lyle and Erik. She did, however,
21 have a very special place in her heart for her godson,
22 Erik. She took her role as a godmother very -- to heart,
23 and mom did her best to support Erik and as much as she
24 could, including attending birthdays, graduations, and
25 sporting events as if he was her child. She spent many

1 special moments with Erik that she cherished -- cherished
2 dearly. Following the deaths of her brother and sister-in-
3 law, Mom immediately put aside her personal grief and took
4 on a supportive role for both Erik and his brother, Lyle,
5 understanding the fragility and complex emotions of
6 teenage boys and deeming them in need of guidance and
7 direction. Since Erik's incarceration, Mom has kept very
8 close contact with her godson, speaking with him several
9 times a week and visiting him at least two to three times
10 a year as she could. She did this for 35 years. Um, she
11 made an effort to be there as well to celebrate his
12 important events, including attending his wedding --
13 wedding and being there to celebrate his birthday. Mom has
14 always had a strong faith in God. As an ordained Third
15 Order Franciscan within the Catholic Church, she has
16 always been committed to a life centered in prayer,
17 dedicated to works of charity, and promoting peace and
18 justice in the community. Since his incarceration, she
19 encouraged Erik to do the same and to turn to God for
20 comfort and forgiveness. She encouraged him to put time
21 and effort into not only repenting and asking for
22 forgiveness for those deep, um, deeply hurt, but most
23 importantly to forgive himself. She knew that he needed to
24 heal and strongly encouraged him to use his time in prison
25 productively, focusing on helping others and becoming

1 someone of whom he himself could be proud. Erik's last 35
2 years speak for themselves, and his Aunt Marta has always
3 been there by his side as he accepted his actions,
4 processed his guilt and remorse for the horrific crimes
5 that he and his brother committed, and worked towards
6 reconciliation and rehabilitation. She has been a witness
7 to his long and arduous journey and is extremely proud of
8 Erik's achievements. Mom couldn't stop talking about him.
9 She watched him mature and grow up accepting full
10 responsibility for his role in the crimes and transforming
11 him into -- into an educated, driven, and empathetic man
12 who strives to make a difference in the lives of others.
13 So strong was Mom's belief and conviction that in 2017,
14 ahead of all the rest of us, she wrote a letter to the
15 Governor, Jerry Brown, requesting that Erik be considered
16 for clemency. She felt he was ready, and that was -- this
17 was eight years ago. She was so passionate about that,
18 that she appeared in several network television
19 interviews, speaking about Erik's rehabilitation efforts,
20 emphasizing his positive attitude, exemplary behavior, and
21 his contributions to his prison environment. Sadly, in
22 2018, Mom was diagnosed with early onset of Alzheimer's
23 disease. Until very recently, her conversations with Erik
24 continued, and her drive to help and support him never
25 ceased. Mom's daily prayer for many, many years has always

1 been, "I hope that -- that someday Erik will be released
2 from -- released from prison, and I hope this happens
3 before I die." She passionately felt that Erik's hard work
4 should earn him consideration for parole, and she prayed
5 that he'd be given the opportunity to prove the role --
6 role model he'd become and his value to society. Mom is
7 currently in a memory care facility in New Jersey. It is
8 heartbreaking that she can no longer speak for herself as
9 a witness to Erik's rehabilitation journey. She would have
10 loved to be here to witness these proceedings, and I
11 guarantee you would have been completely speaking for
12 herself. I'm hopeful that Erik will soon be able to spend
13 time with his Aunt Marta and truly believe -- who truly
14 believes in him and loves him with all her heart. Thank
15 you.

16 **PRESIDING COMMISSIONER BARTON:** All right, thank
17 you. And I think our last speaker today is Ms. Emig.

18 **MAYA EMIG:** Thank you, Commissioners. Can you hear
19 me okay?

20 **PRESIDING COMMISSIONER BARTON:** Yes.

21 **MAYA EMIG:** Very good. Um, I wanna first start off
22 by acknowledging the, uh, the family that has stood before
23 you today and gave victim impact statements. Um, they have
24 the right to be -- to be heard, and they've given their
25 expressed views. I also want to delineate for this Panel

1 that some of those views, um, are -- are -- are very
2 independent of the individuals themselves. The next thing
3 is I want to acknowledge that we've been here in this
4 hearing for eight hours and 33 minutes, and, uh, while I
5 was gonna say good afternoon, it's actually good evening
6 now. I wanna talk to you, um, at the place where
7 Commissioner Barton began this hearing. Commissioner
8 Barton began with the emphasis on change, because that
9 really is the crux of a finding of suitability. We have
10 some inherent factors that I'll -- I'll get into in just a
11 moment. But what I can tell you is that when Mr. Menendez
12 spoke to this Panel and used the words "evolutionary
13 change", there is an acknowledgement that evolutionary
14 change has not been linear for Mr. Menendez, but it has
15 been a forward trajectory over the course of decades.
16 There's something very daunting about coming into a parole
17 suitability hearing, and I wanna -- I wanna spend a couple
18 minutes here because when I look back at Mr. Menendez, he
19 was 18 years old at the time. This crime happened 36 years
20 ago. There was a third of his life that he has been out in
21 freedom, if you wanna call it that, because there is such
22 significant childhood trauma. One of the things I want to
23 say to you, and I -- I don't wanna repeat this because
24 there's such voluminous, um, writings in the packets, and
25 I know that this Panel is very well-vested in it, um, and

1 the recitations that have, uh, been forthcoming from
2 Commissioner Barton and Deputy Commissioner Stern. So, I'm
3 gonna spare you that, but I wanna really go into this
4 because in those 36 years, there's -- there has been rec -
5 - remarkable recognition, recognition of abuse,
6 recognition of the survivors of sexual abuse, LGBTQ rights
7 have happened, as well. There's also been progress, um,
8 where social science now dictates policy within CDCR and
9 the Board of Parole Hearings. You have many factors to
10 consider, youthful offender, elderly offender, those
11 moments that are so unique to Mr. Menendez, and I hope
12 that -- and I appreciate this Panel not delving into all
13 of those and letting the records stand for itself in the
14 writings because Mr. Menendez, in those writings, comes
15 through crystal clear. They are raw with emotion. They are
16 rife with sincerity. And if you don't have a feeling and a
17 sense from that one-dimensional, um, document, it's rife
18 with it, and I have a feeling that this Panel does.
19 Actions speak louder than words. What I can also tell you
20 is that in those last 36 years as social science was
21 teaching how we treat human beings, the year is 2025, and
22 we don't use the words "inmate" anymore. We use
23 "incarcerated individual" because these are incarcerated
24 people who have names, and they have stories, and those
25 stories are replete in the record. And when I say to you,

1 actions speak louder than words, it's here. It's in the
2 verbiage from Correctional Officer Nolan who says to you,
3 "I have never written a laudatory chrono," and then goes
4 on. I know that you know this, but it still needs to be
5 said. And I'm going to -- I'm going to just highlight a
6 few of those things because at the end of the day, as
7 Commissioner Barton said, there is one question, whether
8 or not Mr. Menendez poses a current unreasonable risk to
9 public safety.

10 **PRESIDING COMMISSIONER BARTON:** And counsel, I
11 just wanna remind you, this is not a second closing
12 argument opportunity.

13 **MAYA EMIG:** Commissioner, I'm going to remind you
14 that Marsy's Law, um, is -- is -- is very definitive as to
15 what a statement gets to be, and I am speaking on behalf
16 of all of the victims here today.

17 **PRESIDING COMMISSIONER BARTON:** Well, okay. I have
18 you listed as a representative for one of them, and it
19 doesn't matter --

20 **MAYA EMIG:** And I'm fine with that.

21 **PRESIDING COMMISSIONER BARTON:** -- whether it's
22 one or all. It really doesn't matter.

23 **MAYA EMIG:** And that's fine.

24 **PRESIDING COMMISSIONER BARTON:** So --

25 **MAYA EMIG:** I will speak on behalf of her. She

1 happens to be --

2 **PRESIDING COMMISSIONER BARTON:** And that's fine.

3 **MAYA EMIG:** -- the, uh --

4 **PRESIDING COMMISSIONER BARTON:** All I'm gonna say,
5 if -- if you're going to read to me letters that I already
6 had --

7 **MAYA EMIG:** I'm not. I'm not.

8 **PRESIDING COMMISSIONER BARTON:** I thought you just
9 said you were going to.

10 **MAYA EMIG:** No, I'm not. That -- I just said I
11 wasn't going to --

12 **PRESIDING COMMISSIONER BARTON:** Okay. I misheard
13 you. I thought you said --

14 **MAYA EMIG:** -- because you --

15 **PRESIDING COMMISSIONER BARTON:** -- "I'm gonna go
16 through and highlight these letters that have been written
17 to you."

18 **MAYA EMIG:** No, I'm not. That's not what I'm gonna
19 do, Commissioner.

20 **PRESIDING COMMISSIONER BARTON:** Okay.

21 **MAYA EMIG:** I'm -- I know -- I know who the Panel
22 is today. I'm not going to. They've been highlighted, and
23 I just want to say again, uh, on behalf of, uh, Joan
24 VanderMolen, uh, who -- who I am representing here today,
25 um, that the words are here. The actions speak louder than

1 any words. And so, I wanna go back to -- to a couple
2 points that I would like to make just in summation because
3 I'm very cognizant of the time, the eight hours and 39
4 minutes that we've been in this hearing. So, I want to,
5 um, give you a couple of -- of things that I -- that I
6 hope that you -- that you give me the courtesy of
7 indulging with me for just a moment. I'm not gonna have
8 you read anything. I'm not gonna read anything to you. But
9 there is this moment that happened in this hearing today,
10 and when we were talking about life without the
11 possibility of parole, and when we're talking about the
12 evolution of change, there is a -- there is something that
13 is going on in the State of California where there is
14 still this ongoing evolution of change, and there is this
15 moment that I want you to think about. When you are
16 sentenced -- when you -- when someone is sentenced to life
17 without the possibility of parole, that daunting moment,
18 yet there's still this glimmer of hope with respect to the
19 appellate process. And then that -- that moment, that --
20 that glimmer of hope is no longer there, and that's what
21 Mr. Menendez found himself in. And what we know about
22 youthful offenders, and -- and a typical youthful offender
23 will go into prison, and he'll misbehave, and he'll go
24 through these stages of change. What I can tell you
25 definitively is this, that with respect to each one of his

1 issues, all delineated in the, um, in the Relapse
2 Prevention Plans, he's got demarcation points for every
3 single one of 'em. And the glaring issue in this room was
4 the cell phone usage. But what I can say to you is that
5 there is a parallel, and that parallel is what happened on
6 those bleachers when Mr. Menendez, um, made the vow to no
7 longer use cell phones. The parallel happened on October
8 14, 2013, when he vowed never to use drugs again. What we
9 also know about youthful offender is that once you make
10 that definitive change, that moment to switch over, and
11 that is the last, that is the last, then he should be
12 found suitable. We have so many -- when you weigh those --
13 those -- those -- those factors in structured decision
14 making, we believe that the law stands for the finding of
15 suitability. I'm going to leave with the last six words
16 that I will say as you go into deliberations. I'm not
17 asking you to read anything, I promise. And that is quite
18 frankly that Mr. Menendez is suitable for parole. Thank
19 you, Commissioner.

20 **PRESIDING COMMISSIONER BARTON:** All right, thank
21 you. All right, folks, it has been a long time. It is 5:26
22 p.m. Um, we're gonna try to come back around 5:40 p.m.,
23 5:45 p.m., in that timeframe. If we need more time, which
24 we may, we'll let you know at that time, um, but we'll try
25 to come back by that time. So, again, for those people

1 joining us from outside, uh, there's no, uh, requirement
2 that you come back, but if you leave the hearing, um, and
3 you try to get back in, we'll try to do that before we
4 give our decision. Once we start the decision, however,
5 there won't be any other coming in or out. All right,
6 we're in recess. We'll check back in at around 5:40 p.m.,
7 5:45 p.m.

8 **DEPUTY COMMISSIONER STERN:** Okay, we're off the
9 record.

10 **RECESS**

CALIFORNIA BOARD OF PAROLE HEARINGS**DECISION**

DEPUTY COMMISSIONER STERN: Okay, we are back on the record, Commissioner.

PRESIDING COMMISSIONER BARTON: We are back on the record in the matter of Mr. Menendez's initial parole consideration hearing with all the parties previously present for pronouncing the Panel's decision. The time now is 5:49 p.m. on August 21, 2025. And in this case, the law requires us to give great weight to the mitigating effects of the diminished culpability of youth as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity in reviewing your suitability for parole, and we have done so. We've also given special consideration to your age, your long-term confinement, as well as your diminished physical conditions. In addition, we have considered your Central File, the Comprehensive Risk Assessment to the degree we found it relevant, the additional voluminous documents submitted for this hearing by both parties, the many letters in support and those in opposition, the statements of victim family members and their representatives, the statements of both counsel, as well as your testimony. I do want to thank everyone for their participation. I know

ERIK MENENDEZ K14101 08/21/2025 DECISION PAGE 1

1 these hearings are very difficult, very emotional, um, and
2 so, we appreciate everyone and their participation. We,
3 uh, certainly did not give this case short shrift. We
4 spent probably four times more than we do on a usual,
5 average hearing. We also went over your confidential
6 information with you, Mr. Menendez, and you confirmed much
7 of the information contained in those memos or discussed
8 them to our satisfaction. So, we're relying on your
9 testimony regarding those matters and feel no need to make
10 a confidential tape or rely on any of the confidentials in
11 excess of what we discussed today in your testimony. This
12 is a tragic case. Uh, I agree that not only two but four
13 people were lost to this family. Um, amazingly, the grace
14 and forgiveness the family has extended is a testament to
15 them. Um, yet, as you stated, Mr. Menendez, two things can
16 be true. They can love and forgive you, and you can still
17 be found unsuitable for parole. You can have remorse but
18 still show antisocial traits and criminal behavior. Um, I
19 believe in redemption, or I wouldn't be doing this job.
20 And in fact, I am probably more fulfilled by granting
21 people second chances when deserved, but I also have a
22 commitment to public safety, and I would agree with your
23 counsel that actions speak louder than words. And based on
24 the legal standards and evidence considered, we find that

25 **ERIK MENENDEZ K14101 08/21/2025 DECISION PAGE 2**

1 you continue to pose an unreasonable risk of public safety
2 and are not suitable at this time. It is a minimal denial,
3 which is three years, and we did find numerous factors in
4 mitigation exist, but we felt they were still outweighed
5 at this time by the factors in aggravation as follows.

6 First, as to what we consider static factors, we find
7 there was a lack of offender control at the time of the
8 crime. You had an unstable traumatic childhood. You were
9 impulsive, unable to manage your emotions, and displayed
10 that in the manner of your actions during that timeframe.
11 However, this factor, in my opinion, is mitigated by the
12 youth offender factors, which will be discussed later in
13 this decision, and it wasn't given weight in terms of
14 aggravation. You also had other acts of criminality and
15 antisocial behavior, including the burglaries, um, the
16 vehicle violations, the illegal purchase of weapons, um,
17 all of that prior to the homicides, and you described a
18 desire to impress negative peers with your participation
19 in both burglaries. After the murders, you continued to
20 act criminally by disposing of the murder weapons, lying
21 to the police and family members. So, we did find this
22 criminal history to be aggravating and showed a
23 willingness to perpetrate criminal acts outside of the
24 murders themselves, and the criminality continued in

25 **ERIK MENENDEZ K14101 08/21/2025 DECISION PAGE 3**

1 prison all the way up to November 2024, less than ten
2 months ago. And that was even while you were in the
3 process of going through re-sentencing and applying for
4 potential clemency. Um, I believe if you hadn't been
5 caught, and I appreciate your candor today, you would
6 still have likely continued to use that phone. And if you
7 were still using the phone and not caught, you may not
8 have even had that conversation with the lieutenant in
9 which the impact of the cell phone was made more clear to
10 you. That, alone, shows at least ongoing dishonesty with
11 authorities, and I think to a certain degree with those
12 that are supporting you. So, while we give great weight to
13 youth offender factors, especially against the aggravating
14 factors of the murder itself and your actions prior to the
15 age of 26, your continued willingness to commit crimes and
16 violate prison regulations well beyond that age and
17 maturity, uh, shows a lack of growth that we would've
18 hoped for today. So, when we look at your criminal
19 history, um, prior to the crime, while the youth offender
20 factors do mitigate against, obviously, stupidity of a 17-
21 year-old committing the prank, um, the second burglary in
22 my opinion, showed a little more willingness on your part,
23 um, to go one step further. We didn't talk about it today,
24 but I -- I am sure, and I read in some of your writings,

25 **ERIK MENENDEZ**

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1 you understand the impact of residential burglaries on
2 people, not just using sentimental objects, but the
3 physical manifestations of someone who's had their home
4 invaded, who have to check their locks ten times, or move,
5 or buy alarms, or worry about somebody coming in, some
6 stranger, and hurting them or their children. Uh, it's
7 devastating, and it can be not only psychologically but
8 emotionally and physically scarring. So, there is still
9 some weight given to that criminal history, but more so
10 not because of what you did when you were 17 and 18, but
11 due to its enduring nature up to the present, which I just
12 mentioned, and I'll be discussing further. We did find
13 that your former supervision when you were on juvenile
14 probation, um, you know, you completed, but that's almost
15 irrelevant given your subsequent actions in the murder
16 short -- I mean, not far after that. Nevertheless, we
17 didn't give that much weight, if any. Uh, we found it to
18 have no impact. And as far as other static factors, the
19 only remaining one would be the crime itself, which also
20 would be considered aggravating. There was not one victim,
21 there were two. These were not strangers or people, uh,
22 you know, that had been the victims of a robbery gone
23 wrong or something. These were your parents. And so, in
24 those senses, the manner and the motive for the killings,

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1 um, do have some weight in aggravation, again, offset by
2 your age and the youth offender factors that we'll be
3 talking about. But the killing of your mother especially
4 showed a lack of empathy and reason, and the fact that you
5 would reload the weapons and come back to shoot her again,
6 um, I find to be devoid of human compassion. Now, have you
7 learned some human compassion since that time? Yes, of
8 course you have, and your work with, um, those that are
9 disabled has shown that. But at that time, even with the
10 betrayal you thought -- and fought, the rage, the, um,
11 fact that she knew just is very cold-blooded to anybody
12 looking at that from the outside, and I can't put myself
13 in your place. I don't know that I've ever had rage to
14 that level ever. Um, but that is still concerning,
15 especially since it seems she was also a victim, herself,
16 of the domestic violence that was occurring. And I get it.
17 You said at that time you couldn't consider that. You
18 recognize that more so today. But even if one accepts your
19 version of facts, you had other alternatives. I -- I get
20 the learned helplessness and the feeling that you were
21 trapped. Um, but the facts are still what the facts are.
22 You were 18 years old. You were not without means to
23 leave, or for that matter, relocate as evidenced by your
24 ability to come and go with your brother during that

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1 timeframe. Um, you could have legally left. Your dad could
2 not have legally kept you there. Uh, you certainly could
3 have gone to, it sounds like, many of the relatives that
4 are present today, many of whom said that they would've
5 welcomed you in had you gone to them, and your, um,
6 ability to go to the authorities and have them arrested. I
7 -- I get it. That was beyond what you thought was possible
8 at the time because you convinced yourself of that. But
9 the facts are what they are, and all of those things were
10 possible. Um, nevertheless, we recognize and understand
11 that many sexual assault victims find it very difficult to
12 come forward, and as I said, uh, especially when the
13 perpetrators are family members. And even those who do
14 not, um, rarely result in killing the perpetrator,
15 certainly when it's done in the manner you did, which was,
16 I -- I can only in best-case scenario for you describe as
17 a preemptive strike. Because I think this would've been a
18 different case if you sat on your bed with that shotgun,
19 even with the buckshot in it, and your dad came in and
20 threatened to assault you again, and you shot him in the
21 doorway. This would be a very different case. But that's
22 not what happened. So, you were convicted of premeditated
23 murder, and it's not my position today or my jurisdiction
24 to, um, change the conviction that you suffer or the

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1 jury's verdict. You were not in imminent fear for your
2 life, and you testified to as much today. And in your own
3 words, taken right out of your writings, um, probably the
4 truest thing that you said in terms of accountability is
5 there was no justification for your actions. There may
6 have been underlying reasons for your rage and your anger
7 and your, uh, fear, but doing what you did, when you did,
8 and how you did it, there was no justification. So, we
9 also find that your actions following the murder do give
10 some credits to the belief that there may have been at
11 least some financial motivation for the crime, even if it
12 wasn't the main motivation. But the fact that you could
13 then do with what you wanted with any monies, um, and be
14 free of your mother and father's controls in that respect
15 certainly was, you know, borne out by your actions whether
16 it was, um, destroying any other computer information
17 about contrasting wills, or whether it was, um, you know,
18 the spending sprees that you talked about. But even
19 outside of that, that bears very little on our decision
20 today because really this case -- and this is hard for
21 people to understand when we have a case, not just because
22 of the notoriety of this case, but anytime we have a
23 double homicide of, you know, killing of childrens, other
24 cases that are extremely hard for people to hear about

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1 and forgive or understand -- the bottom line is we still
2 have to recognize that those are static factors, and they
3 will never change. And when someone like yourself has life
4 without parole, then it really doesn't make much
5 difference. But once someone has been resentenced,
6 commuted, or they're given a chance for parole, our job is
7 to determine whether or not they've reached a stage where
8 they can be released safely, and they're suitable. So, we
9 don't second guess the decision to resentence you either,
10 nor would we have second guessed the decision to commute
11 you. That's all within the Governor's power, still is for
12 that matter. But our job today is to look at everything,
13 weigh all the factors, and make a determination. And the
14 character traits of deceitfulness, being able to portray
15 yourself in a matter totally contradictory to your actions
16 in secret, um, even if you think they weren't that secret,
17 the callousness towards anyone that might be victimized by
18 your actions, and we talked at length today about that,
19 the disregard for the consequences, the sense of
20 entitlement, believing the rules don't apply to you, the
21 selfishness. 'Cause I'm sure if I were to have asked your
22 wife, "Hey, if you could only talk to him in your visits,
23 but he has a chance to be out in person next year, or you
24 can talk to him on the phones and have those intimate

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1 conversations anytime you want," I'm pretty sure she'd go
2 for the first one. So, when you think of it that way, who
3 was being selfish? It was you. So, in the overall analysis
4 of things, one of the things that we see as a nexus to
5 your current dangerousness is this idea that the ends
6 justifies the means, and that was in full display, um, in
7 your actions. And lest somebody think this is about
8 getting caught one time with one cell phone, you know and
9 I know regardless of what anyone else thinks, that you
10 were doing this on a constant basis for several years
11 despite having all kinds of programming. Even if it wasn't
12 the criminal thinking, you had other types of programming.
13 The 12 steps, which I am very conversant, and as you
14 stated today, there are several of them that would've
15 applied to this behavior, not the least of which is the
16 dishonesty that it required of you. In addition to which,
17 there's the conspiratorial nature of it, the fact that you
18 were being -- involving others, not only bringing the
19 phone in but being lookouts, um, hiding the phone for you,
20 even sharing it with Lyle or others. And what did you do
21 at the time of your criminal acts? Got involved with
22 crimes with your friends in the first burglary, with your
23 brother in the second burglary, with your brother in the
24 homicide, and then other people that, from my view of the

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1 record, uh, you may or may not have known about, but he
2 certainly was involved in -- in additional coverup, uh,
3 conspiracies. So, all of those things are factors when we
4 look at your behavior. So, even though we believe the
5 youth factors mitigate the effect of the life crime,
6 there's still some weight being given to your ongoing
7 behaviors and your ongoing character defects that were
8 evident as recently as last year. But I want to be clear,
9 these static factors are not a primary reason for this
10 denial. It's more about your behavior in prison. And I
11 think you're smart enough to figure that out. I think
12 reading your writings, it shows me anyway that you realize
13 that that was going to be a focus of today's discussions.
14 We recognize that immutable factors don't change. So, we
15 look at more dynamic factors to determine who you are
16 today and whether there's a current reasonable risk of --
17 unreasonable risk of danger to public safety. That doesn't
18 mean that the danger has to be the same crime you
19 committed. Obviously, that's impossible. It doesn't even
20 have to mean that it has to be murder. One can pose a risk
21 to public safety in many ways with several types of
22 criminal behavior, including the ones that you've been
23 guilty of in prison. Um, so, in addition to the static
24 factors already mentioned and the character defects that

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1 were still displayed and the nexus of both of those to
2 current dangerousness, we consider the following factors
3 to be aggravating. And in the totality of all the factors
4 and circumstances, I agree with Counsel. It really comes
5 down to offender change. But when we consider the factors
6 at this time, we felt they do currently outweigh the
7 mitigating factors as follows. This, uh, doesn't mean, and
8 I don't want you to take it to mean, that we don't think
9 that you've been gaining insight or that we don't think
10 that you have done positive things while incarcerated. As
11 you said, and I, um, I appreciate that you said it 'cause
12 now it gives me a phrase I can use, "Two things can be
13 true." Um, you can be doing good work yet still have that
14 criminal mindset and that criminal behavior. But your
15 institutional adjustment has been aggravating. We
16 recognize the situation of hopelessness and survival you
17 found yourself in when you first came to prison, and had
18 you had no violations since 2013, this would probably be a
19 different result. But that's not true. That's not the
20 case. We see many youth offenders, even people who are
21 commuted from LWOP, who are able to avoid becoming even
22 more antisocial and criminal minded, even when facing
23 lengthy sentences or, conversely, they're that way for the
24 first decade or so in their twenties, maybe even early

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1 thirties but then they start to develop values and
2 behaviors many years before they come to Board, and those
3 people we grant on the regular. You are not one of those
4 people. Contrary to your supporters' beliefs, you have not
5 been a model prisoner, and the fact that some of them
6 think you have is a little disturbing if, and I'm not
7 saying this is the case, but if it reflects false
8 impressions that you've given them about your behavior in
9 prison. Um, you turned 26 in 1996, and that's important
10 because I purposely told you we only started discussing
11 your institutional misconduct after that date. And it may
12 have changed, your misconduct, in typology over the years,
13 but it never stopped illustrating your criminal nature,
14 your poor choices, your lack of self-awareness, and
15 disregard for the safety of the institution and others,
16 and you admitted that in your testimony today, which by
17 the way, I give you credit for. I tell people all the time
18 the most important things in these hearings is to be
19 honest and candid because then you set a baseline for
20 honesty. And going forward, all that can do is help you to
21 be found suitable in the future. Because anytime you
22 choose to cover up, minimize, or lie in a hearing, that's
23 always gonna come back to haunt you in your next hearing.
24 But you were involved in bringing in illegal narcotics as

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1 you helped perpetuate that with your use. Um, you lied and
2 manipulated staff. You knowingly misused equipment for
3 your own purposes. You had inappropriate behavior with
4 visitors, not once, but twice, um, and you admitted as
5 much today. And it -- we also looked at whether or not,
6 uh, you were totally devoid of violence. You were not.
7 1997 is a long time ago, but then there's the fight again
8 in 2011. And while I recognize that was 14 years ago, um,
9 in our discussion with you, you know, you said, "Hey, I --
10 I need to be better on learning de-escalation techniques,"
11 et cetera. But we give you credit that there hasn't been
12 any violence in 14 years, and that is something that we
13 considered overall in deciding the length of denial. But
14 from 1999 on, there were multiple incidents as we
15 discussed, possessing contraband, dangerous drugs,
16 contravention in-prison rules all the way up to 2024, even
17 after being caught and understanding the consequences. And
18 the phone, again, in the abstract, it's easy for people on
19 the outside to look at that and go, "What's the big deal?"
20 And I, like Father Deasy, am not a -- I'm a -- a bit of a
21 Luddite. I'm not great with technology. I'm not thrilled
22 about technology. But that doesn't change the fact that
23 you knew what you were doing, and you knew why you were
24 doing it. You knew the consequences of it. And while I

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1 think part of your reasoning for it might be
2 understandable as far as the intimate discussions with
3 your spouse without being overheard or have it reported
4 back on the yard, the other part of it really doesn't ring
5 true; wanting to be connected to the outside and see what
6 they're saying about -- because you said you had a
7 television. You had access to print. You had -- you even
8 had your wife who could send you, you know, articles. Um,
9 so there were other ways, and I think one of your family
10 members said they would even have done that for you. And
11 that brings me to another point, and that is you've got a
12 gr -- great support network, but you didn't go to them
13 before you committed these murders, and you didn't go to
14 them before you continued to use the cell phones over and
15 over again. You did not seek them out. So, what we have to
16 find out is well, okay, the great support network out
17 there, but if he doesn't utilize 'em, what good are they?
18 And we've gotta have confidence that you're gonna do that.
19 Now, have you started doing that now? Yes, 'cause I heard
20 it from your family members. But we want to see you
21 maintain that. You obviously know the five stages of
22 change. I may see it differently than you in terms of
23 timeframe, but I think you are still in the behavior
24 stage, in other words, changing your behavior so none of

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1 it is negative, criminal, antisocial or, uh, potentially
2 harmful to others. And then we have to see you be able to
3 maintain that. Counsel is absolutely right. Insight can be
4 gained overnight. But maintenance, to me, when someone has
5 a lengthier history of criminal activity justifying their
6 actions, you're right, the -- the definition for criminal
7 thinking at its base is knowing the difference between
8 right and wrong --

9 **DEPUTY COMMISSIONER STERN:** Commissioner?

10 **ERIK MENENDEZ:** I have yet to see somebody --

11 **DEPUTY COMMISSIONER STERN:** I'm sorry to -- I'm
12 very sorry to interrupt you. I just had a Teams update
13 install, and it, um, shut down Teams for a moment. I don't
14 know if --

15 **PRESIDING COMMISSIONER BARTON:** Okay.

16 **DEPUTY COMMISSIONER STERN:** I don't know if you
17 noticed.

18 **PRESIDING COMMISSIONER BARTON:** Okay.

19 **DEPUTY COMMISSIONER STERN:** Um --

20 **PRESIDING COMMISSIONER BARTON:** Are you -- are you
21 on recording still?

22 **DEPUTY COMMISSIONER STERN:** I paused the
23 recording. I'm back on. But I need to have you go back to
24 -- I need to take a listen to the tape and make sure that,

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1 um, you go back. So, my apologies. I, um, I was -- I was
2 out for maybe 30 seconds. Just give me a moment, please.

3 **PRESIDING COMMISSIONER BARTON:** Unfortunately, I
4 say a lot in 30 seconds.

5 **DEPUTY COMMISSIONER STERN:** I -- give me a minute.

6 **RECESS**

7
8 **DEPUTY COMMISSIONER STERN:** And we are now back on
9 the record, yes.

10 **PRESIDING COMMISSIONER BARTON:** We're back on the
11 record. We had a momentary technical difficulty in the
12 recording, and so, I have to go back a little bit. Um,
13 your institutional misconduct may have changed in typology
14 over the years, but never stopped illustrating your
15 criminal nature, poor choices, lack of self-awareness, and
16 disregard for the safety of the institution and others.
17 You were involved in bringing illegal narcotics, and you
18 help perpetuate those crimes, lying and manipulating
19 staff, knowing misuse of equipment for your own purposes,
20 inappropriate, uh, behavior with a visitor not once, but
21 twice, um, violence or fighting in 1997 and 2011. From
22 1999 on, there were multiple incidents of possessing
23 contraband or drugs and continued all the way up through
24 2024 with repeated offenses even after being caught and

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1 understanding the consequences. You assisted others in tax
2 fraud for several years. I think I said something like it
3 wasn't because you were being forced to, but in your
4 testimony today you said you jumped at that opportunity.
5 Um, you used, purchased, and exchanged drugs through 2013.
6 And that's where I had left off by my memory, which was
7 putting on the record that the reason that's significant
8 is it's one thing for someone to come to prison and
9 continue to have the same criminal mindset and behaviors
10 and habits. It's another thing for them to jump into a
11 whole 'nother category, um, and that's really what
12 happened when, you know, you made that choice. Uh, I get
13 it. You were facing a lot of time, you were at a bad
14 place, all those reasons. But those are reasons and not
15 excuses. So, I think you're smart enough to know the
16 difference. And what it tells us is that when you're
17 placed under stress, um, and you're in new circumstances,
18 you may reach out for something that is not a positive
19 healthy coping skill, um, as you did then. I mean, by that
20 time you certainly weren't a youth anymore. I mean, you
21 would've been in your forties. Um, and as far as the
22 renting, buying, and using cell phones, um, all the time
23 you were doing that was while you were participating, even
24 creating and leading groups, about rehabilitation. And

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1 that nexus to current dangerousness is your ability to
2 portray yourself in one way, yet continue to act in an
3 opposite manner. It's the same criminal nature that you
4 had at the time of the crime. I mean, you were able to
5 fool people for quite a long time about whether you had
6 committed this murder or not. Um, and that ability to sort
7 of show one face but be something else concerns us because
8 credibility is always an issue in these hearings. And the
9 fact that you are really smart is both a good thing and
10 also a concern because what I tell people all the time,
11 when you get your education, while we recognize that helps
12 reduce recidivism, it also sometimes makes people a
13 smarter criminal if they're criminally minded to begin
14 with. And this really has us questioning not only your
15 credibility overall, but your ability to maintain those
16 prosocial gains if they no longer serve your interests.
17 And I say this to guys all the time. If your reason to
18 change and be prosocial is to get out of prison, that
19 motivation ends the day you walk outta prison. And so, we
20 recognize, again, two things can be true. You know, you
21 can wanna get out of prison and decide to do things, but
22 you also can decide 'cause you want to be a better person.
23 And you told us that's what you wanted, and you told us
24 you wanted that way before 2024. So, it's sort of

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1 contradictory of your behavior, especially given our
2 discussion today. We spent considerable time today, um,
3 discussing your use of the cell phones, but more
4 importantly, the dangers of any type of contraband in
5 prison and any type of, uh, thing that's gonna endanger
6 staff. You focused on their, you know, the time it takes
7 and the energy and -- and all of that. I tend to focus on
8 the human cost, cost to other incarcerated people, cost to
9 people that lose their jobs, lose their lives. I actually
10 didn't know about that situation with the lieutenant, but
11 it really was demonstrative of someone who, upon entering
12 prison, amplified your antisocial behavior in diverse
13 ways, whether it was the phones, the drugs, all of which
14 we think were a nexus to your current dangerousness and
15 showed that same nature of conspiracy. I think this is the
16 part that we missed in the record before, that was
17 involved in the burglaries and your brother and the
18 murder. Um, so that conspiratorial mindset, I think that
19 we missed that on the record that I mentioned before.
20 Hiding the phones, being lookouts for staff, those same
21 traits or evidence in your behavior with the phones. So,
22 this Panel believes that an, uh, that a nexus does exist,
23 and as already stated, even in your testimony today, um,
24 you admitted as much in terms of just not caring about

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1 anybody but yourself when you were doing those things. I
2 mean, even if we had just the one phone, one time, it
3 would still be serious for all the reasons that we
4 discussed. It may not have been a different result, but it
5 set -- certainly would've been a different -- different
6 discussion. So, I want people to understand that this
7 isn't about one phone, one time. This is about the pattern
8 repeated over and over, and we find your offender change
9 to be aggravating for many of these same re -- reasons.
10 Um, we have to be certain that it's sincere and it'll be
11 maintained because we don't believe, at this point, nine
12 months is a lengthy period of positive rehabilitation to
13 show that. And there's a huge difference, as was already
14 discussed and admitted by you, between cell phone use on
15 the outside and those in prison and the potential harm.
16 I'm not even sure reading your writings that, um, you've
17 taken total responsibility, and maybe you have today in
18 your testimony, but I didn't get it from your writings,
19 about the hypocrisy. As I said, I've had people say they
20 won't go to programs 'cause they know the person, whether
21 it be AA, NA, cell phone, whatever, um, they know that
22 person leading it is a -- is a hypocrite, is not living
23 what they're saying. And so, you're not just harming
24 yourself. There were also other people that may have been

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1 harmed by your actions because they're then not able to
2 program in a manner that would possibly help them. It's
3 always interesting to me when I have folks that, you know,
4 cell phones or anything else that are either LWOPS or
5 determinately sentenced. And I think you might know where
6 I'm going with this. Every lifer knows they're gonna have
7 to come to Board and answer for their behavior. What I see
8 sometimes with people serving LWOP or determinant
9 sentences, they have no problem utilizing a lifer to avoid
10 restitution or to hold a phone or to do this or that. And
11 they don't care a whit that that person's gonna have to
12 come before a Board like this and answer for those
13 actions. And I don't know the status of the people that
14 you, you know, that you were utilizing, or you said most
15 of 'em were in the lifer community or the LWOP community.
16 But that's problematic I think, as well. And when you're
17 doing your moral inventory, I think you need to include
18 those people because there are many that we see that come
19 in and get denied for similar reasons, um, and again, the
20 people that were involved in it with them didn't really
21 care. But we think change takes time. As you said, it's
22 evolutionary. I believe that transformation is a process,
23 and you brought a lot of negative traits with you to
24 prison, but you also added more traits after you got to

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1 prison. Um, along with your repeated violations, not just
2 serious rule violations, but even the minor regulations
3 that we talked about. And I pointed to several areas of
4 concern during the actual hearing itself that I would
5 incorporate into this decision rather than reiterating
6 those points. But should you be released without
7 (inaudible) change and find yourself in a position where
8 you feel the ends justify the means, you are certainly
9 capable, maybe even more so given your intellectual
10 advancements, of doing serious harm to others, especially
11 if you justify your actions as you have recently by
12 telling yourself it isn't really hurting anyone, um, as
13 you did with the phone, or ignoring all the other
14 potential bad consequences which you set aside so that you
15 could satisfy, um, what you felt were your needs. And --
16 and I think that was also evident, and I -- this is not a
17 huge issue, but it did alarm me that when asked about your
18 brother, even though it was 2016 or whenever it was, you
19 know, you -- you knew you guys hadn't had a perfect
20 relationship, but what you really wanted was your brother
21 to be able to come to your facility. So, you weren't gonna
22 be honest in that interview. And that was after you said
23 you'd made this change in 2013 to be -- to have integrity.
24 And I -- I don't see that as something that was integrity.

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1 You didn't have to go into details of what had transpired
2 between the two of you in order to be honest about that.
3 You might not even be the one who were -- who -- who would
4 carry out a criminal act, but it could easily manifest in
5 your ability to conspire with others, to manipulate
6 others, something that you've done to your advantage in
7 prison without care for the consequences or the persons
8 that are harmed. Um, as I said, it doesn't seem reasonable
9 that, uh, you had to have the cell phones just because of
10 the lack of privacy or for the -- the -- because cell
11 phones weren't even around when you came to prison, and
12 you existed, and there are other ways to communicate with
13 people. I think that's just a, um, a way to justify that.
14 I do appreciate today you said many times, "I don't mean
15 to minimize this," and then you would give us, you know, a
16 reasoning for it. Um, what you have to understand is the
17 difference between a reason and excuse is taking personal
18 responsibility and understanding there are consequences
19 for your behavior. So, one of the other things you said
20 today that I -- I wrote down that I thought -- and -- and
21 then you tried to take it -- not tried to take it back,
22 but I think you realize it didn't come out well was, well,
23 you know, who introduced the cell phones to who, or were
24 you both doing it? And you made the statement, "Well, Lyle

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1 was doing it, so that told me I could do it." And then you
2 -- you backtracked it a bit after that. But think about
3 that statement. I read the details in the record of your
4 crime, and Lyle being willing to go with you and get the
5 shotguns and have, actually being required to be there for
6 you to be able to get those, and him being there and
7 coming up and saying, "Something's happening now," and
8 him, you know, going through the whole process of getting
9 the guns and loading them and shooting your parents, I
10 don't know that -- what would've occurred if he had tried
11 to stop you or if he had not gone along with it. But we
12 both know that -- and -- and you wrote about it
13 extensively, about the codependent relationship between
14 the two of you. And I know your counsel took you through
15 all the healthy boundaries you have at this time, but even
16 that statement about him using cell phones so you thought
17 it was okay. You're a 50-year-old man at that point, and,
18 you know, I don't know if you still knew you had the one
19 in November, I didn't ask you that question, but, um, it's
20 problematic to me that you would see that as some kind of
21 tacit permission, and -- and that's problematic. Um, I
22 think you do need to find that independence, and I think
23 that, um, you talked about him being a strong
24 accountability partner in all these other ways, but then

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1 again, look at the contradiction. Um, hard for us to see
2 that when he's condoning this behavior and vice versa. So,
3 that was similar to what you exhibited at the time of the
4 crime, as well. So, at this time, we believe the
5 aggravating factors in terms of institutional adjustment
6 and lack of offender change and the, um, the weight that
7 we are giving, although it's minimal, to the static
8 factors outweigh the factors in mitigation. But we have
9 given all the mitigating factors consideration and weight,
10 and I think that is a lot of the reason why this is a
11 three-year denial. I can just tell you that oftentimes
12 when we have people with a pattern of rule violations,
13 cell phones, as recent as yours could easily and routinely
14 would be a five-year denial. But every case is different.
15 Every case is individual. And I think, um, you've
16 mitigated a lot of that today by coming in and, uh, being
17 candid. Under Marsy's Law, we're required to consider a
18 10- or 15-year denial, but we find by clear and convincing
19 evidence that's not warranted. Um, as stated at the
20 beginning, we gave great weight to your youth offender
21 status. At 18, you'd been subjected to an abusive
22 environment that was dysfunctional. You had no control
23 over it. You were immature, impulsive in many respects,
24 influenced by negative peers, uh, your older brother's

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1 willingness to commit the crime. You didn't weigh
2 consequences. You didn't make good choices. Your actions
3 and decisions in many respects showed impetuous thinking,
4 heedless risk taking. You didn't properly assess the
5 resulting harm of your actions. You lacked the
6 neurological and emotional maturity of an older person.
7 You were not deterred by your prior contact with the
8 justice system due to the burglaries. All of these
9 hallmark features of youth are mitigating of your behavior
10 at the time of the crime and when you first came to
11 prison, um, and we gave that great weight. But as I said,
12 this decision has more to do with your behavior after your
13 26th birthday, -- birthday. And indeed, your entrenched
14 criminal thinking and actions well beyond your 26th
15 birthday and up to last year show a lack of growth and
16 maturity, at least in that -- those areas such that we
17 couldn't give, um, as much weight to growth and maturity
18 as we would've liked. Two things can be true, and I'll use
19 your phrase again. You can grow and mature in some ways
20 but have a lot of blind spots in other areas. It's true of
21 all of us. You know, we can -- we can find ourselves
22 progressing in a certain area but neglecting some other
23 area. And when it comes to, uh, rule violations and
24 criminal thinking, that is critical to you demonstrating

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1 that offender change. So, while it does mitigate your
2 static factors greatly, it has less mitigation on your
3 institutional adjustment and true offender change. We also
4 gave special consideration to your age, your length of
5 confinement, and your physical condition. We recognize
6 that violence decreases after the age of 50. You're now
7 54. We recognize you haven't been violent for 11 years in
8 prison. We also recognize that you've served 35 years in
9 prison. Um, all of those things were given special
10 consideration and also carried weight as far as clear and
11 convincing evidence that 15 or ten years is not warranted.
12 I'm not gonna put on the record what your physical
13 ailments are. I know what they are. Um, and we did
14 consider those, and while they -- I understand, and I
15 don't have to say why, but I understand they can be
16 debilitating. Um, we also recognize that you've treated
17 and managed, you know, the initial problem with Crohn's
18 for many years, kidney issues more recently. We recognize,
19 um, and yet still, as you talked about, you're capable of
20 playing pickleball and -- and doing other physical
21 activities. You're certainly not physically infirm.
22 Nevertheless, we did give that special consideration, as I
23 said, and we did give it weight in mitigation. But the
24 youth offender factors and elderly consideration are not

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1 the only mitigating factors. And so, when we looked at our
2 discretion to impose a three-, five-, or seven-year denial
3 in determining the appropriate length, we looked at all
4 the other mitigating factors, as well, um, and we truly
5 believe you have within you what is necessary to achieve
6 parole. Um, your programming has been extensive. It's too
7 bad that you didn't internalize it to the level of
8 deterring you from the criminal choices you've been making
9 for the last seven years, um, and it tends to be less
10 persuasive, uh, and concerning that you waited until, uh,
11 and I -- and I gotta say, I found you to be candid in most
12 of the things you said. The one thing you said that I
13 didn't feel rang real true 'cause you're a smart guy, is
14 "Oh, I really didn't think criminal thinking applied to me
15 until this year." That one sort of -- I had to go, "Huh."
16 Because everything else, you seem to have pretty good
17 self-awareness. That one sort of, um, stopped me because
18 it did not -- it did not ring true with me, and it's
19 concerning that you waited until quite recently to program
20 in those relevant areas, despite the fact that those
21 programs have been available to you. Um, nevertheless, we
22 recognize, um, that your programming in other areas of
23 criminogenic need, for example for substance abuse, for,
24 um, emotional, uh, well, I'll call it Anger Management.

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1 You talked about APV and how that had impacted you. Uh,
2 violence, domestic abuse, um, those are things we didn't
3 go into today because we read your writings, and you wrote
4 extensively about them, and you are smart enough, I'm
5 sure, that you could repeat what you wrote to me, and your
6 Relapse Plans in those areas appeared to be, um, adequate.
7 So, we really didn't discuss those things with you, some
8 of that programming, despite the fact that we've seen it
9 over the years. Um, your work with, uh, ADA persons and
10 the elderly obviously is commendable. Um, the laudatory
11 chronos are commendable. Although, again, I don't know.
12 When you say everybody knows, I don't know if every
13 officer that wrote you a laudatory chrono would've done so
14 if they knew the pervasiveness of your use of phone --
15 cell phones. Maybe some did, maybe some didn't. But
16 they're risking their jobs and their health and their
17 safety every day those are on the yard. Um, so, we did
18 consider those things as well as the support letters from
19 other staff and volunteers as mitigating, and it gave us
20 indication that you are on the right track. Um, as far as
21 your support network and your Parole Plans, exemplary. But
22 I'll go back to what I said before. You didn't use them
23 when you were 18. You didn't use 'em when you were 52, um,
24 and we want to know that that's something that is going to

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1 be meaningful going forward. They've made strong
2 commitments, and I -- I heard them. I heard them all
3 today, and they want you out, and that's fantastic. And
4 I'm -- I'm saddened by the fact that some of your family
5 may not be there if and when you're ultimately released.
6 But I also have to set aside emotional reasons for making
7 decisions and make the decisions based on our experience,
8 our training, the law, the evidence in front of us, um,
9 and we considered all of that, um, to be mitigating, the
10 support network and Parole Plans. We considered the CRA to
11 be neutral to the degree that we relied on it at all. I do
12 believe that some of the observations are pretty self-
13 evident as far as your ongoing involvement with antisocial
14 behavior with the cell phones, um, is recent, despite
15 treatment and amid efforts to obtain your release, um,
16 calls into question your motivations. So, nothing there is
17 a surprise to us or something that we didn't come to on
18 our own. Um, so, overall, we didn't find it to be
19 mitigating or aggravating. But we are also giving weight,
20 um, as I said, to the fact that we think you are sincere
21 today in wanting to change. Um, we hope you are sincere in
22 wanting to change. We hope that this isn't merely
23 extrinsic to get out of prison, but truly intrinsic. Um, I
24 hope that the people that are out there supporting you

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1 continue to motivate you, and only time will tell. I tell
2 guys all the time on their initial hearing if they're
3 denied, you have two options. One is to have a pity party.
4 "Poor me. I got denied. Oh my gosh, look at all this stuff
5 I'm doing, and they still didn't grant me." And then you
6 become a self-fulfilling prophecy, probably not getting
7 granted next time. Or you can take to heart what we
8 discussed. Go over the transcript. You go over the
9 recommendations we'll be making. You continue to work on
10 yourself. You come back with this baseline that we
11 discussed today of what I believe to be honesty, and you
12 build from there so that you can be found suitable. So,
13 while there are mitigating factors, taken in totality,
14 when we weigh them with the aggravating factors as
15 discussed and what we believe to be a nexus to current
16 dangerousness, um, we are finding you unsuitable for a
17 period of three years. That doesn't mean necessarily that
18 you can't come back sooner. You can Petition to Advance
19 once during that timeframe and come back sooner, or you'll
20 be administratively reviewed in about a year. If you stay
21 discipline free and continue to program, um, you can find
22 yourself back in front of the Board in 18 or 20 months.
23 Now, we recommend you remain disciplinary free, maintain
24 that positive stretch that you've got going of ten months

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1 now. I get it. You feel like everybody's out to get you,
2 and they're gonna write you up for anything. But the
3 bottom line is don't give 'em the opportunity. If you
4 really are doing what you told me you're doing and you're
5 professing, and that is questioning every choice, you
6 know, before you make it. It's oftentimes people that have
7 the history you do, and I mean that by ends justify the
8 means, and I don't know. I -- I didn't look at your
9 college record to see if you've taken philosophy or
10 psychology, but ethics. You've got -- you do the right
11 thing for the wrong reason, the right thing for the right
12 reason, the wrong thing for the wrong reason, and the
13 wrong thing for what you think is a good reason.

14 Unfortunately, in many schools of ethics, that last one is
15 the one that causes problems for people because we can
16 always find a way to justify something. So, I think if you
17 continue to work on the concepts that you have, continue
18 to build on, um, the gains that you've made, what we want
19 to see is no disciplinary write-ups. Continue working on
20 your emotional intelligence because, as you said, that's
21 where a lot of this fell apart for you in terms of the
22 decisions that you made about connections, et cetera,
23 what's important to you, et cetera, and start changing
24 your, and I don't know what class would teach you this,

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1 but your perspective. In other words, from -- instead of
2 from the perspective of how you would feel about it or
3 maybe even about how those that love you feel about it,
4 but how would this be viewed by an objective, reasonable
5 outside person? Um, we like to think that's what we are on
6 the Board. And I think that, as you said, if you believe
7 substance abuse was something that could reoccur, you
8 should continue to do your substance abuse programming.
9 Sometimes, we ask guys to examine, that are leading a
10 group, and ask themselves, "Okay. Is leading this group
11 something I'm doing now to get a pat on the back or to be
12 validated? Or do I need to go to more groups as a
13 participant so that I can gain what I need to gain, um, to
14 be paroled?" I'm not saying that's the case with you. I'm
15 not infini -- I -- I'm not -- other than what you wrote,
16 I'm not intimately familiar with the group that you
17 created. Um, but I think that you can continue to work on
18 those areas. Um, this has to be a joint decision. I'm
19 going to ask the Deputy Commissioner if she concurs and if
20 she has anything to add before I make the final comments.

21 **DEPUTY COMMISSIONER STERN:** Okay, thank you. Um, I
22 do concur with the decision, and I also concur with all
23 the reasons that Commissioner Barton has laid out. I'm
24 gonna just add a couple of things just to reiterate. Um,

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1 the -- the -- the recent behavior surrounding the phones,
2 you know, not the phone itself. You know, sometimes like
3 the -- like, as you're well aware, sometimes the coverup
4 is almost as bad as the crime itself. Right? And so -- so,
5 the, you know, as we talked about the conspiracy involving
6 other people who have to, you know, help you get the phone
7 and keep the phone and all of that at the same time as
8 your, uh, or around the same time that you're facilitating
9 a group on toxic shame, which part of that, I believe, is
10 about, like, not keeping secrets and, you know, open,
11 honest living. And yet, here you are with -- with these --
12 these phones, which, you know, I -- I think there's still
13 some -- some ongoing struggle that we're seeing with the,
14 um, maybe, like, doing some -- some things in secret and
15 keeping secrets from people instead of, you know, having
16 some -- some more honesty about things. The, um, the
17 changes that you've made are genuine, and we all, you
18 know, I mean it's -- I -- we certainly see that you are
19 absolutely a different person than entered prison, and
20 that's what we want. We want you to, you know, make these
21 changes, and I think you're, you know, you're -- you're
22 doing a lot of work, and you still have some work to do.
23 The action speaking louder than words is -- is a problem
24 when the actions of, you know, just less than a year ago

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1 are you were gonna have the phone regardless. You didn't
2 stop using the phone even though you knew you were going
3 through the re-sentencing, and you had a TV. You had --
4 you had your wife. You had other, you know, you've got
5 this very supportive family, and you were speaking to at
6 least some of them on a regular basis, and you had many
7 other legal means of obtaining that information, and you
8 chose to break the rules regardless. So, I think some of
9 the, um, you know, the problem-solving or the decision-
10 making or the entitlement or the criminal thinking or all
11 of those surrounding those -- those behaviors have really
12 been a problem off and on. But, you know, routinely, since
13 you were 16 years old, maybe 17 years old, but for
14 decades, so I think it -- it bears a little more, um, you
15 -- you need a little more programming to really understand
16 that and flush that out a little bit. That -- as the
17 Commissioner said, when you've got this incredibly
18 supportive family, you've got this huge support system,
19 and yet you're not doing, you know, the -- like, you're
20 not following the basic rules that are gonna get you, you
21 know, that are gonna help you be found suitable for
22 parole, it's -- it's concerning. So, if there's, um, if
23 there's groups, if there's things on your tablet, if
24 there's other correspondence groups that might help you

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1 with some of the, like, consequential thinking and
2 decision making, I think that might be helpful to you, as
3 well. Um, Commissioner, I think that's all I have to add.
4 Thank you.

5 **PRESIDING COMMISSIONER BARTON:** All right. As I
6 said, you have two very experienced attorneys. They're
7 certainly, um, well versed in Petitions to Advance as well
8 as the administrative review process. So, I'll leave it up
9 to them to explain any of that further to you. It is 6:42
10 p.m. Um, that is our decision, and we are now adjourned on
11 this case. Once again, thank you everyone for your
12 participation. You hung in there well today, Mr. Menendez.

13 **DEPUTY COMMISSIONER STERN:** And we are off the
14 record.

15 **ADJOURNMENT**

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1 THIS TRANSCRIPT CONTAINS THE PROPOSED DECISION OF THE
2 BOARD OF PAROLE HEARINGS (BOARD) ANNOUNCED AT YOUR RECENT
3 BOARD HEARING AND IS PROVIDED TO YOU IN COMPLIANCE WITH
4 PENAL CODE SECTION 3041.5, SUBDIVISION (A) (4), AND
5 CALIFORNIA CODE OF REGULATIONS, TITLE 15, SECTION 2254.
6 THIS PROPOSED DECISION WILL BECOME FINAL WITHIN 120 DAYS
7 OF THE DATE OF THE HEARING AS REQUIRED BY PENAL CODE
8 SECTION 3041, SUBDIVISION (B), UNLESS THE BOARD NOTIFIES
9 YOU IN WRITING BEFORE THEN THAT THE PROPOSED DECISION HAS
10 BEEN MODIFIED, VACATED OR REFERRED TO THE FULL BOARD,
11 SITTING EN BANC, DUE TO AN ERROR OF LAW, ERROR OF FACT OR
12 NEW INFORMATION PURSUANT TO CALIFORNIA CODE OF
13 REGULATIONS, TITLE 15, SECTION 2042. THEREAFTER, THE
14 GOVERNOR HAS AUTHORITY TO REVIEW THE BOARD'S DECISION AND
15 AFFIRM, MODIFY, OR REVERSE IT PURSUANT TO PENAL CODE
16 SECTIONS 3041.1 AND 3041.2.

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CERTIFICATE AND DECLARATION OF TRANSCRIBER

I, Heather Cooksey, am a disinterested party, and have no interest in the outcome of the hearing. Further, I certify this transcript is a true, complete, and accurate record, to the best of my ability, of the recorded material provided for transcription of proceeding for:

In the matter of the Parole
Consideration Hearing of:

CDCR Number: **K14101**

ERIK MENENDEZ

RICHARD J. DONOVAN CORRECTIONAL FACILITY

SAN DIEGO, CALIFORNIA

AUGUST 21, 2025

8:45 AM

Signed: *Heather Cooksey*

Transcribed by: Heather Cooksey

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