

PAROLE SUITABILITY HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

In the matter of the Parole
Consideration Hearing of:

CDCR Number: **K13758**

JOSEPH MENENDEZ

RICHARD J. DONOVAN CORRECTIONAL FACILITY

SAN DIEGO, CALIFORNIA

AUGUST 22, 2025

8:39 AM

PANEL PRESENT:

JULIE GARLAND, Presiding Commissioner

PATRICK REARDON, Deputy Commissioner

OTHERS PRESENT:

JOSEPH MENENDEZ, Incarcerated Person

ETHAN MILIUS, Deputy District Attorney

HEIDI RUMMEL, Attorney for Incarcerated Person

NATASCHA LEONARDO, Victim Next of Kin

KAREN VANDERMOLEN-COPLEY, Victim Next of Kin

DIANE HERNANDEZ, Victim Next of Kin

TIFFANI LUCERO PASTOR, Victim Next of Kin

TAMARA LUCERO GOODELL, Victim Next of Kin

ANAMARIA BARALT, Victim Next of Kin

ALICIA BARBOUR, Victim Next of Kin

MARTA CANO HALLOWELL, Victim Next of Kin

TERESITA MENENDEZ BARALT, Victim Next of Kin

AMY H., Victim Next of Kin

SARAH MALLAS, Victim Next of Kin
SYLVIA BOLOCK, Victim Next of Kin
BRIAN ANDERSEN, Victim Next of Kin
ROBERT PASTOR, Victim Support
EILEEN CANO, Victim Next of Kin
ARNOLD VANDERMOLEN, Victim Next of Kin
EUNICE BAUTISTA, Victim Support
MAYA EMIG, Legal Representative
KEN DEASY, Victim Representative
STUART HART, Victim Support
KRISTEN H., Victim Next of Kin
SCOTT WYCKOFF, Observer
ANDREW MICKELSON-STEELE, Hearing Support Staff
EMILY HUMPAL, Observer
DIANA CROFTS-PELAYO, Observer
SILVIA ACEVES, Victim Support
ROBERT LOVE, Victim Support
ERIK VANDERMOLEN, Victim Next of Kin
MIRIAM EL-MENSHAWI, Victim Support
JEFFREY ELSTON, Computer Services
JAMES QUEALLY, Reporter
SEAN CONNELLY, Communications
UNIDENTIFIED, Correctional Officers

Transcribed by:

Fran Matis

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PROCEEDINGS

DEPUTY COMMISSIONER REARDON: We are now on the record, Commissioner.

PRESIDING COMMISSIONER GARLAND: Good morning everyone. It is 8:39 a.m. on August 22, 2025, and this is an initial parole suitability hearing for Joseph Lyle Menendez, CDCR number K13758. Mr. Menendez is in the Board of Parole Hearings Room at RJ Donovan Correctional Facility. Everyone is appearing remotely through Microsoft Teams video. This hearing is being audio recorded and will be transcribed as the official record of the hearing. Please note that no participants may record or transmit any portion of today's hearing. Further, no unauthorized people should be able to hear, view, record, or transmit any portion of today's hearing. We will have every participant identify themselves on the record, and then we will ask participants to turn their cameras off, uh, until they are speaking. So I will, the way I usually do this is -- is in the order of closing statements after the Commissioners, so I will go first. My name is Julie Garland, G-A-R-L-A-N-D, I'm a Commissioner presiding today for the Board of Parole Hearings.

DEPUTY COMMISSIONER REARDON: Good morning. My name is Patrick Reardon, R-E-A-R-D-O-N, and I am a Deputy Commissioner with the Board of Parole Hearings.

1 **PRESIDING COMMISSIONER GARLAND:** And we will go to
2 the DA.

3 **DEPUTY DISTRICT ATTORNEY MILIUS:** Good morning. My
4 name is Ethan Milius, M-I-L-I-U-S, I'm a Deputy District
5 Attorney from Los Angeles County.

6 **PRESIDING COMMISSIONER GARLAND:** And Counsel for Mr.
7 Menendez.

8 **ATTORNEY RUMMEL:** Heidi Rummel, representing, proudly
9 representing Lyle, Joseph Lyle Menendez today, R-U-M-M-E-
10 L.

11 **PRESIDING COMMISSIONER GARLAND:** And Mr. Menen --
12 Menendez, go ahead.

13 **JOSEPH MENENDEZ:** Lyle Menendez, uh, M-E-N-E-N-D-E-Z.

14 **PRESIDING COMMISSIONER GARLAND:** And your CDCR
15 number, just confirm that for us.

16 **JOSEPH MENENDEZ:** K13758.

17 **PRESIDING COMMISSIONER GARLAND:** Thank you. And now I
18 will turn to the list I have of all of the family members
19 participating. I will call everybody by their first name
20 because I know some people would like to just be, uh,
21 identified by their first name and last initial. So if
22 that's what you choose, that's fine, and I don't mean any
23 disrespect by calling you by your first name, but that's
24 how I'll go ahead and -- and go. First person on my list
25 is, uh, Natascha.

1 **NATASCHA LEONARDO:** Natascha Leonardo, L-E-O-N-A-R-D-
2 O, and I'm the great niece of Kitty.

3 **PRESIDING COMMISSIONER GARLAND:** Thank you. And
4 Karen. Do we have Karen here? Oh, I see you, Karen, but
5 you are muted.

6 **KAREN VANDERMOLLEN-COPLEY:** I just said all that on
7 mute. Um, I'm Karen May VanderMollen-Copley, I'm the niece
8 of Mary Lou Kitty Menen -- Menendez. My mother is Joan
9 Andersen VanderMollen, um, V-A-N-D-E-R-M-O-L-L-E-N C-O-P-L-E-
10 Y.

11 **PRESIDING COMMISSIONER GARLAND:** Thank you. And
12 Diane. Do we have Diane here?

13 **DIANE HERNANDEZ:** Hello.

14 **PRESIDING COMMISSIONER GARLAND:** Oh, there we go.

15 **DIANE HERNANDEZ:** I'm sorry.

16 **PRESIDING COMMISSIONER GARLAND:** That's okay.

17 **DIANE HERNANDEZ:** I'm sorry, my mic was muted. My
18 name is Diane Hernandez, H-E-R-N-A-N-D-E-Z. My mother is
19 Joan VanderMollen. I am Kitty Mendenez's niece.

20 **PRESIDING COMMISSIONER GARLAND:** All right, thank you
21 very much. And next I have Alexander.

22 **DIANE HERNANDEZ:** He will not be joining us today.

23 **PRESIDING COMMISSIONER GARLAND:** Okay. Thank you for
24 letting me know. And Sylvia. Oh, that's a -- that's a
25 Representative. Hold on just a second. Let me go to

1 Kathleen. Do we have Kathleen? If you could, be sure
2 you're unmuted before you speak.

3 **TIFFANI LUCERO PASTOR:** Kathleen will not be here
4 today, I will be reading her statement. Um, and I can
5 introduce myself now since I'm on if you'd like.

6 **PRESIDING COMMISSIONER GARLAND:** Sure, go ahead.

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

10 **PRESIDING COMMISSIONER GARLAND:** Okay, thank you. And

11 --

12 **TIFFANI LUCERO PASTOR:** I'll also be reading, just so
13 you know, I will also be reading Joan VanderMolen's
14 statement.

15 **PRESIDING COMMISSIONER GARLAND:** Okay. Thank you. And
16 then, all right. And so it's Kathleen who is not
17 attending. I have Steven next.

18 **TIFFANI LUCERO PASTOR:** He also will not be attend --
19 he will not be attending.

20 **PRESIDING COMMISSIONER GARLAND:** Okay. All right,
21 thank you. I figured that. All right. And then Tamara.

22 **TAMARA LUCERO GOODELL:** Tamara Lucero Goodell, I am
23 the great niece of Mary Louise Menendez, last name Lucero,
24 L-U-C-E-O E-R-O, Goodell, G-O-O-D-E-L-L.

25 **PRESIDING COMMISSIONER GARLAND:** Thank you. And Erik.

1 If you're there Erik, be sure you're unmuted. Erik
2 VanderMolen. All right, not hearing Erik. Anybody know if
3 he is planning to attend?

4 **ROBERT LOVE:** I believe he is, but I don't see him
5 logged in yet.

6 **PRESIDING COMMISSIONER GARLAND:** Okay.

7 **ATTORNEY RUMMEL:** I -- I see him on the screen. I
8 just think he's not, he's on my screen.

9 **TIFFANI LUCERO PASTOR:** Some people are having, are -
10 - are sending messages about having difficulty getting in.

11 **PRESIDING COMMISSIONER GARLAND:** That is unfortunate.
12 Okay. Um, Mr. Steele, do you, we do have a support person
13 here with our IT Department. Do you see anyone in the
14 lobby?

15 **ANDREW MICKELSON-STEELE:** Um, I don't, um, I don't
16 see anybody in the lobby. I do see an Erik VanderMolen
17 that's presently in the hearing. Um, their mic is muted.
18 Um, but I do see that they're actually in the hearing
19 right now. There's nobody that I can see that's in the
20 lobby.

21 **PRESIDING COMMISSIONER GARLAND:** All right. Uh, so
22 Mr. VanderMolen, if you can hear me, uh, we do need you to
23 unmute yourself by pressing the mic button up in the upper
24 right corner. Right. I'm going to move on and I will
25 hopefully remember to come back.

1 **ROBERT LOVE:** Commissioner Garland, um, this is, uh,
2 Robert Love, with OVSRS. We are in the process of texting,
3 um, Erik right now.

4 **PRESIDING COMMISSIONER GARLAND:** All right.

5 **ROBERT LOVE:** So we're trying to get ahold of him.

6 **PRESIDING COMMISSIONER GARLAND:** All right, very
7 good. I appreciate that. Thank you. All right, I will move
8 on to the next person I have, which is, uh, Marta.

9 **UNKNOWN:** She is also, she's having technical
10 difficulties.

11 **DIANE HERNANDEZ:** <crosstalk> getting in.

12 **PRESIDING COMMISSIONER GARLAND:** Okay. Let me see. I
13 just heard she was having technical difficu --
14 difficulties, but then I also heard another voice. Is that
15 her or is she?

16 **DIANE HERNANDEZ:** That was me explaining that she was
17 having difficulty getting in. Thank you.

18 **PRESIDING COMMISSIONER GARLAND:** All -- all right. So
19 Mr., and that was Mr. Love, right, from OVSRS? Who -- who
20 spoke up just --

21 **ROBERT LOVE:** Yes that's correct, yes, yes.

22 **PRESIDING COMMISSIONER GARLAND:** Okay. And are you in
23 touch with, uh, Marta about how to log in?

24 **ROBERT LOVE:** Yeah, we -- we are trying to get a --
25 ahold of all the ones that are mentioning on the screen.

1 So we, we're in the process of trying to get ahold of them
2 --

3 **PRESIDING COMMISSIONER GARLAND:** Okay.

4 **ROBERT LOVE:** to help them out, yes.

5 **PRESIDING COMMISSIONER GARLAND:** All right. So I will
6 also come back to her. Hopefully we will get that
7 resolved. Let me make a note. All right. So I'm going to
8 move on. And it's not unusual to have, uh, some -- some
9 glitches at the beginning with this many people involved,
10 so we'll try to, uh, remedy this as we go forward. All
11 right. Next person on my list is Anna Marie or Anna Maria.

12 **ANAMARIA BARALT:** Yeah, Anamaria Baralt, last name is
13 B-A-R-A-L-T and I am the niece of Jose Menendez.

14 **PRESIDING COMMISSIONER GARLAND:** Thank you. Alicia.

15 **ALICIA BARBOUR:** Hi, Alicia Barbour, B-A-R-B-O-U-R,
16 and I am the niece --

17 **MARTA CANO HALLOWELL:** Oh, they got -- they got me
18 in. Thank you.

19 **PRESIDING COMMISSIONER GARLAND:** Right. I just heard
20 somebody. Okay. Uh, let me ask, uh, Ms. Barbour, if you
21 could just repeat --

22 **ALICIA BARBOUR:** Sure.

23 **PRESIDING COMMISSIONER GARLAND:** the spelling of your
24 last name.

25 **ALICIA BARBOUR:** No problem. Barbour, B-A-R-B-O-U-R.

1 **PRESIDING COMMISSIONER GARLAND:** And you said you are
2 the niece --

3 **ALICIA BARBOUR:** Of Jose.

4 **PRESIDING COMMISSIONER GARLAND:** Okay, very good. And
5 then was that Sylvia or Marta who just came in? Uh, not
6 Sylvia, uh, Marta, is that you?

7 **MARTA CANO HALLOWELL:** That -- that was me, I'm so
8 sorry. I was desperately trying to get in. I apologize.

9 **PRESIDING COMMISSIONER GARLAND:** Underst--,

10 **MARTA CANO HALLOWELL:** Yes.

11 **PRESIDING COMMISSIONER GARLAND:** No worries, go ahead
12 and identify yourself for the record.

13 **MARTA CANO HALLOWELL:** So I'm Marta Cano Hollowell,
14 niece of Jose Menendez.

15 **PRESIDING COMMISSIONER GARLAND:** And if you could
16 spell your last name please.

17 **MARTA CANO HALLOWELL:** It's H-A-L-L-O-W-E-L-L.

18 **PRESIDING COMMISSIONER GARLAND:** Oh, you're a
19 different Marta. I have a --

20 **MARTA CANO HALLOWELL:** So the other --

21 **PRESIDING COMMISSIONER GARLAND:** Marta Menen --

22 **MARTA CANO HALLOWELL:** so the, yes, that is my mom,
23 she will not be on. Um, she's just on the list. I will be
24 representing, reading something for her later.

25 **PRESIDING COMMISSIONER GARLAND:** Okay. So we will

1 have her as a no. Okay, very good. So you are Marta
2 Hallowell.

3 **MARTA CANO HALLOWELL:** Correct.

4 **PRESIDING COMMISSIONER GARLAND:** Correct. Okay, thank
5 you. And I think, uh, next on my list was, uh, Teresita or
6 Terry? If you are there, we're not hearing you. Be sure to
7 unmute yourself.

8 **TERESITA MENENDEZ BARALT:** Okay. Can you hear me now?

9 **PRESIDING COMMISSIONER GARLAND:** Yes, I can.

10 **TERESITA MENENDEZ BARALT:** Okay. My name is Teresita
11 Menendez-Baralt, uh, B-A-R-A-L-T. I was Jose Menendez's
12 sister.

13 **PRESIDING COMMISSIONER GARLAND:** Okay. Thank you very
14 much, ma'am. And we have Marta. How about Amy?

15 **AMY H.:** Amy H., relative of, uh, Jose.

16 **PRESIDING COMMISSIONER GARLAND:** All right. Amy H.,
17 correct? Okay. Thank you. And Sarah.

18 **SARAH MALLAS:** Hi, uh, Sarah Mallas, uh, M-A-L-L-A-S,
19 I am the great niece of Kitty and Jose.

20 **PRESIDING COMMISSIONER GARLAND:** Thank you. And Ms.
21 Mallas, your first name is Sarah with an H?

22 **SARAH MALLAS:** Yes, Sarah with an H. Sorry.

23 **PRESIDING COMMISSIONER GARLAND:** Might as well get it
24 spelled correctly. All right.

25 **SARAH MALLAS:** Yeah.

1 **PRESIDING COMMISSIONER GARLAND:** All right. And I
2 have Kristen next. Kristen we can't hear you. If you're
3 there be sure to unmute yourself. Circle back. How about,
4 is it Tyler? Taylor Broom? Anybody know if --

5 **MARTA CANO HALLOWELL:** Sorry, I just talked to
6 Kristen and she said she's not able to unmute and I think
7 Tyler may be with her as well. She's on, but she says
8 she's not able to unmute.

9 **PRESIDING COMMISSIONER GARLAND:** Okay. I'm going to
10 ask Mr. Love to also reach out to them to see if he can
11 help them with the unmuting. All right, and we will circle
12 back to both of them. And then I have Sylvia.

13 **SILVIA**

14 **ACEVES:** Hi, Sylvia Aceves, A-C --

15 **SYLVIA BOLOCK:** Uh, yes.

16 **PRESIDING COMMISSIONER GARLAND:** Oh, I have, uh,
17 Sylvia B.

18 **SYLVIA BOLOCK:** Yes, Sylvia Bolock, B-O-L-O-C-K, and
19 I'm the niece of Jose.

20 **PRESIDING COMMISSIONER GARLAND:** Thank you. Uh,
21 Eileen.

22 **EILEEN CANO:** Uh, yes.

23 **PRESIDING COMMISSIONER GARLAND:** Oh, wait, I think I
24 saw Eileen, we're getting a major echo and I think I saw
25 you logged in as like twice, So it might be you need to

1 un -- like just shut down one of, if you're on a computer
2 and a phone or something.

3 **EILEEN CANO:** Let me see if I can --

4 **DEPUTY COMMISSIONER REARDON:** Yeah, that -- that
5 usually means an open mic that's looping.

6 **EILEEN CANO:** Uh, if I sign out and I sign back in.

7 **PRESIDING COMMISSIONER GARLAND:** Yeah, go --

8 **DEPUTY COMMISSIONER REARDON:** Or try to mute, can you
9 mute one of your devices?

10 **EILEEN CANO:** I'll mute myself.

11 **DEPUTY COMMISSIONER REARDON:** or just --

12 **EILEEN CANO:** can you skip me and I'll come back?

13 **PRESIDING COMMISSIONER GARLAND:** Okay. Mute yourself
14 so I can talk to you. So, okay. Um, so Eileen, if you, do
15 you have both a phone and a computer logged in? That might
16 be the issue. Let me see if you still show up as being in
17 twice. Yes I show two devices. I -- I wonder if I could
18 kick one off.

19 **DEPUTY COMMISSIONER REARDON:** You can dismiss one
20 from the hearing I believe, Commissioner.

21 **EILEEN CANO:** Just leave the --

22 **PRESIDING COMMISSIONER GARLAND:** Yeah, I wish I --

23 **DEPUTY COMMISSIONER REARDON:** Let me see.

24 **PRESIDING COMMISSIONER GARLAND:** Well I'll let Mr.
25 Steele see if there's a remedy for that. I think what

1 she'll need to do is -- is --

2 **DEPUTY COMMISSIONER REARDON:** Do you want me --

3 **PRESIDING COMMISSIONER GARLAND:** figure out why there
4 are two that are logged in and hopefully get rid of one.
5 Eileen, can you, have you figured it out? You, are you
6 ready yet? Or I can move to the next person.

7 **EILEEN CANO:** Can you go to the next person.

8 **PRESIDING COMMISSIONER GARLAND:** Will do. Go back on
9 mute. Thank you. Okay, uh, Brian.

10 **BRYAN ANDERSEN:** Yes. Brian Alan Andersen, Jr. I am
11 the nephew of Kitty Menendez.

12 **PRESIDING COMMISSIONER GARLAND:** And spell your last
13 name for us.

14 **BRYAN ANDERSEN:** A-N-D-E-R-S-E-N.

15 **PRESIDING COMMISSIONER GARLAND:** Thank you.

16 **BRYAN ANDERSON:** Junior.

17 **PRESIDING COMMISSIONER GARLAND:** Uh, okay. And I have
18 Tiffani. Do we have Tiffani on?

19 **TIFFANI LUCERO PASTOR:** Good morning. I introduced
20 myself earlier.

21 **PRESIDING COMMISSIONER GARLAND:** Oh, at the
22 beginning. And you spelled your last name?

23 **TIFFANI LUCERO PASTOR:** Yes.

24 **PRESIDING COMMISSIONER GARLAND:** Yes?

25 **TIFFANI LUCERO PASTOR:** I did -- I did.

1 **PRESIDING COMMISSIONER GARLAND:** Okay. That's right.
2 Thank you. And Robert?

3 **ROBERT LOVE:** Uh, yes I'm, uh, Robert Love with, uh,
4 manager over at OVSRS --

5 **PRESIDING COMMISSIONER GARLAND:** Hold on.

6 **ROBERT LOVE:** And --

7 **PRESIDING COMMISSIONER GARLAND:** Hold on. I was
8 talking about --

9 **ROBERT LOVE:** is that me you talking --

10 **PRESIDING COMMISSIONER GARLAND:** I was talking about
11 Robert P. If I could just see if Robert P. is here. I'll
12 get to you, Mr. --

13 **ROBERT LOVE:** Sorry, my --

14 **PRESIDING COMMISSIONER GARLAND:** That's okay.

15 **ROBERT PASTOR:** Uh, good morning. My name is Robert
16 Pastor. I'm a support person for Tiffani Lucero Pastor. My
17 last name is spelled P as in Paul, A-S-T-O-R.

18 **PRESIDING COMMISSIONER GARLAND:** Thank you very much.
19 And --

20 **EILEEN CANO:** I am back. I think I'm right, okay?

21 **PRESIDING COMMISSIONER GARLAND:** Is that you Eileen?

22 **EILEEN CANO:** This is Eileen. Uh, my name is --

23 **PRESIDING COMMISSIONER GARLAND:** Okay.

24 **EILEEN CANO:** I'm sorry. Uh, good morning. My name is
25 Eileen Cano, C-A-N-O, I am the niece of Jose Menendez and

1 I'm sorry for my technical difficulty.

2 **DEPUTY COMMISSIONER REARDON:** No worries.

3 **PRESIDING COMMISSIONER GARLAND:** No worries. Okay. I
4 see some more people coming into the lobby, hopefully
5 somebody, Mr. Steele is dealing with that. Thank you.
6 Okay. So I think I was on Anna, did we already have Anna
7 H.? Anna H., are you there?

8 **MARTA MENENDEZ CANO:** Anna H. will not be joining,
9 Commissioner. Thank you.

10 **PRESIDING COMMISSIONER GARLAND:** Thank you for
11 letting me know. And then I have Arnold.

12 **ARNOLD VANDERMOLEN:** Arnold, Arnie VanderMolen, V-A-
13 N-D-E-R-M-O-L-E-N, Kitty Menendez's nephew.

14 **PRESIDING COMMISSIONER GARLAND:** Okay. Very good.
15 Thank you. And Eunice?

16 **EUNICE BAUTISTA:** Yes. Eunice Bautista, Support
17 Person for Arnold VanderMolen, last name B-A-U-T-I-S-T-A.

18 **PRESIDING COMMISSIONER GARLAND:** All right. Thank
19 you. And, uh, Ms. Emig.

20 **MAYA EMIG:** Good morning everyone. I'm Attorney Maya
21 Emig, E-M-I-G. I am the Legal Representative on behalf of
22 Joan VanderMolen, who is the sister of Kitty Menendez. I'm
23 also the Support Person for Natascha Leonardo, Karen
24 VanderMolen and Bryan Andersen, Jr. Thank you,
25 Commissioner.

1 **PRESIDING COMMISSIONER GARLAND:** All right, thank
2 you. And Father, uh, Ken Deasy?

3 **KEN DEASY:** Yes, um, D-E-A-S-Y, Pastor, former Pastor
4 of Lyle Menendez, retired Los Angeles priest, living in
5 Lahaina, Hawaii.

6 **PRESIDING COMMISSIONER GARLAND:** Oh, you're going to
7 make us all envious.

8 **KEN DEASY:** Yeah.

9 **PRESIDING COMMISSIONER GARLAND:** All right.

10 **KEN DEASY:** Okay. Aloha.

11 **PRESIDING COMMISSIONER GARLAND:** All right. And you
12 are here as a Representative for Marta, is that correct?

13 **KEN DEASY:** I'm sorry, yeah, for Marta Cano.

14 **PRESIDING COMMISSIONER GARLAND:** All right. And then
15 I have Dr. Hart.

16 **STUART HART:** Yes, thank you. Uh, Stuart Hart, H-A-R-
17 T, Representative of Terry Baralt.

18 **PRESIDING COMMISSIONER GARLAND:** And your first name
19 is S-T-U-A-R-T, correct?

20 **STUART HART:** S-T-U-A-R-T, yes, thank you.

21 **PRESIDING COMMISSIONER GARLAND:** All right. And now
22 I'm going to Observers. I think I have everyone, well let
23 me just ask, is there any family member that I did not
24 call?

25 **MARTA MENENDEZ CANO:** Commissioner, uh, Kristen is

1 now on, so if you wanted to check her.

2 **PRESIDING COMMISSIONER GARLAND:** Yes. Kristen, please
3 identify yourself and spell your last -- spell your last
4 name if you want your last name in -- in the record.

5 **KRISTEN H.:** Yeah, sorry about that. Um, it's just
6 Kristen H., um, and I'm the great niece of Jose Menendez.

7 **PRESIDING COMMISSIONER GARLAND:** Thank you. Kristen
8 with an E-N at the end, correct?

9 **KRISTEN H.:** Correct.

10 **PRESIDING COMMISSIONER GARLAND:** And is Tyler with
11 you?

12 **KRISTEN H.:** He's not.

13 **PRESIDING COMMISSIONER GARLAND:** Okay. And he was a
14 Support Person, is he not attending?

15 **KRISTEN H.:** He's not attending.

16 **PRESIDING COMMISSIONER GARLAND:** Thank you. All
17 right. Any other family members that we missed? Okay,
18 we'll go to the next group. Uh, we have some Observers.
19 Uh, Mr. Wyckoff.

20 **SCOTT WYCKOFF:** Good morning. Scott Wyckoff, Executive
21 Officer for the Board of Parole Hearings, W-Y-C-K-O-F-F.

22 **PRESIDING COMMISSIONER GARLAND:** Thank you. And Mr.,
23 uh, Mickelson-Steele.

24 **ANDREW MICKELSON-STEELE:** Good morning. Uh, Andrew
25 Mickelson-Steele, M-I-C-K-E-L-S-O-N--S-T-E-E-L-E, BPH

1 Support.

2 **PRESIDING COMMISSIONER GARLAND:** Thank you. And we
3 have somebody from CDCR, from OPEC. I don't know if you're
4 identifying your --

5 **EMILY HUMPAL:** Hello, my name is Emily Humpal, last
6 name H-U-M as in Mary, P-A-L, I am with OPEC Press Office.

7 **PRESIDING COMMISSIONER GARLAND:** Thank you. And I
8 have Ms., uh, Crofts-Pelayo -- Palayo from the Governor's
9 Office.

10 **DIANA CROFTS-PELAYO:** Yes, uh, Diana Crofts-Pelayo,
11 pal, spelled C-R-O-F-T-S--P-E-L-A-Y-O.

12 **PRESIDING COMMISSIONER GARLAND:** Thank you. And, uh,
13 uh, Silvia, uh, Aceves?

14 **SYLVIA ACEVES:** Yes, Silvia Aceves, A-C-E-V-E-S,
15 OVSRs, Support for, uh, Diane.

16 **PRESIDING COMMISSIONER GARLAND:** Thank you. And Mr.
17 Love, finally your turn.

18 **ROBERT LOVE:** Uh, Robert Love, OVSRs, uh, manager,
19 Support for the family. And I've got a hold of Erik and
20 he's ready to identify himself.

21 **PRESIDING COMMISSIONER GARLAND:** Oh, okay. Uh, and
22 that was, okay, go ahead, Erik.

23 **ERIK VANDERMOLEN:** Erik VanderMolen, uh, spelled V-A-
24 N-D-E-R-M-O-L-E-N, and I'm great nephew of Kitty Menendez.

25 **PRESIDING COMMISSIONER GARLAND:** Okay. Thank you so

1 much. All right. And, uh, Ms. El-Menshawhi.

2 **MIRIAM EL-MENSHAWI:** Good morning, um, Miriam El-
3 Menshawhi, E-L--M-E-N-S-H-A-W-I, Chief of OVSRs, here as
4 support for VNOK Anamaria Baralt.

5 **PRESIDING COMMISSIONER GARLAND:** All right.

6 **JAMES QUEALLY:** We have about three more people in
7 the OPEC room who need to identify themselves.

8 **PRESIDING COMMISSIONER GARLAND:** Thank you. I -- I
9 just realized I should ask that. Okay, go ahead.

10 **JEFFREY ELSTON:** Okay. This is Jeffrey Elston with
11 Computer Services, E-L-S-T-O-N.

12 **PRESIDING COMMISSIONER GARLAND:** Thank you.

13 **JAMES QUEALLY:** Uh, James Queally of the Los Angeles
14 Times, I'm a pool reporter.

15 **PRESIDING COMMISSIONER GARLAND:** And spell your last
16 name for us.

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

18 **PRESIDING COMMISSIONER GARLAND:** Thank you.

19 **SEAN CONNELLY:** Sean Connelly, C-O-N-N-E-L-L-Y, the
20 Assistant Secretary for the Office of Public and Employee
21 Communications.

22 **PRESIDING COMMISSIONER GARLAND:** Thank you. Anyone
23 else? All right. Commissioner did you know, see anybody
24 that we didn't call or anything we need to take care of as
25 far as the identification?

1 **DEPUTY COMMISSIONER REARDON:** I just would like to
2 double check to make sure there's nobody in the lobby that
3 has not been admitted. Mr. Steele, can -- can you verify
4 that?

5 **ANDREW MICKELSON-STEELE:** Hello. Yeah, I'm not seeing
6 anybody. There -- there are no attendees, uh, from what I
7 can see that are, uh, waiting to be admitted.

8 **DEPUTY COMMISSIONER REARDON:** I think that covers
9 everything then, Commissioner.

10 **PRESIDING COMMISSIONER GARLAND:** All right. So at
11 this time we do need to take a break to check the
12 recording. So it should just take a few minutes. I'll just
13 ask everyone to stand by, and Commissioner Reardon will
14 let us know when he's ready to come back on.

15 **RECESS**

16
17 **DEPUTY COMMISSIONER REARDON:** We are now back on the
18 record. Commissioner I have checked the recording, it is
19 clear. Uh, it's my intention to check it from time to time
20 and if any issues arise I will advise you.

21 **PRESIDING COMMISSIONER GARLAND:** All right. So I was
22 just going to ask Mr. Menendez a question and I do not see
23 him. Mr. Menendez, are you there? RJD, can you hear me?

24 **DEPUTY COMMISSIONER REARDON:** You would like to go
25 off the record pending this resolution?

1 **PRESIDING COMMISSIONER GARLAND:** Sure. 9:03 a.m.,
2 let's do that.

3 **RECESS**

4
5 **DEPUTY COMMISSIONER REARDON:** We are now back on the
6 record, Commissioner.

7 **PRESIDING COMMISSIONER GARLAND:** All right. 9:04 a.m.
8 I do see Mr. Menendez is back. I want to check with you
9 Mr. Menendez, were you able to see, well were you able to
10 hear everyone who identified themselves?

11 **JOSEPH MENENDEZ:** Yes, Commissioner.

12 **PRESIDING COMMISSIONER GARLAND:** All -- all right. So
13 as you all --

14 **ATTORNEY RUMMEL:** I think Ms. Emig was ejected from
15 the meeting and is having trouble getting back into the
16 meeting.

17 **PRESIDING COMMISSIONER GARLAND:** Oh, man, okay. Of
18 all people, she's an expert with this. Um, I don't see her
19 in the lobby.

20 **ANDREW MICKELSON-STEELE:** Yeah, I don't see her -- I
21 don't see her either.

22 **PRESIDING COMMISSIONER GARLAND:** All right. Ms.
23 Rummel, did you just hear from her about that? I'm
24 wondering if --

25 **ATTORNEY RUMMEL:** I got a text from somebody else

1 that she was booted out and can't re -- and is having, I
2 think she's having trouble rejoining.

3 **PRESIDING COMMISSIONER GARLAND:** All right. I'm going
4 to actually keep going forward. Obviously we will not do
5 anything substantive without Ms. Emig here, but I do want
6 to, just in the interest of everyone's time, I'm sure
7 everyone is tired already, um, so I'm going to go ahead
8 and move forward and hopefully she will get back in. Uh,
9 let me check again. Mr. Menendez, you were able to hear
10 everyone, is that correct?

11 **JOSEPH MENENDEZ:** Yes.

12 **PRESIDING COMMISSIONER GARLAND:** Okay. And then the
13 next thing that we'll do is a -- a quick review under the
14 Americans with Disabilities Act, we need to make sure that
15 everyone is fully accommodate, well everyone, the
16 incarcerated person before us is fully accommodated. I
17 don't see anything like equipment, glasses, knee braces,
18 things that we sometimes see, is that correct? You don't
19 have any equipment assigned to you?

20 **JOSEPH MENENDEZ:** No, I don't.

21 **PRESIDING COMMISSIONER GARLAND:** All right. And I
22 know you have a very high TABE score and quite a bit of
23 education. The reason I cover that is we have to be sure
24 we have effective communication with you. I will assume
25 that you are going to understand and comprehend everything

1 we talk about. That said, if there is anything that you
2 don't understand, a word, a phrase, a question, just let
3 us know. We can repeat or rephrase things for you as
4 necessary. Uh, one more question on ADA is if you are
5 taking any medication that could affect your ability to
6 participate in the hearing today?

7 **JOSEPH MENENDEZ:** No, I'm not.

8 **PRESIDING COMMISSIONER GARLAND:** All right. You're
9 feeling okay?

10 **JOSEPH MENENDEZ:** A little anxious, but okay.

11 **PRESIDING COMMISSIONER GARLAND:** A little anxious,
12 that's a -- that's an understatement for most people in
13 your seat, so okay. All right, we understand. And Ms.
14 Rummel, do you know of any other accommodations your
15 client needs?

16 **ATTORNEY RUMMEL:** I do not.

17 **PRESIDING COMMISSIONER GARLAND:** All right, and it
18 does look like Ms. Emig just joined us again. Let me
19 check. Ms. Emig, are you there?

20 **ATTORNEY RUMMEL:** Thank you.

21 **MAYA EMIG:** I am Commissioner and thank you so much.
22 I appreciate it. Thank you.

23 **PRESIDING COMMISSIONER GARLAND:** Of course. All
24 right. And Ms. Rummel, is your client planning to testify
25 today?

1 **ATTORNEY RUMMEL:** He is. We do have some preliminary
2 objections, but he is planning to speak to the Panel.

3 **PRESIDING COMMISSIONER GARLAND:** All right. So Mr.
4 Menendez, please raise your right hand and I will swear
5 you in. Do you solemnly swear or affirm that the testimony
6 you give at this hearing will be the truth, the whole
7 truth, and nothing but the truth?

8 **JOSEPH MENENDEZ:** I do.

9 **PRESIDING COMMISSIONER GARLAND:** All right. Very
10 good. Um, let me just, let's see. So just, if -- if anyone
11 needs to speak up at some time, you -- you may unmute
12 yourself. Uh, we ask that -- that we don't have a -- a lot
13 of interruptions, but I -- I know that, uh, you know,
14 there's not a raise your hand function I don't believe on
15 here. So if anybody needs to speak up, unmute yourself and
16 say something. But I will ask to have everybody stay on
17 mute unless they need the attention of the Panel. Um, I
18 only on my screen see, I have the Attorneys and the Deputy
19 Commissioner and Mr. Menendez, so I won't know if
20 anybody's trying to raise their hand or -- or say
21 something to get our attention, so I just wanted to point
22 that out. All right, Ms. Rummel, what are your, um,
23 objections or motions today?

24 **ATTORNEY RUMMEL:** First we will renew our strenuous
25 objection to media presence at this hearing. We have

1 outlined that extensively for the Board. Um, this is a
2 process that requires candor and discussion of very
3 personal, difficult topics. And that is what the Board
4 expects of people who come into this room and, um, making
5 this a media spectacle undermines the fairness and the
6 integrity of the process. So I object on behalf of my
7 client again, and we see from yesterday that's exactly
8 what happened, um, as we predicted, and I -- I -- I draw
9 the Panel's attention to the family's unanimous and
10 strenuous objection to media presence. It undermines their
11 dignity. Um, it -- it is not, it does not protect them and
12 it, we believe it's a violation of Marsy's Law. I'm sure
13 the Panel has, um, the family's, you know, they -- they,
14 I'll -- I'll -- I'll raise one small, I, I'm going to just
15 quote from their objections. They desire the freedom to
16 make statements that express their feelings, share their
17 most intimate thoughts, talk about the effects of these
18 very personal moments at a hearing where all parties can
19 participate honestly, without being concerned about media
20 grabbing headlines. So I renew our media objection on
21 behalf of Mr. Menendez and on behalf of every single
22 family member who joined, um, in the family's objections.

23 **PRESIDING COMMISSIONER GARLAND:** All right. Um, thank
24 you. And I understand your concerns, Ms. Rummel, and we
25 hope to make this as, um, smooth a process as we can, but

1 I do overrule that, uh, objection. This has already been
2 ruled on by legal. This is a public, um, proceeding and
3 due to transparency, uh, the decision was made that media
4 will be allowed. I do know that there are a lot of
5 protections that have been put in place, uh, so that this
6 is not, you know, a live stream sort of thing, uh, and --
7 and I think that, uh, it will be handled professionally,
8 uh, with all of those concerns in mind. But I -- I do
9 understand, but it is overruled.

10 **ATTORNEY RUMMEL:** I understand. And I appreciate the
11 protections the Board has put in place. Um, yesterday, the
12 Board did not ask a lot of questions related to the trauma
13 that drove this crime. And I thought it was for my
14 client's protection. Um, Mr. Menendez is willing to speak
15 on those topics, notwithstanding that this will become a
16 public spectacle because they are, uh, fundamentally
17 intertwined with the reasons that this offense was
18 committed and with the question of current dangerousness.
19 So even though we object to the format of having media
20 present, we, um, Mr. Menendez wants to speak openly and
21 honestly about what drove this crime and hopes that this
22 Panel will, um, has reviewed all the documents we've
23 submitted and -- and it has a -- a good understanding of
24 the impacts of trauma on children and young people. Thank
25 you.

1 **PRESIDING COMMISSIONER GARLAND:** Of course. Any other
2 objections?

3 **ATTORNEY RUMMEL:** Um, I filed objections to the
4 Comprehensive Risk Assessment. Um, many of our factual
5 objections were relatively dismissed based on notes or,
6 you know, recordings that we were not privy to, um, so I
7 continue to raise those objections. I think they're well
8 documented in my objections and, um, we obviously object
9 to the methods and the biases of the evaluators who, uh,
10 performed the CRAs. We've dealt with that extensively in
11 our submission. Dr. Nancy Kaser-Boyd, who teaches Risk
12 Assessment at UCLA and is an expert in the field, has
13 noted the -- the -- the problems with the way the CRA was
14 conducted and the conclusions. So I will renew those
15 objections for the record and argue them in my closing to
16 the extent they've not been covered in my -- in my
17 submission.

18 **PRESIDING COMMISSIONER GARLAND:** Okay. And I do want
19 to say the Panel has reviewed the objections as well as
20 the Board's responses to those. There are some that were
21 simply overruled based on, as you mentioned just factual,
22 um, statements or what the records said. There were some
23 that were, uh, left open for you to renew, uh, during the
24 hearing. Is there anything you want to address as, at the
25 outset on those that you could renew? Or should we just

1 take those as -- as we get to those topics?

2 **ATTORNEY RUMMEL:** My primary, um, objection is to
3 every part of the miscellaneous decision that basically
4 said, well our records indicate that's what he said. And,
5 um, I had no access to those records or the recording of
6 the Comprehensive Risk Assessment. Um, so I ask the Panel
7 to keep an open mind, um, about comments that Mr.
8 Menendez... they are small factual differences, they are
9 small, but, um, I think it casts a doubt on the accuracy
10 of the CRA and the accuracy of the reporting of the CRA
11 and how they, um, understood, um, the many complicated
12 facts in this case and their limited availability to
13 anything that would relate to the plausibility of the
14 factual circumstances of the crime.

15 **PRESIDING COMMISSIONER GARLAND:** All right. So I --
16 I've made a note of some of those factual discrepancies
17 and I -- I did plan to ask Mr. Menendez about those that I
18 felt were relevant issues, so we will give him a chance
19 to, uh, say what his facts are. And --

20 **ATTORNEY RUMMEL:** I appreciate that. I appreciate
21 that.

22 **PRESIDING COMMISSIONER GARLAND:** And I think, and I
23 do think that, um, you know, overall as you mentioned,
24 they were, some of them were fairly small things. If
25 there's anything big, I will absolutely give you and your

1 client a chance to -- to clarify that as we go forward.
2 So, all right, so we'll sort of put that, the CRA
3 objections on hold. Uh, any other objections?

4 **ATTORNEY RUMMEL:** I do. Mr. Menendez was only
5 recently given an opportunity to conduct an Olsen Review.
6 There is a document in the file, um, related to a
7 confidential that was not apparently placed in the
8 Confidential, or certainly not disclosed to us. So I
9 wanted to be sure that the Board has what I received from
10 Mr. Menendez following his Olsen Review this week. Um, it
11 talks about in 1997 there, Mr. Menen -- the -- the -- the
12 White gang, um, requested that Mr. Menendez be removed
13 from the yard because he refused to fight back against a
14 Hispanic inmate and he also refused to fight back against,
15 um, a black or African American inmate. It was, the -- the
16 document I have says it would be placed in his
17 Confidential, but I -- I got no notice of it in a
18 confidential disclosure form, and I want to be sure that
19 the -- that the Board has seen it or it's part of the
20 records that the Board is reviewing. I think obviously,
21 you know, his lack of violence is an important
22 consideration at this hearing.

23 **DEPUTY COMMISSIONER REARDON:** What was the date of
24 it? What --

25 **PRESIDING COMMISSIONER GARLAND:** Well, two things --

1 **DEPUTY COMMISSIONER REARDON:** what was the date of
2 the memo?

3 **PRESIDING COMMISSIONER GARLAND:** yeah, go ahead.

4 **DEPUTY COMMISSIONER REARDON:** What was the date of
5 the memorandum, Counsel?

6 **ATTORNEY RUMMEL:** Um, sorry, let me just grab it. Or
7 if you know Mr. Menendez off the top of your head.

8 **PRESIDING COMMISSIONER GARLAND:** Well, here's --
9 here's what I would say to that. I, uh, in my notes of
10 what I plan to cover, I don't see 1997 being, uh,
11 something that we would be discussing. I do vaguely
12 remember something, reading something about that, but I --
13 I just don't know that it's going to be relevant to our
14 hearing today. If it's something you want us to see, I'll
15 look through and make sure it is something that I've seen,
16 but.

17 **ATTORNEY RUMMEL:** I would like you to see it. Um,
18 lots of very historical factors were relevant at the
19 hearing yesterday, so I just want to be sure.

20 **DEPUTY COMMISSIONER REARDON:** All right.

21 **ATTORNEY RUMMEL:** Um, that this Panel does see it,
22 um, and realizes that as early as 1997 Mr. Menendez was
23 refusing to engage in violence and it's documented, um, in
24 his file. And I -- I didn't see it in my confidential
25 disclosure form. I don't think it made it into the

1 Confidential File, but it was otherwise documented. I will
2 find it before the end of the hearing.

3 **DEPUTY COMMISSIONER REARDON:** So we have two, um,
4 entries, November 11, 1997, talking about participating in
5 conduct conducive of violence, and one dated November 3,
6 1997, alleging conduct conducive to violence. So those are
7 the entries and if there are documents related to that, we
8 will certainly look to see if those made their way into
9 the Confidential File.

10 **ATTORNEY RUMMEL:** No, that's exactly my point. They -
11 - they -- they were not mentioned in the Confi -- in -- in
12 -- in the documents.

13 **PRESIDING COMMISSIONER GARLAND:** Right, that's --
14 that's what I understand. So you're saying that in the
15 Olsen Review, Mr. Menendez saw that. Um, if it was in the
16 Confidential, he wouldn't have seen it in the Olsen
17 Review.

18 **ATTORNEY RUMMEL:** Exactly.

19 **PRESIDING COMMISSIONER GARLAND:** Again, I do recall -

20 -

21 **ATTORNEY RUMMEL:** It's dated November 19, 1997 by
22 Sergeant Reed. It's a --

23 **PRESIDING COMMISSIONER GARLAND:** Okay.

24 **ATTORNEY RUMMEL:** two page document.

25 **PRESIDING COMMISSIONER GARLAND:** We can get that out

1 of the Electronic File. I will -- I will confirm that
2 we've looked at that. I do, again, that sounds familiar.
3 Um, I didn't have any questions about it, but, um, we will
4 definitely look at that.

5 **ATTORNEY RUMMEL:** As long as the Panel has it and is
6 considering it I'm satisfied, thank you.

7 **PRESIDING COMMISSIONER GARLAND:** Okay, very good. Um,
8 all right, where were we? Okay, uh, Mr. Milius, any
9 preliminary matters, uh, from your end?

10 **DEPUTY DISTRICT ATTORNEY MILIUS:** No, Your Honor.

11 **PRESIDING COMMISSIONER GARLAND:** You don't have to
12 call me Your Honor. Um, --

13 **DEPUTY DISTRICT ATTORNEY MILIUS:** No, uh, --

14 **PRESIDING COMMISSIONER GARLAND:** since it's not my
15 title, but that's okay.

16 **DEPUTY DISTRICT ATTORNEY MILIUS:** What -- what would
17 you, uh, uh, --

18 **PRESIDING COMMISSIONER GARLAND:** Just Commissioner is
19 fine.

20 **DEPUTY DISTRICT ATTORNEY MILIUS:** Okay. Sorry, I
21 apologize.

22 **PRESIDING COMMISSIONER GARLAND:** No, no worries. I
23 don't want to be promoted unnecessarily here.

24 **DEPUTY DISTRICT ATTORNEY MILIUS:** <crosstalk>

25 **PRESIDING COMMISSIONER GARLAND:** All right. Um, all

1 right. So let's, uh, move on to the substance of the
2 hearing. Uh, so Mr. Menendez, the -- the next, uh, well
3 for quite some time we'll be talking to you. I've been
4 talking to Counsel and everyone else, but -- but now it's
5 -- it's, uh, going towards you. So since this is your
6 first hearing, I do want to spend a few minutes explaining
7 what we will be doing. Uh, Deputy Commissioner Reardon and
8 I are the Panel that will determine whether your release
9 would pose an unreasonable risk to public safety. And we
10 do that by considering several factors, including your
11 prior criminal history, the circumstances of the life
12 crime offense. We will also look at your institutional
13 behavior, your efforts at programming, your, uh, parole
14 plans and ultimately we are looking to see the
15 rehabilitative change and progress, uh, that you've
16 accomplished during your incarceration, whether those
17 you've really mitigated or lessened the risk factors that
18 were present at the time of the crime. We will also give
19 special consideration to the elderly parole factors, as
20 well as great weight to the youth offender factors. Uh,
21 one thing to keep in mind is that Commissioner Reardon and
22 I have thoroughly reviewed your record, uh, including your
23 Central and Electronic Prison File, uh, including the
24 Confidential, medical and Mental Health records, the
25 Comprehensive Risk Assessment, and all the documents

1 submit -- submitted both in opposition to and in support
2 of your parole. Uh, regarding the Confidential File, if we
3 rely on anything in it, we will make a separate
4 confidential tape to explain the relevancy and the
5 reliability of that information. Uh, I do want to check
6 with Counsel just to make sure we all have the, you know,
7 same records that we're working on. I mean the Panel does
8 have access to some things that Counsel doesn't, but I do
9 want to confirm the 10-day packet. I think by the end,
10 with the late submissions, it was just under 800 pages.
11 Uh, the bulk of it includes the appellate opinion, uh,
12 CRA, objections and responses, uh, DA statement of views,
13 and then a 371 page I believe, uh, parole packet from Mr.
14 Menendez and his Attorney. Uh, the record also contains
15 numerous support and opposition letters, some in the
16 Confidential File, some in the 10-day. Uh, the Master
17 File, I believe is 392 pages. And am I missing anything
18 Commissioner Reardon?

19 **DEPUTY COMMISSIONER REARDON:** Let me check.

20 **PRESIDING COMMISSIONER GARLAND:** And those numbers
21 are fairly rough, but, uh, has -- has Counsel received
22 those and does that sound about right for what you all are
23 working off as as well?

24 **ATTORNEY RUMMEL:** Um, those sound like the documents
25 I've received. I would note that the last circulation of

1 the 10-day packet, which was outside the 10-day window
2 concern, contains a lot of public sentiments from people
3 who don't know Mr. Menendez, if, you know, I -- I guess I
4 object to the extent it wasn't timely disclosed. I don't
5 really see the relevance, but I know it became an issue at
6 the hearing yesterday, so I would just, um, object to the
7 relevance of people who don't know Mr. Menendez weighing
8 in on whether or not he's suitable for parole.

9 **PRESIDING COMMISSIONER GARLAND:** Understood. I don't
10 know that I need to rule on that as an objection per se. I
11 -- I think that, uh, the Panel would share your -- your
12 thoughts about the relevancy of -- of those type of
13 letters in this case, so. All right, anything further?

14 **ATTORNEY RUMMEL:** No.

15 **PRESIDING COMMISSIONER GARLAND:** All right. So I also
16 want to just explain what we will and will not be doing.
17 Uh, the first part of the hearing will be a discussion,
18 uh, with you, Mr. Menendez and the Panel about the issues
19 that we think are particularly relevant to determining
20 your suitability for parole today. After that, we will
21 give the Attorneys a chance to ask clarifying questions,
22 uh, followed by closing statements, each of which will be
23 limited to, I usually say 10, I understand there was some
24 leeway yesterday, I'll say 15, just to keep it, uh, equal.
25 I will ask that both clarifying questions and closing

1 statements, uh, around 15 minutes. After than Mr.
2 Menendez, if you would like, you can also make a closing
3 statement. Uh, next we will hear from the victim's family
4 members and representatives, and at the conclusion of all
5 the statements, uh, Commissioner Reardon and I will
6 disconnect to deliberate and then we will come back on the
7 record, uh, to announce our decision. What we will not be
8 doing is a document review. As I mentioned, there are a
9 lot of documents. We're not going through them to check
10 off certificates or, you know, just things that are
11 already part of the record. All those documents are
12 incorporated into the hearing, and so we won't address
13 them unless we have questions about them. Um, it's also
14 important that you know that we will not be retrying the
15 case. We will not be determining the validity of the
16 defense you presented or may still present in court. We do
17 accept the findings of the court as reflected in the
18 appellate opinion. As a preview, uh, I would say the focus
19 of the hearing today will, uh, start with a discussion
20 about the crime, what led up to it, you know, the before,
21 during, and after. And we want to assess this so that we
22 can ultimately see what change has occurred since then. So
23 that will be our starting point. Um, and while we may
24 touch upon all of the factors I mentioned before, uh, I
25 will tell you the majority of the questions regarding

1 those other factors will focus on the recent misconduct in
2 prison. Um, I -- I want to emphasize this is your hearing,
3 not anybody else's hearing. Uh, so if there's anything
4 that is not covered by the Panel that you think is
5 important, um, please feel free to raise it with your
6 Attorney during clarifying questions or in your closing
7 statements. Any questions about what we will be covering
8 and the order of things, Mr. Menendez?

9 **JOSEPH MENENDEZ:** No, Commissioner.

10 **PRESIDING COMMISSIONER GARLAND:** All right. So again,
11 has, we have a lot of people here. Uh, we do plan to take
12 some comfort breaks, uh, throughout the -- the -- the day.
13 Um, Ms. Rummel, obviously as you know, if you ever need to
14 take a break to talk to your client confidentially, please
15 just ask. Mr. Menendez if you need to take a break to talk
16 to your Attorney or for any other reason, please just ask.
17 Um, I will ask other participants who are not actively
18 participating in the hearing, if you need to take a break,
19 I ask that you just sort of step away, uh, and come back,
20 uh, rather than announce that, uh, you're leaving or
21 anything like that, I, I'd really like to avoid as much
22 disruption as, um, possible. Uh, if you do disconnect from
23 the Teams meeting, uh, we are not going to be just
24 admitting people back in. We do have a monitor here who,
25 uh, will let you in when we do take a break. If there are

1 a lot of people waiting to come back in, uh, we may take a
2 break sooner for that, but again I just want to eliminate
3 as many disruptions as possible. All right. I think my
4 part's done now, you know. All right. So let's -- let's
5 start with, um, some questions that -- that I -- I got
6 from all the documents, Mr. Menendez. So again these, my
7 questions are going to be focused, uh, towards you at this
8 point. Uh, I want to first just say, uh, we did read all
9 of your documents. Uh, they were clearly heartfelt and
10 thoughtful, well-written, um, informative and all those
11 things. And I want you to know we read them, we may not
12 have questions about everything you've said. A lot of it I
13 think came clear through your writing. Uh, so I'm going to
14 focus on the things that kind of raised a question in my
15 mind as I read those, uh, that's just the easiest way for
16 me to kind of address how I wanted to -- to talk to you.
17 Um, just know, sometimes I ask a fairly broad question and
18 then people will try to give me every answer they can
19 think of. And I may stop you if you do that. I -- I -- I
20 want to, uh, try to keep this as focused as possible so
21 that we get the information from you that we really think
22 will be helpful to our determination. So, um, your cli --
23 your Attorney mentioned abuse and the impact on you and,
24 uh, the crime, so I want to ask you what, well I'm going
25 to stop. Let me ask you, when did you write all these

1 documents?

2 **JOSEPH MENENDEZ:** Uh, over the course of the last,
3 um, once the clemency was announced and the Attorneys
4 started asking me to write and talk, and over five months
5 probably.

6 **PRESIDING COMMISSIONER GARLAND:** Okay. Okay. So it
7 was for the parole hearing in anticipation of a parole
8 hearing or a clemency hearing, correct?

9 **JOSEPH MENENDEZ:** Right.

10 **PRESIDING COMMISSIONER GARLAND:** Okay. So, um, when
11 you talk about the sexual abuse, um, can you characterize
12 how that affected decision-making in your life, just in
13 general? And I know that's a broad question, but just as
14 far as the decision-making. And I'll give you a -- a word
15 I read fairly frequently was about hypervigilance. And I
16 wanted to know from you what -- what you think the sex --
17 why the sexual abuse kind of caused that for you, and any
18 other type of way it sort of hindered decision-making, or
19 affected decision-making.

20 **JOSEPH MENENDEZ:** Um, I think, uh, mostly shame. Um,
21 uh, it's confusing, caused a lot of shame in me. Um, it --
22 it pretty much characterized my relationship with my
23 father. Um, uh, --

24 **PRESIDING COMMISSIONER GARLAND:** So specifically
25 about hypervigilance, what -- what do you see that as, you

1 know, how would you describe that? And how did that
2 affect, um, decisions and maybe, not just, I'm not talking
3 about the crime yet, I'm just kind of trying to see how
4 you saw things and is there anywhere else, you know, any
5 other scenarios where that hypervigilance kind of, uh,
6 took over in -- in your decision-making or your reactions
7 to people?

8 **JOSEPH MENENDEZ:** Uh, probably around seven or eight
9 just, uh, the waiting and not knowing when something would
10 happen. And so I spent, like hyper-focused on my father
11 and -- and just circumstances of the day to determine if
12 something might happen that night or in -- in the bathroom
13 that -- that day, or in the car. Uh, so hypervigilance
14 just in that so many days something didn't happen and I
15 just, um, almost had the same fear and, uh, uh, um, sort
16 of destabilizing fear that something was going to happen
17 and then relief, and then fear, and then relief, and then
18 surprise, uh, when something suddenly did. Uh, sometimes I
19 was woken up in the night, so, um, I just lived in
20 uncertainty and -- and I think, uh, just looking for cues
21 constantly for some, for -- for something. I couldn't
22 avoid it, uh, so I don't know why, but, uh, just, uh,
23 almost like a -- a paralyzing anxiousness. So, uh, --

24 **PRESIDING COMMISSIONER GARLAND:** Do you think that
25 carried over into other parts of your life? So your, the

1 examples you gave about, you know, whether your father was
2 going to come in at night or, you know, that -- that I --
3 I -- I can see for sure, like if you think, okay is -- is
4 this going to happen tonight, right? So, but do you think
5 it also affected decisions in other ways? I mean like in
6 school or in sports or anything like that?

7 **JOSEPH MENENDEZ:** Well surrounding of this was, uh,
8 isolation for me. Uh, not just cause my father demanded
9 it, um, and my mother, um, but just a total disconnection
10 I had from everybody in my life growing up. Um, a little
11 bit of a fear that they would see it in me, weirdly, uh,
12 that it might spill out. Uh, I just, it was just
13 unresolved, my father and I never talked about it after it
14 stopped. Uh, and so I just, uh, I felt, um, a need to
15 distance myself from people, uh, which I think really
16 affected my ability to trust anyone. I mean I was getting
17 pretty strong lessons about not trusting the world around
18 me. Um, but I think even without my dad's lessons, I would
19 have, uh, trusted nobody. Um, some of that was just shame,
20 uh, not wanting them to know. Some of that was just not
21 trusting anyone in the world. So I -- I did carry that all
22 through, um, my childhood. Um, --

23 **PRESIDING COMMISSIONER GARLAND:** So, and one of the
24 objections of the CRA was that the CRA says that you said
25 the abuse started at four, but you -- you write that it

1 started at six, and is that -- is that the correct --

2 **JOSEPH MENENDEZ:** Yes.

3 **PRESIDING COMMISSIONER GARLAND:** timeframe from six
4 to eight? And, um, and it stopped, why?

5 **JOSEPH MENENDEZ:** I think because my cousin, uh,
6 Diane told my mother. I don't know. I, it happened, it
7 stopped, it seemed it stopped shortly after that. Uh, so I
8 -- I think it's related to him being concerned that I was
9 talking to people, but I don't really know for sure.

10 **PRESIDING COMMISSIONER GARLAND:** And did you talk to
11 your cousin about it, or did she just figure it out?

12 **JOSEPH MENENDEZ:** No, I con -- uh, I wanted to sleep
13 in her room so I complained to her that I wanted to, I
14 told her I wanted to sleep in her room, she asked why, and
15 -- and I -- I was specific about my father touching me,
16 and, um, I'm basing this really off of -- of her memories
17 more than mine. Uh, and so she went and told my mother,
18 and then it did stop. That was, I was already eight and it
19 stopped after eight right around there, and so I'm sure it
20 was connected.

21 **PRESIDING COMMISSIONER GARLAND:** So but you don't
22 know whether your mother told your father about it or said
23 that she knew about it?

24 **JOSEPH MENENDEZ:** I don't know. I think so, but I
25 don't.

1 **PRESIDING COMMISSIONER GARLAND:** So in some of your
2 writings you talk about how you just wanted to be close to
3 your dad. Um, how did that, you know, because he sounded,
4 you know, hard to please or satisfy as far as
5 accomplishments and things. So how did that need in or
6 desire, uh, for closeness, how did that play into what was
7 going on? Did you think it was a good thing? Did you, I
8 mean how'd you see it?

9 **JOSEPH MENENDEZ:** I saw it as, uh, I feel like my dad
10 loved me, uh, and so I felt it was love. Uh, I felt deep
11 connection to my -- my father partly cause we shared this
12 big secret as I became a teenager, but I was the special
13 son in my family. My brother was sort of a cast away.

14 **PRESIDING COMMISSIONER GARLAND:** What does a -- what
15 does a special son mean? Like what would -- what would you
16 characterize that as in your family?

17 **JOSEPH MENENDEZ:** Uh, not necessarily a good thing.
18 Uh, just, uh, more attention, more focus, more, uh, uh,
19 emphasis on performance. A lot of, uh, I feel like a
20 trophy child. Uh, but, uh, --

21 **PRESIDING COMMISSIONER GARLAND:** What -- what made
22 you think that?

23 **JOSEPH MENENDEZ:** Ooph, uh, my father just attending
24 my practices, spending the time with me in the basement,
25 imparting his lessons. It's just obvious if my brother and

1 I were both on the court, he was with me directing my
2 motions, spending his time with me. A lot of the anger
3 and, um, the physical, uh, abuse was related, focused on
4 me but because I -- because I was more important to him, I
5 felt like. And so, uh, --

6 **PRESIDING COMMISSIONER GARLAND:** Because of the time
7 he spent with you? Or because of things he said, either in
8 your family or to others outside the family? I mean was
9 that sort of an outward thing? Lyle is the -- the trophy
10 son?

11 **JOSEPH MENENDEZ:** I would think my whole family knew
12 that, right, that I was, uh, I was special to, I was -- I
13 was like, little Jose is what I refer to it as, right. And
14 so I -- I had his name, uh, Jose, but they call, I was
15 Lyle, but I struggled to just sort of be little Jose, hide
16 behind him, you know --

17 **PRESIDING COMMISSIONER GARLAND:** Well when you, but
18 let me, what I want to get to is the -- the trophy son
19 thing. Like, I mean where -- where -- where did that come
20 out? I mean was that how your dad talked about you? Or is
21 that what, did he expect different things of you because
22 he was, you were little Jose or the trophy son?

23 **JOSEPH MENENDEZ:** Uh, --

24 **PRESIDING COMMISSIONER GARLAND:** Or is that just how
25 you kind of took it?

1 **JOSEPH MENENDEZ:** He expected greatness. Uh, he -- he
2 -- he spent a lot of time talking about lineage of the
3 family, lions versus sheep. Everybody's a sheep and we
4 come from a lion bloodline. And he just had this in his
5 mind that, uh, we were -- we were different and I was
6 different. Um, I wasn't weak like his father or like Erik,
7 and certainly my mother. Uh, it was him and I in this
8 bubble and --

9 **PRESIDING COMMISSIONER GARLAND:** So he would -- he
10 would convey that verbally that -- that Erik was the weak
11 one, you're the -- the, did you say lion?

12 **JOSEPH MENENDEZ:** Yes, lion.

13 **PRESIDING COMMISSIONER GARLAND:** So, so that was a --
14 that was a verbal, like outward way of him con --
15 conveying that to you?

16 **JOSEPH MENENDEZ:** Yes. And, uh, uh, very much focused
17 on the lessons that he was imparting in terms of no
18 vulnerability, no empathy, particularly toward Erik. No
19 trusting people, like things that I sort of had in me that
20 he felt were dangerous or going to lead me astray. People
21 were going to fail you. People are going to betray you.
22 You can trust no one. You need to be impervious. And those
23 were not lessons that were really given to my brother that
24 I could see. So to me I felt like he was focused on me. He
25 wanted me to learn that.

1 **PRESIDING COMMISSIONER GARLAND:** So when the abuse
2 stopped at eight, what -- what did you think?

3 **JOSEPH MENENDEZ:** Uh, it took me a while to realize
4 that it stopped and I -- I think I was still worried about
5 it for a long time. Uh, but, I don't know, I was -- I was
6 a little bit amazed and, uh, I know how to put it. In my
7 family it just like, he just, it was like it didn't
8 happen. There wasn't any weird thing between us. Even
9 undressing in front of him I felt it, and I just, and then
10 he just -- he just never touched me in that way again and
11 just no discussion about it. Just, uh, but I, he lived,
12 you know, uh, you know, I lived with him in the home for
13 the rest of my time so it was always in the, just in the -
14 - in the -- in the air between -- between us I think,
15 <crosstalk>

16 **PRESIDING COMMISSIONER GARLAND:** Tell us about, I'm
17 sorry, go ahead.

18 **JOSEPH MENENDEZ:** Sorry, no I'm good.

19 **PRESIDING COMMISSIONER GARLAND:** So tell us about the
20 feelings, like identify the feelings that you had when you
21 realized maybe it had stopped.

22 **JOSEPH MENENDEZ:** Uh, I worried a little bit that I
23 was going to be less loved. Um, uh, there was, throughout
24 it I, part of me wanted it not to stop, sometimes stop. I
25 felt a lot of confusion. Uh, so when it did stop, I

1 worried a little bit about that -- that was, there was a
2 lot of violence and harshness in general in the home. Some
3 of that was certainly my mother. But, uh, in those
4 moments, I felt it was different. Like he was never harsh
5 with me. Uh, I never got beaten for doing something wrong
6 and it, so there was, you know, it was a devastating part
7 of it as, in terms of just fear and just that I -- I felt
8 contaminated a lot, but I -- I felt loved. So I -- I
9 worried a little bit about that, but and I -- I feel like
10 my father loved me through my life, so in his way.

11 **PRESIDING COMMISSIONER GARLAND:** You did or you
12 didn't? I'm sorry, you --

13 **JOSEPH MENENDEZ:** I feel like --

14 **PRESIDING COMMISSIONER GARLAND:** kinda cut out, right
15 when the -- the key word was just said. What did -- what
16 did you just say?

17 **JOSEPH MENENDEZ:** I wanted to believe my father loved
18 me, so I believed. I made a lot of, uh, uh, in my mind, I
19 felt like he was a great man, and this was, like my main
20 way of dealing with it was just deciding that it was just
21 a sickness that some great men have. It happens as a
22 little child, as a kid, and it was over. Uh, so I was able
23 to move on and just bury it. Burying emotions was a big
24 thing for me.

25 **PRESIDING COMMISSIONER GARLAND:** And you wrote a lot

1 about the physical abuse and emotional abuse. Um, and do
2 you think that the physical abuse, um, sort of created or
3 -- or stirred different types of emotions than the sexual
4 abuse? Or was it all kind of lumped together?

5 **JOSEPH MENENDEZ:** No, very different. Uh, physical
6 abuse was, uh, just brutal. My father was very brutal with
7 physical abuse, uh, choking, punching with closed fists,
8 using a belt, uh, throwing you against furniture, so there
9 was no love in it, it was, uh, just surviving that moment,
10 um, and whatever he was upset with, trying to not do that
11 or do better. Uh, so, um, very different -- very different
12 I think.

13 **PRESIDING COMMISSIONER GARLAND:** Okay. So you
14 mentioned just a bit ago, uh, that having empathy was a
15 bad thing, uh, particularly with about Erik. Did I hear
16 that right?

17 **JOSEPH MENENDEZ:** Right. But I loved my brother, and
18 that was a problem.

19 **PRESIDING COMMISSIONER GARLAND:** Okay. It was a
20 problem. And how did that come out? How did you know that
21 loving and -- and wanting to protect Erik was a problem?

22 **JOSEPH MENENDEZ:** Um, my father would just tell me,
23 uh, your -- your concern for Erik is weakening you. And he
24 would have little, I mean it would go so far as he would
25 come up with little lessons to essentially torture Erik,

1 uh, holding his head under water when we were swimming
2 regularly, which was like a drowning. Uh, or --

3 **PRESIDING COMMISSIONER GARLAND:** And then you tried
4 one time I think to come to his rescue, and then you got
5 in trouble for doing that. Is that right?

6 **JOSEPH MENENDEZ:** I -- I was constantly taking the
7 blame, trying to shield Erik, uh, and being concerned for
8 him in every way. And if it was noticed, it was punished.
9 Uh, he, uh, I just love, a love for Erik was just a
10 really, um, infuriating thing for my father.

11 **PRESIDING COMMISSIONER GARLAND:** So you wrote in one
12 of your documents that your relationship was, did you say,
13 I quoted it, um, enm -- enm -- enmeshed and codependent.
14 What -- what do you mean by that? How would you describe
15 that just in your own feelings and then about the
16 relationship?

17 **JOSEPH MENENDEZ:** Um, I just took on my brother's, a
18 lot of my brother's pain. I, uh, I felt like he was living
19 in the storm in our house, unprotected. My mother showed
20 him no love that I could see, and he had me, that's it.
21 And so, uh, every which way I could, I -- I tried to be
22 there for him, keep his spirit alive and it helped me
23 because it gave me some purpose, instead of just drowning
24 in the spiral of my own life, I had somebody to take care
25 of and help. And, uh, so it really just, my, a lot of my

1 identity just got wrapped up in -- in that I think.

2 **PRESIDING COMMISSIONER GARLAND:** And when do you
3 think that started? So, you know, was it when he was born
4 and you just naturally felt that way? Or was it after
5 abuse? Was it, give me some timeline on like kind of how
6 that progressed?

7 **JOSEPH MENENDEZ:** I think, uh, more so once there was
8 physical punishment. Uh, so when he was, when it became
9 more severe violence, uh, uh, also my mother, uh, was very
10 just sort of suddenly violent, uh, and, uh, maybe less
11 predictable.

12 **PRESIDING COMMISSIONER GARLAND:** Give me -- give me
13 give me a timeline, like let's talk, you know, I mean you
14 were 21 --

15 **JOSEPH MENENDEZ:** I would say --

16 **PRESIDING COMMISSIONER GARLAND:** when the crime
17 occurred, so I'm trying to kind of get a sense of how
18 these things progressed throughout your -- your childhood.

19 **JOSEPH MENENDEZ:** Uh, by the time -- by the time he
20 was three, uh, three and four, he was -- he was, I feel
21 like he was in trouble. Um, --

22 **PRESIDING COMMISSIONER GARLAND:** Why?

23 **JOSEPH MENENDEZ:** And so, crying all the time,
24 stressed, at that point openly punished with, uh, spanked
25 viciously, um, thrown against things, my mother would drag

1 him down the hall. Uh, so I -- I think I realized it was
2 the two of us and, uh, that, so that's early on, pretty
3 early.

4 **PRESIDING COMMISSIONER GARLAND:** Do you think that
5 changed, you know, from childhood to around the time of
6 the crime, like how you felt about Erik or was that a
7 pretty constant relationship, that codependent?

8 **JOSEPH MENENDEZ:** Uh, I think it grew, uh, uh, me
9 realizing by my mid-teens that he was, uh, looked, that he
10 was being abused by my father in the same way, definitely
11 just crystallized that he was still vulnerable.

12 **PRESIDING COMMISSIONER GARLAND:** And you found out
13 that at, you were about, what did you say, 13 at the time
14 when you found out about that abuse?

15 **JOSEPH MENENDEZ:** Right around 13, right in the
16 Pennington home.

17 **PRESIDING COMMISSIONER GARLAND:** Um, do you feel like
18 you were ever competitive with Erik?

19 **JOSEPH MENENDEZ:** Not really. Uh, he was a few years
20 younger, so, um, there was, we sometimes trained together,
21 depending what my dad wanted that day, but really my
22 father wanted me to train against older. Uh, he would have
23 the -- the men come over, uh, and -- and practice against
24 me. And he didn't really want me to play with people my
25 age or peers. His belief was, you know, something harder,

1 something more challenging.

2 **PRESIDING COMMISSIONER GARLAND:** So as far as play,
3 are you talking about tennis?

4 **JOSEPH MENENDEZ:** Tennis, right.

5 **PRESIDING COMMISSIONER GARLAND:** All right. And
6 didn't you -- you were also a swimmer at some point? Was
7 that younger?

8 **JOSEPH MENENDEZ:** Yes, Erik was a better swimmer. Uh,
9 I hated, I didn't -- I didn't take well to the swimming.
10 It was to me sort of synonymous with drowning. And, uh, I
11 would swim into the wall on purpose. I would do, I would
12 vomit a lot. It was the same period that I was being
13 abused so it's hard to say what was causing a lot of those
14 symptoms, but I kind of put tennis in that place,
15 synonymous with that time.

16 **PRESIDING COMMISSIONER GARLAND:** So, so I -- I smiled
17 when you talked about swimming. I was a competitive
18 swimmer, and I know about that feeling, about "how can I
19 get out of this" and -- and not, you know, torture myself
20 in the pool. So I -- I was not smiling because I thought
21 it was funny, it just reminded me of my own, uh, childhood
22 of being a swimmer. Uh, so swimming was from what age to
23 what age?

24 **JOSEPH MENENDEZ:** I escaped from swimming probably at
25 like nine years old.

1 **PRESIDING COMMISSIONER GARLAND:** And tennis was from
2 what age?

3 **JOSEPH MENENDEZ:** Soccer and tennis then took over,
4 uh, until, tennis never stopped, so I started playing
5 tennis. The -- the switch to tennis was unfortunate for me
6 because the other sports were not individual sports. So
7 swimming was individual, but not really, cause you had a
8 coach always in -- in the play, right, you were in a pool
9 with other swimmers. It was a team. Uh, and soccer was a
10 team. And I think my father wanted control over my
11 activities. And so --

12 **PRESIDING COMMISSIONER GARLAND:** Something --

13 **JOSEPH MENENDEZ:** tennis --

14 **PRESIDING COMMISSIONER GARLAND:** that you just would
15 do. Okay.

16 **JOSEPH MENENDEZ:** Right. Right.

17 **PRESIDING COMMISSIONER GARLAND:** So when did you
18 start with tennis?

19 **JOSEPH MENENDEZ:** Um, my father got into tennis
20 himself when I was about, right around the time swimming
21 ended, so around nine, eight, nine. Uh, and then it was an
22 obsession, so he put a tennis court in the backyard and,
23 uh, it became pretty much my life.

24 **PRESIDING COMMISSIONER GARLAND:** When I asked you
25 about competitive with Erik, I, you -- you talked about

1 sports, that was your response. And I -- I wonder if, you
2 know, competitive can be different, you know. Competitive
3 for affection, competitive for personality, for looks,
4 for, you know, all sorts of things. Do you think you were
5 competitive with Erik in any -- any other fashion? I mean,
6 obviously it sounds like you weren't with sports, but what
7 about any other way?

8 **JOSEPH MENENDEZ:** Yeah, uh, my dad's affection, I was
9 competing for that for sure. Maybe my mother's, when he
10 was, she was different, she was a little different with
11 Erik for sure, less verbally rejecting, so less punishing.
12 So I -- I felt some, there was definitely a dynamic about
13 Erik and what our parents felt about us. Uh, I definitely
14 felt it strongly for a minute, for a little while when I
15 found out about my brother, uh, being abused by my father,
16 there was a feeling of, I don't know, I didn't blame Erik,
17 but it was like, I thought that was just me. And so I -- I
18 was really stunned, I think that's why it took me a while
19 to do something about it. I just wanted to not --

20 **PRESIDING COMMISSIONER GARLAND:** Do you think you
21 were -- do you think you were jealous in any way?

22 **JOSEPH MENENDEZ:** Uh, I think I -- I felt, um, no, I
23 -- I was concerned for Erik, I don't think I felt jealous.
24 I do -- I do feel like he made it less special. Uh, I felt
25 less -- less special than what had happened to me. I just,

1 cause I like to characterize it as something like it was a
2 bond between my father and I that was, you know, like the
3 way he described it, you know, us against the world. And
4 then you had my brother, but then I just blamed myself
5 that really it was still special, he switched to Erik
6 because he wanted me to be okay. It was going to be too,
7 it could -- it could destabilize my life maybe too much,
8 right? So I just, I kind of just told myself, okay, it's
9 not cause it's not special, it's -- it's -- it's not cause
10 he loves Erik more, it's cause he was easy, he wanted to
11 move on from me, he wanted me to be okay. And --

12 **PRESIDING COMMISSIONER GARLAND:** So what made you
13 think that? Because I mean, you sort of started off in
14 talking about getting his attention and affection and it
15 almost sounded like you were, you did have a bit of envy,
16 you know, that wait, maybe he turned his attentions to
17 Erik. Well, what about me? Um, but now you're saying you
18 rationalize that by saying your dad was protecting you by
19 not doing it to you. Had you thought through that before?

20 **JOSEPH MENENDEZ:** Uh, I've always thought about it
21 more, you know, today, and in -- in looking back and
22 understanding my father, uh, at the time honestly, I
23 buried emotion right away. So the momentary, you know, I
24 feel wow, that, you know, I can't believe it's happening
25 to Erik, like that's not, I thought it was just me, but I

1 don't, I didn't spend a lot of time on just kind of don't
2 blame Erik. I try to never blame Erik. Uh, and, uh,
3 because how, you know, looking back, how can you blame
4 Erik, obviously.

5 **PRESIDING COMMISSIONER GARLAND:** Okay. So let me --

6 **JOSEPH MENENDEZ:** Uh, and that --

7 **PRESIDING COMMISSIONER GARLAND:** ask you, oh, I'm
8 sorry. Go ahead.

9 **JOSEPH MENENDEZ:** no, it's okay.

10 **PRESIDING COMMISSIONER GARLAND:** So you wrote in, uh,
11 your documents that you, uh, also abused Erik in some way,
12 right? Um, how did that come about? Why did -- did you
13 just have that idea or were you forced to do it?

14 **JOSEPH MENENDEZ:** No. Um, once it, one -- one, these
15 sort of what I call object sessions, when he started using
16 objects on me, kind of in between when it started like
17 seven, I just, uh, was just, I don't know why I did it. I
18 just couldn't, I think I was trying to just release it
19 from me and, uh, I --

20 **PRESIDING COMMISSIONER GARLAND:** So when you --

21 **JOSEPH MENENDEZ:** I don't know --

22 **PRESIDING COMMISSIONER GARLAND:** Ms. Rummel wrote,
23 did have an objection about this, that the doc -- the CRA
24 said that, and when I say CRA I'm talking about the
25 Comprehensive Risk Assessment, I apologize, I probably

1 should have said that out before, that, um, it wasn't
2 sexual, it was more like pain tolerance kind of thing. Um,
3 is -- is that --

4 **JOSEPH MENENDEZ:** No.

5 **PRESIDING COMMISSIONER GARLAND:** because you -- you
6 wrote about it being sexual, right?

7 **JOSEPH MENENDEZ:** Yeah, I think that might be
8 confusing, uh, my father forcing me to inflict pain on
9 Erik with that. But, uh, uh, I don't think there was
10 anything, I don't -- I don't think it was painful. Um, --

11 **ATTORNEY RUMMEL:** The objection was that the sexual
12 abuse was not forced as the CRA described it -- it was the
13 physical pain training that was forced by his father and
14 not the sexual abuse. I think that's always been clear in
15 the record, it just wasn't clear in the CRA.

16 **PRESIDING COMMISSIONER GARLAND:** Okay. All right,
17 thank you. I just wanted to, again, one of those things I
18 wanted to just, to bring up because I wanted to be sure I
19 was, uh, accurate in understanding that. Okay. And did you
20 and Erik ever talk about that, or I -- I as I recall you
21 have. What -- what do you think the effect on him was?

22 **JOSEPH MENENDEZ:** I don't know. Um, I worried that it
23 made him more susceptible to my father. Uh, in some way it
24 affected me in terms of just shame and wanting to protect
25 him more. Um, we never talked about it. Uh, I apologized

1 to him at trial, but in real time, like I never even
2 talked to him about it before, like from the stand, um, on
3 the witness stand.

4 **PRESIDING COMMISSIONER GARLAND:** All right. So let me
5 switch gears a little bit and talk about your mother. Um,
6 you wrote a document called something like this, uh, like
7 how my relationship with my mother formed me. Um, and you
8 wrote that your mother sexually, uh, abused you as well,
9 is that correct?

10 **JOSEPH MENENDEZ:** Yes.

11 **PRESIDING COMMISSIONER GARLAND:** So I was curious. I
12 did not read that in the Comprehensive Risk Assessment.
13 And I wonder why, or maybe if you, maybe you did raise it,
14 but it didn't make it into the report. And if it, if you
15 didn't raise it, why not?

16 **JOSEPH MENENDEZ:** No, I just, I didn't see it as
17 abuse really. I just saw as something special between my
18 mother and I. And so I don't like to -- to talk about it
19 that way. Uh, and so I don't like to --

20 **PRESIDING COMMISSIONER GARLAND:** Well but then you
21 wrote about it pretty extensively, um, and it, I mean you
22 talked about how it was getting more and more sexual. So
23 did you, I mean that sounds like sexual abuse, no?

24 **JOSEPH MENENDEZ:** Uh, today I -- I could see it, I
25 see it as -- as sexual abuse. But I was 13, I felt like I

1 was consenting, and, uh, my mother was dealing with a lot
2 and I just felt like, uh, maybe it wasn't, um, that's one
3 of those things I just, it -- it, it's abusive, but I
4 don't, uh, I don't, I never saw it that way in the same
5 way. And so I just sort of --

6 **PRESIDING COMMISSIONER GARLAND:** So in the C -- in
7 the CRA, you talked about your relationship with your
8 mother. You talked about how she told you -- you were an
9 accident and that she never wanted you, and that that's
10 how you felt, was that distance and -- and I think, um,
11 you said, according to the -- the report, "I felt
12 completely rejected from her as long as I could remember.
13 I never bonded with her, she was troubled and extremely
14 violent." So it just struck me after reading the CRA and
15 then reading your documents, that there's a -- a very
16 different, or a pretty significant part of your
17 relationship that, with your mother that you left out when
18 you talked to the doctor.

19 **JOSEPH MENENDEZ:** Uh, that's probably true then. Um,
20 uh, I did leave it out probably on purpose. I just didn't
21 want to, uh, it's very, I don't know, shameful and it's
22 just my relationship with my mother is just complicated
23 and I just didn't, I don't know, they didn't ask, it's,
24 they didn't ask but I didn't -- I didn't volunteer it, and
25 so I just, uh, yeah, I didn't bring it up.

1 **PRESIDING COMMISSIONER GARLAND:** All right. I'm going
2 to switch to a little bit later. Um, you doing okay or do
3 you need a break?

4 **JOSEPH MENENDEZ:** Um, I could use just a short tiny
5 break if that's okay, just to use the bathroom, have a
6 little bit of a prostate issue, old man issue.

7 **PRESIDING COMMISSIONER GARLAND:** All right. So --

8 **JOSEPH MENENDEZ:** ...when a good time to ask is though.

9 **PRESIDING COMMISSIONER GARLAND:** No, that's fine. We
10 can do -- we can do breaks as we go along. It's 10:01 a.m.
11 Let's just take a five minute break and I will want the
12 principal people back at -- at, you know, 10:06 a.m.,
13 10:07 a.m. Uh, anyone else needs longer than that, that's
14 fine.

15 **RECESS**

16
17 **DEPUTY COMMISSIONER REARDON:** We are now back on the
18 record, Commissioner.

19 **PRESIDING COMMISSIONER GARLAND:** All right. It is
20 10:10 a.m. and everyone has returned. Um, all right. So
21 I'm going to turn to, uh, a little bit closer to the
22 period of the crime. You know, I -- I do, you know, I'm
23 asking a lot of questions about the abuse in your
24 childhood. Um, you know, I, we're not here to decide
25 whether you were abused, we're not here to do any of that.

1 I want to address the things that you talk about as the
2 reasons, you know, and what was going on for you before
3 the crime. I just want to make that clear. It's, that is
4 not what comes out of this hearing is that I, you know, we
5 believe or don't believe you about any abuse. Um, as I
6 said before, if, you know, that that's for the courts to
7 decide if it's relevant, you know, to a defense, all of
8 that, so just to clarify that. Um, --

9 **ATTORNEY RUMMEL:** There is a -- there is a
10 plausibility. I mean, the -- the Board does have to make a
11 plausibility determination in the case. And that relates
12 to what happened and -- and how it happened. And --

13 **DEPUTY COMMISSIONER REARDON:** Well we -- we do that
14 with claims of innocence or, uh, claims of, uh, happening
15 in a different manner, I don't think that's been made.

16 **ATTORNEY RUMMEL:** Well that has to, his -- his
17 account of the crime has to be plausible under the law.
18 There is, that's a component of what the Board is doing.
19 There were certainly decisions made yesterday about things
20 that were not discussed, um, and without any discussion of
21 plausibility.

22 **PRESIDING COMMISSIONER GARLAND:** I -- I -- I think, I
23 understand what you're saying. I think that this is, I
24 mean the -- the record is, um, it -- it also is clear and
25 consistent with, uh, for the most part, what Mr. Menendez

1 is saying. I don't, you know, we're not challenging any
2 jury findings or whether certain defenses were allowed at
3 trial, that's not what we're doing. We're really just
4 trying to get a sense of who Mr. Menendez was before he
5 committed this offense, and the childhood, uh, trauma is
6 obviously relevant to that. Um, I -- I agree with
7 Commissioner Reardon. I don't see this as a plausible
8 versus implausible. It's simply, uh, trying to understand
9 how this happened and that's, this to me is relevant to
10 that. Um, so I'm going to move forward with, um, kind of
11 leading up to the crime. I just, again, these are
12 questions that came to me when I was reading your
13 documents. Um, so you were at Princeton. Uh, it looks like
14 you were struggling academically, is that right? In your
15 first year, first couple of years?

16 **JOSEPH MENENDEZ:** Yeah, in the first year I was
17 struggling.

18 **PRESIDING COMMISSIONER GARLAND:** And you were I think
19 put on probation, uh, at -- at that, during the first
20 year, is that right?

21 **JOSEPH MENENDEZ:** Right.

22 **PRESIDING COMMISSIONER GARLAND:** For grades. Were you
23 also playing tennis at that time?

24 **JOSEPH MENENDEZ:** Yes. I was playing both for
25 Princeton and outside of Princeton. Uh, my dad had me on a

1 -- on a tour, so I was missing a lot of classes.

2 **PRESIDING COMMISSIONER GARLAND:** Okay. Um, and so you
3 were suspended at some point for plagiarism. Uh, what,
4 when, what year was that?

5 **JOSEPH MENENDEZ:** Um, 1987 I believe, or 1986.

6 **PRESIDING COMMISSIONER GARLAND:** What -- what year in
7 school?

8 **JOSEPH MENENDEZ:** 1987, first year.

9 **PRESIDING COMMISSIONER GARLAND:** What year?

10 **JOSEPH MENENDEZ:** First year.

11 **PRESIDING COMMISSIONER GARLAND:** First year.

12 **JOSEPH MENENDEZ:** First semester.

13 **PRESIDING COMMISSIONER GARLAND:** Oh, first semester,
14 okay. So what's, what specifically led to the plagiarism
15 finding? Like what would, if we had a suspension report
16 saying Lyle Menendez plagiarize this, what would it say?

17 **JOSEPH MENENDEZ:** Uh, I was, it was a science class.
18 We had, we each had lab partners. And, uh, so there'd be a
19 lab that week and you'd just sort of write a -- a summary
20 of the lab with some notes. Um, and I missed the lab from
21 missing classes and asked my lab partner if I could use
22 his notes from the lab to write the report, summary
23 report, uh, and so I did. And the -- the professor, uh,
24 told me that he understood the situation, but, uh, because
25 the lab note summaries were too similar, and I think

1 essentially he was saying if you didn't attend the lab,
2 just because you're a partnership as a team, you just, you
3 can't, uh, submit a summary that's, just because your
4 partner was there. Um, um, maybe he --

5 **PRESIDING COMMISSIONER GARLAND:** That was --

6 **JOSEPH MENENDEZ:** he was, go ahead. Sorry. But that
7 was the --

8 **PRESIDING COMMISSIONER GARLAND:** That was the only --
9 only basis for a suspension for plagiarism?

10 **JOSEPH MENENDEZ:** Right. He submitted both -- both
11 labs. They made a determination that it was factually too
12 similar, and they went to a, like a Ethics Panel and that
13 was the determination.

14 **PRESIDING COMMISSIONER GARLAND:** Did you fess up when
15 the professor, um, confronted you about the similarity of
16 the reports?

17 **JOSEPH MENENDEZ:** Yes. I told him that I -- I missed
18 the lab. I think he initially thought that I just
19 plagiarized his work, but I think he -- he realized that I
20 actually didn't, wasn't at the lab once I told him that,
21 cause it was, you know, by the time he discovered it was a
22 couple, like a week or two later. So, uh, I thought he was
23 going to have me redo it -- redo it, but, uh, uh, it -- it
24 was reported and out of his hands at that point.

25 **PRESIDING COMMISSIONER GARLAND:** And did you fight

1 the suspension? Challenge it?

2 **JOSEPH MENENDEZ:** Um, my father, um, sent a
3 representative with me to this hearing that they have, uh,
4 to fight that it not be result in a suspension, uh, that
5 it was, I'm not sure what argument he was making, what,
6 that it was just, it was a lab and we're lab partners,
7 but, uh, it was a violation of the -- of the rules so, uh,
8 they put, it was pretty clear cut. And, uh, so they --
9 they don't expel you, but they -- they can suspend you for
10 one year and make you, then you keep going. Um, they did
11 let me continue in the -- in the class and get a grade in
12 the class. I wasn't failed from it, so I did -- I did end
13 up with a satisfactory grade, but, um, at the completion
14 of that semester, then I was, I had to take a year off.

15 **PRESIDING COMMISSIONER GARLAND:** Okay. So, um, the
16 record also shows, um, that you had a bunch of driving
17 violations, right, um, and you acquired those both in New
18 Jersey and also in California, right?

19 **JOSEPH MENENDEZ:** Yes.

20 **PRESIDING COMMISSIONER GARLAND:** And -- and were you,
21 did you lose your license or you were, it was, they were
22 threatening to -- to take your license because of the
23 violations.

24 **JOSEPH MENENDEZ:** Uh, my father had lost his license
25 and they were threatening to take my license and, uh, all

1 for speeding violations. And, um, uh, so the solution --
2 the solution was to get another driver's license in
3 another state where you also owned a residence and, um, --

4 **PRESIDING COMMISSIONER GARLAND:** Well the solution or
5 the way around the suspension?

6 **JOSEPH MENENDEZ:** Uh, no I think, um, in that state I
7 was suspended. I was suspended. Um, and then, uh, but not
8 in, um, my understanding was applied to that state as long
9 as you had a valid license in California you could drive.

10 **PRESIDING COMMISSIONER GARLAND:** So you didn't have
11 to say I've been suspended in another state when you got
12 your license in California?

13 **JOSEPH MENENDEZ:** Uh, could you repeat the question?
14 I didn't hear what you said.

15 **PRESIDING COMMISSIONER GARLAND:** You didn't have to
16 report when you applied for a license in California that
17 you had a suspended license in New Jersey.

18 **JOSEPH MENENDEZ:** I don't, I believe not at that
19 time. I remember I had a discussion with the CRA, uh,
20 Craig, Dr. Lareau about it and, uh, uh, I didn't, uh, it
21 was my -- my understanding that it was act -- act --
22 violated the law actually, but he -- he -- he wasn't sure,
23 he thought maybe it did. Certainly today it would, but
24 today you wouldn't be able to do that cause in the system
25 it wouldn't, you know, it was all electronic. But at that

1 time pretty much I just walked in, you took the driver's
2 test and you got a license, so, um.

3 **PRESIDING COMMISSIONER GARLAND:** So why do you think
4 you racked up so many speeding and traffic violations. Did
5 you just not really care about whether the laws applied to
6 you?

7 **JOSEPH MENENDEZ:** Um, maybe. I -- I -- I pretty much,
8 um, was just very overscheduled, the whole family was
9 pretty much overscheduled, so everybody was racing late. I
10 was always late. Uh, there was no way not to be late,
11 cause it was like 4:30 this ends, 5 o'clock this starts
12 but it's a 45 minute drive, and so you just race and you
13 get there through speeding and/or, you know, just going
14 too fast. Um, I wasn't trying to get the speeding tickets
15 because it was definitely losing a license or being
16 suspended meant that my mother had to drive me, it was
17 complications. And so I wasn't trying, uh, I wasn't just
18 disregarding it and didn't care. I did care trem --
19 tremendously, uh, getting a ticket. Uh, but, um, I didn't,
20 uh, I -- I -- I wouldn't say that I stopped. I would say
21 that I, uh, uh, was more concerned with my dad wanting to
22 be at the practices, uh, that was not going to be
23 acceptable to miss them.

24 **PRESIDING COMMISSIONER GARLAND:** So all of your
25 speeding violations came because of pressure to get to

1 practices?

2 **JOSEPH MENENDEZ:** Uh, I only drove from after school
3 to the, all my, I was scheduled from like 3:30 p.m. to
4 about 8:00 p.m. -- 8:00 p.m., and sometimes with my
5 brother, sometimes my mother, just depending on the
6 practice, and, uh, I believe that they all occurred on the
7 Turnpike, uh, going to practice.

8 **PRESIDING COMMISSIONER GARLAND:** Okay. So, uh, you
9 talk about the burglaries that you and your brother
10 committed. And those were what, uh, like the summer before
11 the murder or -- or what was the timeframe of that?

12 **JOSEPH MENENDEZ:** Um, I think summer of 1988, so
13 yeah, a little bit over -- over a year, but basically in
14 that same timeframe of a year.

15 **PRESIDING COMMISSIONER GARLAND:** And correct me if
16 I'm wrong, but your brother did one burglary, uh, and then
17 you did another with him? Or did you both do the -- the
18 first one?

19 **JOSEPH MENENDEZ:** Uh, he committed a burglary with
20 some older, I wouldn't know if I'd call them friends, but
21 older guys that were, he was hanging out with, and then
22 came and told me this is what I did, and I'm, I -- I want
23 a burglar -- I have another, there's another home where
24 the kid, it was, uh, kids whose parents were out of town,
25 and so they were giving the code to get in the house. The

1 code to the safe actually came from the kid that lived
2 there.

3 **PRESIDING COMMISSIONER GARLAND:** Okay., so hold on. I
4 -- I -- I want to, I'm going to go step-by-step. I don't
5 want to spend a lot of time on it, but I -- I just want to
6 get some things clarified. So Erik did the first one, told
7 you about it, correct?

8 **JOSEPH MENENDEZ:** Yes.

9 **PRESIDING COMMISSIONER GARLAND:** Okay.

10 **JOSEPH MENENDEZ:** Showed me what he took -- showed me
11 what he took.

12 **PRESIDING COMMISSIONER GARLAND:** And he took quite a
13 bit of property, valuable property --

14 **JOSEPH MENENDEZ:** Uh, --

15 **PRESIDING COMMISSIONER GARLAND:** correct?

16 **JOSEPH MENENDEZ:** no, in the first, well I'm sure it
17 was valuable, but he really only took whatever was in the
18 safe, he didn't burglarize the home itself. He took what
19 was in the safe. He had the combination from the kid, uh,
20 and, uh, so it was cash, jewelry, watches that I could
21 see, had it in a briefcase.

22 **PRESIDING COMMISSIONER GARLAND:** Okay. So then he --
23 he told, tells you about that, right?

24 **JOSEPH MENENDEZ:** Right.

25 **PRESIDING COMMISSIONER GARLAND:** Shows you the -- the

1 loot.

2 **JOSEPH MENENDEZ:** Right.

3 **PRESIDING COMMISSIONER GARLAND:** Okay. And then how
4 did the idea of the second burglary come up? Was that his
5 idea or your idea?

6 **JOSEPH MENENDEZ:** Uh, he already had it planned for
7 three days later.

8 **PRESIDING COMMISSIONER GARLAND:** Okay. And so what
9 moti -- motivated you to get involved with that burglary?

10 **JOSEPH MENENDEZ:** I was, uh, I should have obviously
11 told him it's insane and let's not do that. Uh, uh, you
12 should not, I - I --

13 **PRESIDING COMMISSIONER GARLAND:** Hang on, just answer
14 my question. I want to know what motivated you to get --

15 **JOSEPH MENENDEZ:** Okay.

16 **PRESIDING COMMISSIONER GARLAND:** involved with that
17 second burglary?

18 **JOSEPH MENENDEZ:** Uh, not wanting him to go alone was
19 really it. Not wanting my dad, not wanting something to go
20 wrong and my dad find out, were really the two biggest
21 motivations for me, something happening to him, my dad
22 finding out because he gets caught, basically. Uh, and
23 fear of dad's reaction, which I think would've spilled
24 over on me for sure also, uh, for not doing anything. Uh,
25 --

1 **PRESIDING COMMISSIONER GARLAND:** So, so you're saying
2 you -- you didn't want to steal? You didn't want the loot
3 from the next house? You were there to make sure Erik
4 wouldn't get in trouble?

5 **JOSEPH MENENDEZ:** Correct. I don't think Erik wanted
6 the loot either. I don't know why he was doing it. He said
7 he wanted to impress his friends. Uh, and so this one he
8 wanted to do alone because the last one everybody helped
9 him with. So this was somehow going to be a way for him to
10 show them he could do it himself. He was excited, and I
11 didn't want to bring him down from that and tell him he's
12 stupid or anything. So I, my little brother just doesn't
13 have a lot of confidence and a lot, and I just, so I just
14 last minute said, well I'm going to go with him. And I --
15 I, uh, it's my burglary because I went, and I went, uh,
16 and I went into the foyer and took some things and helped
17 load the car at the very end when it was taking a long
18 time. So there's no question --

19 **PRESIDING COMMISSIONER GARLAND:** So then --

20 **JOSEPH MENENDEZ:** that I take responsibility.

21 **PRESIDING COMMISSIONER GARLAND:** all right. So
22 there's, uh, information, I believe it came out at -- at
23 trial, it's in the appellate opinion as I recall, that,
24 um, you were having some financial, you were a little
25 strapped financially around that time, right?

1 **JOSEPH MENENDEZ:** Definitely not, no, absolutely not.

2 **PRESIDING COMMISSIONER GARLAND:** You, I -- I thought
3 I read, uh, and I'll find it, but that your dad was
4 concerned about your spending. Does that sound right?

5 **JOSEPH MENENDEZ:** Definitely not. No. I did, uh, I
6 don't know where that came from exactly, I don't know
7 what's in the appellate thing, but I had no spending
8 restrictions at any point in my life.

9 **PRESIDING COMMISSIONER GARLAND:** Well again, maybe
10 just about how you were spending your money or the amount
11 you were spending, you don't recall any of that?

12 **JOSEPH MENENDEZ:** No. I had an open credit card that
13 I could use, and I had ATM and, uh, --

14 **PRESIDING COMMISSIONER GARLAND:** All right. Next
15 question on that is, tell me as -- as concisely as you can
16 about your parents' reaction, uh, to the burglaries.

17 **JOSEPH MENENDEZ:** Uh, my father, uh, he got called by
18 the father of the home that was burglarized, I believe.
19 Uh, that's how it happened. So he confronted me with my
20 brother. We admitted to it. Uh, there was a mistake in
21 putting things back in that home and the father was, it
22 got connected to Erik in some way, not through the police,
23 but through, uh, --

24 **PRESIDING COMMISSIONER GARLAND:** So hang on a second.
25 I note again, uh, just in the interest of time and -- and

1 focus of what's important --

2 **JOSEPH MENENDEZ:** Right.

3 **PRESIDING COMMISSIONER GARLAND:** for me, I asked you
4 what your parents' reaction was.

5 **JOSEPH MENENDEZ:** My dad's reaction was, you're a
6 moron in more colorful language for, uh, getting caught,
7 for feeling sorry for the people that got burglarized. And
8 that I, as I've been tell -- as I've told you your whole
9 life, we, your -- your, the weakness is dangerous and
10 stupid, and now I have to fix it, right. Is you -- you
11 could, you're going to burglarize the home, then keep the
12 stuff, like what's wrong with you. And I told him --

13 **PRESIDING COMMISSIONER GARLAND:** Okay. So, so you
14 wrote that he was furious is the way the react -- that's
15 what, the reaction was sort of a description, so and it
16 sounds like you're agreeing with that -- that he was
17 furious, right?

18 **JOSEPH MENENDEZ:** Yes.

19 **PRESIDING COMMISSIONER GARLAND:** So I noticed in the
20 opinion, uh, that he was described as having cried about
21 the -- the crime, and that he was concerned about you
22 both, and that's why he had you see a therapist. And those
23 seem like pretty different, uh, reactions.

24 **JOSEPH MENENDEZ:** Yeah, that's definitely not true. I
25 don't know who said he cried. I've never seen my father

1 cry. Uh, he, the therapist came into it when he went to a
2 criminal -- a criminal defense attorney to try to resolve
3 the situation through a probation with my brother, because
4 he was underage. The criminal defense attorney suggested
5 to bring on a -- a psychiatrist who would talk about why
6 Erik was young and -- and -- and, you know, some favorable
7 thing for the probation court. And so they specifically
8 found a therapist that would waive confidentiality, and
9 that was Dr. Oziel, so it had nothing to do with therapy
10 and concern, and Erik. It was -- it was the criminal
11 defense attorney hired him to testify, to provide a -- a
12 report for court, which he did.

13 **ATTORNEY RUMMEL:** And that -- that is all documented
14 in the trial evidence. If we're going to go into trial
15 evidence, um, that is all documented in the trial
16 evidence.

17 **PRESIDING COMMISSIONER GARLAND:** All right.

18 **ATTORNEY RUMMEL:** That's what we're doing here.

19 **PRESIDING COMMISSIONER GARLAND:** I, I'll check my
20 notes. I just remember reading it, that the description of
21 the testimony was it said that -- that your father cried
22 and made you see a psychol -- a psychologist, uh, because
23 of worry. Uh, so I -- I will look at it --

24 **ATTORNEY RUMMEL:** <crosstalk> appellate decision that
25 has a very brief -- very brief summary of the evidence,

1 some of it in the light most favorable to the prosecution,
2 and then there's the actual evidence. So if we're going to
3 start making plausibility determinations about what my
4 client is saying, I would like for this Panel to go back
5 to the actual trial evidence that supports and is
6 consistent with what he's saying.

7 **PRESIDING COMMISSIONER GARLAND:** The trial evidence
8 is not in our record. As I said, that's not something we
9 were referring to. And of course the appellate opinion is
10 in the light most favorable to the prosecution because
11 that's the legal standard. I read that I, and I'm not
12 making a determination. I'm trying to understand some
13 inconsistencies from what I've read and what Mr. Menendez
14 wrote. So it's, again,

15 **ATTORNEY RUMMEL:** Mr. Milius and and Mr. Balian
16 submitted the -- the -- the transcripts from the trial,
17 and they've been cited extensively in both my submission
18 and in his submission.

19 **PRESIDING COMMISSIONER GARLAND:** I do not have the
20 transcripts of the trial. I -- I -- I have a statement of
21 views --

22 **ATTORNEY RUMMEL:** It was served with it in an email
23 that was sent to the Board by the District Attorney's
24 Office.

25 **PRESIDING COMMISSIONER GARLAND:** Well I don't have

1 the actual transcript. Um, I was reviewing, you know,
2 relying on the appellate opinion, which is what I
3 mentioned was our -- our record. When I said what the --
4 the size of the record was, it certainly didn't include a
5 trial transcript. So --

6 **ATTORNEY RUMMEL:** Well that's all been submitted and
7 cited, and now we're actually having discussions about,
8 based solely on the -- the -- the appellate decision. Um,
9 and I, I'm sensing some skepticism on the Panel's part
10 about what my client is saying, and that's going to be a
11 problem for making a determination today.

12 **PRESIDING COMMISSIONER GARLAND:** So I just want to
13 make it clear. Again, I am just trying to get a sense of
14 what was going on before, during, and after the crime.
15 That is where I -- where I am in my questions. I'm sure
16 Commissioner Reardon will have different types of
17 questions. Um, it is not, I'm not making a credibility
18 finding, I am only trying to figure this out. So, um, it,
19 I think this is not a significant issue about whether he,
20 your dad was upset or whether, you know, was emotionally
21 sad about it, or was furious. Again, just trying to get
22 your take --

23 **ATTORNEY RUMMEL:** Talking about his prior criminality
24 and the burglaries and whether he needed money or did it
25 for the money, and the record just doesn't support that at

1 all. And so if that's going to be some sort of nexus to
2 any kind of current behavior, we have a problem.

3 **PRESIDING COMMISSIONER GARLAND:** So are you objecting
4 to me asking about something that's in the appellate
5 opinion? And if so, I don't know how I sustain that
6 objection when it's in the appellate opinion.

7 **ATTORNEY RUMMEL:** I'm not objecting to what's in the
8 appellate decision, but if that is the sole basis for what
9 the evidence in his case is, we have a problem. The -- the
10 DA submitted the trial transcripts, we have both cited
11 them extensively to address exactly these issues, and you
12 can ask, I -- I don't, I'm not objecting to you asking him
13 and -- and him answering because he's answering truthfully
14 about what happened. But I'm going to have objections
15 later if what happened yesterday happens today and it's
16 this sort of public narrative of what this crime is about
17 without any real analysis of what the evidence actually --

18 **PRESIDING COMMISSIONER GARLAND:** Okay. So, so here's
19 the deal. One is, I don't know what happened yesterday.
20 I'm not talking about yesterday. I'm talking about things
21 that will help me make a decision today. And that's what
22 it is. If you want to tell us in your closing or in
23 clarifying questions, something that you have in the
24 record before you that contradicts what I'm saying, have
25 at it. I -- I that is up -- that is up to you. I read it

1 in the appellate opinion, which as I said was the basis
2 for what we are relying on as far as the jury's findings.
3 So this is a, I'm going to move forward. Um, he's already
4 answered his opinion on that -- that, you know, it wasn't
5 about money, and I am taking that for what he says. And
6 so, um, I'm going to move on. Um, --

7 **ATTORNEY RUMMEL:** I understand. I would just like to
8 put on the record that the CRA did not consider the
9 appellate decision. The CRA considered only the probation
10 officer's report, just so we have that noted.

11 **PRESIDING COMMISSIONER GARLAND:** I, and I did see
12 that. Um, I think that they didn't, I don't know if the
13 appellate opinion was put in the record later or what, but
14 I did see that that was not the basis. So, um, all right.
15 So yes, Mr. Menendez.

16 **JOSEPH MENENDEZ:** Uh, just don't know if it's
17 helpful, but, uh, uh, both of those, uh, statements about
18 financial problems and that thing with my father and Dr.
19 Oziel, came from my Uncle Bryan. Uh, they both, all of
20 that came from Uncle Bryan, uh, who was sort of opposed to
21 our release and in a probate battle, and just was not
22 true. It just was not true. Uh, I think it was -- I think
23 it was thoroughly disproven that it was not true, but, um,
24 at trial, but Dr. Oziel himself did testify how he got
25 hired and why, and it was none of those reasons. Um, and I

1 think the best, uh, source of what was happening with me
2 financially would be my Aunt Terry. Uh, my Uncle Carlos
3 lived in, my Uncle Bryan lived in another state and didn't
4 know as well. My Aunt Terry, and my Uncle Carlos and my
5 family I was around every day, and there was certainly no
6 financial issues whatsoever. Uh, but I -- I know that he -
7 - that he -- he said that, and that did end up in
8 appellate review, so I -- I knew as soon as you were
9 saying it I was thinking Uncle Bryan, so I knew.

10 **PRESIDING COMMISSIONER GARLAND:** Okay. So the -- the
11 next thing I wanted to ask you about was again from the
12 appellate opinion that, um, that your dad had talked
13 about, and it wasn't your Uncle Bryan he told, but he had
14 talked about taking you and Erik out of the will a couple
15 weeks before the murder. Do you want to address that?

16 **JOSEPH MENENDEZ:** Uh, more, right, more about a year
17 before, uh, he told, uh, my Uncle Carlos, who was the
18 executor that I told him they're out of the will. And, uh,
19 and he told Dr. Oziel. Uh, I think Dr. Oziel mentioned it
20 on the recorded tape that he made, that your father told
21 me he had taken you out of the will. And so he, uh, that
22 was also about a little less than a year before.

23 **PRESIDING COMMISSIONER GARLAND:** Okay. So you, when
24 you talk about sort of the lead up to the crime, you don't
25 mention that. You don't mention that there was an issue

1 about whether or not you were in the will. And I just
2 wondered why you didn't write about that.

3 **JOSEPH MENENDEZ:** Um, well I was just writing about
4 what -- what was the cause and influenced the events that
5 week. Um, not being in the will was a, it became a problem
6 afterwards in terms of, we weren't going to have any
7 money, uh, but wasn't, uh, not being in the will was
8 certainly not a motive for anything, it would be the,
9 hopefully the opposite.

10 **PRESIDING COMMISSIONER GARLAND:** Well you, I'm
11 skipping to after the crime now, but you and Erik went to
12 great lengths to make sure the will wasn't found right?

13 **JOSEPH MENENDEZ:** Uh, yeah. Uh, we, I believe there
14 was a will that disinherited us somewhere. Um, so I kind
15 of assumed it would come from an attorney, cause my father
16 was a pretty complicated businessman. I didn't think it
17 would be on a, necessarily on like a family computer or
18 somewhere like that, but I didn't know. Uh, and, uh, we
19 were a little resigned to the fact that there was going to
20 probably be a will found. So the safe, there was a safe in
21 the house that probably had the will in it, uh, and we
22 took it to the executor and said, uh, I think some family
23 members said, well let's open it with the executor there,
24 and there wasn't a will in it. Um, I think there was a
25 will found eventually, but I'm not sure. I think it was an

1 old one.

2 **PRESIDING COMMISSIONER GARLAND:** And you, well you
3 hired somebody to erase the hard drive, right, so that
4 there would be no reference to the will.

5 **JOSEPH MENENDEZ:** Uh, there was a family computer. We
6 looked through it, there was nothing on it. Um, but, um, I
7 had concerns about whatever might -- whatever might be, my
8 mother maybe revealing something from our history and past
9 or what was going on, and so, and then I, and then if, I
10 was told by the -- the -- the, uh, person that came over
11 to retrieve files that I -- that I brought over, uh, that
12 there was nothing on. Uh, but so --

13 **PRESIDING COMMISSIONER GARLAND:** So hang on a second.

14 **JOSEPH MENENDEZ:** We did check. We did check. If
15 there was a will on it, I probably would have erased it,
16 yes.

17 **PRESIDING COMMISSIONER GARLAND:** Kind of went around
18 the -- the bend on that rather than answering that. So my,
19 so you did go to great lengths to make sure the hard drive
20 was erased with any sign of a will on it, correct?

21 **JOSEPH MENENDEZ:** I would say corre -- I would say
22 correct, right.

23 **PRESIDING COMMISSIONER GARLAND:** A couple of other
24 things about before the crime. Uh, I noticed that you
25 wrote about, um, that your parents were recording Erik's

1 phone calls. And I just wonder how you know that.

2 **JOSEPH MENENDEZ:** Uh, the tape recording equipment
3 was found by relatives when they went in the house
4 afterwards.

5 **PRESIDING COMMISSIONER GARLAND:** So you didn't know
6 that before the murders?

7 **JOSEPH MENENDEZ:** No.

8 **PRESIDING COMMISSIONER GARLAND:** And --

9 **JOSEPH MENENDEZ:** That was one of the, sorry.

10 **PRESIDING COMMISSIONER GARLAND:** so, and that was,
11 did Erik have a separate phone?

12 **JOSEPH MENENDEZ:** We all used the -- the same number
13 in the house, so he didn't have a separate phone.

14 **PRESIDING COMMISSIONER GARLAND:** So all phone calls
15 were recorded you say by your parents?

16 **JOSEPH MENENDEZ:** Uh, I'm not sure. Uh, I just know
17 my mother had recording equipment in the house that was
18 able to tap Erik's phone, which is why we thought, there
19 was a period of time where my, I thought my Aunt Terry was
20 telling my father things that only she and I knew and I,
21 it caused me to trust her less, uh, as someone I could go
22 to. But it turned out really, she, he, my mother was just
23 listening to conversations that my brother had with me and
24 so, um, but we didn't know it at the time, no.

25 **PRESIDING COMMISSIONER GARLAND:** Okay. Um, last

1 question on sort of pre-crime -- crime things, um, you
2 said that, no wait, let me strike that and start over. How
3 long had you been in California before, uh, the crime?
4 Because you were -- you were mostly in New Jersey, were
5 you not?

6 **JOSEPH MENENDEZ:** Uh, I was living in, uh, both
7 places, uh, flying back each weekend.

8 **PRESIDING COMMISSIONER GARLAND:** Okay.

9 **JOSEPH MENENDEZ:** Uh, lot of flying, so, uh, 1986 on
10 in California.

11 **PRESIDING COMMISSIONER GARLAND:** Well so like just,
12 you know, August 20th obviously was the murder. Um, you --
13 you write about I think the 15th to the 20th. How long had
14 you been in California like with your brother, with your
15 family, um, you know, before the 15th or had you just
16 gotten there?

17 **JOSEPH MENENDEZ:** Maybe a week or two. I was at a
18 tennis camp -- I was at a tennis camp back and forth in
19 the summer, so was was Erik. Family was all together not
20 very long before I was going to have to be going back to
21 school.

22 **PRESIDING COMMISSIONER GARLAND:** Okay. And then you
23 talked about the -- the sort of confession of Erik, that
24 he was still being abused by your father, and that came,
25 that was around the 15th?

1 **JOSEPH MENENDEZ:** On the 15th, Tuesday.

2 **PRESIDING COMMISSIONER GARLAND:** Okay. And you talk
3 about it was because, well you talk about the, what
4 happened before that was your mother got mad at you and
5 like grabbed your hairpiece and pulled it off, is that
6 right?

7 **JOSEPH MENENDEZ:** That's correct, yeah.

8 **PRESIDING COMMISSIONER GARLAND:** Okay. And you say
9 Erik didn't know that you had a hairpiece and -- and you
10 were embarrassed, right?

11 **JOSEPH MENENDEZ:** Right. It wasn't a full hairpiece,
12 it was like partial in an area that was hard to detect,
13 basically you couldn't if, unless you touched it, but he
14 didn't know.

15 **PRESIDING COMMISSIONER GARLAND:** Okay so but, so Erik
16 didn't know and you were embarrassed.

17 **JOSEPH MENENDEZ:** Yes.

18 **PRESIDING COMMISSIONER GARLAND:** Okay. So then you
19 say, like, was the next thing that happened that Erik told
20 you about the abuse? I mean how did, how does that hair
21 piece issue lead to a confession about ongoing abuse?

22 **JOSEPH MENENDEZ:** Uh, well I only know that it was
23 relevant because of, uh, what I know from Erik afterwards,
24 uh, that he didn't know, and that, uh, that there was, so
25 it -- it led him to feel like there were secrets, but in

1 my opinion it was just an excuse for him to finally tell
2 me he was sui -- suicidal and wanting to tell me. And so,
3 I don't know if it was an excuse or a catalyst, but would
4 he -- would he have told me anyway? Probably. Uh, but it
5 just was an emotional moment and, um, I was in some pain
6 from it and I was in my guest house and he, it was an
7 opportunity I guess for him to be more vulnerable with me
8 about something related to him.

9 **PRESIDING COMMISSIONER GARLAND:** Okay. All right. Um,
10 when you look at the crime, or when I look at the crime,
11 it seems to be sort of a combination of -- of planning and
12 impul -- impulsivity. Is that, do you think that's kind of
13 accurate?

14 **JOSEPH MENENDEZ:** I'm not sure what you mean by
15 planning.

16 **PRESIDING COMMISSIONER GARLAND:** You don't think any
17 of this crime was planned?

18 **JOSEPH MENENDEZ:** I think the purchase of the guns
19 was a decision we made that made it more likely, uh, that
20 there could be, uh, an explosion that was deadly. So that
21 was the biggest, I would say that's the biggest mistake,
22 uh, aside from Sunday of the weekend, telling my father
23 and then reacting with buying guns. Uh, but it was not,
24 uh, it was no, when I bought the guns it wasn't because
25 something was going to happen. It was -- it was really to

1 prot -- I thought it was deescalating, uh, like it was we
2 arm ourselves, it gave me some measure of feeling
3 something, safety of some kind, mostly my brother cause my
4 father might attack him and that's it, nothing else was,
5 there was zero planning. There was no way to know that it
6 was going to happen Sunday.

7 **PRESIDING COMMISSIONER GARLAND:** All right. So you
8 just said, and you wrote this as well, the biggest mistake
9 was buying the guns because it elevated things. Um, and so
10 you -- you, you're saying those, the guns were strictly
11 for protection.

12 **JOSEPH MENENDEZ:** Exactly. And really emotionally,
13 emotional -- emotional protection cause I don't know that
14 they would've been that useful if my brother was surprised
15 somewhere or something happened in the house, we weren't
16 carrying them around, so it was some -- some form of
17 protection. It was something.

18 **PRESIDING COMMISSIONER GARLAND:** So when -- when you
19 and Erik were I guess driving around trying to find a
20 place that would sell you guns, did the discussion about
21 potentially killing your parents come up?

22 **JOSEPH MENENDEZ:** No. It was a discussion of more
23 about what, some of the more, um, serious threats that my
24 dad made, particularly in my life if it ever got out, some
25 of the worst forms of the abuse that I hadn't been, he --

1 he didn't tell me a lot of how bad it was on Tuesday like
2 he was on Friday when we were driving. Uh, and that made
3 me very panicked and more certain that something could
4 happen, but not certain, and kind of fueled the decision,
5 well even though long guns are not very useful for, as
6 useful for protection, it's better than nothing. And so
7 then we made -- we made the decision somewhat impulsively,
8 but, uh, at -- at some point, yes let's just buy it --
9 let's just buy it.

10 **PRESIDING COMMISSIONER GARLAND:** So there's a
11 reference in the, I think it's the DA's Statement of
12 Views, which is referencing a reporter's transcript, so it
13 sounds like this was testimony that Erik had testified
14 that, uh, it first was discussed a week before.

15 **JOSEPH MENENDEZ:** Definitely he had no testimony
16 like that, no, absolutely not.

17 **ATTORNEY RUMMEL:** I would like to ask what the, where
18 the Panel is looking for those.

19 **PRESIDING COMMISSIONER GARLAND:** Unfortunately I
20 didn't write in my notes where that came from. Um,
21 probably --

22 **ATTORNEY RUMMEL:** I think you, there's a chance
23 you're referencing the Oziel tape, which is highly
24 problematic on a number of fronts and was misstated by the
25 DA in their Statement of View, but if it's something else,

1 I'd like to -- to know what the reference is to.

2 **PRESIDING COMMISSIONER GARLAND:** Okay, I will --

3 **ATTORNEY RUMMEL:** I'm -- I'm not aware of any trial
4 testimony by Erik --

5 **PRESIDING COMMISSIONER GARLAND:** Okay.

6 **ATTORNEY RUMMEL:** or anyone that it was ever planned
7 a week ahead.

8 **JOSEPH MENENDEZ:** Yeah, no.

9 **PRESIDING COMMISSIONER GARLAND:** All right. I will,
10 uh, look for that. I don't want to keep everybody waiting
11 while I look for it, but I'll make a note. Um, okay, so
12 going back to my question about it's a combination of
13 planning and impulsivity, so you don't agree with that
14 statement.

15 **JOSEPH MENENDEZ:** Uh, well impulsivity maybe, uh, uh,
16 but planning, definitely not. There might be, uh, uh, just
17 saying, there maybe there's some confusion that, uh, I had
18 an appointment the Sunday night to go to the movies with a
19 friend that was made a week before. Um, but that was, uh,
20 just an appointment to go to the movies. Uh, that was
21 before I even heard from Erik what was happening. So, um,
22 maybe there's confusion there, I don't know. But the, no,
23 there's no planning of any kind. The -- the decision to
24 buy the guns was Thursday night, and then we -- we, it was
25 -- it was somewhat impulsive to buy them on Friday when we

1 were driving. Finally just if we're going to do it, buy
2 the guns, it's better than nothing and that was it. There
3 was no other discussion.

4 **PRESIDING COMMISSIONER GARLAND:** And so, and whose
5 idea was it to get the guns?

6 **JOSEPH MENENDEZ:** Um, it was, I -- I honestly I don't
7 know. I don't remember. I think we just, it was just a
8 back and forth. It's better than nothing. The problem was
9 it was a long gun. We what, we were hoping to buy a
10 handgun, uh, and couldn't without a waiting period. So
11 that was just sort of cr -- like okay, that's not going to
12 help -- helpful, and then it was --

13 **PRESIDING COMMISSIONER GARLAND:** Well was -- was Erik
14 telling you when he said, you know, that your dad was
15 still abusing him, did he say I, we need to kill him?
16 Anything like that?

17 **JOSEPH MENENDEZ:** No. When he said --

18 **PRESIDING COMMISSIONER GARLAND:** Did he -- did he --

19 **JOSEPH MENENDEZ:** uh, that --

20 **PRESIDING COMMISSIONER GARLAND:** say I need a gun to
21 protect myself?

22 **JOSEPH MENENDEZ:** Uh, Thursday night was the
23 discussion about guns, but by then we had already, I had
24 already confronted my father, uh, so it was not when he
25 was telling me, that was Tuesday. Tuesday, our -- our plan

1 was to, for me to confront dad and make it some kind of
2 deal.

3 **PRESIDING COMMISSIONER GARLAND:** And you had your gun
4 where?

5 **JOSEPH MENENDEZ:** We, I purchased the guns with Erik
6 and I kept mine in my guest -- guest house where I was
7 staying.

8 **PRESIDING COMMISSIONER GARLAND:** Okay. Loaded or
9 unloaded?

10 **JOSEPH MENENDEZ:** I didn't load it. Uh, it mighta had
11 a shell in it just to see how it works so there might be,
12 uh, one or two shells in it, but I had not, I did not
13 really think it was useful for protection, uh, of -- of --
14 of much kind, but I had a few, it was -- it was somewhat
15 loaded, but not really. I -- I -- I know Sunday night, I
16 couldn't even remember if it was loaded. Uh, but, uh, I
17 imagine I had it somewhat loaded, uh, it would make no
18 sense if I didn't, so I think I -- I think I probably did,
19 but I don't remember completely.

20 **PRESIDING COMMISSIONER GARLAND:** Never heard --

21 **JOSEPH MENENDEZ:** There was some -- there was some --

22 **PRESIDING COMMISSIONER GARLAND:** never heard of
23 somewhat loaded. Can you, what do you mean by that?

24 **JOSEPH MENENDEZ:** There was some discussion at a
25 range with someone about buckshot versus birdshot. We

1 asked what's the best for protection, like in a moment, he
2 said, I guess he noticed the ammunition that we had and
3 said that's not the right ammunition. You need to buy this
4 and load this.

5 **PRESIDING COMMISSIONER GARLAND:** Well I know, but I'm
6 just asking, was your gun in your guest house loaded or
7 unloaded? Did it have any ammunition in it?

8 **JOSEPH MENENDEZ:** It had -- it had ammunition in it,
9 definitely. I don't think it was fully loaded, and I don't
10 know what kind of ammunition. I -- I think I was supposed
11 to put the right kind of ammunition in it and I -- I don't
12 know that I actually did.

13 **PRESIDING COMMISSIONER GARLAND:** So, okay, Um, and
14 you say now in your writings that you realize now your
15 parents didn't have guns with them in the den when you
16 shot them, correct?

17 **JOSEPH MENENDEZ:** Um, did I write about that? I
18 don't, I -- I, uh, at some, I, at some point I realized
19 that, yes. When -- when I was picking up my gun I believe
20 I realized that, but I'm not a 100% sure --

21 **PRESIDING COMMISSIONER GARLAND:** That you realized
22 they --

23 **JOSEPH MENENDEZ:** I realized it.

24 **PRESIDING COMMISSIONER GARLAND:** they didn't have
25 gun, or that they did, you did think they <crosstalk>

1 **JOSEPH MENENDEZ:** It wasn't something, them having
2 guns really wasn't even in my mind fully at that time. I
3 just, um, I didn't -- I didn't really visualize how an
4 attack was going to happen so I didn't really, I didn't, I
5 don't believe I looked for guns, so I don't know that I
6 fully realized that, you know. Obvio -- uh, no guns were
7 recovered in the room and so at some point I realized it,
8 I knew it, but I may have realized it in the moment when I
9 was pick, when I was picking up my gun, afterwards, after
10 the police didn't show up, it's about, that's likely.

11 **PRESIDING COMMISSIONER GARLAND:** Okay. So, uh,
12 there's so many documents and I -- I -- I may be referring
13 to the wrong one that said this, but I -- I think it was
14 in the CRA you talked about, you know, you just, your --
15 your parents always had guns. You were sure they had them
16 in the room with them and that they were about to kill
17 you, right?

18 **JOSEPH MENENDEZ:** Right. Right. Well I -- I was
19 thinking that they were going to, that -- that it was
20 happening, the attack was happening, but I don't know that
21 I specifically envisioned what guns or whether they had
22 guns and only, I don't know, I can't describe that, it
23 wasn't in my mind that way, but there were lots of guns in
24 the house, so I would assume that they had guns.

25 **PRESIDING COMMISSIONER GARLAND:** And apparently the,

1 so how do you know there were a lot of guns in the house?

2 And where did you think those guns were?

3 **JOSEPH MENENDEZ:** Well, I just knew that there were
4 lots of guns in my -- my -- my dad's bedroom and in his
5 closet, I believe one in my mother's closet. And we had
6 just always had guns in our home and so there were guns in
7 the house. Whether they would've bought different guns, I
8 don't know, but they were there in the house.

9 **PRESIDING COMMISSIONER GARLAND:** So you had access to
10 their guns, right? You knew where they were?

11 **JOSEPH MENENDEZ:** Some of them, yes. Yep.

12 **PRESIDING COMMISSIONER GARLAND:** And you didn't check
13 that night to see if there were any guns?

14 **JOSEPH MENENDEZ:** No, I didn't go in their bedroom
15 that whole weekend.

16 **PRESIDING COMMISSIONER GARLAND:** I think I'm a bit
17 confused, um, abo -- about the timeline and the, let me, I
18 -- I want to take a look at some of my notes and -- and
19 find a little bit more about why I wrote down some things
20 that I wanted to ask you about. So I'm going to actually
21 turn this over to Commissioner Reardon, and I do have some
22 other questions. Uh, but I, well Commissioner, do you have
23 any questions on these topics?

24 **DEPUTY COMMISSIONER REARDON:** I -- I do not,
25 Commissioner. We're about two hours in. If you think it's

1 an appropriate time to take a break before I, we start
2 post-conviction factors, that would be appropriate.

3 **PRESIDING COMMISSIONER GARLAND:** Yeah. Let me just
4 take a -- a five or 10 minute break. Let's -- let's
5 everybody come back at 11:05 a.m. It's 10:56 a.m.

6 **RECESS**

7
8 **DEPUTY COMMISSIONER REARDON:** We are now back on the
9 record, Commissioner.

10 **PRESIDING COMMISSIONER GARLAND:** Thank you. 11:07
11 a.m. Everyone, all the principals have returned. All
12 right. So just to confirm --

13 **ATTORNEY RUMMEL:** Can I go back and clear up the
14 record from the statement about that you were mentioning
15 from the trial, cause I was able to find the reference, or
16 --

17 **PRESIDING COMMISSIONER GARLAND:** Yeah, that's what I
18 was just -- just going to do. So, --

19 **ATTORNEY RUMMEL:** okay.

20 **PRESIDING COMMISSIONER GARLAND:** from page, it's page
21 27 of the DA's Statement of Views, uh, this is, it looks
22 like referring to Dr. Oziel's testimony. According to
23 Erik, the discussion of planning the murders took place
24 about a week before the crime, that's what I was referring
25 to. So, um, that's in, uh, referencing the reporter's

1 transcript, so it -- it seems to be okay.

2 **ATTORNEY RUMMEL:** That's correct. And that is the
3 testimony of Dr. Oziel reporting on something that --
4 that, not that Lyle Menendez said, but that Erik Menendez
5 said. Um, you have the Oziel tape and you, I, I'm sure
6 know that Dr. Oziel was completely discredited at trial as
7 having, you know, bribed them to --

8 **PRESIDING COMMISSIONER GARLAND:** Okay. Hang on --

9 **ATTORNEY RUMMEL:** make a --

10 **PRESIDING COMMISSIONER GARLAND:** hang on --

11 **ATTORNEY RUMMEL:** false confession tape. So, if you
12 want --

13 **PRESIDING COMMISSIONER GARLAND:** hang on.

14 **ATTORNEY RUMMEL:** to talk about the honesty of those
15 statements, I'd like you to ask my client about the
16 discussions with Dr., I mean he can't speak to Erik's
17 discussions with Dr. Oziel, but -- but we are now talking
18 about, you know, what Dr. Oziel reported that a different
19 person said to him that was discredited at the trial.

20 **PRESIDING COMMISSIONER GARLAND:** So, so here's the
21 deal. I am trying to understand your client's position
22 about why this crime happened. Um, and there, those, that
23 information is in the rec -- in the record that was
24 presented to us. I'm entitled to ask questions about it,
25 and he's entitled to answer. I am not saying, you know,

1 one thing is true and one thing is not. I am only trying
2 to understand. I -- I -- I want, I'm going to proceed, um,
3 and ask your client some more questions, but I -- I
4 actually think I don't want to go down the road of having
5 a discussion that may or may not prove the defense or
6 disprove what has the jury findings before. We're not here
7 to do that. And so I am actually going to, I don't --

8 **ATTORNEY RUMMEL:** I --

9 **PRESIDING COMMISSIONER GARLAND:** want to invite --

10 **ATTORNEY RUMMEL:** I agree that that's not --

11 **PRESIDING COMMISSIONER GARLAND:** your client to --

12 **ATTORNEY RUMMEL:** yeah, I agree.

13 **PRESIDING COMMISSIONER GARLAND:** hang on, let me
14 finish, hang, I don't want to invite your client to
15 testify about something that could be an issue in the
16 later, uh, court proceeding and so, to the extent there
17 are some contradictions arising in the discussion that
18 we're having, and I think he's struggling a bit to answer
19 some questions about things that seem pretty, um,
20 pertinent to his claim in all of his writings that this
21 was sort of, it was an us or them kind of scenario. And I
22 -- I honestly don't want to go into that much further
23 because it looks like there's still some court proceedings
24 on -- on these issues. So I think in your client's --

25 **ATTORNEY RUMMEL:** I would agree with that.

1 **PRESIDING COMMISSIONER GARLAND:** best interest I
2 don't, I'm not going to do that. But I am going --

3 **ATTORNEY RUMMEL:** I'm going to agree --

4 **PRESIDING COMMISSIONER GARLAND:** to ask some
5 questions about his mindset.

6 **DEPUTY DISTRICT ATTORNEY MILIUS:** But --

7 **ATTORNEY RUMMEL:** I would agree with that. I think
8 the unfairness relates to the fact that the questions stem
9 from unreliable evidence, from unreliable summaries of
10 what happened in the trial and a very superficial
11 understanding of what all the evidence was, and that's my
12 --

13 **PRESIDING COMMISSIONER GARLAND:** So --

14 **ATTORNEY RUMMEL:** concern here today.

15 **PRESIDING COMMISSIONER GARLAND:** okay. I -- I have to
16 disagree.

17 **DEPUTY DISTRICT ATTORNEY MILIUS:** I --

18 **PRESIDING COMMISSIONER GARLAND:** Hang on, hang on,
19 Mr. Milius, let me -- let me respond to Ms. Rummel. It is,
20 the appellate opinion is the legal document supporting the
21 convictions in this case. So the idea that we cannot rely
22 on the appellate opinion is, it's just wrong, and -- and I
23 never heard you say that in any other case. Of course we
24 can rely on the appellate opinion. These are things that
25 were presented at the trial court, that is our record on

1 the legal opinion. To the extent your client's, you know,
2 I mean he wrote pages, hundreds of pages about the before,
3 during, and after of this crime, and I'm entitled to ask
4 questions about that in part based on what's before us.
5 Mr. Milius is entitled to present to the Panel what he
6 wants to present as well. We have to consider that as
7 well. So I'm not getting into trial testimony. I'm getting
8 into what was presented to the Panel, both in your brief
9 and the DA's brief and in Mr. Menendez's brief, that's the
10 universe of information that we're working from, and --
11 and it's simply giving your oppor -- your client an
12 opportunity to explain some inconsistencies. I just think
13 at this point, I think that there's some, I don't -- I
14 don't want to ask things that could, like I said, uh, you
15 know, that go directly to what he is trying to prove in
16 court right now. So I am not going to do that. Mr. Milius,
17 you can be heard.

18 **DEPUTY DISTRICT ATTORNEY MILIUS:** Um, I think that
19 this issue was actually raised by Lyle Menendez when he
20 made the decision to write about this topic. And I think
21 the reason why he wrote about it is he was trying to
22 suggest that he had taken responsibility or insight into
23 the crimes. The case law is very clear. The Commissioner
24 can look at insight. It's in re, uh, Lawrence, in re
25 Shaputis. And if the Commissioner wants to ask questions

1 that are related to his insight, which is what he has
2 raised, it's not that this is raised independent of the
3 Commissioner, he raised this issue. And I think it's
4 really important that it is, that the Commissioner can ask
5 these. If we don't have this questioning both by the
6 prosecutor, the Commissioner, it goes unchallenged, and I
7 don't think that that is, uh, the appropriate form, uh,
8 for the Commissioner. The Commissioner gets to ask
9 questions about, there's a reason why we have more than
10 just Lyle Menendez in this proceeding.

11 **PRESIDING COMMISSIONER GARLAND:** So I -- I -- I don't
12 disagree with some of that, but I do with others. So of
13 course, insight and his understanding of why he committed
14 this offense is -- is important, and I think both sides
15 agree with that. I also agree that Mr. Menendez put his
16 thought process in the events leading up to and -- and
17 during at issue in his extensive writings, and that is
18 what I'm trying to explore here. I just feel that there
19 was, uh, in the last discussion, a bit of, uh, going in a
20 little bit too much to something that could be related to
21 whatever he wants to present in court right now, and I
22 don't want to get involved with that. It is not necessary
23 for our decision today. So what I, again, thought process,
24 but, um, you know, and I think there's a very fine line in
25 between it. Um, but I would like to just proceed with some

1 other questions I have. I've heard you both. I don't think
2 there's -- go ahead.

3 **ATTORNEY RUMMEL:** I'd just like to respond to Mr.
4 Milius. We invite this Panel, Mr. Menendez has written
5 about it, we invite you to ask him about his insight,
6 absolutely. He has very deep insight into this crime. My
7 objection is pitting his insight against a, you know, you
8 say the tri - that, you work, you know that an appellate
9 decision is not the best evidence of what occurred or what
10 happened at the trial. It is the pieces of fact from, that
11 support the legal objections that were raised. And my
12 objection is to pitting his insight against one appellate
13 decision from a second trial without real consideration of
14 who testified, what they testified to, um, all the
15 corroboration of abuse that was excluded from the second
16 trial, all the things I've submitted to you. So that is my
17 only objection. That is -- that is I -- I came in here
18 understanding that the documents I was served with and
19 were served on the Board were part of the record. I, it's,
20 I'm just finding out in the middle of the hearing that
21 that's not the case and we are only looking at an
22 appellate decision to understand my client's insight. That
23 is my objection and I will leave it at that. I think I've
24 been very clear about that.

25 **PRESIDING COMMISSIONER GARLAND:** All right. I

1 understand Ms. Rummel, but so, I mean I think what, the
2 problem is, you're sort of suggesting that I can't
3 challenge the things that your client has written about,
4 and I don't think that's true. I can challenge those and I
5 can do it based on my common sense. If I see something
6 that doesn't make sense, I'm going to ask about it. I am
7 not making a finding about whether something in the record
8 was, I mean, if it's in the appellate opinion that is
9 taken from trial transcripts, there's, I -- I know that
10 for a fact, as I know you do, they are taken from the
11 trial and they're taken --

12 **ATTORNEY RUMMEL:** <crosstalk>

13 **PRESIDING COMMISSIONER GARLAND:** from discuss --
14 discussions about, you know, evidentiary motions, all
15 that. So that's our record. As far as the -- the
16 transcripts of the actual trial, um, I'm sure they were
17 excluded from the Commissioner's records because there
18 were probably thousands and thousands of pages long and
19 they are not relevant to our decision because we're not
20 retrying the case. Um, I know that both Counsel had access
21 to the Master File and the 10-day, I never heard that
22 there was a problem about what was included in that or not
23 included. So again, we're not making evidentiary decisions
24 here. We're trying to get to know your client and that's
25 what we're going to move forward with. Um, all right. So

1 let me see what I wanted to ask you about. Um, okay, so I
2 asked you earlier about the guns, um, because you wrote,
3 and I, this was a, from your writing, you say that you
4 realize now that, you wrote this in various places, that
5 they did not have guns in the den, uh, when you and Erik
6 killed them. Um, and that you realize now there was no
7 imminent threat. Is that -- is that an accurate statement
8 about what you know now? Or what you think?

9 **JOSEPH MENENDEZ:** Um, right. I -- I, uh, well I -- I
10 wrote that I don't believe now they were going to kill us
11 in that -- in that moment. Uh, uh, --

12 **PRESIDING COMMISSIONER GARLAND:** Okay. You also wrote
13 --

14 **JOSEPH MENENDEZ:** at the time I --

15 **PRESIDING COMMISSIONER GARLAND:** that you didn't
16 think -- you also wrote that you didn't think they had
17 guns, that you realize now they did not have guns with
18 them.

19 **JOSEPH MENENDEZ:** Right.

20 **PRESIDING COMMISSIONER GARLAND:** Correct?

21 **JOSEPH MENENDEZ:** Absolutely. I realize now there was
22 no guns. At the time I had that, those beliefs. Uh, but at
23 the -- at the, now I -- I realize that and I wanted to
24 just for full accountability, most, just to everyone that
25 I no longer believe that they were going to kill us in

1 that moment today, I think that, um, --

2 **PRESIDING COMMISSIONER GARLAND:** Right. But you --
3 you said that, I mean you write about at the time you did.
4 Is that correct? You thought --

5 **JOSEPH MENENDEZ:** Right, at the time I --

6 **PRESIDING COMMISSIONER GARLAND:** at the time they
7 were going to kill you.

8 **JOSEPH MENENDEZ:** at the time I had that honest
9 belief, yes.

10 **PRESIDING COMMISSIONER GARLAND:** Okay. And -- and you
11 had the belief that at that moment in the den they were
12 going to kill you?

13 **JOSEPH MENENDEZ:** Pretty much from the time I ran to
14 get my gun, I was believing that.

15 **PRESIDING COMMISSIONER GARLAND:** Okay. So tell us
16 the, like again, as concisely as possible, what was the --
17 the primary reason that you thought they were going to
18 kill you?

19 **JOSEPH MENENDEZ:** That I had threatened my father to
20 expose that he was sexually assaulting my brother --

21 **PRESIDING COMMISSIONER GARLAND:** Okay.

22 **JOSEPH MENENDEZ:** and my parents would do anything to
23 keep that from happening. And just based on what I knew
24 about my father, my just overwhelming fear of him, his use
25 of violence to solve problems, and his obsession with his

1 image and his power, it just, it was a certainty to me
2 that there was going to be an attack to -- to eliminate
3 us. I was just fearful all weekend and it just erupted in
4 that moment, at that time, and I ran to try to survive.

5 **PRESIDING COMMISSIONER GARLAND:** Okay. So what was
6 your understanding of whether or not your parents were
7 armed?

8 **JOSEPH MENENDEZ:** I assumed that the attack was
9 happening at that moment so I believe that they were going
10 to, they were in the, that it was happening now. Really
11 the only thought in my head was it's happening now, I have
12 to get, the way to survive is to get to the room first.
13 When father closed the door, I think fear just kind of
14 over -- overwhelmed the reason. It's hard to, you know, I
15 -- I don't have a great explanation for why I felt such
16 terror in that moment, um, and made those decisions. I
17 think I have better understanding now, but going back, uh,
18 was really just, it's happening now, and that was my exact
19 statement at the time.

20 **PRESIDING COMMISSIONER GARLAND:** And -- and it
21 happening mean they're going to kill you.

22 **JOSEPH MENENDEZ:** Correct. And Erik.

23 **PRESIDING COMMISSIONER GARLAND:** Okay. Um,
24 afterwards, right, let's, let, let's talk about your --
25 your feelings, emotions right after you committed, after

1 you killed them. What -- what -- what feelings went
2 through your head? Just words if you -- if you could.

3 **JOSEPH MENENDEZ:** Um, direct, right, like the moments
4 after, directly after? Uh, --

5 **PRESIDING COMMISSIONER GARLAND:** Right. You, I mean
6 let's go from the point, and I don't think you're
7 disputing this, you emptied your guns on them, shot them
8 multiple times, your mom was still moving. You and Erik
9 both went back to the car reloaded and then you went back
10 to your mother and shot her just right in the face until
11 she stopped moving. Is that -- is that accurate? Are we on
12 the same page as far as the facts?

13 **JOSEPH MENENDEZ:** Yes.

14 **PRESIDING COMMISSIONER GARLAND:** Okay. So right then,
15 after they were clearly no longer alive, what -- what
16 emotions did you have?

17 **JOSEPH MENENDEZ:** Um, I dropped my gun and walked
18 out. I think just shock, numb at that point, just, I was
19 in a panic, I, just still panicked I think for a -- a
20 while. Panicked, at some point I realized I should be
21 expecting the police, but I think that thought was in my
22 head at that time, just --

23 **PRESIDING COMMISSIONER GARLAND:** Okay. So shock --

24 **JOSEPH MENENDEZ:** just sort of like --

25 **PRESIDING COMMISSIONER GARLAND:** panic --

1 **JOSEPH MENENDEZ:** kinda just collapsing feeling of,
2 it was the same emotion that -- that put me in the room I
3 was still in.

4 **PRESIDING COMMISSIONER GARLAND:** And did you have any
5 feelings about the fact that these people that you claim
6 had, you know, abused you so seriously, I mean for all
7 these years, I mean was there any kind of relief? Was
8 there happiness, satisfaction, anything like that?

9 **JOSEPH MENENDEZ:** No. It was, uh, just slow motion,
10 uh --

11 **PRESIDING COMMISSIONER GARLAND:** Did you ever have
12 those -- those feelings of relief?

13 **JOSEPH MENENDEZ:** No, I had feelings of regret and --

14 **PRESIDING COMMISSIONER GARLAND:** When?

15 **JOSEPH MENENDEZ:** shock.

16 **PRESIDING COMMISSIONER GARLAND:** When did that --
17 when did that start? When did the regret start?

18 **JOSEPH MENENDEZ:** Pretty much by the, I would say,
19 uh, I can't, probably that night, but certainly in the all
20 the days and weeks after, uh, just spending a lot of time
21 talking to my father, regretting it, unable to be in the
22 same room with my brother. Just a total sort of crumbling
23 of my life. My father had really been a central focus of
24 it and just total, uh, some even resentment toward my
25 brother maybe about what had happened. And --

1 **PRESIDING COMMISSIONER GARLAND:** Okay. So hang -- so
2 hang on, we're going, okay. So, um, let me piece that
3 apart cause I'm not sure I understand it. You, so you --
4 you did regret it, you regretted killing your parents at
5 some point.

6 **JOSEPH MENENDEZ:** Well --

7 **PRESIDING COMMISSIONER GARLAND:** Is that right?

8 **JOSEPH MENENDEZ:** it was just shocking, I -- I -- I
9 can't believe that it happened, right. I really was
10 having, struggling with the fact that --

11 **PRESIDING COMMISSIONER GARLAND:** Hang on.

12 **JOSEPH MENENDEZ:** it was happening.

13 **PRESIDING COMMISSIONER GARLAND:** Hang on.

14 **JOSEPH MENENDEZ:** Yeah. Okay.

15 **PRESIDING COMMISSIONER GARLAND:** I -- I want to know,
16 I mean obviously you've had 36 years to think about this
17 and you've been writing a lot about it.

18 **JOSEPH MENENDEZ:** Right.

19 **PRESIDING COMMISSIONER GARLAND:** Um, as I recall, I
20 thought I had read that you did -- you did in fact regret
21 it, or you at least do now. Is that accurate?

22 **JOSEPH MENENDEZ:** 100%, tremendous <crosstalk>

23 **PRESIDING COMMISSIONER GARLAND:** So when did that,
24 when did the regret feeling or emotion come to be?

25 **JOSEPH MENENDEZ:** Uh, right in the aftermath. We were

1 crying, uh, was distraught. Uh, and I -- I had tremendous
2 emotion and sorrow about it pretty much right away in the
3 days, in the -- in the night and days afterwards and just
4 kind of grew to the point of almost relief when I was
5 arrested.

6 **PRESIDING COMMISSIONER GARLAND:** You actually said
7 you wished you were arrested right away. Why -- why did
8 you say that in your writings?

9 **JOSEPH MENENDEZ:** Just the shameful, I felt the
10 shameful period of -- of the six months of having to lie
11 to relatives that were grieving just very much affected
12 me. Uh, I felt the need to suffer, uh, that it was, uh,
13 there was no relief that's over, I -- I -- I sort of
14 started to just feel like I had not rescued my brother, I
15 destroyed his life. Uh, I had rescued nobody, and, uh, I
16 just sort of --

17 **PRESIDING COMMISSIONER GARLAND:** So you were -- you
18 were interviewed by, uh, law enforcement after, uh, the
19 crime. Um, and -- and you and your brother kind of gave a,
20 "I don't know who did this" sort of thing and -- and that
21 you were both very distraught about it, correct?

22 **JOSEPH MENENDEZ:** We were very distraught, which, uh,
23 led to him letting us go, uh, apparently, according to
24 what I heard him testify.

25 **PRESIDING COMMISSIONER GARLAND:** Okay. So, so this

1 was, it's not a major point but it was just something I
2 read in the -- the CRA that I thought was interesting. You
3 -- you talked about the detective who interviewed you and
4 you said he believed us, he recognized trauma. What did
5 you, or how did you know he recognized trauma? Was that
6 part of the discussion?

7 **JOSEPH MENENDEZ:** Uh, he testified that, uh, he, uh,
8 at an (inaudible) hearing, that, uh, he knew the
9 difference between somebody who was cold-blooded or faking
10 it, or just maybe like acting like they didn't know
11 anything, and with somebody who was traumatized and trying
12 to hold back crying. And he mistook he said, he didn't
13 realize it was a domestic violence crime, and so he
14 mistook that traumatic emotions that he felt were real for
15 just grieving your parents, not realizing that maybe there
16 was, we were involved in some emotional way. And so it was
17 a mistake he made not to give us a gun residue test and
18 hold us and do other things that would have arrested us
19 that night. So he -- he, that's, I don't know if he
20 regretted it or he just got, I think he got, uh, mocked
21 for it at work, like you should have considered that maybe
22 this was a domestic violence case. Uh, and, uh, --

23 **PRESIDING COMMISSIONER GARLAND:** And then, and you --
24 and you got emotional when you talked to the CRA clinician
25 about that. Where were those emotions coming from?

1 **JOSEPH MENENDEZ:** Uh, thinking about him getting
2 mocked for having humanity. I just felt like there's
3 nothing wrong with him having that -- having that feeling
4 as a detective, you know. I appreciated it, uh, and even
5 though I do wish I was arrested that night. But, uh, I
6 felt, I feel for this detective who, because he didn't
7 recog -- recognize what was happening, what caused the
8 crime, and therefore the emotion was real, he made a
9 miscalculation and it felt -- it felt, uh, it felt, you
10 know, I felt bad for him.

11 **PRESIDING COMMISSIONER GARLAND:** So you just
12 testified about the sorrow, the disbelief, the -- the
13 shock, uh, you know, pretty much that whole six month
14 period, is that when you think those emotions were going
15 through you?

16 **JOSEPH MENENDEZ:** Well right -- right afterwards,
17 that night, that's why we were distraught at the station
18 and then throughout the -- the months and, uh, just trying
19 to keep -- keep it together, uh, and not, which --

20 **PRESIDING COMMISSIONER GARLAND:** So I think that, I
21 think you understand that, from your writings I think you
22 understand this, that your actions spoke very differently
23 than those emotions would suggest. Do you agree with that?

24 **JOSEPH MENENDEZ:** I was hiding --

25 **PRESIDING COMMISSIONER GARLAND:** Just answer the

1 question. Do you agree with that? I mean you're saying how
2 sorrowful you were and shocked and you couldn't believe
3 it, and you were feeling so bad about lying to your family
4 and all that --

5 **JOSEPH MENENDEZ:** Right.

6 **PRESIDING COMMISSIONER GARLAND:** do you think your
7 actions are consistent with the emotions that you just
8 described? Yes or no?

9 **JOSEPH MENENDEZ:** Uh, I think -- I think they're not,
10 uh, consistent with it. I think they're both true. I had,
11 I didn't want to reveal what to my Aunt Terry and to my
12 family, why this had happened, who my parents were behind
13 closed doors. I couldn't do that. I also didn't want to go
14 to prison, which I kind of equated with being separated
15 from my brother also, so all of these emotions are going,
16 all of these things are going through my mind all those
17 months. And I was also dealing with overwhelmings of grief
18 and loneliness and just sort of felt like almost like a
19 ghost, just walking amongst other people. And, uh, so
20 both, all of it was true. Both -- both of, or I mean it's
21 not incons -- it's incons -- it's inconsistent, but it's
22 both happening at the same time.

23 **PRESIDING COMMISSIONER GARLAND:** So --

24 **ATTORNEY RUMMEL:** Maybe we don't know what actions
25 you're asking him about. Maybe if we could be specific

1 about what actions the Board is inquiring about.

2 **PRESIDING COMMISSIONER GARLAND:** Well, his lifestyle
3 for six months and spending tens of thousands of dollars
4 buying expensive cars and watches, and, uh, living the
5 life, buying things for friends. I mean, we've, we have a,
6 it was a pretty, I mean, that's how I've read what
7 happened afterwards. And I'm sure there's obviously more
8 to it that you, you know, that wasn't what you were doing
9 24 hours a day, but those are the actions I'm talking
10 about. Do you think those actions are consistent with the
11 emotions that you're telling us you had?

12 **JOSEPH MENENDEZ:** Yeah, those actions are -- are
13 consistent because I -- I had a, uh, it was just part of
14 my personality or growing up to -- to -- to spend and
15 cover -- and cover, avoid emo -- vulnerable emotions or
16 depression with doing something material that I thought
17 would lift my spirit. So I would spend, I thought it would
18 make me feel better and then it wouldn't. And so that was
19 part of something my mother did with me before, and I
20 just, I just thought it would dull the pain. It was just
21 something, it was reckless, but it was -- it was
22 consistent with me just trying to deal with those
23 emotions.

24 **PRESIDING COMMISSIONER GARLAND:** So spending money,
25 having flashy things to show off, those are things that

1 helped you deal with your emotions of sorrow?

2 **JOSEPH MENENDEZ:** Uh, spending was something I did to
3 lift, just thought it would make me feel good in the
4 moment. Just feel like out of this depth of this anguish
5 and, uh, you know, uh, uh, so my life had just collapsed
6 without my parents and just the whole system I had. I was
7 supposed to go right back to school. I had a life, and now
8 I didn't. I had something different that was shattered. So
9 I --

10 **PRESIDING COMMISSIONER GARLAND:** How much -- how much
11 money do you think you spent during that period?

12 **JOSEPH MENENDEZ:** Um, I, uh, I spent that first trip
13 to the mall when my uncles directed me to buy a bunch of
14 clothes I would need for the next couple weeks, cause we
15 weren't in the house, and for the memorial service, suits
16 and things, and I bought stuff on that trip. Um, and then
17 they didn't --

18 **ATTORNEY RUMMEL:** I don't think she's asking for a
19 detailed list, just a summary, just a general --

20 **JOSEPH MENENDEZ:** Oh.

21 **ATTORNEY RUMMEL:** idea of how much money you spend.

22 **JOSEPH MENENDEZ:** Um, jewelry, the clothes, car was I
23 think \$60,000 something, so maybe \$100,000 dollars if you
24 count the car. And then the restaurant, I don't know, that
25 was a business purchase with my uncle, so I don't know if

1 we count that.

2 **PRESIDING COMMISSIONER GARLAND:** And you -- you
3 bought a -- a Porsche, is that right?

4 **JOSEPH MENENDEZ:** Yes.

5 **PRESIDING COMMISSIONER GARLAND:** Um, Erik bought a
6 Jeep. Why -- why do you think you guys chose such
7 different cars?

8 **JOSEPH MENENDEZ:** Uh, well I was, had my mother, we
9 had just finished purchasing the condominium for me, and I
10 was needing a car, and my other car had been shipped to
11 New Jersey. I -- I shipped my mother's car across the
12 country to drive that --

13 **PRESIDING COMMISSIONER GARLAND:** No --

14 **JOSEPH MENENDEZ:** that's what I've been driving.

15 **PRESIDING COMMISSIONER GARLAND:** I -- I, hang on. The
16 question was simply, Erik chose a Jeep, you chose a
17 Porsche. Why -- why the difference? Why such different
18 types of cars?

19 **JOSEPH MENENDEZ:** Uh, it was just, uh, I had
20 purchased a convertible as my first car. I liked small
21 convertibles and so that was a convertible kind of
22 Roadster car, the kind of cars that I normally, I liked.

23 **PRESIDING COMMISSIONER GARLAND:** I feel you're kind
24 of avoiding the fact that Porches are very flashy,
25 extremely expensive. Jeeps are pretty much, you know, a

1 little more standard, not flashy. Do you not see the
2 difference in those?

3 **JOSEPH MENENDEZ:** I can see the difference. I assume
4 he bought what he wanted to buy. I don't know. Uh, I --

5 **PRESIDING COMMISSIONER GARLAND:** I'm just wondering
6 if it was a, sort of a reflection of your personalities
7 that, you know, you liked to, uh, --

8 **JOSEPH MENENDEZ:** It could -- it could be. Uh, my dad
9 and I spent a lot of money in that way. He had, we had a
10 little bit, I don't know, but my mother too, so I don't
11 know the whole family before and after. So I -- I don't,
12 uh, don't really know if it was --

13 **PRESIDING COMMISSIONER GARLAND:** So you wrote --

14 **JOSEPH MENENDEZ:** go ahead, sorry.

15 **PRESIDING COMMISSIONER GARLAND:** that's okay. Um, I -
16 - I didn't want dwell on it. Um, uh-oh, I think we just
17 lost Mr. Milius. Mr. Milius, are you there? I had him
18 pinned and he is no longer pinned. Uh, let's --

19 **DEPUTY COMMISSIONER REARDON:** Don't see him.

20 **PRESIDING COMMISSIONER GARLAND:** All right. It's
21 11:36 a.m. We're going to have to go off the record.

22 **RECESS**

23
24 **DEPUTY COMMISSIONER REARDON:** We're now back on the
25 record. We've reestablished contact with the District

1 Attorney.

2 **PRESIDING COMMISSIONER GARLAND:** Thank you. It's
3 11:37 a.m. Um, all right. So I, I'll move on -- on that.
4 So I want to think, I want you to sort of, uh, think in a,
5 like, deeply about this and just sort of try to dig deep
6 in -- in answering this question. You know, you had a very
7 different relationship with your father than you did with
8 your mother, right? You -- you idolized your dad, you
9 feared your dad, you wanted to please your dad. Um, your
10 mom, you felt this distance, uh, you felt rejected by her.
11 Um, is there one death that gave you more, uh, well I'll
12 use your word sorrow, than the other?

13 **JOSEPH MENENDEZ:** My mother.

14 **PRESIDING COMMISSIONER GARLAND:** Why?

15 **JOSEPH MENENDEZ:** Because I loved her and did not
16 think I could ever, I -- I couldn't imagine harming her in
17 any way. And I just, I -- I was, I think, uh, also I
18 learned a lot afterwards about her life, her childhood,
19 things that had happened to her, that, reflecting on how
20 much fear maybe she felt. I learned from her psychologist,
21 her -- her therapist, that she felt shame for how, uh, --

22 **PRESIDING COMMISSIONER GARLAND:** Well hang on. And I
23 should have clarified this, but I mean kind of like, maybe
24 just in the more, you know, right after the fact, like
25 recency after their deaths. Um, so you had more sorrow

1 about your mother.

2 **JOSEPH MENENDEZ:** I've always had more sorrow about
3 my mother as -- as somebody who, um, I just, um, kind of
4 cared -- cared about more, was more fragile in my life,
5 growing up in my life more fragile, so I cared more about
6 her wellbeing through my whole life, and so I just felt a
7 -- a deep sorrow about, yes.

8 **PRESIDING COMMISSIONER GARLAND:** Do you think you
9 ever had an emotion of like satisfaction or relief about
10 their deaths? And, or would you characterize that as your
11 emotion related to your dad?

12 **JOSEPH MENENDEZ:** No. I had a deep connection with my
13 father. He -- he was the one that just sort of guided my
14 life, was going to be continuing to guide my life, had a
15 whole, he had his plan, I was in the plan, and I was lost
16 without him. I would nev -- I felt zero relief, I felt the
17 opposite of relief.

18 **PRESIDING COMMISSIONER GARLAND:** So you write a lot
19 about the crime as being impulsive and that you were
20 young, uh, you really didn't think about the consequences.
21 We know those are, you know, features of -- of youthful
22 thinking. And I wonder after all these years of thinking
23 about it, you know, how do you reconcile your description
24 in that way, um, with the sophistication of the web of
25 lies and manipulation that you demonstrate afterwards? And

1 I'm just for clarity, I'm talking about just some
2 examples, the having the computer disc erased to get rid
3 of the will, uh, you had scripts for your witne -- people
4 to testify in a way that -- that you wanted them to, you
5 had escape plans from jail, those types of things. To me
6 that's pretty sophisticated stuff. So how do you reconcile
7 this crime being so impulsive, but your actions afterwards
8 being so sophisticated and manipulative?

9 **JOSEPH MENENDEZ:** Um, they were manipulative. Uh,
10 well the -- the week and -- and my crime was just -- just
11 powered by emotion. So there was no room for any
12 sophisticated, even my thoughts of how we would manage
13 that week just seemed flailing and unsophisticated.
14 Afterwards it's a -- it's a lot of flailing in -- in what
15 was happening, um, but I had more time to think about it
16 sitting in the County Jail all day in a cell, you know,
17 afraid that no one's going to believe us and I'm trying to
18 support my brother who's going to be testifying. At that
19 time, I wasn't going to be, and so I was looking for
20 something to help, uh, and I was ashamed and hiding and
21 still in that mode of hiding, just secrets you hide. And I
22 was just sort of my, I was just still in that mode.

23 **PRESIDING COMMISSIONER GARLAND:** But --

24 **JOSEPH MENENDEZ:** So I don't know. I don't -- I
25 don't, I had more time to think about it maybe.

1 **PRESIDING COMMISSIONER GARLAND:** okay, so just time?
2 That's the -- that's the difference?

3 **JOSEPH MENENDEZ:** Uh, well I'm sitting in the jail 24
4 hours a day, uh, that's when some of that occurred. It was
5 immature. It was -- it was -- it was senseless and it was
6 wrong, and, uh, I would never do that today. But I was,
7 the emotions were driving it, mostly shame. I was not
8 trusting anyone, my lawyers, my, or that -- that anyone
9 would believe anything we were saying. So I was making bad
10 decisions, bad judgments, just --

11 **PRESIDING COMMISSIONER GARLAND:** Well but you -- you
12 did trust people enough to ask them to lie for you, right?
13 I mean you came up with some pretty sophisticated stories
14 and, you know, to have people lie, you had to have trusted
15 them to not turn you in for trying to suborn perjury,
16 right?

17 **JOSEPH MENENDEZ:** Um, the, uh, I, they trusted, I
18 hoped that they would help, yes, so to some degree I
19 trusted them. Um, but I was talking to nobody about what
20 happened and it took a while, it was like a couple of year
21 process for that to happen, for me to feel confi --
22 confident and comfortable to talk, uh, in that time period
23 when I wasn't, that was happening.

24 **PRESIDING COMMISSIONER GARLAND:** Do you think that
25 you're a good liar?

1 **JOSEPH MENENDEZ:** No, I don't. I -- I don't think --

2 **PRESIDING COMMISSIONER GARLAND:** Were you --

3 **JOSEPH MENENDEZ:** I don't --

4 **PRESIDING COMMISSIONER GARLAND:** were you then?

5 **JOSEPH MENENDEZ:** Uh, I don't -- I don't know. I
6 don't think so. I don't -- I don't, uh, --

7 **PRESIDING COMMISSIONER GARLAND:** Even though you --

8 **JOSEPH MENENDEZ:** I don't think so.

9 **PRESIDING COMMISSIONER GARLAND:** fooled your -- you
10 fooled your entire family about you being the murderer and
11 you recruited all these people to help you, and you don't
12 think that's good being a good liar?

13 **JOSEPH MENENDEZ:** I think that what helped in that
14 situation is that I was feeling a lot of remorse and I was
15 distraught, so it made it, because of that, there was a --
16 a strong belief I didn't have anything to do with it
17 because they didn't know what was happening. They didn't
18 know what was happening in the home at that time so they
19 didn't know why. And so it was easier to believe me, the
20 same with the detective right afterwards, so.

21 **PRESIDING COMMISSIONER GARLAND:** Okay.

22 **JOSEPH MENENDEZ:** Uh, remorse just made it more, you
23 know, it just was ea -- people just didn't question it.
24 Uh, I don't think it was clever lying, it was just that.

25 **PRESIDING COMMISSIONER GARLAND:** Okay. All right. I,

1 uh, am finished I believe with my questions about, you
2 know, as I said the before, during, and after. Um, I am
3 going to turn this over to Commissioner Reardon at this
4 point.

5 **DEPUTY COMMISSIONER REARDON:** Thank you, uh,
6 Commissioner. Uh, Mr. Menendez, we're now going to talk
7 about post-conviction factors. Uh, it's my goal to have a
8 conversation with you about what you've done in prison.
9 Um, I'm going to focus mainly on, um, you came to RJD in
10 2018, correct? More or less?

11 **JOSEPH MENENDEZ:** Yes.

12 **DEPUTY COMMISSIONER REARDON:** And your brother is
13 already here, he'd been here since 2013?

14 **JOSEPH MENENDEZ:** On a different yard, but yes.

15 **DEPUTY COMMISSIONER REARDON:** Yeah. So I'm going to
16 probably be focusing on that time period. And I want you
17 to take a deep breath. If I ask you a question you don't
18 understand, let me know. We've been at this for almost
19 three hours. It's difficult to be where we are, we
20 understand that. And I also want you to be aware that any
21 questions I ask you, any conversation I have with you, in
22 no way am I attempting to minimize your traumatic
23 experience as a youth. Uh, nor is it, uh, trying to
24 trivialize all the work that you have done, cause you've
25 done a lot of work. Uh, no violence, you stayed out of

1 trouble, uh, it's been pointed out by your attorneys, and
2 also for the majority of that time, you had no promise of
3 ever getting out of prison, so that does say something,
4 and we're going to have a conversation about that. So I do
5 want to ask you, at what point in time, what date do you
6 think you had a path forward to get out of prison? I know
7 there's a clemency, and I know that there's resentencing,
8 but do you have, I don't want to use the term clean and
9 sober date, but that kind of a date where you said, you
10 know what, this looks like I might have a path forward to
11 get out of prison. Do you have a date like that in your
12 mind?

13 **JOSEPH MENENDEZ:** Um, clear, a clear understanding
14 of, a clear belief of that, uh, once the judge made the
15 decision in resentencing. Um, but, uh, the possibility of
16 it, uh, at the -- at the end of October 2024 when -- when
17 there was an initiation, but it was a, you know, there was
18 -- there was initiation by a District Attorney that just
19 suddenly happened, uh, and that's when, um. It takes a
20 while for that to be a real belief and you've been thir --
21 a life without for 35 years, and they're telling you well
22 it depends on whether he gets reelected and this, there
23 was a lot there, but, um, it's hard --

24 **DEPUTY COMMISSIONER REARDON:** That's as close as
25 you've been though, right?

1 **JOSEPH MENENDEZ:** not to --

2 **DEPUTY COMMISSIONER REARDON:** I mean, that October
3 2024 is probably --

4 **JOSEPH MENENDEZ:** Right.

5 **DEPUTY COMMISSIONER REARDON:** as close as you'd been,
6 correct?

7 **JOSEPH MENENDEZ:** Right.

8 **DEPUTY COMMISSIONER REARDON:** All right.

9 **JOSEPH MENENDEZ:** I think you're right, Commission.

10 **DEPUTY COMMISSIONER REARDON:** So we have this, when
11 we have this discussion I'm going to keep that date in
12 mind. Before we start the substantive stuff, as a
13 housekeeping matter, during a break I saw you wearing
14 reading glasses. Yes?

15 **JOSEPH MENENDEZ:** Yes, I have.

16 **DEPUTY COMMISSIONER REARDON:** I don't know if we -- I
17 don't know if we talked about that, but I'm responsible
18 for making sure about accommodations, so I'm going to note
19 that you have reading glasses and I'm also going to note
20 that --

21 **JOSEPH MENENDEZ:** Okay.

22 **DEPUTY COMMISSIONER REARDON:** there's a magnifying
23 device there if you need it. Okay?

24 **JOSEPH MENENDEZ:** Okay.

25 **DEPUTY COMMISSIONER REARDON:** All right. So what I

1 want to start with is, um, as I reviewed your file, the --
2 the official file, the documents that you submitted and
3 your lawyer submitted, I was struck by what I believe to
4 be almost two different incarcerated people. Right? Um,
5 I'm reading about the model incarcerated person, prosocial
6 Lyle Menendez, and then I'm also reading about the
7 antisocial rule breaking Lyle Menendez. And it struck me
8 that there was some type of, um, I -- I don't want to say
9 pull going on there, but you seem to be different things
10 at different times. Am I -- am I wrong about that?

11 **JOSEPH MENENDEZ:** Um, I think maybe. Uh, I, I'm, in
12 terms of the phone use? Is that what you're referring to?
13 That vio -- the violation of the phone?

14 **DEPUTY COMMISSIONER REARDON:** Yes, yeah. Basic --
15 basically the -- the, not only the use of the phone, but
16 the whole enterprise behind the phone, and we're going to
17 talk about it. I --

18 **JOSEPH MENENDEZ:** Right.

19 **DEPUTY COMMISSIONER REARDON:** I'll give a chance to
20 respond, but I'm not looking at this, and I don't think
21 what I've seen indicates that you used a cell phone from
22 time-to-time. It seemed to be a mechanism in place so that
23 you always had a phone at your disposal, right? And -- and
24 you've --

25 **JOSEPH MENENDEZ:** Right.

1 **DEPUTY COMMISSIONER REARDON:** said -- and you've said
2 that pretty much when you hit RJD in 2018, up until at
3 least early November 2024, you were using cell phones,
4 right?

5 **JOSEPH MENENDEZ:** Correct.

6 **DEPUTY COMMISSIONER REARDON:** All right. And even
7 your own statement, this -- this is, um, under
8 contemplation stage for you, when you were talking about
9 that, uh, November 2024 cell phone and you were like, you
10 know, it just finally hit me that I needed -- I needed --
11 I needed to do a lot of work. Cause you said when you were
12 talking about how you could change your life to stop using
13 a cell phone, all of it was inconsistent with who I saw
14 myself as in the community and who I had worked hard to
15 become. I think that's the point I'm trying to make.
16 Because --

17 **JOSEPH MENENDEZ:** Okay.

18 **DEPUTY COMMISSIONER REARDON:** on -- on paper, and --
19 and I'm -- and I'm not diminishing your accomplishments,
20 right, on paper it's very impressive, right? The
21 educational upgrade. Did you finish the Master's Program?

22 **JOSEPH MENENDEZ:** Not yet. Hopefully soon.

23 **DEPUTY COMMISSIONER REARDON:** All right. Well we've
24 got the AA in sociology, the Bachelor's Degree. You're
25 working on the Master's Program, we, uh, degree. We're

1 happy when incarcerated people get their GED, right, so
2 you have done a lot there. You got a good work history,
3 right, mostly positive. You were chairman of the Inmate
4 Advisory Council for, I don't know, six, eight, 10 years,
5 correct?

6 **JOSEPH MENENDEZ:** Correct.

7 **DEPUTY COMMISSIONER REARDON:** And that's a position
8 of prestige, is it not?

9 **JOSEPH MENENDEZ:** Yes.

10 **DEPUTY COMMISSIONER REARDON:** Okay.

11 **JOSEPH MENENDEZ:** Leadership position.

12 **DEPUTY COMMISSIONER REARDON:** All right, so those are
13 all positive. And then when I look at your -- when I look
14 at your programming, I -- I see that there is so much
15 programming that you've done, right? And you talk about
16 promises you made to relatives to remain, uh, free from
17 violence and you've done that. Uh, you've, uh, done a lot
18 of programming. Uh, so, but what I'm wondering is the
19 programming that was done before the last cell phone, how
20 much weight should a Panel give that? If you're using cell
21 phones at the same time you're participating in all this
22 self-help programming to gain a better understanding of
23 yourself, how much weight do we -- we give that
24 programming, right? And I'm not saying -- I'm not saying
25 that -- that you were involved in alcohol or drugs, but

1 the common example is somebody who gets high or gets drunk
2 and then you go to AA meetings, right?

3 **JOSEPH MENENDEZ:** Right.

4 **DEPUTY COMMISSIONER REARDON:** So that period of time
5 from 2018 up in 2024, it -- it sounds like you were
6 leading two separate paths, right? Prosocially you was
7 doing a lot of good work. I mean that -- that Green Space,
8 the connect, the disconnect to reconnect. The LWOP Mentor
9 Program, the Insight Mediation. You were doing a lot of
10 programming, and at that point in time as you said,
11 there's no guarantee you're ever going to get out of
12 prison. So why would you be doing that unless it was to
13 better yourself? Fair enough, right?

14 **JOSEPH MENENDEZ:** Right.

15 **DEPUTY COMMISSIONER REARDON:** So you did that. But
16 then when you were writing about the cell phones, you talk
17 about, you know, why you were using them, and this is on
18 page, well I think I'll use your numbers, page 191 of, uh,
19 submission by your attorneys. You said, "at the time it
20 was not on my radar to stop my behavior or change my
21 behavior. I was LWOP and I was never getting out of
22 prison. Using the cell phones made my life exponentially
23 better and more connected. It gave me such a feeling of
24 belonging." So I guess what I'm struggling with and what
25 I'm trying to reconcile is, why did you parse out this one

1 part of your recovery of your prosocial behavior, the cell
2 phones, when you were doing all that other good work?

3 **JOSEPH MENENDEZ:** I think because, uh, I was
4 rationalizing and just in denial that this -- that this
5 device was benefiting those things that I cared about and
6 those prosocial things, like my relationship, my family,
7 my service projects. And I -- and I just sort of
8 understood that it was a rule violation and wrong, but I
9 didn't, I did not understand and internalize that -- that
10 it was the criminality of it, the criminal thinking of it
11 till much, really till after I stopped using it and took
12 more courses in that and learned a lot more. And so in --
13 in my mind, I was using it for good things and I was not
14 using it for what I thought was criminality. And so in --
15 in conseq -- you know, my consequential thinking, it
16 didn't come till later. I just kind of pro'd and conned
17 that the consequence was only on me in terms of breaking
18 this rule, that it -- that it, the benefits of what I was
19 doing for the community through this project, which really
20 was exponentially more useful with the phone, and my
21 connection, cause I could keep with -- with Rebecca and,
22 uh, uh, my family. I had just moved across the state from
23 my wife, I was seeing her less, uh, um, clearly much less.
24 And so I rationalized, okay, it has, it wasn't out of line
25 with what I was caring about, what I cared about, what I

1 was devoting my life to, which was my family, my
2 relationship, my community. I think I was well known for
3 that and it was really -- really got great validation from
4 that, and I felt like it served that. Uh, it was --

5 **DEPUTY COMMISSIONER REARDON:** But why the need for
6 valid --

7 **JOSEPH MENENDEZ:** I couldn't --

8 **DEPUTY COMMISSIONER REARDON:** why the need for
9 validation? You're -- you're in prison, horrible life
10 crime. Why the need for validation?

11 **JOSEPH MENENDEZ:** Well it's a different kind of
12 validation at that point in my time. Early in my time, the
13 validation was just feeling self-worthless, convicted, in
14 prison, desperately trying to hear that I'm doing good
15 things, okay, my family's proud, and so a lot of my MAC
16 work early on was for that. Um, but then I just, you know,
17 you mature, you get more grounded, you -- you -- you value
18 different things, right? And so you value compassion and
19 kindness and service and vulnerable population work. And
20 so I've just been spending my life on that the last 15
21 years. And the Green Space Project was a huge part of
22 that. Manuals I was writing for the -- for the Youth
23 Offender Group and other things.

24 **DEPUTY COMMISSIONER REARDON:** I -- I -- I understand
25 that.

1 **JOSEPH MENENDEZ:** The phone -- the phone was useful
2 to it, so I didn't, it didn't feel like, oh, I have this
3 criminal part of my life and this non-criminal. I felt
4 like I have my life that I've changed with and this is
5 really a gre -- an incredible assistance for that and it
6 was very bad judgment obviously. And then later taking
7 Criminal Thinking courses and so on, you learn a lot more
8 about the impact, but at the time you don't think it's
9 harming anyone.

10 **DEPUTY COMMISSIONER REARDON:** Well at the time we're
11 talking about was -- was November of 2024, right, that's
12 the time we're talking about, your last cell phone.

13 **JOSEPH MENENDEZ:** Right. So after that --

14 **DEPUTY COMMISSIONER REARDON:** Yes.

15 **JOSEPH MENENDEZ:** when I seek, that's when
16 consequential thinking, cause now it has this huge
17 consequence. It's also much more known in my community and
18 --

19 **DEPUTY COMMISSIONER REARDON:** Yeah, but that's what
20 I'm struggling with, Mr. Menendez. You're a bright guy,
21 you got college degrees, right? And I -- I would think
22 that since you're a bright guy you would understand the
23 irony of using illeg -- uh, illegal activities like a --
24 like a cell phone to do good things. You know it almost
25 taints them, doesn't it?

1 **JOSEPH MENENDEZ:** It's definitely part of the way I
2 was viewing my analysis of it, cause it really wasn't
3 impulsive. I thought it through and I felt like, um, I
4 sometimes get very intensely focused on the goal that I'm
5 doing in the service project or in my -- in my, in -- in
6 my connections that it's giving me and my family, that I
7 over -- that I overlook the means and cross some
8 boundaries. Uh, and it's something that --

9 **DEPUTY COMMISSIONER REARDON:** But isn't that --

10 **JOSEPH MENENDEZ:** I've worked on.

11 **DEPUTY COMMISSIONER REARDON:** isn't that danger --
12 isn't that dangerous though? Because if you are basically
13 saying the ends justify the means, I mean I'm breaking
14 prison rules to use a cell phone, but it's for a good
15 reason, so I can live with that? Could that not get you
16 into trouble in the community?

17 **JOSEPH MENENDEZ:** Absolutely. That's why I did go, I
18 did seek help for it. Uh, I learned a tremendous amount
19 about that very specific thing too, which is, uh, ends
20 does not justify means. I -- I know that in -- in -- in a
21 -- in a large sense, but I -- I had convinced myself that
22 this wasn't a -- a means that was harming anyone but
23 myself in a rule violation. And so I didn't even think it
24 really disrupted prison management that much because I had
25 -- had an experience early on when a phone got taken --

1 **DEPUTY COMMISSIONER REARDON:** Well let's talk about
2 that --

3 **JOSEPH MENENDEZ:** and I hoped --

4 **DEPUTY COMMISSIONER REARDON:** since you brought that
5 up, let's talk --

6 **JOSEPH MENENDEZ:** Okay.

7 **DEPUTY COMMISSIONER REARDON:** about it. So you have
8 the two RVR's from November, possession of a cell phone.
9 You pled guilty, I'm guilty and want to apologize. And
10 then you have one in March, they found it in your cell.
11 Uh, you submitted a written statement, you pled guilty to
12 that too, correct?

13 **JOSEPH MENENDEZ:** Correct.

14 **DEPUTY COMMISSIONER REARDON:** All right. Um, you were
15 also provided, there's three other RVR's involving cell
16 phones or cell phone components that you were found not
17 guilty. And this is the concern that I have, and I want to
18 hear your response. So at the top of, uh, page 191 of your
19 writings, this is what you said. "In order to have a phone
20 at my disposal I helped my roommates hide the phones. In
21 doing so I hid the phone. I kept point, I also purchased
22 the phone, I did all these things. When one phone got
23 confiscated, someone stood, stepped -- stepped up, took
24 responsibility, and then we replaced the phone and
25 continued." Right? "Looking back I can see all my

1 deceptive actions. I can see how I justified the use as
2 well as replacing the phones." So when I look at these not
3 guilties, at the time you were in a six person dorm,
4 correct?

5 **JOSEPH MENENDEZ:** Right.

6 **DEPUTY COMMISSIONER REARDON:** Can I use the word
7 Cellie without, will you understand when I say Cellie to
8 include those six people?

9 **JOSEPH MENENDEZ:** Yeah, you have five roommates at
10 all times.

11 **DEPUTY COMMISSIONER REARDON:** Okay. So when I look at
12 all these not guilty RVR's, it's the same Cellie that
13 accepted responsibility for all three. Do you recall that?

14 **JOSEPH MENENDEZ:** Uh, that could well be, right --
15 right. That was one of the roles he played, right.

16 **DEPUTY COMMISSIONER REARDON:** So how does that work?
17 You say somebody stepped up. Um, how did that take place?
18 So they find a cell phone in your common area and
19 someone's gotta take a hit. How does, it said you took, I
20 kept point. What does that mean?

21 **JOSEPH MENENDEZ:** Well at various times the group is
22 sort of protecting the phone and at various times you play
23 different roles to contribute to that. And so somebody
24 would be keeping point or somebody would be holding it,
25 another person maybe he didn't have certain, the

1 privileges that you would lose with -- with being caught
2 with the phone, it didn't matter to him, so he would be
3 the one that would take responsibility. So that's kind of,
4 you know, uh, when I learned later that, uh, this kind of
5 activity is technically like gang activity, that was very
6 true. When I finally looked at it -- it really was, uh, it
7 was kind of like gang activity. It may not have had a
8 name, but --

9 **DEPUTY COMMISSIONER REARDON:** Well I'm glad --

10 **JOSEPH MENENDEZ:** it was contributing to this --

11 **DEPUTY COMMISSIONER REARDON:** I'm glad you brought
12 that up because I was going to ask you about that. Right,
13 I was going to ask you Mr. Menendez, have you been
14 involved in any gang type activity? So now you're saying
15 yes, uh, antisocial peers, do you have a -- a number of
16 relapse prevention plans. Do you have one for antisocial
17 peers or, uh, gang related type activity?

18 **JOSEPH MENENDEZ:** Uh, I have one for, uh, criminal
19 thinking, lying manipulation criminal thinking --

20 **DEPUTY COMMISSIONER REARDON:** Yes. I, I'm looking at
21 --

22 **JOSEPH MENENDEZ:** in which <crosstalk> --

23 **DEPUTY COMMISSIONER REARDON:** I'm looking at all
24 that.

25 **JOSEPH MENENDEZ:** that's --

1 **DEPUTY COMMISSIONER REARDON:** I'm look --

2 **JOSEPH MENENDEZ:** yeah, where I learned about sort of
3 antisocial thinking patterns and gang activity in the
4 Criminal Thinking courses I took, so I addressed it in --
5 in there.

6 **DEPUTY COMMISSIONER REARDON:** All right. What is
7 criminal thinking to your understanding?

8 **JOSEPH MENENDEZ:** Uh, well knowing in the simplest
9 form, just knowing -- knowing right and wrong and -- and -
10 - and choosing wrong or thinking about doing wrong. If
11 it's thinking --

12 **DEPUTY COMMISSIONER REARDON:** Right.

13 **JOSEPH MENENDEZ:** but also just doing wrong. Uh, --

14 **DEPUTY COMMISSIONER REARDON:** Excellent.

15 **JOSEPH MENENDEZ:** that's --

16 **DEPUTY COMMISSIONER REARDON:** That's the -- that's
17 the definition I use. I think that's -- that's excellent.
18 Um, going back to your group, right, your antisocial
19 group, because to have cell phones you have to be involved
20 with antisocial peers. Fair enough? People that are going
21 to know where to get cell phones, money has to be spent to
22 buy them, effort to hide them, those are antisocial peers,
23 correct?

24 **JOSEPH MENENDEZ:** That's fair.

25 **DEPUTY COMMISSIONER REARDON:** Did you ever, well

1 before I ask that question, were you in charge of this? I
2 mean because, I don't know, if I was on jury duty I'd
3 probably pick you. You got a lot of leadership ability.
4 You wouldn't be -- you wouldn't be leading the Inmate
5 Advisory Council if you didn't have leadership ability. So
6 who was running this cell phone operation?

7 **JOSEPH MENENDEZ:** Uh, in -- in this particular arena,
8 the -- the -- the people who are most skilled at this are
9 -- are ex-gang members. Uh, they have a lot of experience
10 in this, a lot of them came with, from other prisons with
11 hiding phones and so you kind of rely on that. But, uh, I
12 definitely put my own intellect into, if I didn't think it
13 was a good idea or said something.

14 **DEPUTY COMMISSIONER REARDON:** All right.

15 **JOSEPH MENENDEZ:** So yes, it was -- it was a
16 collaboration.

17 **DEPUTY COMMISSIONER REARDON:** Do you have an estimate
18 of how many cell phones we're talking about from when this
19 organiza -- when this, when your Cellies were holding and
20 -- and using phones till when you got caught in November
21 2024? An estimate if you have one. I -- I don't want you
22 to guess, but --

23 **JOSEPH MENENDEZ:** Yeah.

24 **DEPUTY COMMISSIONER REARDON:** it's a long period of
25 time and, uh, it indicates that you guys were getting

1 caught from time-to-time. I mean --

2 **JOSEPH MENENDEZ:** Right.

3 **DEPUTY COMMISSIONER REARDON:** so you had to replace
4 cell phones, right?

5 **JOSEPH MENENDEZ:** Uh, uh, five is a definite estimate
6 number, I would say. Uh, but a lot of times they exchanged
7 phones, so you would, the number would go up, uh, if you
8 were talking about exchanging, guys would exchange phones.

9 **DEPUTY COMMISSIONER REARDON:** All right. Were you
10 ever involved in selling cell phones?

11 **JOSEPH MENENDEZ:** No. I gave mine away, uh, to
12 someone, but I didn't sell it. I didn't need the money to
13 sell it, so I didn't sell.

14 **DEPUTY COMMISSIONER REARDON:** I was told that nothing
15 --

16 **JOSEPH MENENDEZ:** After the first --

17 **DEPUTY COMMISSIONER REARDON:** I was told that nothing
18 in prison is free. Why would you give a cell phone away?

19 **JOSEPH MENENDEZ:** Uh, I give away, a lot of things in
20 prison are free because I give away a lot. Uh, so, um, I
21 just needed to get, I -- I -- I, after I got caught with
22 the first one, I was kind of wanting to make a change, did
23 not, cause I was still borrowing the phone in the room,
24 but, uh, felt like that was a consequential act for me and
25 somebody needed a phone up there, I said, here you can

1 have mine. The best way to not change my mind was to get
2 rid of it. Uh, and I didn't, cause you sell a phone and
3 that gets around and so I -- I just get -- get rid of the
4 phone.

5 **DEPUTY COMMISSIONER REARDON:** I've looked at your
6 relapse prevention plan for cell phones. Do you think that
7 your personality disorder, do you know what the doctor
8 diagnoses you with? What personality disorder? This
9 doctor, the BPH doctor diagnosed you with? Do you recall?

10 **JOSEPH MENENDEZ:** Uh, other specific, other non-
11 specific, I think personality disorder, I, I'm, if I'm
12 misquoting it, I apologize.

13 **DEPUTY COMMISSIONER REARDON:** Other specified
14 personality disorder with antisocial and narcissistic
15 traits. Do you know anything about that, what that means?

16 **JOSEPH MENENDEZ:** Um, I went to, after I took the CRA
17 to the, uh, psychologist that I saw at the -- at the
18 prison here and we reviewed it and she discussed it with
19 me, so I have a sense of it.

20 **DEPUTY COMMISSIONER REARDON:** All right. Based on
21 what your sense of it is, do you think that personality
22 disorder played a role in your need for connection and
23 your need to be, uh, have a cell phone in prison?

24 **JOSEPH MENENDEZ:** Um, I don't know about that
25 specific personality disorder, she did not feel that I met

1 the criteria for that specific personality disorder. But
2 nevertheless, I wanted to discuss the underlying traits,
3 which I did feel some of them were, you know, I felt it
4 resonated with me, and so I, uh, asked her about it. So
5 there, and then when I -- I also took it to Susan Olesik
6 who runs the Enneagram Project, cause that's all about
7 personality type. And so I -- I was in very much need of
8 trying to understand it. And I did see that there is
9 something, there are a number of things in my personality
10 that I do get carried away with, uh, a goal and have the
11 feeling, especially if it's a prosocial goal of -- of
12 rationalizing, okay then I, it's okay to have broken that
13 rule. And so I feel like, uh, I'm not a general, you know,
14 I'm breaking rules, but nevertheless, this rule which I
15 broke obviously repeatedly, uh, --

16 **DEPUTY COMMISSIONER REARDON:** And that's why I --
17 that's why I started out with that, trying to reconcile
18 these two versions of you. I didn't want to use Jekyll and
19 Hyde cause that's trite, but right? I mean there's this
20 prosocial you, and there's this other part of you that is
21 not, is -- is willing to use cell phones if it's for a
22 good reason. Uh, so that, that's why --

23 **JOSEPH MENENDEZ:** Yeah.

24 **DEPUTY COMMISSIONER REARDON:** I asked that. So based
25 on your behavior from 2018 to 2016 considering everything,

1 do you feel like you've been a model incarcerated person?

2 **JOSEPH MENENDEZ:** No, I would never call myself a
3 model incarcerated person, no.

4 **DEPUTY COMMISSIONER REARDON:** What would you call
5 yourself?

6 **JOSEPH MENENDEZ:** Uh, I would say that --

7 **DEPUTY COMMISSIONER REARDON:** Go ahead.

8 **JOSEPH MENENDEZ:** I would say I, uh, that I'm a good
9 person, that, uh, I spend my time helping people, uh, that
10 I, that I'm very open and accepting of -- of -- of people,
11 particularly a lot of the vulnerable populations that get
12 picked on or isolated here, uh, I get great satisfaction
13 from that. I'm someone people can come to and spend time
14 with. I feel like I have a lot of compassion. Um, I feel
15 like I'm self-deprecating and -- and open and willing to
16 share. Uh, and so I -- I feel like, and I feel like I've,
17 I'm the guy that a lot of officers will come to -- to
18 resolve conflicts with other inmates they don't want to
19 lock up or do things, I'm much of a peacekeeper. I'm the
20 one they trust with tools and management of certain
21 things, so there's a level of trust there. So I feel like
22 I, I'm a good positive part of the community and it's
23 really important to me to be that. At the time I didn't
24 feel that using the phone was inconsistent with that. I
25 think -- I think Commissioner Reardon, I had an

1 unfortunate experience when I first, phones got taken from
2 me almost right away.

3 **DEPUTY COMMISSIONER REARDON:** Right.

4 **JOSEPH MENENDEZ:** And, uh, the Investigative Services
5 Unit, guys never give up a code to open the phone because
6 it's always private, you know, naked pictures of their
7 wife or something's on there, they don't want, they won't
8 do that, they'll just plead guilty. But they -- they told
9 me, would you be willing to unlock your phone so we could
10 see if you are using it for any criminal activity,
11 particularly involving officers or drugs or moving money
12 or doing things. Uh, I was not, so I did, they fully
13 investigated it and they said, if that's the case, then
14 we'll just let this go away, and I learned the wrong
15 lesson from that, uh, Commissioner Reardon. I should have
16 learned the lesson that, oh, these things are obviously
17 important to them and used for criminal activity. I didn't
18 learn that lesson till later. I learned the lesson that if
19 it's not for crimes and -- and certain things, it's less
20 of a management problem.

21 **DEPUTY COMMISSIONER REARDON:** Well let's talk about
22 that, to that point.

23 **JOSEPH MENENDEZ:** Right.

24 **DEPUTY COMMISSIONER REARDON:** Did you ever, I mean
25 you had a group of six people and they're all using the

1 cell phone, correct?

2 **JOSEPH MENENDEZ:** Right.

3 **DEPUTY COMMISSIONER REARDON:** So at any point in
4 time, do you really know what Cellie number one or Cellie
5 number two is doing with that cell phone?

6 **JOSEPH MENENDEZ:** Not really, no. You're right.

7 **DEPUTY COMMISSIONER REARDON:** So what makes cell
8 phones dangerous, if you believe that they are dangerous
9 in an institution?

10 **JOSEPH MENENDEZ:** Well the phones, what people, what
11 guys can do with the phones makes it very dangerous
12 because it's confidential communication. They, uh, inmates
13 are using it for attacks on officers, moving drugs,
14 running drug rings, uh, communi -- coordinating efforts,
15 harassing witnesses, pressuring family members.

16 **DEPUTY COMMISSIONER REARDON:** Right.

17 **JOSEPH MENENDEZ:** If it's, if -- if -- if what I hear
18 sometimes on the phone next to me on the wall phone is any
19 indication what might be happening on a cell phone, I
20 think there's some domestic violence harassment. So I do
21 think, uh, I did learn a great deal about it. The impact,
22 particularly impact on staff and prison management, which
23 I put as part of that workshop cause I don't, I think that
24 --

25 **DEPUTY COMMISSIONER REARDON:** Are you talking about

1 workshop with Dr. Hauser after your last cell phone? Is
2 that what you're talking about?

3 **JOSEPH MENENDEZ:** After -- after I learned a lot of
4 this I felt like it needed to be imparted. She told me it
5 was important to share that, so I thought it was best in a
6 workshop.

7 **DEPUTY COMMISSIONER REARDON:** I guess it's --

8 **JOSEPH MENENDEZ:** Cause on a Level Two --

9 **DEPUTY COMMISSIONER REARDON:** I guess what I'm
10 struggling with is that you're a bright guy. I mean you've
11 -- you've got the credentials, right, you got the college
12 degrees and, you know, for you to say during that period
13 of time I didn't really think it was a bad thing. But yet
14 you're part of a process, you're part of a group that
15 provides cell phones that could do all those things you
16 described all those -- all those bad things you described.
17 Officers assaulted, drugs moved, hits ordered, that, those
18 are all bad things, right?

19 **JOSEPH MENENDEZ:** Right. But if you don't have the
20 awareness of that, you can make a decision to ignore that
21 and do it anyway.

22 **DEPUTY COMMISSIONER REARDON:** And you got that
23 awareness --

24 **JOSEPH MENENDEZ:** So you're in denial.

25 **DEPUTY COMMISSIONER REARDON:** You got that awareness

1 when?

2 **JOSEPH MENENDEZ:** You're in denial of it.

3 **DEPUTY COMMISSIONER REARDON:** When did you get that
4 awareness then?

5 **JOSEPH MENENDEZ:** Uh, uh, I got it talking to Dr.
6 Hauser just -- just from her verbally starting to tell me.
7 I got it a little bit from a -- a senior officer,
8 Lieutenant Palladian, who, uh, spent a lot of time with me
9 cause he felt I generally wanted to -- to get past this
10 problem I had. And then in Criminal Thinking, uh, the
11 Criminal Thinking course, I learned some of it. Um, and
12 then in the research for this workshop, uh, which Dr.
13 Hauser provided a lot of it --

14 **DEPUTY COMMISSIONER REARDON:** Which -- which
15 workshop?

16 **JOSEPH MENENDEZ:** I really learned -- I really
17 learned a lot about it.

18 **DEPUTY COMMISSIONER REARDON:** Which workshop are you
19 talking about?

20 **JOSEPH MENENDEZ:** The disconnect to reconnect.

21 **DEPUTY COMMISSIONER REARDON:** Okay. Yeah, that --
22 that --

23 **JOSEPH MENENDEZ:** Um, it was a power --

24 **DEPUTY COMMISSIONER REARDON:** you facili --

25 **JOSEPH MENENDEZ:** powerful --

1 **DEPUTY COMMISSIONER REARDON:** you facilitated that,
2 right?

3 **JOSEPH MENENDEZ:** uh, I, yes, I organized it and put
4 it together. I didn't, I wasn't the speaker, but, uh, uh,
5 one of the Lieutenants came to that, uh, workshop and told
6 a very emotional story about a -- a partner of his who had
7 committed suicide --

8 **DEPUTY COMMISSIONER REARDON:** Right.

9 **JOSEPH MENENDEZ:** who had been bring -- bringing in
10 phones. And so it was just very, it was, you know, you
11 learn about the impact and you realize it's not just a
12 rule breaking bad thing that -- that -- that helps your
13 other good things.

14 **DEPUTY COMMISSIONER REARDON:** Hey was, um, was Erik -
15 -

16 **JOSEPH MENENDEZ:** Contributing to --

17 **DEPUTY COMMISSIONER REARDON:** was Erik ever involved
18 in any of this -- this organization, this group of people
19 you had, your six Cell -- your five other Cellies? Was
20 Erik involved in using your cell phones?

21 **JOSEPH MENENDEZ:** Um, he lived with me for a short
22 period of time where he was, um, and he got caught around
23 the exact same time in November, uh, so --

24 **DEPUTY COMMISSIONER REARDON:** That's not a good look
25 though, right? Because these are you two breaking the

1 rules again to achieve a goal. It's, that's a lapse in
2 judgment is it not on your part?

3 **JOSEPH MENENDEZ:** Yeah. We were a big part of the --
4 the reason for the change afterwards. I mean I think, he's
5 actually one of my accountability partners on -- on it
6 because we just, it was a come-to-Jesus moment of the
7 depth of this problem for us and the need to hold each
8 other accountable and change. And my brother and I spend
9 our time working together on prosocial stuff. We have
10 tremendous, uh, I think a very valuable, uh, posi --
11 positive relationship now.

12 **DEPUTY COMMISSIONER REARDON:** Okay.

13 **JOSEPH MENENDEZ:** And, uh, he's critical to -- to --
14 to finally getting it, cause I -- I don't disagree with
15 what you're saying.

16 **DEPUTY COMMISSIONER REARDON:** I'm glad you brought
17 that up because that leads me to my next question. You
18 have a support system, a good one. You, like I said,
19 you've submitted a lot of -- of good work. You -- you have
20 a support system. Did you have a support system in prison?
21 Do you have one now?

22 **JOSEPH MENENDEZ:** Um, I had my community that I'm
23 very engaged in, and I -- I, um, and I had my family. Uh,
24 but I -- I -- I, one of the things I learned, I -- I never
25 had an addiction problem. I -- I didn't really need

1 support sponsor partners like some guys. This is the first
2 time I felt like I encountered something that really was
3 very hard to give up.

4 **DEPUTY COMMISSIONER REARDON:** The reason I'm asking -
5 -

6 **JOSEPH MENENDEZ:** And --

7 **DEPUTY COMMISSIONER REARDON:** the reason I'm asking
8 is because if there was any type of support network in
9 place at the time you were using the cell phones for six
10 years, I would wonder why wouldn't you talk to them? Cause
11 I'm convinced after talking to you, you're a bright guy,
12 and part of you knew I shouldn't be doing this. It's a
13 good thing, but part of you knew I shouldn't be doing
14 this. So to me --

15 **JOSEPH MENENDEZ:** Right.

16 **DEPUTY COMMISSIONER REARDON:** that's not any
17 different than you're out in the community and you're
18 tempted, you're triggered and you're contemplating bad
19 behavior and you gotta talk to somebody. Was there no one
20 in your support system available that you could have
21 discussed your extensive cell phone use with?

22 **JOSEPH MENENDEZ:** Right. If I had it in place, what I
23 have in place now, uh, for support, uh, then I definitely
24 would be more able to say, Hey, I'm feeling the tension,
25 because you're correct. I always felt the tension of this

1 is just not something that I live my life, 35 years, I
2 haven't had to be worried about a cell search. This is the
3 first time I have to go worry about a cell search. So I'm
4 not living congruent with the way, who I am. That tension
5 was there, it just didn't override the consequence. And as
6 far as support system, uh, I -- I mean I had peers and I
7 had family, but, um, uh, I, for this particular thing I
8 did not have the support system I have now. Uh, I
9 definitely feel like I, I'm aware now of the
10 vulnerabilities of what you're talking about.

11 **DEPUTY COMMISSIONER REARDON:** Right.

12 **JOSEPH MENENDEZ:** I would've, in fact it proved to me
13 that you could -- you could be a, you could feel like a
14 very good positive, helpful person in your community and
15 show that, and be susceptible to rationalizing a rule
16 breaking thing, which I do think can be a problem. Uh, and
17 that's one of the reasons I felt like I need a very
18 transparent system always going forward, and not just if -
19 - if I get released, also in here going forward, having
20 that system in place, accountability partners --

21 **DEPUTY COMMISSIONER REARDON:** Right.

22 **JOSEPH MENENDEZ:** uh, formally incarcerated people
23 who understand criminal thinking better and those
24 susceptibilities you were talking about --

25 **DEPUTY COMMISSIONER REARDON:** Right.

1 **JOSEPH MENENDEZ:** like I have all that in place now,
2 therapists, spiritual advisors, so on.

3 **DEPUTY COMMISSIONER REARDON:** So do the people --

4 **JOSEPH MENENDEZ:** Uh, that came after the cell phone
5 thing.

6 **DEPUTY COMMISSIONER REARDON:** Yes. And that, that's
7 good news, bad news to me, right? The, um, the -- the good
8 news is, the bad news is you got a cell phone relatively
9 late in the game. The good news is you immediately took
10 steps to address it. So we'll talk about that maybe a
11 little bit, but do your, does your current, the people in
12 your current support system, are they a 100% aware of your
13 write-ups, your RVR's? The November cell phone, are they
14 aware of that?

15 **JOSEPH MENENDEZ:** 100%, and, uh, I've already
16 apologized to for, um, because it's -- it's -- it's not
17 living amends, breaking rules, uh, when you are partly
18 living your life to honor your family and your victim's
19 family. So, uh, I wanted to make sure they knew everything
20 and, um, uh, several of them stepped up to be
21 accountability partners for this specific problem as well
22 as the per -- you know, the general part of breaking, uh,
23 taking shortcuts that are against norms. So they really
24 stepped up to help me, uh, signed up on the GTL. A lot of,
25 you know, I wasn't sure they would do that. They did do

1 that and I'm - you know, I'm grateful.

2 **DEPUTY COMMISSIONER REARDON:** We'll get to that area,
3 but you have a lot of support in the community, that --
4 that's obvious, we'll talk about that when we talk about
5 parole plans. When did you get access to a CDCR tablet?

6 **JOSEPH MENENDEZ:** 2021?

7 **DEPUTY COMMISSIONER REARDON:** So then that --

8 **JOSEPH MENENDEZ:** I'm not sure when it, RJD was the
9 last prison, so I'm thinking it was right after COVID.

10 **DEPUTY COMMISSIONER REARDON:** And that allows you to
11 make phone calls, correct?

12 **JOSEPH MENENDEZ:** Phone calls and video calls, yes.

13 **DEPUTY COMMISSIONER REARDON:** They're monitored, but
14 you get to make them. So then I have to ask if you had a
15 tablet for legitimate calls, why -- why did the illegal
16 cell phones continue for so long?

17 **ATTORNEY RUMMEL:** This is the portion of the hearing
18 that I request be, uh, accompanied, um, on a confidential
19 tape.

20 **DEPUTY COMMISSIONER REARDON:** I'll defer to the
21 Commissioner.

22 **PRESIDING COMMISSIONER GARLAND:** And I'm, all right.
23 So, so Ms. Rummel, is there something you can say, uh, to,
24 you know, on the record to help us understand the need for
25 that? Or is this something...

1 **ATTORNEY RUMMEL:** Um, I communicated it with the
2 Board. We are going to be speaking. He's not going to make
3 any excuses for why he's using cell phones, but if you're
4 going to talk about his access to people on tablets, what
5 he's going to talk about is relevant to his thinking about
6 why the tablets were not, um, a way that he could
7 communicate simply with monitoring by CDCR. I mean you can
8 talk about it publicly, I -- I think you know what's
9 coming. I don't, he doesn't, yeah, we can do it either way
10 you want to do it.

11 **PRESIDING COMMISSIONER GARLAND:** So it's the inquiry
12 into why you, when just --

13 **ATTORNEY RUMMEL:** Why a tablet wasn't sufficient in
14 terms of it, why, the -- the difference, the meaningful
15 differences given the public notoriety of his case and
16 conduct by CDCR staff, why in his case a tablet wasn't a
17 sufficient, what his thinking was at the time about that,
18 not -- not -- not his excuse for using it.

19 **DEPUTY COMMISSIONER REARDON:** That's confidential?

20 **ATTORNEY RUMMEL:** We're going to talk about his
21 conduct --

22 **DEPUTY COMMISSIONER REARDON:** His -- his -- his
23 thoughts about why a tablet wasn't sufficient or
24 confidential?

25 **ATTORNEY RUMMEL:** Just making the request. If you

1 deny it, he's still going to talk about it.

2 **DEPUTY COMMISSIONER REARDON:** Commissioner, do you
3 want to take a recess to discuss the Counsel's request?

4 **PRESIDING COMMISSIONER GARLAND:** I do. And maybe we
5 can take a, like a 15 minute or so, everyone can grab a
6 bite to eat, um, I know we've been going a long time, so
7 let's -- let's try to come back around 12:35 p.m.

8 **RECESS**

9
10 **DEPUTY COMMISSIONER REARDON:** We are now back on the
11 record, Commissioner.

12 **PRESIDING COMMISSIONER GARLAND:** Thank you all for
13 your patience. It is 12:55 p.m. and everyone has returned,
14 all the principals anyway. Um, Ms. Rummel, so we did
15 consult with legal. I -- I -- I think, uh, we have an idea
16 of what you would like logistically, it seems that -- that
17 is not feasible. Um, I -- I also noted you did say that
18 your client would still testify about what you wanted, and
19 so I think what we should do is proceed, uh, without any
20 confidential, uh, recording or separate hearing. Um, and
21 if it goes into an area that looks like it could, I don't
22 know, jeopardize somebody's security, your client's
23 security, then I, we can shut it down. But that's where
24 I'm inclined to go at this point. Um, so, okay.

25 **ATTORNEY RUMMEL:** There -- there are two confidential

1 issues which I've alerted to the Board, Mr. Milius' Office
2 is aware of. There's one we're not going to speak about on
3 the record, so we will just leave whatever is noted and
4 whatever information has been relayed through the
5 Confidential File at that. The second one he will, you
6 know, it's just a direct, it's not a big issue, it's just
7 a direct response to Commissioner Reardon's question about
8 tablets versus cell phones. So it's a quick response. We
9 will, I've talked to my client, he will do that on the
10 record and, um, we can just keep proceeding with the
11 hearing, but thank you for considering my request.

12 **PRESIDING COMMISSIONER GARLAND:** Of course. Thank
13 you. All right, back to you Commissioner.

14 **DEPUTY COMMISSIONER REARDON:** I will repeat the
15 question then, uh, Mr. Menendez. I think the question was,
16 I asked you when RJD got cell phones. I think you said
17 2021, they were the last, and I think my question was, um,
18 --

19 **ATTORNEY RUMMEL:** Tablets or cell phones?

20 **DEPUTY COMMISSIONER REARDON:** Tablets, I'm sorry.

21 **PRESIDING COMMISSIONER GARLAND:** You meant tablets.

22 **DEPUTY COMMISSIONER REARDON:** I meant tablets. So
23 once you got tablets, why did you keep using the, uh, cell
24 phones, the illegal cell phones?

25 **JOSEPH MENENDEZ:** Um, I should not have, uh, full

1 stop there, I definitely should not have. Uh, the, um,
2 privacy was a concern. Uh, I was -- I was, uh, a lot of
3 the messages and, uh, communications off -- off of the
4 phone that was monitored were being, um, sold and ending
5 up in tabloids. 2018 to 2024 is the intensive publicity
6 period of the case, Menendez case, documentaries,
7 everything that started with Dick Wolf's prime time series
8 and then ended up with "Monsters". So there was very, it
9 was very saleable information and that, it's not an
10 excuse, but I definitely felt like, um, I had a great deal
11 more privacy on phones and, uh, that informa -- that --
12 that, uh, information was being sold and -- and including
13 by staff.

14 **DEPUTY COMMISSIONER REARDON:** Okay. So I, if I
15 understand that is, what you did was, you weighed the,
16 your right of privacy that was not being, um, upheld on
17 the tablet against using a cell phone that wasn't being
18 monitored. You -- you weighed those two and you decided to
19 go with the cell phone?

20 **JOSEPH MENENDEZ:** Correct. I had no right of privacy,
21 I want to make that also clear. So that would, um, but I
22 made that, the way that, uh, it was being used in a way
23 maybe other inmates it wasn't, and I made that decision,
24 yeah.

25 **DEPUTY COMMISSIONER REARDON:** Understood.

1 **JOSEPH MENENDEZ:** It was -- it was the wrong one.

2 **DEPUTY COMMISSIONER REARDON:** Um, any follow-up
3 questions of that Commissioner? Or else I can move on.

4 **PRESIDING COMMISSIONER GARLAND:** Uh, were you
5 required to speak to the media? You mentioned Dick Wolf. I
6 mean are you saying you ha -- you were talking to
7 producers or directors? Is that what I hear --

8 **JOSEPH MENENDEZ:** No, no, no. No, what I'm saying is
9 --

10 **PRESIDING COMMISSIONER GARLAND:** Hang -- hang on, let
11 him answer. Go ahead Mr. Menendez. I want to hear from you
12 cause I -- I must have misheard.

13 **JOSEPH MENENDEZ:** Uh, no. What I was saying is that
14 my conversations with family and others and messages and
15 video calls that are monitored, uh, by staff, that
16 information was being misused and sold to the media by
17 them.

18 **PRESIDING COMMISSIONER GARLAND:** Okay. So your
19 conversations with staff were, okay, all right. Um, --

20 **ATTORNEY RUMMEL:** Not with -- not his conversations
21 with staff. When he would use --

22 **PRESIDING COMMISSIONER GARLAND:** I heard him.

23 **ATTORNEY RUMMEL:** when he would use the tablet or the
24 recorded phone, staff who we're monitoring, which of
25 course is totally appropriate, were selling that

1 information to media outlets and his conversations with
2 wife and family were being republished in public media
3 outlets. Not that that's an excuse for using a cell phone,
4 but it does make a tablet, it's different than just having
5 CDCR staff monitor you for criminal activity.

6 **PRESIDING COMMISSIONER GARLAND:** So did you feel like
7 you were entitled to keep your privacy by talking on a
8 cell phone?

9 **JOSEPH MENENDEZ:** I -- I -- I wasn't, it was just an
10 emotional reac -- you know, it was just a reaction that I
11 was already currently using the phone, had rationalized
12 it, so when the tablets came, uh, and we started using it
13 and stories started appearing, I felt like the phone was a
14 -- a way to -- to protect that privacy. Uh, and it's, um,
15 I'm not entitled to that, uh, so --

16 **PRESIDING COMMISSIONER GARLAND:** Well for six years
17 you must have felt entitled to that. Is that fair to say?

18 **JOSEPH MENENDEZ:** Well the -- the period of time that
19 the tablets were in place, uh, privacy was --

20 **PRESIDING COMMISSIONER GARLAND:** Except for you.

21 **JOSEPH MENENDEZ:** was one reason, and in fact you're
22 right. I mean I think you're right, of the six years, the
23 privacy was one factor, right.

24 **PRESIDING COMMISSIONER GARLAND:** And do you think
25 other incarcerated people would like privacy with their

1 discussions with family?

2 **JOSEPH MENENDEZ:** Uh, I'm sure they would prefer
3 privacy, but I feel like they have essentially privacy and
4 anonymity because they're not going to have any of their
5 conversations end up anywhere. Uh, uh, I don't know why
6 that would happen though. So they have privacy just in
7 terms, because the -- the monitoring we're talking about
8 is supposed to be just for criminal activity or something
9 they hear, not to be exploited. And, uh, it's just the
10 nature of -- of sellable content I guess. But, uh, --

11 **PRESIDING COMMISSIONER GARLAND:** Would another option
12 have been to not have discussions like that on the tablet?
13 Anything that would be seen as worthy of being sold to the
14 media? Had that crossed your mind?

15 **JOSEPH MENENDEZ:** No, this is the kind of
16 information, it's like, what are they doing for their, his
17 brother's birthday? What are they doing for, uh,
18 Halloween? When is it, knowing when his wife's coming into
19 town at. What's his reaction to the latest court date? Uh,
20 I bet you we see it when I get on a tablet and talk about
21 what happened at Board, that will end up somewhere. We're
22 not talk -- it's not something you can kind of just not
23 do. I mean you could just not talk to your family and
24 friends anymore.

25 **DEPUTY COMMISSIONER REARDON:** What about old

1 fashioned snail mail? What, couldn't you put that in a
2 letter and send it? Or that would not work either?

3 **JOSEPH MENENDEZ:** Uh, that might work.

4 **DEPUTY COMMISSIONER REARDON:** Okay.

5 **JOSEPH MENENDEZ:** That's -- that's a good point --
6 that's a good point. It's just slower, it's just, I don't
7 know, I -- I, but you're not incorrect that -- that --

8 **DEPUTY COMMISSIONER REARDON:** That's why I call it
9 snail mail, right, that's what they call it.

10 **ATTORNEY RUMMEL:** Staff -- staff monitor mail as well
11 as tablets.

12 **DEPUTY COMMISSIONER REARDON:** True, true enough.

13 **JOSEPH MENENDEZ:** Yeah. Yeah.

14 **PRESIDING COMMISSIONER GARLAND:** All right, go ahead
15 Commissioner.

16 **DEPUTY COMMISSIONER REARDON:** All right. So I want to
17 shift gears now and I want to ask you about some
18 confidential memorandums. You should have received a
19 notice of confidential inform -- uh, information dated
20 March 6, 2025. Do you remember seeing that, Mr. Menendez?
21 I think it's one, two, --

22 **JOSEPH MENENDEZ:** Yes.

23 **DEPUTY COMMISSIONER REARDON:** three, four pages. I'm
24 only going to ask you about three memorandums, uh, and --

25 **JOSEPH MENENDEZ:** Okay.

1 **DEPUTY COMMISSIONER REARDON:** feel free to answer or
2 not answer, whatever you want. The first one is the date
3 of the source item, October 25, 2023, and keep in mind
4 that the date of the source item may or may not reflect
5 the actual date of the incidents they're talking about. It
6 states, uh, confidential information was received alleging
7 you were participating in illicit behavior and/or illegal
8 activities to include unauthorized transactions,
9 pressuring other incarcerated persons and being in
10 possession of contraband. We've talked about the cell
11 phones. All right. This is your opportunity if you want to
12 clarify whether or not there was more involved than cell
13 phones.

14 **JOSEPH MENENDEZ:** Uh, this particular confidential is
15 Commissioner Reardon, probably the only one I would
16 dispute, cause I am well aware of it. It was generated by
17 Jerome Hendricks with a Sergeant, uh, that was fired
18 shortly thereafter. He was an, uh, an informant for him
19 that was simply not telling the truth. He was a drug
20 addict. He had, he provided this information, it was
21 factually incorrect, because the inmate he said that I was
22 using to pressure someone in the cell, did not even live
23 in the building.

24 **DEPUTY COMMISSIONER REARDON:** All right. Per cont --
25 per context though --

1 **JOSEPH MENENDEZ:** Uh, had not --

2 **DEPUTY COMMISSIONER REARDON:** I just want for
3 context, I recall that was Hendricks one of your Cellies
4 at the time?

5 **JOSEPH MENENDEZ:** Hendricks was a Cellie for a period
6 of time, and this is a completely made up story. And it
7 was, I was alerted by --

8 **DEPUTY COMMISSIONER REARDON:** Okay.

9 **JOSEPH MENENDEZ:** a staff member about it because the
10 inmate he was pretending was being pressured, didn't even
11 live in the building, and this was sort of a confidential
12 written a long time later by this Sergeant. So this
13 particular one, I, I'm not disputing some of these
14 confidentials, but -- but this one and -- and this
15 individual has also made a lot of money in the media
16 selling stories, making things up. I don't know.

17 **DEPUTY COMMISSIONER REARDON:** Okay.

18 **JOSEPH MENENDEZ:** It's just, I don't -- I don't know
19 your feelings toward it -- it was just some things
20 susceptible to that. But this one, uh, the Sergeant that
21 generated it is no longer with the department because of
22 misconduct and --

23 **DEPUTY COMMISSIONER REARDON:** Understood.

24 **JOSEPH MENENDEZ:** this is the kind of misconduct.

25 **DEPUTY COMMISSIONER REARDON:** All right. Do you have

1 it in front of you? The actual document in front of you?

2 **JOSEPH MENENDEZ:** Yes. Uh, I -- I didn't know if you
3 wanted me to look at it, but I just brought it for --

4 **DEPUTY COMMISSIONER REARDON:** No I just like for --
5 for on the same page, literally. So the top of the next --
6 next page, May 23, 2022, do you have that?

7 **JOSEPH MENENDEZ:** I don't have May 23, 2022, but I
8 have a -- a September 29. Oh, hold on, maybe I do, hold
9 on, maybe, I got the other page, yes.

10 **DEPUTY COMMISSIONER REARDON:** All right.

11 **JOSEPH MENENDEZ:** Got it.

12 **DEPUTY COMMISSIONER REARDON:** Good, good. Literally
13 on the same page. So that source item is, confidential
14 information was received alleging you were being
15 participating in illicit behaviors to include being in
16 possession of a cellular phone. We've talked about that,
17 correct? Additionally, information was received --

18 **JOSEPH MENENDEZ:** Right.

19 **DEPUTY COMMISSIONER REARDON:** alleging you were using
20 other incarcerated persons to conceal the cellular phone
21 to avoid detection from staff. So we've talked about you
22 having cell phones. Is there anything you want to add to
23 that confidential memorandum?

24 **JOSEPH MENENDEZ:** Uh, other than that would be
25 correct that, uh, inmates were concealing or taking

1 responsibility or helping me conceal, and I'm assuming
2 they're talking about the roommates.

3 **DEPUTY COMMISSIONER REARDON:** Okay.

4 **JOSEPH MENENDEZ:** Um, this particular confidential
5 was also generated by that same Sergeant, so he might be
6 putting a 10 on a 2 there, I don't have the confidential,
7 uh, and this one wasn't provided to me like the other one
8 when a staff member realized it was just factually not
9 correct. So I don't know what's in there, but from what --

10 **PRESIDING COMMISSIONER GARLAND:** Can I --

11 **JOSEPH MENENDEZ:** what I -- what I can read is
12 accurate.

13 **PRESIDING COMMISSIONER GARLAND:** how do you know it
14 was, uh, prepared by the same Sergeant?

15 **JOSEPH MENENDEZ:** Uh, because the inmate that was
16 interviewed for it came and told me. That, uh, I told him,
17 just tell the truth. He said the Sergeant's asking me that
18 I concealed the phone for you. He had, he lived with me,
19 and I, so he said I did like you asked and I said, okay.
20 And he said he's -- he's doing a large investigation about
21 concealing phones, like it's, like, you know, you're, I
22 said, okay. So I just knew the Sergeant involved. I don't
23 know the information in it.

24 **PRESIDING COMMISSIONER GARLAND:** Sorry about that. Go
25 ahead, Commissioner.

1 **DEPUTY COMMISSIONER REARDON:** All right. And then I
2 think the, we talked about May 4, 2020, that you had cell
3 phones, you told us that. Then May 1, 2019, about mid-
4 page, do you see that?

5 **JOSEPH MENENDEZ:** Another, a cell phone, yes.

6 **DEPUTY COMMISSIONER REARDON:** Yeah. Okay. So that
7 says about the same thing. So were you involved, we talked
8 about cell phones, were you involved in obtaining or
9 distributing things other than cell phones? Cause some of
10 those RVR's dealt with, um, cell phone components, which
11 could mean a lot of different things. So my question is,
12 were you involved in bringing in or using things other
13 than actual cell phones?

14 **JOSEPH MENENDEZ:** No. The components, uh, are related
15 to the cell phones earbuds, chargers, the accessories,
16 cell phone accessories, which is the, is -- is the same
17 violation as possessing a cell phone, um, is my
18 understanding. Uh, but not the actual cell --

19
20 **DEPUTY COMMISSIONER REARDON:** So, so none of that?
21 Did...You were involved in bringing in or using any of
22 those, uh, components that you just mentioned? Chargers,
23 ear -- earbuds?

24 **JOSEPH MENENDEZ:** No, I used all of those components.
25 I did not, I didn't get them smuggled in. It was just --

1 it just purchased off the yard, people sell, you know, the
2 components. Usually if -- if -- if they, you bought a
3 phone, it came with all that and you just hide it with
4 everything else.

5 **DEPUTY COMMISSIONER REARDON:** Okay. What --

6 **JOSEPH MENENDEZ:** And a lot of times it's the
7 components are what gets found because they're just kinda
8 laying around or sloppy.

9 **DEPUTY COMMISSIONER REARDON:** What did you buy off
10 the yard and use other than, um, cell phones -- cell phone
11 chargers and earbuds? Did you buy or use anything --
12 anything else off the yard? I'll give you a list.

13 **JOSEPH MENENDEZ:** No.

14 **DEPUTY COMMISSIONER REARDON:** What about, um, like,
15 uh, firesticks, Roku sticks, anything like that?

16 **JOSEPH MENENDEZ:** Uh, a Roku stick was purchased off
17 the yard, yes, I remember that specifically. The cellie
18 used it to watch movies.

19 **DEPUTY COMMISSIONER REARDON:** By you?

20 **JOSEPH MENENDEZ:** I didn't buy it, no.

21 **DEPUTY COMMISSIONER REARDON:** You just used it?

22 **JOSEPH MENENDEZ:** I -- I wasn't -- I wasn't -- I
23 wasn't watching the movies, but, uh, uh, not because I, no
24 -- no moral reason that was, just -- I just --

25 **DEPUTY COMMISSIONER REARDON:** What about memory --

1 **JOSEPH MENENDEZ:** they had a movie night. They had a
2 movie night and they used it for that. So I -- I, you
3 know, --

4 **DEPUTY COMMISSIONER REARDON:** what about --

5 **JOSEPH MENENDEZ:** but I may have watched it -- I may
6 have watched it.

7 **DEPUTY COMMISSIONER REARDON:** what about memory
8 sticks? You know what I'm talking about? Maybe like a
9 flash drive, a memory stick, did you use those?

10 **JOSEPH MENENDEZ:** I didn't because the memory sticks
11 are used for the guys that love to watch these movies. So
12 they catalog thousands, hundreds of movies. Uh, I used the
13 phone for other things, but, um, if it's in the cell, uh,
14 I feel like I'm respon -- I'm just as responsible because
15 it's not happening behind a curtain, I'm aware of it.

16 **DEPUTY COMMISSIONER REARDON:** Okay. So those are all
17 the questions I have for you, Mr. Menendez. Um, if you
18 could return your attention to the Commissioner shall have
19 some more questions for you. Uh, thank you.

20 **JOSEPH MENENDEZ:** Thank you, Commissioner Reardon.

21 **PRESIDING COMMISSIONER GARLAND:** All right. So as far
22 as your parole plans there in your packet, was there
23 anything else you wanted to add or clarify about those?

24 **JOSEPH MENENDEZ:** Uh, no.

25 **PRESIDING COMMISSIONER GARLAND:** Okay. Um, a couple

1 of follow-ups on the -- the cell phone. Um, so when you
2 were caught using the cell phone, I think the -- the two
3 that you got the write-ups for, um, it -- it looked like
4 you were trying to hide or turn off, uh, the cell phone.
5 Like you -- you didn't immediately respond to the
6 officer's request to, you know, step back and stuff. I --
7 I could read the -- the 115 if you want me to, but --

8 **JOSEPH MENENDEZ:** Right.

9 **PRESIDING COMMISSIONER GARLAND:** do you recall that?

10 **JOSEPH MENENDEZ:** Right. I was on a video chat and
11 the officer was there. I wasn't paying attention, and he
12 showed up and I did, I had, I did take the steps to
13 disconnect from the video chat, and I might even have said
14 goodbye and, um, I gotta go, there's an officer here. I'm
15 not exactly 100% sure, but I definitely did all that, uh,
16 at that time.

17 **PRESIDING COMMISSIONER GARLAND:** Well you're kind of
18 making it sound like it was this innocent little, I just
19 wanted to say goodbye to the person I was chatting with. I
20 -- I -- I think it -- it -- it reads a little bit more
21 decei -- you know, a little bit more deceitful, um, in the
22 record. So you're saying you didn't try to like turn it
23 off or keep it from him, from the officer?

24 **JOSEPH MENENDEZ:** I disconnected the -- the -- the
25 call, I did turn it off and I handed it to him.

1 **PRESIDING COMMISSIONER GARLAND:** And the other one,
2 um, I don't have it up in front of me right now. It also
3 seemed that there was a little, there was some reluctance
4 to -- to do what the officer was asking regarding you
5 turning your cell phone over. Do you -- do you recall
6 that? Same sort of, to me it reads as deception, but it
7 sounds like you were just trying to politely hang up the
8 phone, or.

9 **JOSEPH MENENDEZ:** Uh, in the other one it was a
10 little more of a aggressive search and she gave me an
11 order to not move my hands. Uh, and so I did not hand it
12 over immediately because I was, I'm just, in my mind, I'm
13 -- I'm not, I haven't been in those situations, but, uh, I
14 don't want to make any movement that causes some
15 escalation. So she told me, uh, not to move. And then, um,
16 I did -- I did see some, uh, in the -- in the report that
17 there was a -- a, she was saying I delayed in handing it
18 over. But I did explain to the Lieutenant who had the
19 video there, that you could hear her say, do not move your
20 arms and do not move. And so there was no way I could hand
21 it over to her cause it was on the bed. Uh, and so it was
22 --

23 **PRESIDING COMMISSIONER GARLAND:** Well as I re -- as I
24 recall it said, you took a bladed stance, which I'm
25 assuming means sort of aggressive? Did I read that wrong?

1 **JOSEPH MENENDEZ:** The bladed stance was the -- the
2 second -- the second one where I was in the middle of a
3 video chat call and -- and I -- I didn't want -- I didn't
4 want to turn my back on him. The phone was on the wall,
5 uh, and he came here, so I -- I turned to take the phone
6 off the wall and disconnect it. And I didn't want to turn
7 my back completely to him and him think I'm doing
8 something like with a, you know, weapon or something
9 crazy. So I just made sure he could see what I was doing.
10 And so I, that's why it's kind of like a, he called it a
11 bladed stance. I actually asked him about it. He said,
12 well you were clearly trying to show me what you were
13 doing, but like, you had, you turned that direction. But
14 the phone was on a wall, like on a magnet or something,
15 and I -- I -- I took it off the wall and turned it off.

16 **PRESIDING COMMISSIONER GARLAND:** And, um, you wrote,
17 and I think you said today, the very first time you had a
18 cell phone or used a cell phone was at RJD? When you got
19 to RJD?

20 **JOSEPH MENENDEZ:** Right. I came into the dorm and
21 they had cell phones. Mule Creek, I mean Mule Creek did
22 not have a cell phone problem that I saw. I -- I certainly
23 was never tempted to use one. Um, but it was a different,
24 uh, setting. Uh, this one is dormed --

25 **PRESIDING COMMISSIONER GARLAND:** <crosstalk> Why

1 wouldn't you be tempted to use it then? You still have the
2 same privacy concerns, right?

3 **JOSEPH MENENDEZ:** No, the -- the, my brother and I
4 lived relatively anon -- relatively media, uh, in terms of
5 frenzy, anonymous life up until the end of 2017. Uh,
6 that's really when it -- it exploded into something kind
7 of a circus atmosphere with this primetime series that
8 Dick Wolf did at the end of 2017 in a -- in a documentary
9 on Hulu. And then it just never stopped. So up until 2017,
10 I don't think staff was that interested in what we were,
11 what I was doing on the phone or talking to, and I -- I
12 was living right. My wife was across the street from me
13 visiting every weekend. And then I moved to transfer to be
14 with my brother in 2018, all the way across the state to
15 San Diego, she was in Sacramento. So now I'm not visiting
16 with her. I'm not able to have private conversations with
17 her in visiting. And there's a lot of stress in the
18 marriage. And so when I landed and the phones were
19 available, it was just very tempting to use it. I -- I --
20 I clearly should not have, and none of it is an excuse for
21 it. And I'm sure that she would agree with me and we wish
22 we had not.

23 **PRESIDING COMMISSIONER GARLAND:** Well you were
24 getting family visits with your wife, correct? Conjug --
25 conjugal weekend visits or overnight visits?

1 **JOSEPH MENENDEZ:** Some, uh, not at that point, but
2 maybe a couple of years later.

3 **PRESIDING COMMISSIONER GARLAND:** And when your first
4 write-up, first one that actually stuck was, uh, March
5 2024, you lost your family visit privilege, correct?

6 **JOSEPH MENENDEZ:** Right. That was one of the
7 consequential things that really was a wake-up call. It
8 started -- started the awakening of like I need to figure
9 this out. Uh, --

10 **PRESIDING COMMISSIONER GARLAND:** Well then you, but
11 then you did it again, I mean and --

12 **JOSEPH MENENDEZ:** Right.

13 **PRESIDING COMMISSIONER GARLAND:** and as you said,
14 you've had them nonstop throughout that time. With your
15 second one you actually lost it not for just a year this
16 time, but for three years, right?

17 **JOSEPH MENENDEZ:** Right. And, uh, if there's a, I
18 don't know, uh, Dr. Hauser talked to me about stages of
19 change, and that is definitely the contemplation,
20 definitely not action until after that, cause I -- I
21 didn't do the full preparation to change until after that
22 second one. So it was just contemplating doing it, taking
23 some steps, talking to roommates --

24 **PRESIDING COMMISSIONER GARLAND:** Well --

25 **JOSEPH MENENDEZ:** but not committed to it.

1 **PRESIDING COMMISSIONER GARLAND:** all right. So, uh, I
2 -- I don't, I'm not asking for sort of program speak after
3 the fact. I'm just un -- trying to understand, like
4 wouldn't that have been a fairly big consequence for you
5 and -- and worthwhile for you to like open your eyes and
6 say I don't want to do this anymore, cause I don't want to
7 lose my family visits?

8 **JOSEPH MENENDEZ:** It was. It was -- it was -- it was
9 a -- a fairly big one, that's why I started to -- to take
10 some steps and got rid of my personal phone. But that's
11 not solving my situation because I can borrow it. I'm
12 still living in a, one of the consequential steps I had to
13 do after I stopped using was moving, uh, and being, not
14 being around it, not condoning it, not -- not, uh, you
15 know, it was one of the things that was asked of me, so I
16 did, uh, --

17 **PRESIDING COMMISSIONER GARLAND:** Okay. Uh, --

18 **JOSEPH MENENDEZ:** because you deceive yourself,
19 you're deceiving yourself thinking, oh, you got rid of
20 your personal phone so somehow that's different, but
21 you're still using it, so you're right.

22 **PRESIDING COMMISSIONER GARLAND:** Yeah, there's pretty
23 much no difference, right, as far as breaking the rules?

24 **JOSEPH MENENDEZ:** Right, that correct.

25 **PRESIDING COMMISSIONER GARLAND:** Okay. Um, I want to

1 turn to something in the confidential, uh, memo or
2 disclosure back in 2005, I -- I -- I just am curious. Um,
3 it says confidential information was received alleging you
4 were using your MAC position for your own personal agenda
5 and to manipulate other inmates. Additionally, information
6 was received alleging you were participating in narcotics
7 related activities. Uh, anything you want to say about
8 that?

9 **JOSEPH MENENDEZ:** Um, yes. The -- the narcotics
10 activities I was, I believe it's referring to the fact
11 that I was willing to pass drugs from one building to
12 another, uh, if I was asked by the -- the guys running the
13 yard there. It was on the Level Four, and I make no
14 excuses for it. But, uh, I was definitely, uh, doing that
15 if asked, somewhat relieved to be able to --

16 **PRESIDING COMMISSIONER GARLAND:** How bout -- how bout
17 about manipulating, um, people with your, uh, MAC
18 position?

19 **JOSEPH MENENDEZ:** Uh, yes. Uh, I was, uh, just, I --
20 I remember particularly an incident where I kind of, the
21 MAC put me in charge of the phone list and I -- I was sort
22 of creating a situation where I could use the phone more
23 and actually ended up attacked over it. It was a
24 tremendous learning experience, and there was just
25 conflict, uh, so the answer is yes. And also, uh,

1 sometimes if you wanted their support for one thing, you
2 would offer them a committee position somewhere else.
3 There was a lot of bartering in the MAC over -- over
4 favors, and, uh, there was always an opposition party that
5 was upset. And, I don't know, uh, I -- I obviously don't
6 know the specifics of what he's referring to, but, um, it
7 happens, and I -- I -- I would take responsibility. So, I
8 -- I --

9 **PRESIDING COMMISSIONER GARLAND:** Well, all right. I'm
10 not asking if it happens, I want to know what you did. So
11 --

12 **JOSEPH MENENDEZ:** Right.

13 **PRESIDING COMMISSIONER GARLAND:** did you ever try to,
14 uh, you know, use incentives or manipulate people to, you
15 know, vote for you or to have a different outcome of, in
16 the MAC program?

17 **JOSEPH MENENDEZ:** I would say, uh, particularly
18 during that period that these are being written, uh, yes.

19 **PRESIDING COMMISSIONER GARLAND:** Okay. And you said
20 something about phones. What did you mean about phones?

21 **JOSEPH MENENDEZ:** Um, you know, unless you're using a
22 cell phone, you care about your order on the phone list
23 and how much time you have on the wall phone, and, uh, uh,
24 so it, it's harder to get on the phone. Uh, so it's --
25 it's -- it's a very difficult list of -- of how many times

1 you can use the phone and it's up to the inmates to figure
2 out, and the, uh, IAC was able to -- to manipulate the
3 phone list, uh, to a degree and I did -- I did use that to
4 my -- to my benefit. And, uh, --

5 **PRESIDING COMMISSIONER GARLAND:** Right. So you -- you
6 said IAC and I think it started, it used to be MAC, uh,
7 Men's Advisory Council, now it's Inmate Advisory Council,
8 right? Is that the difference between MAC and IAC?

9 **JOSEPH MENENDEZ:** That's the difference, right,
10 right, cause of the transgender population out of respect.

11 **PRESIDING COMMISSIONER GARLAND:** Okay. So, um, okay.
12 So you -- you acknowledged that you manipulated that. When
13 -- when do you think you used your position as a MAC or
14 IAC leader to manipulate others? When was like, what's
15 another example and when did you do it?

16 **JOSEPH MENENDEZ:** Um, I think that that was a pretty,
17 uh, blatant one, uh, where, cause I got attacked over it,
18 so it was very well known. So I -- I -- I don't know if
19 that's what he's referring to, but that's my guess. Um,
20 uh, but manipulating people from, with the MAC position is
21 not just a general thing I do. It was, I don't -- I don't
22 know, I really couldn't pinpoint some other, uh, I -- I
23 maybe -- maybe this. Uh, access to administration is
24 sometimes beneficial and helpful to resolve problems for
25 other people and for yourself, so that's, um, that's a

1 form of, uh, using your position for personal benefit, but
2 I would probably include that in that category.

3 **PRESIDING COMMISSIONER GARLAND:** So one of the
4 questions I had written down is sort of related to this,
5 and that's from the CRA, um, where you -- you made a
6 comment, I may have been the only inmate they loved. Uh,
7 what -- what do you mean by that? Why was that important
8 for you enough to -- to talk about in your CRA?

9 **JOSEPH MENENDEZ:** Yeah. Um, yeah, I see that
10 statement and I do feel like I had relationships that, uh,
11 went beyond just, uh, what we could do for each other. A
12 lot of mentoring was involved in my relationships with the
13 male role models in administration particularly, which is
14 something that just came, and became important to me,
15 although actually I had a lot of, uh, uh, female
16 relationships with counselors too that were great. Uh,
17 and, uh, I felt like I was somebody who could understand
18 their pressures and their side of it as human beings
19 coming to work and doing eight hours and having to get
20 home safely to their families and the pressures. And I
21 kind of understood it's not all about what we want as a
22 population, you have to compromise to their security and
23 safety. And so as a result, it built relationships that
24 were more authentic. And I felt like, and -- and they were
25 long term and, uh, I felt like we had a lot of affection

1 and they loved having me as the MAC negotiator for sure,
2 because I wasn't going to have a hostile negotiation. I
3 was, I very much was just trying to have regular humane
4 conversations and understand their side of it. Um, that
5 was one of the reasons I felt like I did a good job for
6 the population.

7 **PRESIDING COMMISSIONER GARLAND:** All right. I -- I
8 think you said that something like you could relate to
9 their, uh, you know, coming to work and providing for
10 their family, is that what you said? Like that you
11 understood that? Why -- why do you think your
12 understanding of that was similar to what the officers
13 would be feeling?

14 **JOSEPH MENENDEZ:** I understood from having, uh, Level
15 Four yards, there's not a lot of communication between the
16 inmates and staff because of the tension. But, uh, I
17 didn't feel that, I felt like I could spend a lot of time
18 talking to staff just on the yard. I just got to know a
19 lot more in -- in the Sergeant's office. Probably because
20 of my position I spent a lot more time in offices just
21 talking, and I got to know them as, understand them as
22 human beings coming to work. And, uh, and that helped me
23 understand why some of regulations were in place for
24 certain things. And so I just saw the hum -- the humanity
25 better. Uh, --

1 **PRESIDING COMMISSIONER GARLAND:** Do you think you're,
2 do -- do you think you're treated differently or more
3 favorably than others? Other incarcerated people?

4 **JOSEPH MENENDEZ:** It seemed, uh, uh, it appears to be
5 the opposite. I -- I feel like I, we have, I have a great
6 deal, I don't know if some of it is just -- some of it is
7 just being a well-known high profile inmate, some of it is
8 just being in a high, if you were in MAC positions, they
9 expect certain standards. So I would say you're harassed
10 less, uh, because you have a working relationship, but
11 your cell and the scrutiny on you is much greater. Uh, so
12 I was constantly searched and, uh, you know, I've
13 experienced a lot of that. Uh, so it was, uh, you know, I
14 tried to express that in the CRA, uh, that's, it's
15 scrutiny. You get a lot of scrutiny as you would expect,
16 as you -- as you probably deserve if you're going to be a
17 role model in a position in the IAC.

18 **PRESIDING COMMISSIONER GARLAND:** All right. So in the
19 CRA, I do just want to cover a couple of things before we,
20 um, go to clarifying questions. So, uh, the doctor found
21 that you would pose a moderate risk of future violence,
22 um, meaning elevated compared to other long-term offenders
23 or lifers. Um, briefly your thoughts on that.

24 **JOSEPH MENENDEZ:** Um, I don't --

25 **ATTORNEY RUMMEL:** Are you asking him for his opinion

1 of the clinical analysis of the HCR-20, or just, what are
2 you asking him? I don't want him to give a clinical
3 opinion.

4 **PRESIDING COMMISSIONER GARLAND:** No, no. I'm asking
5 what his thoughts are about her that, her or his, I don't
6 know, uh, doctor's thoughts that -- that he -- he would
7 pose an elevated risk. And -- and I guess, you know, maybe
8 to be more specific, do you -- do you recall the reasons
9 the doctor reached that, um, that conclusion?

10 **JOSEPH MENENDEZ:** Um, just my memory of the
11 conversations with him that we had, uh, at the end of it,
12 uh, --

13 **PRESIDING COMMISSIONER GARLAND:** Well you -- you read
14 the CRA, right, and there's a list --

15 **JOSEPH MENENDEZ:** Right.

16 **PRESIDING COMMISSIONER GARLAND:** there's several
17 different, um, areas where the doctor goes through the
18 risk factors that are still relevant, um, historical
19 factors, uh, current factors, things like that. Do you --
20 do you recall what those -- those factors were or what
21 kind of the overall take of the doctor was as far as that?

22 **JOSEPH MENENDEZ:** Yes.

23 **PRESIDING COMMISSIONER GARLAND:** Okay. Um, and so
24 maybe I -- I want to just in the interest of time, try to
25 make this as, um, succinct. So maybe instead of asking

1 you, I'm going to ask you, or, you know, to tell me, I'm
2 going to tell you what the doctor, uh, found, uh, that you
3 have, uh, an issue with antisocial traits, um, in
4 particular entitlement, not respecting consequences,
5 impulsiveness, uh, deception, manipulation. So, --

6 **JOSEPH MENENDEZ:** Um, right. So I -- I definitely
7 have had a lot of discussions with this, with doctor, my
8 doctor here, Dr. Hauser about it, some with the clinician
9 in the CRA, but mostly afterwards. And it, those elements
10 were, uh, in the cell phone use were there. I recognize
11 them. I understand them much better now obviously, than
12 when it was happening, but nevertheless, I don't quarrel
13 with it. I mean, I think it, they were very much, it
14 didn't, it seemed to be, you know, we spent a lot of time
15 talking about the crime and so on, it seemed to be not the
16 factor they were focused on. They were like we under --
17 some understanding there, but when it came to the cell
18 phone use, uh, their feeling was, uh, you were heavily
19 rationalizing and minimizing your use at the time you were
20 using it. You have a, you have made the steps to
21 understand it now, but it's recent and therefore, uh, our
22 confidence level is -- is like a growing thing, like she
23 said you're in the action phase. So that I've used that
24 stage as a model because it was in the CRA and I got to
25 learn about it. Um, so that was the reason I -- I was

1 referring to stages because it's in the CRA. So that was
2 how that was explained to me. Um, and so rec -- a lot of
3 work trying to recognize those kind of traits, uh, the
4 entitlement, entitling, if you feel entit -- you mentioned
5 the privacy, uh, Commissioner Reardon, what makes you feel
6 entitled to more privacy than the next guy? Right,
7 exactly. I -- I shouldn't feel that. And --

8 **PRESIDING COMMISSIONER GARLAND:** Do you --

9 **JOSEPH MENENDEZ:** so it's not --

10 **PRESIDING COMMISSIONER GARLAND:** do you think you
11 felt entitlement around the time of the crime and in your
12 childhood?

13 **JOSEPH MENENDEZ:** Uh, I feel like I grew up as my
14 dad's son and in -- in -- in a way entit -- entitled. Uh,
15 I don't, I was really more focused on my father through my
16 whole childhood so, uh, I don't particularly feel like I
17 was, you know, and just, you know, I wasn't treating
18 people like I was entitled to something. I was -- I was,
19 uh, more of a very kind of reserved, uh, person. But, um,
20 it was an entitled existence. Uh, so I do think that I --
21 I carried a lot of that immaturity. I would think I was a
22 very immature 21-year-old. I think I just, you know, you
23 mentioned the Porsche and it is flashy and I, you know
24 what I mean like I definitely had this problem. Uh, so I
25 think it carried on, especially in the beginning of my

1 prison term and so it's something I had to deal with. It's
2 important.

3 **PRESIDING COMMISSIONER GARLAND:** And deception, do
4 you think that is something that you struggled with or you
5 engaged in, uh, when you were younger and around and after
6 the crime?

7 **JOSEPH MENENDEZ:** I engaged in it with the burg --
8 burglary, uh, uh, clearly, and I think I used it a lot to
9 survive my whole childhood, for sure. I manipulated and
10 were, uh, and my family didn't really value honesty. It
11 was a kind of lie, cheat, steal, but win, uh, motto in the
12 home. Uh, and I definitely, but even regardless of that, I
13 probably to just get through my day with my parents, uh,
14 if I, if -- if it meant being dishonest, I would do it. So
15 I think there was, I didn't have a good moral structure
16 with that, you know. Understanding the importance of
17 honest communication and just being seen as an honest
18 person, it took a long time to -- to get to that. Uh, I
19 defin -- my early days in County Jail with the lying,
20 completely absent, like it's a shameful, I, you know, I
21 don't like myself then. Um, --

22 **PRESIDING COMMISSIONER GARLAND:** The doctor also
23 found that you had some narcissistic traits. What do you
24 think that means? What's your understanding of that? And
25 do you agree?

1 **JOSEPH MENENDEZ:** Um, I don't -- I don't really agree
2 that I have narcissistic traits. Uh, I think that, uh, a
3 lot of, she was re -- from my understanding from her
4 discussion was that she was referring to sort of
5 ingratiating myself with people in administration that
6 were high status, that I was telling them that I was
7 getting a lot of validation from that and that was
8 important, and that is a part of my personality, uh, to
9 care what people that are successful kind of in the prison
10 administration think of me. And I think that that's, that
11 can, if -- if -- if pursuing my projects, if I'm doing it
12 for validation and not for the purpose of the project,
13 that's something I have to ask myself and wrestle with.
14 It's -- it's -- it's in my personality sometimes to -- to
15 feel that validation. So if that, to the degree that
16 that's, if that's a narcissistic trait, then I would not
17 quarrel with it. It's something I need to work on, but I'm
18 very aware of it, like self-aware. Um, --

19 **PRESIDING COMMISSIONER GARLAND:** What do you -- what
20 do you think narcissism is?

21 **JOSEPH MENENDEZ:** I think narcissism are people that
22 could care less about being self-aware and working on
23 themselves. They're not the people, they're not the type
24 of guy, people that like me, self-refer into Mental Health
25 and say, Hey, I have a problem, can you -- can you figure

1 this out for me? Or go to a doctor and say, can you help
2 me understand my personality better, or work on
3 themselves, or -- or -- or work in groups where you're
4 exchanging stuff about your childhood and you're open
5 about it and you're -- you're laying yourself down. I just
6 think I grew, my father was, I would think a pretty
7 obvious narcissist. And he had, there was zero self-
8 reflection, zero concern about what the morality of what
9 his purpose was and what his past and what, I just felt
10 like that wasn't me. Um, --

11 **PRESIDING COMMISSIONER GARLAND:** Okay. Okay. Hold on.
12 You're getting a little off track.

13 **JOSEPH MENENDEZ:** All right.

14 **PRESIDING COMMISSIONER GARLAND:** So again, I don't
15 want to keep people any longer than we have to. Um, all
16 right, so relationships, uh, there, uh, were a lot of
17 discussions in the CRA, uh, a lot in your writings as well
18 about relationships. And, um, so how would you
19 characterize your relationship with Erik now? I mean you,
20 is it, do you still feel a codependency or what do you
21 think?

22 **JOSEPH MENENDEZ:** No, I definitely do not feel
23 codependency. I think -- I think we have really, you know,
24 considering our history, it helped that we were separated
25 for 21 years. It allowed me to really learn --

1 **PRESIDING COMMISSIONER GARLAND:** I want to ask you
2 about that. I want to ask you about that. So you and Erik
3 both, uh, had a years' long campaign to be housed together
4 and talked about the devastating effects of not being
5 housed together and, you know, all that sort of thing. Um,
6 and then you wrote in your writings about how great it was
7 that you weren't housed together. Can you explain that
8 inconsistency?

9 **JOSEPH MENENDEZ:** Yes. Um, being separated was
10 devastating. Uh, we went, we made a, the one interview we
11 ever gave on TV, uh, prior to, uh, coming to CDCR was an
12 appeal to please keep us together. Um, but, uh, it was a
13 silver lining because once I was separated from Erik, that
14 whole identity of just wrapped around and mess with my
15 brother and protecting him and the rescuer and all the
16 devastation that -- that occurred because of the crime, I
17 didn't have that anymore. So I had to learn who I was
18 separate from Big Brother. And it really made a huge
19 difference in my ability to just sort of start figuring
20 out myself, like, who am I as a man separate from my
21 brother, so that by the time --

22 **PRESIDING COMMISSIONER GARLAND:** So why --

23 **JOSEPH MENENDEZ:** we came back --

24 **PRESIDING COMMISSIONER GARLAND:** They why were you
25 pushing so hard to do it if you were finding yourself? Why

1 push the administration so much to do it? And -- and part
2 of my understanding of why they weren't housing you
3 together for many years is that there were people who
4 thought that you'd be a negative influence on Erik and
5 but, and he kept pushing.

6 **JOSEPH MENENDEZ:** Uh, yeah, I don't, I mean, uh, I
7 don't think, I don't -- I don't know who was pushing that
8 I would be a negative influence on, but we didn't ask to
9 start going, to come together until, uh, more than a dozen
10 years into our incarceration. Uh, and, you know, love. I
11 mean it's my brother, I wanted, I want to be with my
12 brother, he is the only family I have in -- in prison. The
13 idea of doing your whole life -- life without, and you
14 have a brother that you've been through all this trauma
15 with in prison, and you're separated, like sometimes the
16 prison is next door. He was at Folsom, I was in
17 Sacramento, like an hour. It was very painful. It was very
18 difficult. My family was the main reason though. They
19 wrote a tremendous amount of letters and put and said,
20 look, we -- we are being forced to visit them in separate
21 prisons. We fly across the country and we can't visit them
22 both at the same time. Like it's a hardship. Now they're
23 in farther away prisons, like we need them to be either
24 together or much closer together, and at that point, um, a
25 determination was made that we could safely be together

1 and then we were happy for it, yeah.

2 **PRESIDING COMMISSIONER GARLAND:** All right. Um,
3 again, relationships, um, are an issue. So you and your
4 wife, can -- can you help us understand what is, what that
5 split was? Because it sounds like you, you're saying that
6 because you might be getting out, there was a change in
7 your relationship? Could you explain why that would affect
8 your marriage?

9 **JOSEPH MENENDEZ:** Uh, no, it had nothing to do with
10 me getting out. Uh, we started to have problems 10 years
11 ago, uh, and we off and on were struggling, working it
12 out. Um, just the weight of, um, both of us coming from a
13 certain background, abusive background and communication
14 style, both of us getting older and understanding what we
15 need in a healthy relationship and just a lot of clashes.
16 And, uh, the strength of our relationship is friendship
17 and bonding over a lot of these, uh, issues,
18 communication, uh, abuse issues and things that we care
19 about. And so we just changed our role gradually. Uh,
20 sometimes we go back --

21 **PRESIDING COMMISSIONER GARLAND:** So she was -- she
22 was doing family visits with you up until you lost family
23 visits, uh, that was like last spring, is that right?

24 **JOSEPH MENENDEZ:** Right. But we were separated well
25 before that.

1 **PRESIDING COMMISSIONER GARLAND:** Okay. It's a little
2 different than what you told the doctor, isn't it?

3 **ATTORNEY RUMMEL:** Um, I don't remember as something
4 different in the CRA, but if you could point me to what
5 you're referring to.

6 **PRESIDING COMMISSIONER GARLAND:** I am looking for it.
7 Okay. Um, top of five, uh, he married Rebecca in 2003. He
8 spoke fondly of their marriage, noting she was supportive
9 of his personal growth. Recently the possibility of a
10 successful habeas appeal, or alternatively a sentence
11 commutation or re-sentencing led to challenges in their
12 romance. And he concluded saying, we ended up deciding to
13 change our marriage into friendship, but you stay married.
14 So it sounded like from the CRA that that was just recent
15 based on the potential changes in your sentence. Is, did
16 you want to clarify that?

17 **JOSEPH MENENDEZ:** Uh, yeah it wasn't recent. It goes
18 back a number of years, but I mean the habeas goes back
19 quite a number of years in terms of just the decision to -
20 - to file it and the idea of getting out. Uh, it wasn't a
21 real, at that point a very realistic, uh, idea of getting
22 out. But, uh, it was quite a few years, uh, before
23 resentencing, so if I conflated --

24 **PRESIDING COMMISSIONER GARLAND:** And then --

25 **JOSEPH MENENDEZ:** the two, I didn't mean to do that.

1 **PRESIDING COMMISSIONER GARLAND:** all right. Well
2 that's why I wanted to give you a chance to explain. So
3 and then it says that you, uh, are corresponding
4 romantically with three women, uh, one in Texas, one in
5 Chicago, and one in the UK. Are you currently involved
6 with anybody, like would you say that --

7 **JOSEPH MENENDEZ:** I'm not currently --

8 **PRESIDING COMMISSIONER GARLAND:** one of those --

9 **JOSEPH MENENDEZ:** no.

10 **PRESIDING COMMISSIONER GARLAND:** or something that's
11 a more, uh, lasting or --

12 **JOSEPH MENENDEZ:** Uh, no. I talked to --

13 **PRESIDING COMMISSIONER GARLAND:** an important
14 relationship?

15 **JOSEPH MENENDEZ:** I'm not currently involved with any
16 of them. Uh, I'm friends with all of them. Um, my, I -- I
17 -- I sort of am more involved with my wife, uh, Rebecca.
18 Um, you know, we don't call each other husband and wife
19 now, but we are technically still married. Uh, she's my
20 biggest source of support. She's the best. And so that's
21 who I'm closest with at the right now, and probably will
22 love to, that's just going to continue, and I don't know
23 what's going to happen in the future, but --

24 **PRESIDING COMMISSIONER GARLAND:** All right. You --
25 you received a lot of visits from a woman in the UK, uh,

1 like ever since the visits with your wife stopped in the
2 spring 2024, you've had hours and hours of visits with
3 another woman from the UK. Is that one of those that you
4 were talking about being --

5 **JOSEPH MENENDEZ:** Yes.

6 **PRESIDING COMMISSIONER GARLAND:** romantically
7 corresponding with?

8 **JOSEPH MENENDEZ:** Yes, she came out twice from the
9 UK.

10 **PRESIDING COMMISSIONER GARLAND:** All right. And so
11 you're saying that's not a relationship or anything you're
12 pursuing as a relationship?

13 **JOSEPH MENENDEZ:** No, absolutely not.

14 **PRESIDING COMMISSIONER GARLAND:** Well your visiting
15 record shows like days, like two weeks of times she's
16 coming for five or six hours at a time, and then she came
17 back, so that's not --

18 **JOSEPH MENENDEZ:** She came -- she came --

19 **PRESIDING COMMISSIONER GARLAND:** a romantic?

20 **JOSEPH MENENDEZ:** Well no, it -- it was a romantic
21 relationship, uh, but he, it, we ended it. But, uh, at tho
22 -- at those times it was, so she visited those two times
23 and with resentencing, uh, and with this feeling about
24 what's healthy, a healthy relationship, um, and just her
25 distance in the United Kingdom and just the cir -- change

1 in circumstance in my life, I felt that, uh, we, it's
2 better as a friendship. And, uh, --

3 **PRESIDING COMMISSIONER GARLAND:** And you're talking
4 about the -- the UK woman.

5 **JOSEPH MENENDEZ:** Right. And I have friendships with
6 the other two as well.

7 **PRESIDING COMMISSIONER GARLAND:** And have they come
8 to visit you?

9 **JOSEPH MENENDEZ:** Uh, yes. The one from Texas came,
10 uh, in May I think, and the one from, uh, Chicago came at
11 Christmas.

12 **PRESIDING COMMISSIONER GARLAND:** Do you think there's
13 any manipulation or any deception involved with kind of
14 juggling a wife and all sorts of different folks that are
15 writing you and coming to visit you, or no?

16 **JOSEPH MENENDEZ:** No. No, my wife and I are not
17 romantically involved, have not been, and abso -- no. It's
18 not cheating on her. We stay married for just property,
19 technical reasons. I'm still in prison, it wasn't
20 important for her to go through that process right now. I
21 don't know if we'll ever go through it. Uh, but, you know,
22 joint share a house and just, there are certain reasons
23 that she just stayed, we just stayed married rather than
24 go through, uh, certain ramifications of a divorce, tax
25 reasons. So and I'm comfortable with that and so, you

1 know, but there's no deception there. Uh, there's no
2 unawareness there, you know, I'm not cheating on her.

3 **PRESIDING COMMISSIONER GARLAND:** All right.

4 **JOSEPH MENENDEZ:** Yeah.

5 **PRESIDING COMMISSIONER GARLAND:** All right. So I want
6 to ask you about a couple things that I saw in Dr. Hart's
7 evaluation. Um, Dr. Hart finds that you would pose a very
8 low risk for physical violence or antisocial behavior,
9 which is obviously a bit different than what the CRA
10 clinician found. Um, a sentence in the evaluation, Dr.
11 Hart says this, um, I'm going to misquote it probably,
12 with the strongest evidence of rehabilitation, uh, is
13 increasingly disciplined prosocial behavior in the face of
14 adversity and opportunity. Um, in light of your record of
15 misconduct, do you think that you've demonstrated that
16 increasingly disciplined prosocial behavior in the face of
17 adversity and opportunity?

18 **JOSEPH MENENDEZ:** I -- I would say in -- in -- in the
19 arc of -- of the 35 years, I hope it's -- I hope it's, uh,
20 um, a good -- a good showing of -- of, uh, being prosocial
21 and following rules. But, uh, there's no question the cell
22 phone period is, uh, shameful. Uh, there is no excuse and
23 it is somewhat recent. Uh, so --

24 **PRESIDING COMMISSIONER GARLAND:** So do, okay --

25 **JOSEPH MENENDEZ:** I would -- I would -- I would agree

1 with that. I would agree with that.

2 **PRESIDING COMMISSIONER GARLAND:** All right.

3 **JOSEPH MENENDEZ:** Your -- your characterization --
4 your characterization.

5 **PRESIDING COMMISSIONER GARLAND:** So Dr. Hart also
6 says only minor rules violation, there rules -- rules
7 infractions have occurred. Do you agree with that?

8 **JOSEPH MENENDEZ:** I do not agree with that. I think
9 he's just referring to the lack of violence. Uh, I don't
10 know. He's, if you're not as associated with CDCR, you
11 might call it minor, I don't know --

12 **PRESIDING COMMISSIONER GARLAND:** Okay.

13 **JOSEPH MENENDEZ:** he's wrong -- he's wrong.

14 **PRESIDING COMMISSIONER GARLAND:** All right. All
15 right. So then it's a cell phone use, which Lyle has
16 recognized as a violation and is committed to terminate,
17 I'm sorry, committed to terminating is probably the best,
18 whoo, I'm getting tired I guess, I can't read. Um, is
19 committed to terminating, is probably best understood as
20 associated with the powerful needs of communication
21 affiliation and news updates on criti -- critical life
22 condition factors. Do you agree with his characterization
23 of cell phone use in prison as that?

24 **JOSEPH MENENDEZ:** Whew.

25 **ATTORNEY RUMMEL:** Do you agree with the reasons or

1 does he agree with the characterization of it?

2 **PRESIDING COMMISSIONER GARLAND:** The characterization
3 of this minor misconduct of cell phones and it, what it,
4 what he says is it's best understood as associating with
5 the powerful needs of communication, affiliation and news
6 updates on critical life condition factors. And -- and the
7 reason I'm asking, I mean, you claim to have, you know,
8 created a training program, I think Disconnect, Reconnect
9 by Disconnect, something like that. I mean, is that what
10 cell phone use in prison is? Is it just a -- a need for
11 communication, affiliation and news updates?

12 **ATTORNEY RUMMEL:** I'm just going to ask for one more
13 clarification. Are you asking what his cell phone use was
14 related to, or are you asking for cell phone use in prison
15 among everyone, ju -- everyone?

16 **PRESIDING COMMISSIONER GARLAND:** I am asking his
17 understanding what cell phones are all about in prison. Is
18 that consistent with Dr. Hart's opinion on --

19 **ATTORNEY RUMMEL:** I think Dr. Hart is just speaking
20 about his cell phone use, but I just want to make sure
21 which one you're asking him about. He can speak about the
22 dangers of cell phones in prisons, but I don't think he
23 can speak to Mr., Dr. Hart's opinion.

24 **PRESIDING COMMISSIONER GARLAND:** Well I -- I -- I
25 know, um, Counsel is asking us to also take into account

1 Dr. Hart's evaluation, and I'm wondering if the basis of
2 Dr. Hart's, um, assessment of what cell phones are all
3 about in prison is, you know, is accurate based on Mr.
4 Menendez's knowledge of what they really are used for, and
5 how dangerous they are. So I'm just curious if he's
6 thought about that or --

7 **ATTORNEY RUMMEL:** Thank you for clarifying.

8 **PRESIDING COMMISSIONER GARLAND:** Maybe there's, yeah,
9 maybe there's not an answer. Maybe you don't know. I'm not
10 asking you to speak for Dr. Hart. Just a curiosity
11 question.

12 **JOSEPH MENENDEZ:** Uh, right. It seemed like Dr. Hart
13 was just referring to my use. If -- if he's, if -- if
14 that's what he thinks that phones are only used for in the
15 system, he clearly could not be more wrong.

16 **PRESIDING COMMISSIONER GARLAND:** Okay. Um,
17 Commissioner, any other questions from you?

18 **DEPUTY COMMISSIONER REARDON:** No, Commissioner.

19 **PRESIDING COMMISSIONER GARLAND:** All right. I will
20 give myself a break from talking for a while now. Uh, Mr.,
21 um, Milius, do you have any clarifying questions for the
22 Panel to ask Mr. Menendez?

23 **DEPUTY DISTRICT ATTORNEY MILIUS:** I do.

24 **PRESIDING COMMISSIONER GARLAND:** All right. And I
25 would like to keep this to no more than 15 minutes. It's

1 1:49 p.m.

2 **DEPUTY DISTRICT ATTORNEY MILIUS:** Sounds good.
3 Commissioner, would you ask, uh, and this is on the
4 subject of deception with resp -- respect to the cell
5 phone rules violations that resulted in not guilty
6 findings, you were essentially having someone lie to you
7 so that you could avoid the consequences of your behavior,
8 correct?

9 **PRESIDING COMMISSIONER GARLAND:** Okay. Wait a minute.
10 Uh, you started ask, by asking towards to the Panel, let
11 me just remind you, and I don't know if you've done these
12 hearings before.

13 **DEPUTY DISTRICT ATTORNEY MILIUS:** Yeah.

14 **PRESIDING COMMISSIONER GARLAND:** They're somewhat
15 awkward, but you have to pass, ask the Panel the question
16 to ask him. So just if you pose it to like you're talking
17 to me --

18 **DEPUTY DISTRICT ATTORNEY MILIUS:** Sure.

19 **PRESIDING COMMISSIONER GARLAND:** That would be --

20 **DEPUTY DISTRICT ATTORNEY MILIUS:** Uh, uh, would you
21 ask that, uh, uh, Mr. Menendez with respect to cell phone
22 violations that resulted in not guilty findings, if he was
23 essentially having someone lie so that he could take, uh,
24 so he could avoid the consequences of that, of his own
25 behavior.

1 **PRESIDING COMMISSIONER GARLAND:** Okay, perfect, thank
2 you. You can answer that, Mr. Menendez.

3 **JOSEPH MENENDEZ:** Yes.

4 **DEPUTY DISTRICT ATTORNEY MILIUS:** Does he think it,
5 uh, does he think that it is important to tell the truth
6 or have the truth be told during judicial or disciplinary
7 or other hearings?

8 **PRESIDING COMMISSIONER GARLAND:** You can answer that.

9 **JOSEPH MENENDEZ:** I do think it's important. It was
10 definitely, uh, wrong to do that.

11 **DEPUTY DISTRICT ATTORNEY MILIUS:** When you do lie or
12 have someone lie on your, uh, behalf during --

13 **PRESIDING COMMISSIONER GARLAND:** Talk to me.

14 **DEPUTY DISTRICT ATTORNEY MILIUS:** oh sorry, force of
15 habit. Uh, uh, can the Commissioner ask when he does lie
16 or has someone lie on his behalf, uh, during judicial, uh,
17 hearings or disciplinary hearings, does he think it's
18 important to acknowledge and accept responsibility for
19 that effort to mislead that proceeding?

20 **PRESIDING COMMISSIONER GARLAND:** No, I think he's
21 just saying that he does. But, um, so I think that --

22 **DEPUTY DISTRICT ATTORNEY MILIUS:** The -- the point of
23 clarification is it's not that it -- it is important to
24 tell the truth, but also when you do not tell the truth,
25 it's important to acknowledge subsequently that, Hey, I've

1 done something wrong. I accept responsibility for having
2 people lie on my behalf.

3 **PRESIDING COMMISSIONER GARLAND:** And -- and I think
4 he is written about that. Um, I guess, would you agree
5 with that statement, Mr. Menendez, that it's important to
6 acknowledge it?

7 **JOSEPH MENENDEZ:** Yes, very much.

8 **DEPUTY DISTRICT ATTORNEY MILIUS:** Um, going way back
9 in time, would you ask, uh, Mr. Menendez, with respect to
10 the question earlier asked by the Commissioner about the,
11 uh, suspension from Princeton, uh, that the nature of the
12 suspension was based on plagiarism?

13 **PRESIDING COMMISSIONER GARLAND:** Yes. You want him to
14 acknowledge that?

15 **DEPUTY DISTRICT ATTORNEY MILIUS:** Yes.

16 **ATTORNEY RUMMEL:** It's been asked and answered.

17 **PRESIDING COMMISSIONER GARLAND:** Yeah. Yeah I, --

18 **JOSEPH MENENDEZ:** Yes.

19 **PRESIDING COMMISSIONER GARLAND:** we established that
20 earlier, but go ahead. All right. He answered it again.

21 **DEPUTY DISTRICT ATTORNEY MILIUS:** Okay. And that
22 there was actually a hearing in which Mr. Menendez, uh,
23 expressed his opinion, there were other witnesses, uh,
24 does he recall that?

25 **PRESIDING COMMISSIONER GARLAND:** Oh, I see. Okay. So

1 in the hearing about the plagiarism, uh, suspension, um,
2 okay, so there was a hearing, right? And there were other
3 people testifying or -- or being witnesses in the hearing,
4 is that what you want to know?

5 **DEPUTY DISTRICT ATTORNEY MILIUS:** Mr. Menendez, uh,
6 uh, testified, other people testified, there was a, uh,
7 hearing with a disciplinary Panel, uh, and he acknowledges
8 that that happened for over plagiarism?

9 **PRESIDING COMMISSIONER GARLAND:** Yeah. Okay. Did that
10 happen, Mr. Menendez?

11 **JOSEPH MENENDEZ:** Not while I was present. I was the
12 only witness and, um, I believe that, uh, a local -- a
13 local parish priest, uh, was -- was allowed to come with
14 me for support. I don't know that, I can't remember if he
15 was allowed to speak, but that was the only people that I
16 saw in the hearing that I remember. It was a long time
17 ago, but nobody was in the hearing with me.

18 **DEPUTY DISTRICT ATTORNEY MILIUS:** Okay. Um, would,
19 uh, Mr. Menendez acknowledge that he received paperwork
20 subsequently about the hearing, exp -- expressing that
21 there were other people who testified during the hearing
22 and the basis for the findings of that hearing?

23 **PRESIDING COMMISSIONER GARLAND:** Do you recall that
24 Mr. Menendez?

25 **JOSEPH MENENDEZ:** I don't recall it, but it would've

1 probably gone to my dad, and he's the one who informed me
2 of the decision. So I don't, uh, I don't know if that
3 happened or not. I didn't -- I didn't see it.

4 **DEPUTY DISTRICT ATTORNEY MILIUS:** Would Mr. Menendez
5 acknowledge that the paperwork, if this refreshes his
6 recollection, uh, indicated that, uh, that the committee
7 thought that, uh, that Mr. Menendez knew what he was doing
8 was wrong, uh, but they felt that he was also deceiving
9 the committee.

10 **PRESIDING COMMISSIONER GARLAND:** If you know the
11 answer to that, you can answer that. In other words, the
12 committee, um, found that you were being deceptive in that
13 hearing. Did you know that?

14 **JOSEPH MENENDEZ:** I -- I told him that, I -- I -- I
15 admitted --

16 **PRESIDING COMMISSIONER GARLAND:** No, just -- just
17 hold on --

18 **JOSEPH MENENDEZ:** to the charge.

19 **PRESIDING COMMISSIONER GARLAND:** hold on. The
20 question --

21 **JOSEPH MENENDEZ:** Okay.

22 **PRESIDING COMMISSIONER GARLAND:** is did you know that
23 the committee found you deceptive? And I don't have a
24 document of that, so this is based on, uh, Mr. Milius',
25 you know, knowledge of it.

1 **JOSEPH MENENDEZ:** I -- I -- I don't -- I don't -- I
2 don't remember knowing that --

3 **PRESIDING COMMISSIONER GARLAND:** Okay.

4 **JOSEPH MENENDEZ:** at this point.

5 **DEPUTY DISTRICT ATTORNEY MILIUS:** Um, with respect
6 to, you -- you provided, or Mr. Menendez provided some a
7 hundred pages of, uh, recently, sort of a personal
8 statement, um, with respect to lying, uh, in the judicial
9 system. The sole statement was the choice of taking
10 responsibility for quote, "the choice, uh, to just, uh,
11 um, to solicit perjury." Uh, does he acknowledge that
12 there is basically just out of a hundred pages, a single
13 reference to, uh, acknowledging, soliciting perjury.

14 **PRESIDING COMMISSIONER GARLAND:** It speaks for
15 itself, but go ahead and answer. You think you talked
16 about that more than once, Mr. Menendez?

17 **JOSEPH MENENDEZ:** I think so. I mean anytime I'm
18 referencing behavior that I'm not proud of from that
19 period of time or hiding it or talking about shame, so I
20 talked about it in the six months after I think, or I -- I
21 don't -- I don't know for sure. I think that I referenced
22 it. If it was related to other things that were in the
23 document then I would've referenced it, so I'm not, I
24 can't really say for sure. I'm sorry.

25 **DEPUTY DISTRICT ATTORNEY MILIUS:** Does Mr. Menendez,

1 in the process of acknowledging and taking responsibility
2 for, uh, soliciting perjury, uh, think that it's important
3 to specifically acknowledge the names of the people he
4 solicited perjury from and what he wanted them to say?

5 **PRESIDING COMMISSIONER GARLAND:** I -- I don't think
6 that's a helpful question, honestly. I mean, we know who
7 he solicited based on the -- the records that we have, or
8 at least I think I have a sense it was three different
9 people. Um, I don't know that --

10 **DEPUTY DISTRICT ATTORNEY MILIUS:** Commissioner, I --
11 I would suggest that actually if you look at the CRA, he
12 has said that he has only asked one woman to, uh, um,
13 commit perjury on his behalf.

14 **ATTORNEY RUMMEL:** That mischaracterizes the CRA. I
15 would object. I mean, if he wants to ask him who he
16 solicited perjury from, just ask him who he solicited
17 perjury from. Why are we dancing around this?

18 **DEPUTY DISTRICT ATTORNEY MILIUS:** I can ask that as
19 well.

20 **PRESIDING COMMISSIONER GARLAND:** Really, I don't
21 honestly need, I think, I don't think we need to get other
22 people's names involved in this. Um, and Mr. Milius, where
23 in the CRA, are you seeing that there was just an
24 acknowledgement of one person?

25 **DEPUTY DISTRICT ATTORNEY MILIUS:** Uh, I'll point to

1 it.

2 **PRESIDING COMMISSIONER GARLAND:** Okay. I think I've
3 got it.

4 **ATTORNEY RUMMEL:** It may have been just all at the
5 trial. I just don't know what we're doing right now, but.

6 **DEPUTY DISTRICT ATTORNEY MILIUS:** I can answer.

7 **PRESIDING COMMISSIONER GARLAND:** Well it's often --
8 it's often helpful to -- to see what somebody, uh,
9 reflects and talks about with the clinician and whether
10 it's the same as what they say at other times. So I do
11 think it's relevant. Um, oh, I thought I found it. Uh, did
12 you find it, Mr. Milius?

13 **DEPUTY DISTRICT ATTORNEY MILIUS:** I apologize. I had
14 noted it and then, uh, cannot find where I put the
15 notation.

16 **PRESIDING COMMISSIONER GARLAND:** Yeah, I believe it's
17 on page nine somewhere, but, okay. Um, so what's your
18 question about then? Maybe -- maybe we could rephrase it
19 like this. Um, were there three people that you tried to
20 get to lie to you in their trial testi -- to lie for you
21 in their trial testimony?

22 **JOSEPH MENENDEZ:** Yes.

23 **PRESIDING COMMISSIONER GARLAND:** Is it three? Is that
24 the right number? Okay. Um, and so if you said only one in
25 the CRA that would've been inconsistent or -- or not true.

1 Is that right? And there may be some context to it.

2 Understand Ms. Rummel, I'm not --

3 **JOSEPH MENENDEZ:** I, uh, I can answer it if you want.

4 **ATTORNEY RUMMEL:** Did you, I mean --

5 **JOSEPH MENENDEZ:** So I can answer it. Uh, the, I
6 brought it up because she was asking me about had I
7 committed domestic violence in my life, and I've come to
8 learn in courses, Domestic Violence course, that if you
9 are in a relationship and you ask somebody to do something
10 dishonest, that is a form of domestic violence. So I
11 wanted to be clear about that. So that's why I brought up
12 the fact that I -- I did ask a girlfriend that I was
13 involved in a relationship at the time, in a relationship,
14 to lie, and I felt that I should tell the clinician that.
15 So that's why it's the one.

16 **PRESIDING COMMISSIONER GARLAND:** Okay.

17 **DEPUTY DISTRICT ATTORNEY MILIUS:** But, uh, he, the
18 inma --, uh, Mr., uh, Menendez acknowledges that he asked
19 Jamie Pisarcik, Traci Baker and Brian Eslaminia to lie on
20 his behalf at trial, is that correct?

21 **PRESIDING COMMISSIONER GARLAND:** Go ahead.

22 **JOSEPH MENENDEZ:** Yes.

23 **DEPUTY DISTRICT ATTORNEY MILIUS:** And with regard to
24 Traci Baker, there was a letter and it had a lot of
25 details asking her to lie about a incident in which, uh,

1 uh, his mother attempted to poison the family. Is that
2 correct?

3 **PRESIDING COMMISSIONER GARLAND:** Go ahead.

4 **JOSEPH MENENDEZ:** Yeah I asked her to act like she
5 was at the, uh, at the dinner, uh, when she was not at
6 that dinner.

7 **DEPUTY DISTRICT ATTORNEY MILIUS:** And in that letter,
8 Mr. Menendez put a lot of details. Uh, does Mr. Menendez
9 think that to make something compelling and believable,
10 it's important to add a lot of description and details so
11 that he convinces his audience that that is actually what
12 happened, even though it is not what happened?

13 **PRESIDING COMMISSIONER GARLAND:** You can answer that.

14 **JOSEPH MENENDEZ:** Uh, I had the detail because the
15 dinner actually happened when my mother did that. So there
16 was --

17 **PRESIDING COMMISSIONER GARLAND:** Just -- just --

18 **JOSEPH MENENDEZ:** a lot of detail.

19 **PRESIDING COMMISSIONER GARLAND:** all right.

20 **JOSEPH MENENDEZ:** Okay.

21 **PRESIDING COMMISSIONER GARLAND:** Just answer the
22 question. If you don't think that, you can say no. If you
23 do think that that's, you can say no, you can say yes.

24 **JOSEPH MENENDEZ:** Uh, I would say no.

25 **DEPUTY DISTRICT ATTORNEY MILIUS:** Okay. So let me

1 ask, uh, Mr. Menendez about the, uh, uh, Brian Eslaminia
2 letter. Uh, did you write a letter to Brian Eslaminia
3 asking him to lie on your behalf, saying that a effort was
4 made by Mr. Menendez and his brother to acquire two guns
5 in the week before the murder?

6 **PRESIDING COMMISSIONER GARLAND:** You can answer that,
7 but I -- I feel like a lot of this is pretty undisputed.
8 So, but I'll give you some leeway.

9 **JOSEPH MENENDEZ:** Yes.

10 **PRESIDING COMMISSIONER GARLAND:** Go ahead, Mr.
11 Menendez. You did that?

12 **JOSEPH MENENDEZ:** Yes. Yes.

13 **DEPUTY DISTRICT ATTORNEY MILIUS:** Now, this sort of
14 goes back to the Traci Baker letter, but in this letter,
15 same sort of question that I asked before, there's a -- a
16 lot of detail. Was it your effort in writing a letter like
17 this with lots of details, even though the incident never
18 happened, was it your effort to include as much detail as
19 possible, scripted detail, for, uh, the lie to seem more
20 believable so that your audience would believe that this
21 is actually what happened, even though this is not at all
22 what happened?

23 **PRESIDING COMMISSIONER GARLAND:** You can answer that.

24 **JOSEPH MENENDEZ:** No.

25 **DEPUTY DISTRICT ATTORNEY MILIUS:** Would you agree

1 that -- that letter is extremely detailed in its
2 description of what, uh, you are asking him to testify
3 about?

4 **PRESIDING COMMISSIONER GARLAND:** Go ahead.

5 **JOSEPH MENENDEZ:** Uh, yes.

6 **PRESIDING COMMISSIONER GARLAND:** And that -- and that
7 is, um, that was a lie --

8 **JOSEPH MENENDEZ:** Oh.

9 **PRESIDING COMMISSIONER GARLAND:** the whole letter,
10 right?

11 **JOSEPH MENENDEZ:** Um, now I'm confused. Which --
12 which -- which one is he referring to?

13 **PRESIDING COMMISSIONER GARLAND:** Eskemenia, I think.

14 **DEPUTY DISTRICT ATTORNEY MILIUS:** Esle -- Eslaminia,
15 yeah.

16 **PRESIDING COMMISSIONER GARLAND:** Oh, sorry.

17 **JOSEPH MENENDEZ:** Oh, oh, um, I'm not sure how
18 detailed it was. It's a, I don't remember it that well
19 now.

20 **PRESIDING COMMISSIONER GARLAND:** All right. So --

21 **JOSEPH MENENDEZ:** I never --

22 **PRESIDING COMMISSIONER GARLAND:** so Mr. Malius, your
23 time is almost up. If, I -- I feel like you might be, uh,
24 beating around the bush a little bit to get to what you're
25 getting at. I mean if it is about, uh, you know, including

1 a lot of details to support a lie, I -- I -- I mean I
2 think he's answered that -- that -- that wasn't his
3 intent. And my guess is you're also asking that because of
4 the -- the detail in some of his writings. I mean so if
5 that's the point, maybe you could just say that or --

6 **DEPUTY DISTRICT ATTORNEY MILIUS:** Sure.

7 **PRESIDING COMMISSIONER GARLAND:** clarify what your
8 point is.

9 **DEPUTY DISTRICT ATTORNEY MILIUS:** Uh, the letter, uh,
10 I'll read the question. Part of the, uh, letter, it says,
11 the car was very messy. There was all kinds of clothes,
12 shoes and rackets, and you pushed it into the space behind
13 your seat. The car is a hatchback, the wheels are black,
14 the interior --

15 **PRESIDING COMMISSIONER GARLAND:** No, no, no. I don't
16 -- I don't want to know what's in the letter. I want to
17 know what you're trying to get out from Mr. Menendez.

18 **DEPUTY DISTRICT ATTORNEY MILIUS:** Mr. Menendez, in an
19 effort to avoid responsibility for his conduct when he
20 gets caught, makes a very compelling, uh, false statement
21 about what it is that, uh, um, some -- some alternative
22 explanation that is not true.

23 **PRESIDING COMMISSIONER GARLAND:** But what's your
24 question?

25 **DEPUTY DISTRICT ATTORNEY MILIUS:** The -- the question

1 is, does he acknowledge that he does that?

2 **PRESIDING COMMISSIONER GARLAND:** Okay. Um, I think he
3 said no three times now, that that was in -- in a way to
4 be, I guess evasive or to, um, make the lie more
5 believable. But do you think that there's anything that
6 you acknowledge in that statement, uh, Mr. Menendez, about
7 these detailed lies, you know, details that come into
8 something that's just totally made up? Um, --

9 **JOSEPH MENENDEZ:** No.

10 **PRESIDING COMMISSIONER GARLAND:** Any reason you
11 committed, you included all those details?

12 **JOSEPH MENENDEZ:** Uh, just because the dinner
13 happened, so I had a lot of memory detail of the dinner
14 and I just included her.

15 **PRESIDING COMMISSIONER GARLAND:** Well that was about
16 the other letter that didn't happen at all, so, okay.

17 **JOSEPH MENENDEZ:** I -- I don't know --

18 **PRESIDING COMMISSIONER GARLAND:** Mr. Milius, let --
19 let me --

20 **JOSEPH MENENDEZ:** about the letter. I never seen it.

21 **PRESIDING COMMISSIONER GARLAND:** You were the one who
22 wrote it.

23 **JOSEPH MENENDEZ:** Right. I didn't, uh, I just can't
24 remember exactly what was in it. Uh, uh, I never saw it
25 again.

1 **PRESIDING COMMISSIONER GARLAND:** Any other questions
2 Mr. Milus?

3 **JOSEPH MENENDEZ:** But it may have been -- it may have
4 been detailed.

5 **DEPUTY DISTRICT ATTORNEY MILIUS:** Um, with respect to
6 being, uh, removed from the will, uh, when -- when your
7 father, when Mr. Menendez's father, uh, removed him from
8 the will, how did that make him feel?

9 **PRESIDING COMMISSIONER GARLAND:** So, well you can
10 answer that.

11 **JOSEPH MENENDEZ:** Uh, didn't really have any effect
12 on -- on my life. I didn't take it, I took it to mean he
13 was upset and it didn't have any real meaning in my life
14 because, uh, whether I was in a will or not had no effect
15 on my life. And it wasn't -- it wasn't affecting my, he
16 wasn't cutting me off or changing my life. It was just
17 sort of like a will statement. So I -- I didn't have, I
18 didn't have, I -- I didn't take it -- it didn't have any
19 effect on me, actually, other than I knew he was upset.

20 **ATTORNEY RUMMEL:** We're over 15 --

21 **JOSEPH MENENDEZ:** It was just --

22 **ATTORNEY RUMMEL:** we're over 15 minutes now.

23 **PRESIDING COMMISSIONER GARLAND:** I just said that was
24 the last question. So your client is --

25 **ATTORNEY RUMMEL:** Oh, I didn't, I'm sorry I missed

1 that.

2 **PRESIDING COMMISSIONER GARLAND:** still answering.

3 **PRESIDING COMMISSIONER GARLAND:** No --

4 **ATTORNEY RUMMEL:** I missed that.

5 **PRESIDING COMMISSIONER GARLAND:** he's still
6 answering, so.

7 **ATTORNEY RUMMEL:** You can finish Mr. Menendez.

8 **PRESIDING COMMISSIONER GARLAND:** I -- I think he's
9 answered, he's --

10 **JOSEPH MENENDEZ:** Yeah, I gave my answer.

11 **PRESIDING COMMISSIONER GARLAND:** saying that being
12 removed from the will had no effect on him. All right. Ms.
13 Rummel, it is 2:08 p.m. Thank you.

14 **ATTORNEY RUMMEL:** I will start where he left off. So,
15 after the will, did you still have unlimited spending
16 ability with Amex cards and cars and condos and a plan to,
17 in, for your father to put you in business with a million
18 dollars? Did all of that remain in effect after your
19 father told you -- you were removed from the will?

20 **JOSEPH MENENDEZ:** Yes.

21 **ATTORNEY RUMMEL:** So nothing about your immediate
22 life changed at that point?

23 **JOSEPH MENENDEZ:** No.

24 **ATTORNEY RUMMEL:** In terms of money access spending?

25 **JOSEPH MENENDEZ:** No.

1 **ATTORNEY RUMMEL:** The Commissioner asked you early on
2 in the hearing about hypervigilance. Um, can you briefly
3 describe the difference between the predictability of your
4 father's abuse and your mother's abuse and that, how those
5 contributed to your hypervigilance?

6 **JOSEPH MENENDEZ:** Um, yes. Uh, my father's violence
7 had, usually had a purpose that I could see. Uh, it was
8 either something I specifically did wrong or he wanted to
9 kill something or eliminate a problem or do something or
10 something violent. It had a purp -- sometimes he would
11 have an actual lesson afterwards. Uh, my mother was just
12 reactive, mostly to her own mental state of what was
13 happening with her. Uh, a lot of times high or
14 intoxicated, and it would just happen. So she was much
15 more, uh, unpredictable. And, uh, both of them caused a
16 lot of reading cues, cause you didn't know what my mother
17 -- my mother might have told my father that would've
18 caused him to go off. So you were hypervigilant, but, uh,
19 probably more so with my mother, because you really, it
20 could happen for no discernible reason, so you had to just
21 watch.

22 **ATTORNEY RUMMEL:** What were the cues in the week
23 leading up, from the time Erik told you about the abuse,
24 so really actually from the time you spoke to your father
25 about knowing about his continued sex -- sexual abuse of

1 Erik? What were the cues? Just a list, not a long
2 description of the cues that, um, led to the fear and
3 concern that you and Erik were in danger in those few
4 days.

5 **JOSEPH MENENDEZ:** Uh, one big one was not, the family
6 wasn't talking. My father was a big, sit you down and tell
7 you how it's going to be kind of guy. So for something
8 like this to have been discussed Thursday and him not
9 bring it up again, in my mind then was an enor --
10 enormous, uh, fact. Like something was, he was doing -- he
11 was doing, he was planning something that he wasn't
12 talking about, uh, so that was a big cue. My mother
13 talking about it --

14 **ATTORNEY RUMMEL:** Did you try to bring it up with him
15 during that period of time?

16 **JOSEPH MENENDEZ:** I did not.

17 **ATTORNEY RUMMEL:** Did you talk to him about tennis
18 camp during that period of time to get a read on where he
19 was at?

20 **JOSEPH MENENDEZ:** My brother and I decided I would
21 feel him out Sunday during the day and ask him about this
22 camp that he had been really wanting me to attend and was
23 planning. And his response was, what does it matter
24 anymore? So that was definitely a triggering sentence. Uh,
25 uh, --

1 **ATTORNEY RUMMEL:** And what was your mother saying
2 about the fact that all of a sudden, all four people in
3 the family knew about this abuse was the biggest secret of
4 all going on? What did she say?

5 **JOSEPH MENENDEZ:** Well the first I learned that she
6 knew was when she was running up the stairs in my guest
7 house and said, no one -- no one ever helped her when I
8 confronted her. My brother said, my mom knows, mom knows
9 about what's been happening with me. She ran up, we ended
10 up in an argument, and the phrase that sticks out the most
11 to me is that nothing, no one ever helped her. And it
12 sticks out to me because I ended up discussing it with my
13 Aunt Joan, so, so I knew something had happened to her.

14 **ATTORNEY RUMMEL:** We're limited on time, so even
15 though you're emotional, I'm going to push on, I'm sorry,
16 Mr. Menendez. Did your mother also tell you in that short
17 time period leading up to the killings that you had ruined
18 the family, and how did you interpret that comment?

19 **JOSEPH MENENDEZ:** Did I what? Sorry.

20 **ATTORNEY RUMMEL:** Did your mother also make the
21 statement to you during that time period, lead, you and
22 Erik leading up to the shootings, that you had ruined the
23 family? And how did that impact, how did that contribute
24 to your fear and hypervigilance?

25 **JOSEPH MENENDEZ:** Well a couple of times, Wednesday

1 she acted like she knew, but with my brother, you think
2 I'm stupid, of course I knew, and honestly I didn't think
3 she, I couldn't wrap my mind around the fact that she
4 knew. So I, it had an impact, but I -- I had a fantasy
5 that she never, she didn't really know. And then she was
6 making statements like, we came back Saturday night after
7 the fishing trip, and the door was locked, so she had to
8 come down to open it. That I rui -- I rui -- ruined this
9 family, and Erik ruined it by not keeping his mouth shut,
10 I think just telling me. And so the -- the past tense of
11 it made me just, uh, you know, that was, she was talking
12 about the family in the past tense. And then right before
13 the shooting, uh, that was the first time all of four of
14 us were together. So when my dad ordered Erik up to the
15 room, she wasn't doing anything to help. And I think
16 that's when it, that's when I kind of just collapsed and,
17 that.

18 **ATTORNEY RUMMEL:** Thank you. Um, why is it difficult
19 for you to discuss the sexual abuse with your mother?

20 **JOSEPH MENENDEZ:** I think just I didn't, there's so
21 little love in my relationship with my mother that was
22 overt. I would sometimes sit with her and we'd have these
23 moments of connection and she was not all there, but there
24 was nothing overt. So with this little period, you know,
25 and I get that it was abuse, but, you know, there was a

1 lot of love in it. So I felt like, I don't like, I know
2 when I talk about it, someone else is going to use it as
3 an abusive event, and I don't like it, you know. And I
4 call it that myself. I'm like I'm aware now, I'm not going
5 to, you know, I'll be, I'm obviously aware that it's
6 abusive, but I didn't -- I didn't want it to come out at
7 trial, told my attorney I don't think it's relevant. I
8 don't want every, you know, it's -- it's just always been
9 something that's just difficult for me to -- to take
10 something that in my heart, it's one of those few special
11 things and ruined.

12 **ATTORNEY RUMMEL:** The Commissioner asked you a lot
13 about your feelings after the crime, and you discussed
14 those, um, when the regret set in, what the timeline on
15 regret was in those sorts of things. Did you feel how, in
16 terms of like being an adult in the world and taking
17 charge of your life, how did you feel once your parents
18 were gone? Did you feel like a man? Did you feel lost?
19 Did, how did all of that relate to your conduct in the six
20 months after the crime and before your arrest?

21 **JOSEPH MENENDEZ:** Uh, I felt very guilty and wanting
22 to not, wanting to -- wanting to uphold that image of a
23 perfect family, and -- and I felt like I owed my dad that.
24 And, uh, I felt, uh, --

25 **ATTORNEY RUMMEL:** You mean --

1 **JOSEPH MENENDEZ:** just crushed.

2 **ATTORNEY RUMMEL:** what did you owe your dad in terms
3 of being the perfect family? You obviously weren't the
4 perfect family after these crimes. What did you feel like
5 you still owed your dad?

6 **JOSEPH MENENDEZ:** Well it was just this remarkable
7 thing that my whole extended family, obviously some of
8 them ended up know, I didn't realize they knew, some of
9 them knew more than they did, but at that time I felt like
10 they don't know any, they don't understand, they don't
11 know everything, the dark side of what's happening in this
12 family. And so I don't want it out. I don't want to kind
13 of like, you know, kill his reputation also. And so I just
14 went overboard and -- and you see it on the Oziel tape,
15 like I'm just, like I'm doing the best that, so my dad is
16 the best thing. And, uh, --

17 **ATTORNEY RUMMEL:** Is, do you think part of your
18 entitlement that we talked about, um, as a young person
19 before and after these crimes, um, relates to your father
20 fixing things in your life, fixing plagiarism at
21 Princeton, fixing the burglaries, fixing things in your
22 life?

23 **JOSEPH MENENDEZ:** Yeah, I hid behind my dad. He was
24 the fixer, and I was happy with it. It made me, I was a
25 very insecure kid, and even as his adult, young adult,

1 super insecure, so I was always coming back home and
2 taking his direction. And --

3 **ATTORNEY RUMMEL:** And how do you connect that to your
4 decision to commit the crime, to, or to try to fix what
5 was happening in the family and your decisions during,
6 leading up to the trial? I mean obviously only one person
7 perjured themselves. It wasn't as sophisticated as we
8 would like, you know, the Commissioner would like to
9 portray, it was all exposed and, um, and -- and the
10 letters, you know, in the -- in the jail. But -- but --
11 but do, in terms of being a fixer, um, do you think that
12 contributed to your choices after Erik told you the abuse
13 was ongoing and your choices when you were in the LA
14 County jail soliciting perjury?

15 **JOSEPH MENENDEZ:** In the last week after the abuse,
16 it was more the reverse. I didn't, I couldn't go to dad to
17 fix it. So for the first time I was having to solve this
18 on my own, and I was flailing, uh, and, you know, clearly
19 had normalized violence and using, and, you know, in that
20 way, my, that was some influence from my dad. But in the
21 County Jail, I was still just, you know, I survived my
22 childhood through hiding and secrecy and not exposing and
23 lying was nothing to me at -- at in my childhood and my
24 family. Uh, and so I -- I had to wake up from that, you
25 know? I had to -- I had to learn that. So, yeah, my dad's

1 voice was just, it's my choices, but his voice was in my
2 head of like, you know, kind of like, how dare you talk
3 about you've, you, you've caused this disaster and now
4 you're going to -- you're going to air my dirty laundry to
5 the world for what? To save your own hide? Like, no, you
6 know, that's not what I raised you to be like. And it just
7 was still, it was -- it --

8 **ATTORNEY RUMMEL:** All right.

9 **JOSEPH MENENDEZ:** was warped, but it was, that's how
10 I felt. So I tried to convince my brother not to do.

11 **ATTORNEY RUMMEL:** Um, thank you. Um, the -- the
12 Commissioner talked to you about narcissistic traits, um,
13 and you, I know you've discussed that with Dr. Hauser, you
14 discussed it here today. Do you understand narcissism to
15 be, a component of narcissism is lack of empathy and --
16 and lack of care for other people or not? Do you?

17 **JOSEPH MENENDEZ:** Yes. Yes. Absolutely, yes.

18 **ATTORNEY RUMMEL:** Um, during your journey in prison,
19 would you describe yourself as having gotten to a place
20 where you care about other people and have empathy, um,
21 particularly people on the yard who are less fortunate,
22 more vulnerable, um, how -- how has that developed in you
23 over time?

24 **JOSEPH MENENDEZ:** It was, it's -- it's -- it's mo --
25 one of the reasons I like myself most is I'm, I have,

1 growing up with my dad, kind of seeing vulnerable people
2 as sheep, literally calling them diseased sheep, calling
3 my Uncle Carlos, just for being a gentle person. It just
4 became important to me as I tried to figure out how I can
5 be different than who my dad wanted me to be. To tap into
6 the empathy I felt I had to -- to -- to be around, and
7 including sex offenders, was a big part of me finding
8 forgiveness for my dad. Seeing the humanity --

9 **ATTORNEY RUMMEL:** Have you programmed with sex
10 offenders -- have you programed with sex offenders and
11 discuss their harms with them?

12 **JOSEPH MENENDEZ:** Yes. I sit in a group with them now
13 and I, it's just been an important part of my journey. I
14 needed to feel self-compassion and understand, and it --
15 it really helped me forgive my father, and him forgive me.
16 I can't talk to him about it, but in my mind we -- we
17 talked, we've talked about it and I understand him better.

18 **ATTORNEY RUMMEL:** Do you feel you --

19 **JOSEPH MENENDEZ:** And my dad --

20 **ATTORNEY RUMMEL:** uh, embrace and protect transgender
21 people, for example. I know you have letters in your
22 packet, but are there other examples of empathy, um, for
23 people when it goes unnoticed, when it's not, um, for
24 recognition or for the attention of staff?

25 **JOSEPH MENENDEZ:** Yeah, the groups kind of live in

1 the shadows of CDCR. They get very bullied and mocked, and
2 I've been there, I've experienced it. Um, and it's just
3 amazing how important it is to just have that, be present
4 for them, have that moment in privacy, let them, they know
5 that. so they will come talk to me instead of other
6 people. And sometimes I do in a public way, do it because
7 I think it needs to send a message that they're just like,
8 you, you're no better, we're all the same.

9 **ATTORNEY RUMMEL:** The Commissioner cited to some very
10 outdated letters, um, from I think the time of the
11 probation officer's report about three people, the
12 detective, your Uncle Bryan, and one other person who
13 thought it would be better for you and Erik to be
14 separated. And I know you've talked about there was
15 definitely a silver lining to that. Um, I'm interested in
16 you sharing briefly with the Panel, the conversation at
17 your DRB from the Sergeant or Lieutenant who knew you well
18 about what he thought about putting you together with Erik
19 in a room full of other people. Do you know what I'm
20 talking about?

21 **JOSEPH MENENDEZ:** Uh, I believe so. Uh, you talking
22 about manipulation? I think so.

23 **ATTORNEY RUMMEL:** Um, no. I'm talking about there was
24 a, at a D -- you -- you -- you were assigned a prison
25 through the DRB process because you're a high profile --

1 **JOSEPH MENENDEZ:** Right.

2 **ATTORNEY RUMMEL:** Inmate. Is, can you talk about the,
3 this, I don't remember his name, Sergeant or Lieutenant
4 who knew you well, who was at your DRB hearing when the
5 discussion of whether you should be placed on the same
6 yard as Erik or not, and what he saw in you and what he
7 said about you that resonated with you.

8 **JOSEPH MENENDEZ:** Right. It was Director Stainer. Uh,
9 he was the Director of Corrections at that point. Uh, when
10 I met him, he was the Associate Warden that removed me
11 from the yard when I wasn't fighting back. He was an
12 Associate Warden then. And so he knew my character early
13 in my incarceration to some degree, right, and he -- he
14 felt like now he was the Director and he was having to
15 make a decision on whether to place me with my brother,
16 and there were people that weren't sure about it. And --
17 and, uh, some were saying that a lot of the things that I
18 had accomplished were, you know, maybe it's just for some
19 purpose, you know, to try to be with your brother or
20 something. And, uh, it was Director Stainer that said,
21 like, you know, I know you and, uh, I believe that you can
22 be a positive influence on your brother. Uh, and you know,
23 and -- and just felt like you as the older brother today,
24 very different from the older brother in the past. Like
25 today you'd be -- you'd be a positive influence on. And so

1 that was part of his decision to -- to put us together, is
2 his belief in me.

3 **PRESIDING COMMISSIONER GARLAND:** All right. Let's,
4 last question.

5 **ATTORNEY RUMMEL:** Can I ask two more questions,
6 please? He went a little over. Um, you have been on CDCR -
7 We -- we spent about one minute on your positive behavior
8 and conduct. Um, but you have been living on CDCR Level
9 Four yards for most of your time and more recently in
10 lower levels --

11 **JOSEPH MENENDEZ:** Yes.

12 **ATTORNEY RUMMEL:** um, among extreme violence. And you
13 have not been part of a gang and you have not perpetrated
14 any violence. How have you, why and how have you done
15 that?

16 **JOSEPH MENENDEZ:** Uh, mostly my, uh, mostly cause I'm
17 -- I'm -- I'm, my life is defined by an extreme act of
18 violence, so I want to be defined by something else. And
19 then I got blessed that my grandmother made me promise not
20 to be violent. I don't think she realized how difficult
21 the request that was in prison. And, uh, um, she has a way
22 of doing it with her, you know, pinky promise. So that
23 just stuck with me. I feel like I took everything from
24 her. She loved her son, she loved her grandson. That was
25 me. So I took both of those things from her. So it's just

1 doing it for her. And, uh, eventually it just became
2 ingrained like, no violence, man, no violence, no matter
3 what, so.

4 **PRESIDING COMMISSIONER GARLAND:** So, one -- one more
5 question, as long as we get a fairly short answer, if it
6 can't be answered short, I'm going to move on.

7 **ATTORNEY RUMMEL:** Thank you. Um, Commissioner Reardon
8 asked you about being eligible for habeas or resentencing
9 in October. Um, can you tell us, you know, when you live
10 as a person who will die in prison, LWOP sentence, um, and
11 then there's a -- there's a glimmer of hope, like when you
12 make your peace with that sentence, does the filing of a
13 court document or something else, does that flip the --
14 the switch of I -- I -- I can survive this sentence and
15 rise above it? Was that a switch that flipped for you on
16 the day that your paperwork was filed? Or was that a
17 longer process for you? And do you believe now in your,
18 the chance that you will be able to go home one day?

19 **JOSEPH MENENDEZ:** Um, it took a few months. It took
20 my brother and I really wrapping our mind around it, cause
21 you don't have, you just have no belief. You, you've sort
22 of lived in this moment for so long that it feels not
23 believable. But, uh, eventually we, eventually I wrapped
24 my mind around it, eventually.

25 **ATTORNEY RUMMEL:** Thank you.

1 **PRESIDING COMMISSIONER GARLAND:** All right. Thank
2 you, Ms. Rummel. All right. Um, we're going to go into
3 closing statements. I need a comfort break. I promise
4 it'll be shorter than the last one. It's 2:28 p.m. Um, uh,
5 three, four minutes should do it for me. Hopefully that'll
6 be enough for all of you and we can get started soon.

7 **RECESS**

8
9 **DEPUTY COMMISSIONER REARDON:** We are now back on the
10 record, Commissioner.

11 **PRESIDING COMMISSIONER GARLAND:** It's 2:33 p.m. and
12 everyone has returned. Uh, Mr. Milius, you are up for your
13 closing statement. As I said at the outset, we'll go up to
14 15, but, uh, I certainly find 10 minute closings quite
15 effective. So, uh, let's try to keep it as -- as concise
16 and brief as possible. So go ahead.

17 **DEPUTY DISTRICT ATTORNEY MILIUS:** Thank you, Your
18 Honor, or, uh, Commissioner, again force of habit. Um, at
19 the core of rehabilitation is a concept of insight,
20 whether an inmate takes genuine responsibility for his
21 criminal conduct. There could be no true redemption or
22 rehabilitation where the perpetrators of heinous crimes
23 continue to lie, not only about their past violent
24 conduct, but also about their rehabilitative path. Now, I
25 stress the word genuine. Is what Lyle presents today in

1 the form of a personal statement and his comments during
2 this hearing an honest reflection of a deep and sincere
3 effort to take responsibility for his conduct? Or is it
4 the product of a man who calculates what he says for the
5 effect it has on its audience so that he may be, may
6 personally benefit, a man who has yet to genuinely --
7 genuinely take responsibility for his conduct? I'm going
8 to, uh, start off at the end, basically his time in
9 incarceration. Lyle's conduct while in the custody of the
10 CDCR is indicative of a lack of appreciation for the
11 consequences of his conduct. While Lyle's conduct includes
12 notable instances of commendable behavior, he is still
13 unable to follow basic rules while in a highly structured
14 setting. While in the custody of the CDCR, Lyle has eight
15 rule violation -- rule violations for which he has found,
16 been found guilty. With regard to the youth factors, while
17 he committed the crimes when he was relatively young,
18 Lyle's continued willingness to commit crimes and violate
19 prison rules show a lack of growth from his youth. In fact
20 all eight of Lyle's rules violations occurred after Lyle
21 turned 26 years old, past the age when adolescent brains
22 are not yet fully mature, an area of the brain responsible
23 for impulse control, understanding consequences and other
24 executive functions is not fully developed. Additionally,
25 Lyle's eight rules violations obtained after his 26 years

1 indicates that the burglaries and -- and the murder cannot
2 be entirely attributed to immaturity, but rather to a
3 reflection of who Lyle is and who he continues to be.
4 Perhaps most concerning to these violations were recent,
5 having occurred in 2024, and I think the questioning today
6 indicates that it's not just recent violations, but it's a
7 pattern of conduct that culminated in 2024 with regard to
8 cell phone use. While the, while his recent rules
9 violations do not involve violent, violence, one can still
10 pose a risk to public safety in many ways without engaging
11 in violent behavior. To quote his Comprehensive Risk
12 Assessment, "Mr. Menendez performance in prison, while not
13 overly violent, continued to demonstrate similar
14 entitlement and lack of appreciation for the consequences
15 of his behaviors." Further, at the same time that Lyle
16 occupied leadership positions focusing on the betterment
17 of his community and attending prosocial programming, he
18 was engaged in rules violations. This outward appearance
19 of positive behavior while privately engaged, in engaging
20 in rules violations, shows an ongoing struggle with
21 honesty. Lyle's behavior is consistent with someone that
22 selectively follows the rules depending on how they
23 benefit him. It's also hard to imagine that Lyle did not
24 understand the real -- real potential dangerous
25 consequences that are the reason for the prohib --

1 prohibition of cell phones in prison. It seems he decided
2 based on his own personal analysis, the rules shouldn't
3 apply to him. When he was caught breaking the rule, he
4 resorted to the same type of behavior he exhibited during
5 his murder trial, lying to avoid the consequences of his
6 behavior. Whenever, uh, put in a position where he has to
7 evaluate the rules, Lyle makes a decision on whether or
8 not the rules should apply to him, and then independently
9 decides what will benefit him and goes forward. And when
10 he gets caught, he lies about it. That's the same behavior
11 exhibited from his time in Princeton, to the burglary, to
12 ultimately the murder, and then his, uh, his time in
13 custody. There is no growth. It is just who Lyle appears
14 to be. Now with respect to insight on the, uh, murders and
15 -- and really just as -- as looking at Lyle as he sits
16 before us, he wants us to take his word for his redemptive
17 path, his rehabilitation. But when you look at him, Lyle
18 has a long documented history of lies made to avoid the
19 consequences of his action. This is especially true during
20 the murder. Uh, as I said before, early in the hearing in
21 re Lawrence and in re Shaputis makes clear, the Supreme
22 Court has made clear that a lack of insight into the
23 gravity of the crime and a lack of remorse can provide
24 evidence the inmate remains a threat to public safety.
25 Before and shortly after -- after he and his brother

1 brutally murdered his parents, Lyle attempted to create an
2 alibi. He was immediately trying to avoid the
3 consequences. Today when he was asked about his behavior
4 before the murder, he took pains to indicate that this was
5 impulsive. When the Commissioner asked questions which
6 were logical, that there appeared to be pre-planning
7 involved, he obfuscated and essentially lied. There is,
8 obviously this case was pre-planned, and the idea that
9 Lyle would purchase hand, uh, uh, shotguns for the, uh,
10 purpose of de-escalation is -- is simply just not -- not
11 believable. After getting, uh, killing his parents, after
12 trying to create the alibi, Erik, Lyle and Erik got rid of
13 the murder weapons, disposed of their clothes, they called
14 911 in tears, and when the police arrived, they wa --
15 wailed hysterically, dramatically cursing whoever had
16 murder their parents, which is indicative of a degree of
17 sophistication. They tried to cover up the murder that
18 they had committed. They purchased the weapons in advance,
19 they killed their parents, and then tried to cover it up.
20 When Erik and Lyle thought they could not be connected to
21 the murders, they lied to the police, their friends and
22 family and said they were not involved. This is exactly
23 consistent with his current behavior. When he is, uh,
24 commits, uh, a violation, he lies about it, tries to
25 escape responsibility. Though it took several months,

1 police eventually connect the murders to Erik and Lyle
2 through their confessions to a psychiatrist and shotguns
3 they purchased in San Diego. Now sitting in jail awaiting
4 trial, Lyle and Erik face a dilemma. They can no longer
5 claim that they had not killed their parents, whatever
6 their defense would be, it was constrained by the evidence
7 that their parents had been brutally shotgunned to death
8 while they sat completely unarmed on a couch, watching
9 television in their own den, shotgunned to death with guns
10 Lyle and Erik bought a few days earlier in San Diego. So
11 they moved onto a nex -- a new defense, sexual abuse. When
12 they realized sexual abuse alone was not a valid defense
13 to murder, they shifted their story to allege that it was
14 actually their parents who wanted to kill them, self-
15 defense. But how would they account for the fact that in
16 their confession to their therapist, they never mentioned
17 sexual abuse. Initially they had hoped that their
18 attorneys would be successful in preventing the jury from
19 hearing their confessions, but that failed, and the
20 therapist testified. Returning to jail after the
21 therapist's testimony, Lyle called a confident who
22 recorded that conversation, and we had that conversation,
23 we -- we had a recording of it. Lyle -- Lyle told this
24 confident, I'm going to have to make something up to show
25 this guy's, and he was referring to the psychiatrist's,

1 motive. His confidant replied, you got to be convincing.
2 And Lyle responded, oh yeah, which is no problem to me.
3 And then he later added, I'm just going to lie, which is
4 essentially what he does every time that he gets caught.
5 To support their defense, Lyle sat down to write two
6 letters. Sent, he sent one to Traci Baker to support his
7 claim of self-defense. He hoped to characterize his mother
8 as unstable and dangerous, so he scripted a detailed
9 instruction to Traci Baker to testify about a fabricated
10 incident in which his mother attempted to poison the
11 family during dinner. He sent another letter to his
12 brother's friend Brian Eslaminia to support his self-
13 defense claim. He hope to show that he attempted to obtain
14 a much more reasonable choice of self-defense weapon, a
15 handgun, before ultimately later acquiring a shotgun.
16 Prior to these letters, Lyle asked his girlfriend, Jamie
17 Pisarcik, to falsely testify that his father had violently
18 raped her. She refused, saying, "I can't believe you are
19 asking me to do this, and it's a lie and nothing like this
20 ever happened. Your father would never do that to me." If
21 Lyle had had his way, the jury would've been told not only
22 did Lyle's father rape him and his brother, but he also
23 raped Lyle's girlfriend. Nothing would've stopped that lie
24 from continuing to this day. Given the sheer volume of
25 deception, why should anyone ever trust any account Lyle

1 produces? Today Lyle continues to lie about the central
2 issue in the murder of his parents. He refuses to accept
3 responsibility for a pre-planned murder of his parents,
4 instead characterizes it as a mistaken but honest belief
5 in the need for self-defense. From the beginning, the
6 story of self-defense was fundamentally flawed. The
7 irrefutable evidence is that Erik and Lyle bought shotguns
8 instead of handguns, and bought those shotguns in San --
9 in San Diego instead of Los Angeles. As Lyle indicated
10 today in his testimony, a weapon like a shotgun is useless
11 as a self-defense weapon unless you carry it on you
12 whenever the threat is present. Lyle continues to claim
13 that during the week of the murder he believed his parents
14 were a threat to kill him at any time of day or night, in
15 or out of the house. Then and now, it's, that it would be
16 ridiculous to claim that he carried with him the shotgun
17 at all times and said he testified his shotgun remained
18 up, uh, before, right befo -- uh, right up until the
19 murder, unloaded, or he said loaded with the wrong type of
20 ammunition in his room. Obviously a reasonable self-
21 defense weapon would be something you would carry on you
22 ready to use whenever the threat presented itself, like a
23 handgun. At trial Lyle understood this dilemma, and he
24 understands it now, that's why he continues to lie. It's
25 why Lyle wrote a letter to Brian Eslaminia asking him to

1 lie to the jury that Lyle and Erik had attempted to get a
2 handgun from Brian days before the murder. It's also why
3 Lyle and Erik both lied and testified that they went to
4 Big Five. Lyle himself testified, basically, this is a
5 quote, "but basically were in the process of trying to buy
6 a handgun, then we were told that we weren't going to be
7 able to leave the store with them. Then it took two weeks,
8 a waiting period where they would have to check our
9 credentials so we left," end quote. But that was a
10 complete and utter fabrication. In 1986, three years
11 before Lyle claimed he was, he went to Big Five, the Big
12 Five store in Santa Monica stopped selling handguns. Now
13 on this lie, Lyle continues to essentially have the same
14 lie. Lyle also had to account for the fact that they
15 purchased shotguns in San Diego, not in Los Angeles. He
16 understood, as we understand now, the reasonable
17 conclusion was that they hoped to get away with the murder
18 of their parents by purchasing shotguns far from where the
19 police would be investigating the murder of their parents,
20 and by purchasing them under false identifications. If
21 they really wanted to purchase shotguns for self-defense,
22 they could have bought them at the Big Five that they
23 claimed that they went to, but they didn't because they
24 never went to the Big Five in Santa Monica. If they really
25 wanted to purchase shotguns, they could have claimed that

1 they bought shotguns in any of the number of, uh, gun
2 stores throughout Los Angeles County or even in Orange
3 County. But they didn't. Instead they, uh, claimed that
4 they drove, uh, to Ora -- to San Diego, 120 miles, without
5 the purpose of actually going to, uh, purchase shotguns,
6 and then coincidentally when they got there, they decided
7 to buy them. It defies common sense then, it defied common
8 sense during the trial, and it defies common sense now.
9 It's inconsistent with self-defense, but is consistent
10 with the planning, planned murder of their parents. The
11 problem for Lyle is that he was stuck with the evidence
12 that they purchased shotguns in San Diego. That is now the
13 only way to deal with that damning -- damning evidence was
14 to maintain a contorted lie that unreasonable accounts --
15 unreasonably accounts for their purchase. Lyle continues
16 to maintain the motive for the murder was a mistaken
17 belief in self-defense rather than murder committed for
18 financial reasons. In 1988, disappointed that Lyle had
19 been suspended from Princeton for cheating and for his
20 participation in a series of residential burglaries, his
21 parents had told Lyle they were going to remove him from
22 their will. Today, Lyle says that had absolutely no impact
23 on him. It's hard to imagine how a parent telling their
24 son you are removed from the will, would have no impact on
25 them. It's hard to imagine Lyle, a person who looked up to

1 his father, could possibly say that being removed from the
2 will would have no impact. On Monday, August 21, 1989,
3 less than 24 hours after murdering his parents, Erik and
4 Lyle met with family and friends, Randy and Klara Wright.
5 Randy was a lawyer. Erik and Lyle asked him about legal
6 issues relating to what would happen if their father had
7 competing wills and if a will on a computer would be
8 valid. That doesn't sound like the conduct of somebody who
9 is torn up inside about having just killed their parents.
10 That sounds like somebody --

11 **PRESIDING COMMISSIONER GARLAND:** Mr. Milius.

12 **DEPUTY DISTRICT ATTORNEY MILIUS:** Yes.

13 **PRESIDING COMMISSIONER GARLAND:** It is 15 minutes
14 right now, so please wrap it up.

15 **DEPUTY DISTRICT ATTORNEY MILIUS:** Okay. In
16 conclusion, when you look at the sum total of Lyle's
17 behavior starting off in Princeton, the suspension, the
18 participation in the burglaries, the murder, uh, the
19 trial, his lying during the trial, his conduct in custody,
20 particularly recen -- recently, Lyle looks at rules and
21 thinks to himself, they don't apply to him. The evaluation
22 is always whether the -- the conduct will benefit him. And
23 then --

24 **PRESIDING COMMISSIONER GARLAND:** All right, thank
25 you.

1 **DEPUTY DISTRICT ATTORNEY MILIUS:** Thank you,
2 Commissioner.

3 **PRESIDING COMMISSIONER GARLAND:** Thank you. Ms.
4 Rummel, it is, uh, 2:50 p.m. Go ahead.

5 **ATTORNEY RUMMEL:** Thank you. We are 36 years and a
6 couple days from the date of this crime, more than a
7 lifetime -- more than a lifetime. Lyle Menendez spent the
8 first 21 years of his life in the prison of his home, and
9 he has spent the remainder of his life in prison. Um, and
10 I am going to go back, I -- I -- I wanted to skip ahead to
11 who he is today and everything he's done, but I feel I
12 have to go back and address some of the things that Mr.
13 Milius said about the -- the crime, especially given the
14 fact that the Board is relying solely on the, um, the
15 appeal -- appellate decision. But I will first remind you,
16 and I know you know this Commissioner Garland cause we
17 were there, um, in re Lawrence case, the legal standard
18 for parole is whether Lyle Menendez poses an unreasonable
19 risk of danger to society today. Is he unreasonably
20 dangerous? Not whether he was dangerous to his parents in
21 1989, not whether he tried and basically failed to suborn
22 perjury after the crimes, not whether he was spoiled or
23 entitled or spent too much money after the crimes. Is he a
24 dangerous person today? Um, and he is not. He is not
25 dangerous. Um, yes, he killed his parents. Yes, it was

1 terrifying. The circumstances were terrifying. But what
2 was happening in that home? What was happening in that
3 house to little boys and to teenagers was terrifying. He's
4 not asking to be forgiven. He's not asking to be excused.
5 He's never claimed self-defense. Um, the issue at the
6 first trial was imperfect self-defense, but the DA's
7 Office kept that off the table for the second trial, so it
8 wasn't even an issue at the second trial, much less here
9 today. Um, and Mr. Milius, just like in yesterday's
10 hearing and recent resentencing hearings, clings to their
11 1990's theory of the case, the way they got the jury to
12 first degree murder verdicts. Abuse is a lie, the abuse
13 didn't happen, it didn't have anything to do with this
14 crime. Um, I hope -- I hope that we are at a place today
15 that we have a deeper understanding of childhood sexual
16 abuse. Certainly this Panel hears about the ramifications
17 of childhood sexual abuse all of the time. We're not here
18 to decide whether when he was facing the death penalty
19 with his brother who he felt responsible for, um, he made
20 up lies, um, to -- to -- to, you know, to have a lesser
21 sentence there. There, it was never not going to be a
22 sentence. Um, we're not here to decide whether Lyle
23 Menendez was an A plus -- plus perfect human being. We are
24 here to look at who he was at the time of these crimes and
25 who he is today. And we spent about two minutes on that,

1 um, in this hearing. All of the protective factors, all of
2 the positive conduct, all of the alliance with exactly the
3 people you would want someone to align themselves with
4 when they go to prison, the staff, the administration. Um,
5 his CRA spends so much time going through and finding
6 little details to ding him on, and -- and it does, um, but
7 it's -- it's not affected in the -- in the grand picture,
8 in the context of who he is today and what he's done. How
9 many people with an LWOP sentence come in front of this
10 Board with zero violence -- zero violence, getting
11 attacked, getting bullied, documented, and choose to do
12 something different. Zero gang involvement, zero substance
13 abuse. He doesn't even have a tattoo. And we, we're going
14 to talk about cell phones and much of this hearing was
15 discussing cell phones. And yes, that is a violation of
16 the rules, but we spent no time talking about the
17 hundreds, maybe thousands of rules that Lyle Menendez has
18 followed in prison for the last 30 years. None, no time at
19 all on that. We spent no time at all on what he did after
20 those cell phone violations to test himself, to understand
21 his thinking, to dig into the reasons he did it and to
22 address them, the, no time at all. Um, and I see the Board
23 working hard to create a nexus back to his crimes. He
24 sped, he -- he -- he had tickets, he lost his license, he
25 went to another state to get another license.

1 Fundamentally this was not a criminal thinking, criminally
2 driven crime. This crime arose from trauma, from
3 unresolved trauma, from fear, from sadistic abuse, and
4 from cruelty. Mr. Milius wants this to be some sort of
5 pre-planned crime. Commissioner Reardon has said, I can't
6 count how many times today, Mr. Menendez you're a very
7 intelligent man, I can see how intelligent you are. Well,
8 he was intelligent when he was 21 years old. A year after
9 he was supposedly removed from the wi- was removed from
10 the will, having done nothing about being removed from the
11 will, um, not making any effort to find the will, destroy
12 the will, change the will, they hatched this amazing plan
13 to get themselves back in the will by killing their
14 parents? I mean think about what Mr. Milius is asking you
15 to believe. They use, they go buy shotguns with birdshot,
16 um, to -- to -- to gun their parents down in -- in -- in
17 Beverly Hills on a quiet Sunday evening, two hours after
18 their plan that they made, you know, a pre-planned alibi.
19 If you have a pre-planned alibi, guess what, you wait and
20 you miss it, you wait till the next night and you get
21 another alibi. You want to kill your parents in a way that
22 looks like it's a mafia killing or that's going to be
23 undetected by police, you don't use shotguns in Beverly
24 Hills, in houses that are right up against each other, you
25 use -- you use handgun. What about this is pre-planned?

1 Everything about the the circumstance, the over-
2 emotionality of it, the lack of planning afterwards,
3 driving back to the house with shotgun shells in their
4 car, none of this speaks to a pre-planned murder. This was
5 an emotionally driven, maybe they were right in their
6 fear, maybe they were wrong, it's not the issue today. The
7 issue is whether Mr. Menendez who committed no violence
8 prior to this crime, is in a family which has well-
9 established unspeakable abuse. Dr. Nancy Kaser-Boyd for
10 decades working with childhood surv -- survivors of abuse,
11 working with women who have been battered by their
12 partners, one of the worst cases she's ever seen, and no
13 violence. Talk about a structured environment, yeah prison
14 is a structured environment and he had cell phones, but
15 he, the structure in prison, and you know what a Level
16 Four yard looks like, that's not run by, that's run by
17 people who are extraordinarily violent. And most people
18 who go to prison at least begin their prison careers by
19 committing violence on behalf of the people on the yards
20 or joining gangs, or at least defending themselves. Mr.
21 Menendez did none of this. So I, what I am anticipating is
22 going to happen today is that this Board is going to sit
23 here and say, you are dangerous because you used cell
24 phones Mr. Menendez in the face of an LWOP sentence. And
25 we have spent a lot of time on how dangerous cell phones

1 can be in prison, especially in the wrong hands, and Mr.
2 Menendez was in a pod where lots of people use the cell
3 phones, but there is zero evidence that he used it for
4 criminality, that he used it for violence, that he lied
5 about it. Mr. Milius talked about him lying about it. He
6 didn't lie about the cell phone. He admitted
7 responsibility at the last, um, few write-ups he got for
8 RVR's, in fact he apologized to staff. He was very candid
9 with you today about his cell phone use. Does Mr. Menendez
10 still have some shame about what happened in his
11 childhood? Does he still feel like he may never be good
12 enough because of the way he was raised? Does he still
13 over-explain sometimes where he's coming from? Maybe --
14 maybe he does that. Um, and I -- I hope that this Panel
15 can read the reports, read the evaluations, read the
16 formal psychological testing that -- that undermines the
17 easy answer. He's antisocial. He's narcissistic. Maybe he
18 has coping mechanisms to a life of imaginable trauma. And
19 there were many, many, many very honest moments today
20 where he shared with you what his experience was, how he
21 deals with it. You, I didn't get a chance to ask him about
22 it, but his Enneagram, understanding his personality
23 structure and explaining to you why he seeks external
24 validation and how he balances that with the need to be
25 doing things for the right reason. He has gone deep into a

1 lot of these things. He has a very firm accountability
2 network that will hold his feet to the fire, um, and make
3 sure, I don't know what Mr. Milius is concerned about,
4 maybe that he is going to use cell phones when he's
5 released. Um, he has followed so many rules in prison. All
6 eyes are on him. When -- when you -- when you have a
7 Menendez brother come into this Hearing Room, you know
8 what they've done because there is -- there is a
9 fascination by staff and other inmates to report it. And
10 there are a lot of things that get reported that he didn't
11 do, and the things he did do got reported, and he told you
12 about other things. So, um, look at his prison record and
13 -- and -- and square with yourself a decision that he is a
14 current risk of danger to our society. He has
15 reconstructed the prison yard. He has created groups, um,
16 on adverse childhood experiences. Um, he has aligned
17 himself with the most positive prosocial people in the
18 prison. He got dinged on that on the CRA too, because he
19 aligned himself with staff and positive people. Um, you
20 know, um, all right. I -- I -- I don't know where I am in
21 my time. If I have a little more time, I would like to
22 speak to the fact that the family who you will hear from
23 after you hear from Mr. Menendez, who know him -- know him
24 better than any of us can hope to know him in the course
25 of this hearing or the psychologist. Oh, wait, I have one

1 more thing I want to add. Every psychologist who has
2 examined or discussed abuse with Mr. Menendez, many at the
3 time of the trial, they weren't allowed to testify at the
4 second trial, but many, and all of them including the FAD,
5 um, psychologist, believed the abuse and believed that
6 this crime was driven by trauma. And all of them believed
7 that he pos -- he does not pose an unreasonable risk. The
8 -- the -- the CRA is very clear. He poses a moderate risk
9 in relation to people who have been released through this
10 Board process, um, who recidivate at less than 1%. So I
11 don't know what medium risk in terms of less than 1% is,
12 maybe it's half a percent, maybe it's less than that, but
13 it's certainly not unreasonable. Nancy Kaser-Boyd, formal
14 psychological testing, full psychological testing, very
15 low risk. Dr. Stuart Hart, who maybe he disagrees with
16 CDCR's assessment about how serious cell phones are, but
17 in this scheme of looking at whether someone is going to
18 have risky, dangerous behavior, does not believe that the
19 exist, that his cell phone use makes him dangerous. And
20 what's telling about Mr. Menendez is, once he understood
21 the, he -- he, he's like an all-in kind of person. When
22 he's in, he's all in. When he promised his grandmother, he
23 wouldn't be violent. He -- he -- he let himself get beat
24 up not to be violent. He -- he, when he decided he wasn't
25 going to use cell phones and he was going to take a

1 different path, he went to the clinician. He sponsored a
2 program, he dug in to understand it, and he made that
3 commitment and he made it to his family and his people who
4 are going to be holding him accountable. And the last
5 thing I want to say is, this family knows Lyle Menendez.
6 They've known him as a child. They saw what was happening
7 in that house and they understand. No one forgives what
8 he, no one -- no one excuses what he did. No one justifies
9 what he did. But they understand it, and they have seen
10 the man, he has become, great weight to growth and
11 maturity. That's what this Panel is required to do. And
12 they all believe that he has rehabilitated himself, that
13 he is a decent person, and that he poses no risk of danger
14 to society. And we ask that you find Lyle Menendez
15 suitable for parole today.

16 **PRESIDING COMMISSIONER GARLAND:** Thank you, Ms.
17 Rummel. Mr. Menendez, would you like to make a final
18 statement?

19 **ATTORNEY RUMMEL:** Do you need a moment Lyle, Mr.
20 Menendez, or are you okay to proceed? I think you're
21 muted.

22 **JOSEPH MENENDEZ:** I'm sorry.

23 **ATTORNEY RUMMEL:** I can't hear him.

24 **JOSEPH MENENDEZ:** Can you hear me now?

25 **ATTORNEY RUMMEL:** Yeah. Do you need a moment or are

1 you okay to proceed?

2 **JOSEPH MENENDEZ:** Um, I think I can proceed in just
3 one minute here, one.

4 **ATTORNEY RUMMEL:** Take a breath and then start. I'm
5 sorry, well the Commissioner will tell you, but can he
6 have a breath?

7 **PRESIDING COMMISSIONER GARLAND:** Yeah, go ahead and
8 breath. Take your time.

9 **JOSEPH MENENDEZ:** Belly breathing. Okay, I think I
10 can, I'm ready whenever. Go ahead.

11 **PRESIDING COMMISSIONER GARLAND:** Whenever you're
12 ready, go ahead.

13 **JOSEPH MENENDEZ:** Two days ago was the anniversary of
14 my crime on August 20th. 20 years ago I wrote in a letter
15 to my cousin, Anamaria, who I love with all my heart, that
16 I needed her to know I understood that the anniversary of
17 my crime was also the anniversary of her personal tragedy.
18 It is the anniversary of a crushing day in the lives of so
19 many of my family, a day that brought enduring pain that
20 has lasted to this very day. Now I think about all the
21 phone calls on that day and that my family received with
22 the shattering news, the loss, and the grief and anguish
23 and tears. I think about my mother's sister, Aunt Joan, my
24 father's sister, Aunt Marta, I think about my godmother,
25 Terry, and I know it was very likely the worst day of

1 their life. And I want to say I'm responsible for it. And
2 now on this day they have to relive it all over again. And
3 I want to acknowledge that the impact of my crime is not
4 just on those who were affected on that day, cause there's
5 been two new generations of family who have also had to
6 endure the impact of it. Cousins growing up, learning the
7 truth and dealing with the humiliation of it that they
8 didn't ask for, having to explain it through tears to
9 their young children, which I've talked to them about,
10 that they're related to this tragedy and always will be,
11 and I need to say I'm sorry for all that again. And
12 despite all of this, they're still here showing up for me,
13 disrupting their lives, dealing with a lot of public
14 scrutiny, still healing with me, and I will never be
15 deserving of it and never stop trying to be, and I want
16 that to be -- to be said out loud. I really had no other
17 real goal today than to make it very clear that I take
18 responsibility for all this pain. My mom and dad did not
19 have to die on that day. And my uncontrolled reaction to
20 use violence was my choice to fix something that couldn't
21 be fixed, it was no one's fault, it's mine. It's not my
22 baby brother's, it's mine. And I, it's my burden to carry.
23 But before the crime, and a while afterwards, I lived my
24 life hiding the truth and I'm deeply ashamed of it, and I
25 know there is no healing in hiding, only healing in

1 honesty. And I'm profoundly sorry for who I was. I really
2 am. And for the harm that everyone's endured. And I've
3 talked, I've mentioned it, but I want to just say, end
4 with a few words about my grandmother, who -- who isn't
5 here. She passed in 2007. We called her Mama, and Mama
6 taught me my first word, Avion, Spanish for -- for plane.
7 And she was often a protector for my brother and I, and I
8 miss her deeply. She had an iron will and a huge heart.
9 And after my conviction when I was sent to prison, she was
10 the one who made me promise to live a good life and to
11 never use violence again. And when I was a tiny boy, she
12 used to make me promise things the way grandmas do, and
13 she taught me to do it with a pinky promise, holding up
14 her pinky and hooking mine. And we made that promise at
15 County Jail through the glass, and I've thought about that
16 moment thousands of times, and no single moment in my life
17 since my parents' death changed the course of my life as
18 much as that one. And I have no doubt whatsoever that
19 she's watching today, she watches over me, and I will
20 never be able to make up for the harm I caused this
21 incredible woman, and the harm and grief I've caused
22 everyone in my family, and I am so sorry to everyone, and
23 I will be forever sorry. And well I wanted to say thank
24 you.

25 **PRESIDING COMMISSIONER GARLAND:** All right. Thank you

1 Mr. Menendez. So we are at the point in the hearing that
2 we will hear from the family members and, uh,
3 Representatives. I do have a new list. I'm going to start
4 off with you, Ms. Emig. Um, do you want to go ahead and
5 get started? Do the family members need a break? I'll let
6 you tell us how you would like to proceed on their behalf.

7 **MAYA EMIG:** Commissioner, I am prepared. I don't know
8 about the rest of them. Um, I -- I -- I left my phone just
9 a moment ago.

10 **PRESIDING COMMISSIONER GARLAND:** You -- you did what?

11 **MAYA EMIG:** I left my phone just a moment ago to, I -
12 - I don't, I haven't checked in with the victims right
13 now, but I'm prepared to go. They may need to break --

14 **PRESIDING COMMISSIONER GARLAND:** Okay.

15 **MAYA EMIG:** after this.

16 **PRESIDING COMMISSIONER GARLAND:** Okay.

17 **MAYA EMIG:** Can you hear me?

18 **PRESIDING COMMISSIONER GARLAND:** I can hear you. Are
19 you on screen? I can't see you. So let me see if I can get
20 you --

21 **MAYA EMIG:** Name on screen, Commissioner.

22 **PRESIDING COMMISSIONER GARLAND:** It's just I hate not
23 having a voice that goes with. Okay, hold on. There you
24 are.

25 **MAYA EMIG:** Okay.

1 **PRESIDING COMMISSIONER GARLAND:** All right. Thank
2 you. Go ahead.

3 **MAYA EMIG:** All right. Um, I'm Attorney Maya Emig,
4 and I am the Legal Representative for Joan VanderMolen. It
5 shouldn't matter my experience, my level of education, my
6 socioeconomic status, my age, my gender, the color of my
7 skin, or my sexual orientation. Marsy's Law is very --
8 very clear, and I'm hoping that I don't have to point it
9 out to this Panel. What I'm going to tell you as I
10 progressed through this, is that there, that yesterday's
11 hearing was -- was very difficult. It was difficult for,
12 um, the, in the decision, it was difficult, um, with
13 respect to, um, asserting rights, and I'm hoping that this
14 Panel will respect the law. So in a little bit you're
15 going to hear from this entire family. And as I said to
16 you yest -- about yesterday, we were in a hearing that
17 lasted nine hours and 57 minutes. It shouldn't go
18 unnoticed that we are here again, uh, in solidarity for
19 Mr. Menendez. There was a profound moment that happened at
20 2:11 p.m. today, and that was that in all this process we
21 saw a core to Mr. Menendez, that emotion, there are coping
22 skills at play that allow him to sit with everything. I
23 want to go into the next part of this, and that Parole
24 Board hearings are a context, shouldn't be married to what
25 happened in trial. It's hard to re-litigate and to address

1 issues like spending sprees and trying to put it into
2 context, that Mr. Menendez at a young age had more
3 spending power than 99% of the entire world, if not more,
4 I can go into even more demographics, but certainly in the
5 United States. He was, he had a Black American Express
6 card that enabled him to spend a half a million dollars
7 without a flag. And so yes, Commissioner, when we're
8 talking about spending sprees and we're talking about
9 flashy things, there are inherent coping skills. So I want
10 to spend just a moment talking about that because there is
11 a new narrative. There's that new narrative that should
12 happen in every Parole Board hearing. You know, the
13 submissions that we, uh, submitted, exquisite writings,
14 masterful in fact, from world specialists, should not be
15 discounted by this Parole Board. It's so alarming when a
16 narrative for abuse victims is, you should have run, you
17 should have gone. It is the year 2025. We have gone
18 through this evolution. Social Science dictates policy
19 now. It gives youthful offenders the consideration, it
20 gives elderly offenders consideration, it gives abuse
21 victims consideration. And so when a judicial body says
22 you should have run, I'm going to tell you something, it
23 doesn't matter. It doesn't matter about the person's
24 experience, their level of education, their social
25 economic status, their age, their gender, their skin

1 color, or their orientation. It is disturbing that in
2 2025, we have this reverberation. Parole Board hearings
3 are just this, it is understanding the entire context of
4 the offender. We don't use the word inmate anymore. We use
5 incarcerated person. There is an acknowledgement, a
6 fundamental acknowledgement that these are people, that
7 they have suffered significant traumas. And to sit in a
8 Board hearing where Mr. Menendez is answering questions
9 about the spending spree, that is the old narrative. There
10 were 55,000 pages that were submitted to the Board. I have
11 the email. They were submitted on June 20th. The verbiage
12 from DA Habib Balian was, please make this Statement of
13 View and accompanying exhibits available to the Board for
14 their review in prepping for the upcoming parole hearings
15 in August. I even, I have enclosed a link to the exhibits.
16 55,000 pages. Because I have to tell you, there is more to
17 the narrative than Dr. Oziel, and I use that word very
18 liberally, that is doctor, because as far as I'm
19 concerned, there are much more appropriate words. And so
20 what I want to say to you is this, suitability hearings
21 are about understanding the context of the person that
22 sits in front of you and a majority of the time we spent
23 in an archaic narrative that was ruled on by Judge
24 Stanley, can't think of his last name, because those
25 limitations took away a core narrative. And the amount of

1 deep breathing that I need to do right now is a coping
2 skill that I have developed just as Mr. Menendez has
3 developed countless coping skills. Because when you take a
4 person who is 21 years old and has suffered sexual abuse
5 from his father, sexual abuse from his mother, who has
6 perpetrated those things and has had countless coping
7 skills, and you put him inside CDCR, there is something
8 that absolutely says that he has coping skills. He reached
9 out for help early on. And yes, we can go into the
10 manipulation, you've done that profoundly today. I'm not
11 here to condemn this Board. I have great respect for these
12 Commissioners. I've spent my career in front of Deputy
13 Commissioner Reardon. I have enormous respect for
14 Commissioner Garland. I've done over 1500 suitability
15 hearings. And there is something -- there is something
16 about these hearings the last two days that breaks my
17 heart. And it's, there's just something about it, because
18 we're talking about an old narrative. There is such
19 childhood trauma, it's reflected in Mr. Menendez
20 submissions. Those are honest words. And when you hear
21 about manipulation and narratives that happen afterwards,
22 I want to go back for just a moment to August 20, 1989,
23 when a lot of us in this room had a lot of promise, except
24 for Mr. Menendez. He had been rife for those 21 years with
25 such significant trauma. Attorney Rummel talked to you

1 about Nancy Kaser-Boyd. I'm not going to requote it,
2 actually I am going to requote it because it is so
3 significant, "some of the worst trauma she has ever seen,"
4 and you can talk about that, because I don't know that we
5 went into this completely. I had to use the restroom a few
6 times during this hearing. Um, but when those shots rang
7 out, Mr. Menendez and his brother sat down. Lyle Menendez
8 put his arm around his brother and waited for the police.
9 I've been out to the location, it makes perfect sense. And
10 they waited and it didn't happen. And they left. Because
11 there is that moment where you have this, it doesn't
12 matter, it's a static factor, right? But I want you to
13 understand the coping mechanisms, because everything that
14 happens in those days and weeks and months, right, there
15 are these ironies. Shakespeare talks about it in, uh, in a
16 play that I can't think of right now, Comedy of Errors.
17 And it's all of these things, right? It's them getting the
18 shotgun shells the next day out of the car. It's about not
19 being swabbed because we know that they would've lit up
20 like a Christmas tree. It's a static factor. So I want to
21 put that into context for you, because Mr. Menendez was so
22 afraid of not being believed. And I hope that today
23 changes a narrative, because that's what Board hearings
24 are about. They're not about the shackles that happened in
25 the second trial. Those 55,000 pages are the big picture.

1 It's not about being married to a skewed version of
2 motions and decisions that one judge decided after the OJ
3 trial. So I'm going to say that to you. I want to go back
4 to cell phones for a moment because I want to talk to you
5 about again the growth -- the growth that has happened
6 inside CDCR, the shift, the understanding of youthful
7 offender, the understanding of elderly offenders. And then
8 there's a part of elderly offenders that I don't think
9 that is really -- really reflective in Mr. Menendez, who
10 was LWOP, and I want to spend just a moment talking to you
11 about that. Elderly offender takes into consideration
12 long-term confinement. We've been in hearings where people
13 have been incarcerated during the time when nobody was
14 getting out. You know, 2005 when maybe one person was
15 found suitable, and they bought into this mentality, even
16 now today when they're at their 15th suitability hearing,
17 when they are broken down, that took a chipping away. Mr.
18 Menendez went through an accelerated chipping away process
19 when he was sentenced to LWOP. There was a flicker,
20 probably of the hope that is associated with appellate
21 review. And there was that definitive moment, and I ask
22 for a moment that you sit with that -- that definitive
23 moment when all the appeals are done, and you are left
24 with that LWOP sentence when that hope is completely gone.
25 And there is that moment in humanity where you accept it

1 and that you try and figure out what you're going to do
2 with it. Mr. Menendez has such great prosocial things that
3 he has done. And when you curb it in the narrative, the
4 old narrative about narcissistic personality disorder and
5 all of that, but when you understand as Nancy Kaser-Boyd
6 has, and in the context of Dr. Stuart Hart, experts --
7 experts, we're not talking about a CR -- CRA that was
8 authored by somebody who doesn't take into account trauma.
9 It's all outlined in -- in -- in the masterful submission
10 by Attorney Heidi Rummel. And there is that moment, and
11 it's the decisions that he made every single day, I'm not
12 going to reiterate what Attorney Rummel has said, but I
13 just want you to put it into context. I want you to put it
14 into context who Lyle Menendez is and who he has been
15 every single day. A man who has had significant trauma
16 inside CDCR, those survival instincts. So when you go into
17 those decisions, those are survival. That is coping
18 mechanisms. Put it into context, and there's a bigger
19 picture, I just want to put this into context. Again, I am
20 who I am. I have my experience, my level of education, and
21 so I'm going to say to you again, you have one question
22 before you. Does he pose a current unreasonable risk to
23 public safety? What are you afraid of? Because parricide,
24 we have the statistics on that it's been submitted, right,
25 that's not going to happen again. What are you afraid of?

1 Because you're going to need to articulate it. And so then
2 I ask you about the nexus to current dangerousness. The
3 violence, it was a violent act, there hasn't been any
4 violence since then. What are you afraid of? That he's
5 going to, I don't know, that's your question to decide.
6 Because while this Board has a policy, we need a certain
7 amount of time, of clean time. I need you to take into
8 consideration that Mr. Menendez was an LWOP'er, and we are
9 about to usher in a new generation of offenders that are
10 going to come before this Board and are going to have
11 that, and that LWOP, that life sentence when the light
12 goes off, and I need you to think about it in that
13 context, because social science has dictated this new
14 understanding. It's evident again in elderly offender. I
15 need you to use the discretion that you have from in re
16 Fain, you are the boots on the ground. There are two other
17 levels of review. I need you to think about it, with all
18 of your experience. With respect to the Deputy
19 Commissioner, all of those years of parole revocation
20 matters, what are you afraid of? Which parole condition is
21 Mr. Menendez going to violate? He's got a significant
22 support network, it all there in the submissions. It's got
23 that wonderful diagram, I can't tell you how many hours I
24 spent with the diagram, please like it. So, um, I want to
25 say to you, to this Deputy Commissioner, what are you

1 afraid of with respect to parole violations? To the
2 Commissioner, what are you afraid of with respect to
3 coming back in a hearing where he has violated a
4 reconsideration hearing? What are you afraid of? Because
5 that behavior isn't there. There is no nexus to the
6 violence that happened. It was a trauma-induced offense.
7 The amount of guilt and the amount of shame that Mr.
8 Menendez sits with, the apologies that he has given to his
9 family members, you're going to hear about that in just a
10 moment. I'm going to say just a few last words. There is
11 no legitimate purpose in further incarceration. I'm going
12 to leave you with six words, but before I do, I'm going to
13 take another deep breath and hope that I have changed the
14 narrative in some fashion, because Mr. Menendez stands
15 with a united front that I am very proud to be part of. In
16 the summer of 1989, my younger self would be so proud of
17 everything that I've accomplished, and I'm sure all of you
18 share that as well. What I'm going to say to you Mr.
19 Menendez, is that I am hopefully proud that you are proud
20 of your accomplishments that you have done inside prison,
21 of the remorse that you have shown to your family, and the
22 amount of grace and the process that you have gone through
23 because this family is proud of you. And so for a moment
24 I'm going to say six last words as I take a deep breath of
25 hope. I am hopeful for further growth with respect to the

1 Parole Board when you usher in this change. I am hopeful
2 that somebody who stands before you doesn't have to
3 exercise their rights under the law with respect to
4 Marsy's Law, a law that has been in place since 2008. The
5 damaging effects that verbiage from the Parole Board has,
6 with respect to, you should have run. You say that to a
7 black child, you say that to somebody despite their
8 experience, their education level, their social economic
9 status, their age, their gender, the race of their skin,
10 or their sexual orientation, it's not okay. I am using
11 that platform right now to say that I have tremendous
12 respect for this Board, but the things that happen in this
13 room matter. So what I'm going to say to you is these last
14 six words, as we usher this generation, I am going to take
15 a deep breath because I have a lot of hope and a lot of
16 love and a lot of respect. Mr. Menendez is suitable for
17 parole.

18 **PRESIDING COMMISSIONER GARLAND:** Thank you, Ms. Emig.
19 I -- I -- I usually don't comment after something like
20 this, but I am confused about the narrative that he should
21 have run. I don't think this Panel has ever suggested
22 that, said it or anything, and I just want to make that
23 clear. I, I'm -- I'm very confused by that statement.

24 **ATTORNEY RUMMEL:** That was yesterday's hearing --
25 that was yesterday's hearing.

1 **PRESIDING COMMISSIONER GARLAND:** All right. Ms. Emig,
2 I -- I have shared, I think we have a mutual respect, but
3 I am, I -- I think it's very unfortunate that that was,
4 uh, used against this Panel today. I really do. And I -- I
5 didn't want to let that sit because I think we've made
6 every effort to --

7 **MAYA EMIG:** Commissioner.

8 **PRESIDING COMMISSIONER GARLAND:** make sure --

9 **MAYA EMIG:** it wasn't --

10 **PRESIDING COMMISSIONER GARLAND:** that there was
11 nothing like that. And -- and I don't think that there's
12 been anything that suggests that we would not honor
13 Marsy's Law, and so I -- I -- I have --

14 **MAYA EMIG:** Commissioner.

15 **PRESIDING COMMISSIONER GARLAND:** to say that because
16 I want it to be very clear that that did not happen in
17 this hearing today. And I hope --

18 **MAYA EMIG:** It wasn't meant --

19 **PRESIDING COMMISSIONER GARLAND:** you will agree with
20 that, Ms. Emig.

21 **MAYA EMIG:** I -- I -- I don't, I, no, no, no. I'm
22 just saying that the words that matter, right, and this is
23 -- this, yes. This wasn't...

24 **PRESIDING COMMISSIONER GARLAND:** There was never,
25 there was --

1 **MAYA EMIG:** There was never, no.

2 **PRESIDING COMMISSIONER GARLAND:** never a suggestion
3 by this Panel that we think that she, he should run.
4 There's never been a suggestion by this Panel --

5 **MAYA EMIG:** No. I understand that --

6 **PRESIDING COMMISSIONER GARLAND:** that the Marsy's Law
7 of Rights wouldn't be honored. Is that correct?

8 **MAYA EMIG:** That, oh absolutely. And -- and I didn't,
9 and I hope that I emphasized my respect for this Panel, my
10 respect for the Board, but I have to tell you that yes,
11 this is a larger narrative and it's unfortunate that that
12 message was -- was given out yesterday. I'm going off
13 script, Commissioner. I don't have a script --

14 **PRESIDING COMMISSIONER GARLAND:** As am I.

15 **MAYA EMIG:** but we can correct the record, that
16 wasn't my implication or anything else. People who were,
17 yes.

18 **PRESIDING COMMISSIONER GARLAND:** All right. I think
19 it's time -- I think it's time for a break.

20 **DEPUTY COMMISSIONER REARDON:** Yeah.

21 **PRESIDING COMMISSIONER GARLAND:** It's 3:36 p.m.

22 **RECESS**

23

24 **DEPUTY COMMISSIONER REARDON:** We are now back on the
25 record, Commissioner.

1 **PRESIDING COMMISSIONER GARLAND:** It's 3:48 p.m. And
2 so I have a list of, uh, family members in the order
3 they're planning to speak. Um, I -- I certainly just want
4 to say at the outset, uh, this Panel intends to honor
5 every Marsy's Law, uh, Right there is, and I -- and I -- I
6 hope we have done that so far. Uh, Ms. Rummel, if you have
7 any concerns about anything particular that this Panel
8 does, I would ask that you bring those to our attention
9 and we can remedy that at the time. Um, --

10 **ATTORNEY RUMMEL:** Appreciate it.

11 **PRESIDING COMMISSIONER GARLAND:** obviously, and
12 obviously we know there are people who are staying
13 overtime probably to -- to do with all this, I'm going to
14 expect that everyone, uh, will respect the time and, uh,
15 give their statements as expeditiously as they can and as
16 they are comfortable with, but other than that, we don't
17 plan to interject on anything, so, or not even on doing
18 that. Anyway, Ms. Rummel, just let us know if you have any
19 concerns about that. All right. Um, the first person after
20 Ms. Emig is Anamaria.

21 **ANAMARIA BARALT:** Hello, Commissioner. Thank you for
22 your time. Good afternoon. My name is Anamaria Baralt and
23 Lyle is my cousin. His parents were my aunt and uncle.
24 This has been a very long, it's going to get longer
25 emotional day, and I sent, I'm sure that you received the

1 Victim Impact Statement letter that I submitted, uh, to
2 you. And I trust that you've read it. So, uh, I will only
3 touch on a couple of things from that letter. Other than
4 that, I have a few things to say beyond that, so.

5 **PRESIDING COMMISSIONER GARLAND:** Okay. And I am so
6 glad you mentioned that. I did want to say that we have
7 reviewed all of the statements and so appreciate all of
8 that, and -- and of course, you know, but I did want to
9 make that known that we have reviewed all of them. So
10 thank you for reminding me of saying that. Thank you.

11 **ANAMARIA BARALT:** Sure. Uh, in that letter I, the, I,
12 in that statement, um, I did recall a letter that Lyle
13 just referenced, right. In 2006 he wrote me a letter, uh,
14 saying that I need you to know I recognize my actions are
15 your personal tragedy. I know I can never take it back,
16 but I will spend the rest of my life trying to make it
17 better. No one was watching. This was not performative. I
18 didn't ask for it. This was just Lyle growing, fully
19 taking accountability as he was moving through his life.
20 Apart from that, I'm not going to repeat anything else
21 that I put in that statement, but based on the questions
22 and the testimony that I heard today, I believe I can
23 provide some context for some of the things that were
24 brought up. The reason I believe this is because there is
25 literally no one on this planet who knows this man better

1 than I do, except for Erik. I've known Lyle for 54 years,
2 since the day that I was born. We're three -- we're three
3 years apart, Erik and I are the same age, and we were
4 raised together. But I'm not here today, I wasn't allowed
5 into this hearing because I know Lyle, right, I'm here
6 because his parents were my aunt and uncle, and I am a
7 member of the victim's family. On August 20, 1989, that
8 was my first day at Penn State as a freshman, and to say
9 the least, I was shocked when my aunt and uncle were
10 murdered and turned around that very next day and had to
11 head home for the funeral. But that shock did not compare
12 to the shock that I felt seven months later learning that
13 Erik and Lyle had done it. Now I was shocked because those
14 weren't the people that I knew. Lyle was asked today if we
15 believed him because he was a good liar. That is not why
16 we believed him. That is not why we believed him. We
17 believed him because it was wildly out of character. We
18 believed him because Lyle is not a violent person. He has
19 never been a violent person for his entire life. He is not
20 a violent person today. In 54 years I have never heard
21 Lyle raise his voice. Not once. And I talk to Lyle every
22 day. I talk to Lyle several times a day. I talk to Lyle
23 some -- sometimes so often I have to remind Lyle that I
24 have a job. What I learned was that the two people I
25 didn't know were my aunt and uncle. I certainly didn't

1 know the full story, despite having been raised with them
2 so close. Watching him here so vulnerable today is
3 fascinating. If he had shown even the slightest bit of
4 vulnerability in this kind of a setting in front of his
5 father, I can assure you that the que -- the consequences
6 would have been swift and harsh. Lyle was not allowed to
7 be vulnerable. Lyle was not allowed to be imperfect in any
8 way. Lyle was not allowed to be human. Full stop. Anything
9 short of perfection was unacceptable. I want to give you a
10 small example of my uncle since the Commissioner mentioned
11 that she was a competitive swimmer, as was I -- I was a
12 sprint freestyler. We were at a pool, Erik and Lyle and me
13 and my uncle. Erik and I were eight, Lyle was 11 and no
14 longer competitive swimming. Erik had a flutter kick in
15 his butterfly, as you know, that is not okay. My uncle
16 tied his legs together and made him swim for hours,
17 butterfly, with his legs tied together until he almost
18 drowned. We were eight. Lyle and I watched in horror and
19 we had a clear understanding that day of what the
20 consequences of imperfection are. I would like to briefly
21 address my aunt. I have two sons. They are 18 and 19 years
22 old, not too different in age than Lyle and Erik were at
23 the time of the crime. I love my sons so much it hurts.
24 With no hyperbole at all, I would lay down my life for
25 them today. I would die to protect them. Two years ago, we

1 were in Banff National Forest in Canada, and there were
2 signs everywhere. We went for a hike and there were signs
3 everywhere about grizzlies in the area had been seen. And
4 before that hike I took out my car key and I gave it to my
5 older son and I said, if we see a grizzly up close, you
6 get your little brother and you run -- you run. I'm going
7 to pause here because I know this transcript is going to
8 be public. Please do not DM me about how you're not
9 supposed to run if you see a bear. I have learned that
10 lesson so I get it, regardless. The point was I would do
11 anything to protect my children. And I am not saying that
12 I am mother of the year. I get it. I am one of many. That
13 is a very normal maternal response. That is not unusual.
14 What's not normal is telling people you hate your kids
15 like she told my mother. What's not normal is not
16 protecting your kids from abuse. I have compassion for
17 her. She was an alcoholic and a drug addict, and I have
18 great empathy for that. However her obsession with keeping
19 her husband prompted a complete abdication of her basic
20 responsibility of protecting her children. That is not a
21 justification. But I can imagine the devastation of
22 learning about her complicity and hopelessness that
23 stemmed from it. And I believe that they believed that no
24 one was going to protect them, certainly not the person
25 whose job it was. I've heard so many times over the last

1 35 years, why didn't they just leave? And thank goodness
2 that the criminal justice system has started to catch up
3 with the brain science, that chronic childhood abuse and
4 trauma creates the illusion that there are no options.
5 Battered Person Syndrome exists because of this phenomena.
6 Right. I'm not a lawyer. You all are, you know that.
7 Certainly that would apply to children who endured decades
8 of trauma. Lyle has done the work to grow and to heal. He
9 has processed this. He has programmed, he has been through
10 decades of counseling. Lyle was asked about his support
11 network. I'm not just in that network. I'm leading that
12 network along with his mental health professional. I did
13 not understand the cell phone prison thing until his
14 write-up in November, and I will concede that that is very
15 naive, but I -- I really, I didn't get it until November.
16 But if we're being completely honest here, and I hope that
17 we are, I do understand the desire to have a private
18 conversation that is not sold to the media. I felt like
19 that got a little lost in the questioning. There is a
20 difference between having guards listen to your
21 conversations and read your messages. That's fine. We all
22 get it. Right. You -- you lose the right to privacy when
23 you are in prison. That is not the same as having your
24 thoughts, my thoughts, his wife's thoughts sold to media
25 and broadcast. That is not the same thing. It is not a

1 coincidence that I lobbied hard to have media banned from
2 these proceedings, that I spoke to Mr. Wyckoff, that I
3 wrote a letter on behalf of this family, because you
4 cannot begin to understand the trauma that this family has
5 had from the media alone, never mind the acts, never mind
6 losing the people that we have lost. Regardless, I did
7 learn that -- that is, that -- that cell phone, use of the
8 cell phone was a violation and I learned that last
9 November, and you'd best believe that when I found out I
10 went zero tolerance policy, the whole family did. Everyone
11 signed up for GTL and that stopped immediately. I promise
12 to continue to hold his feet to the fire because I love
13 him with all of my heart and I understand unequivocally
14 that his life outside depends on it. Here's what I want
15 you to know, that Lyle is not violent, that Lyle is not
16 dangerous, that Lyle is kind, that he is empathetic in a
17 way in -- in, like few people I've ever met, that he is
18 vulnerable and he is sweet and he is protective of the
19 ones that he loves. I hope he knows how much he has become
20 just like his Uncle Carlos. I believe my father would be
21 very proud of the man that he is today. Finally, in a
22 little while, well there's a lot of us that's going to
23 talk, so in a little while you're going to hear from my
24 mother, from his aunt Terry. Lyle is her godson and she
25 loves him as much as she loves any of her own children.

1 She is battling stage four cancer, and I don't know how
2 much time we have left with her, truthfully, that is,
3 that's the truth. Uh, she'll be 86 in October and she's a
4 spitfire and very strong, but you know, it is what it is.
5 I am praying that she is going to see him again in her
6 home on Christmas, that she will be able to hug him and
7 love him and take care of him. Aunt Joan is on borrowed
8 time, my aunt Martha, also his aunt Martha, that's a
9 little too late. She's alive, but she's in Memory Care,
10 you'll hear about her. So I am -- I am beg, I am begging
11 the Commissioner, Commissioners plural, that I hope you
12 will find Lyle suitable for parole and return him to our
13 family. And to make this torture end, this 36-year
14 nightmare, let us put it behind us. Thank you very much
15 for your time.

16 **PRESIDING COMMISSIONER GARLAND:** Thank you very much,
17 Ms. Baralt. The next person on the list is Dr. Hart.

18 **STUART HART:** Yes, thank you. Uh, I'm a retired
19 Indiana University professor. I've known Lyle Menendez for
20 33 years, initially in the role of a child development and
21 child psychological maltreatment expert, serving in the
22 pretrial and trial periods, and since the last trial as an
23 available resource for his path toward rehabilitation and
24 wellbeing. First a quick follow-up to my cited
25 interpretation of Lyle's cell phone use, which was and is

1 to meet the powerful needs of communication with people
2 important to him, whom he loved, affiliation and news
3 updates on critical life condition factors. Beyond that, I
4 certainly agree with Lyle and the extensive education
5 provided in these hearings that within prisons there's a
6 much larger problematic to seriously harmful range of
7 purposes. Now further perspectives, while violent actions
8 are not excused by history of abuse and fear, for
9 compassionate and reasonable human beings, knowing that
10 history fosters understanding. Lyle Menendez has
11 demonstrated clearly that he's a good person. He's been
12 incarcerated for most of his 57 years of life, the first
13 18, particularly while living in his family under
14 terrorizing, demeaning and corrupting cruelty, the last 35
15 while behind bars. He's been challenged by multiple
16 adversities and encouragement for deviance. He's overcome
17 those challenges and he's chosen opportunities for
18 redemption, not to harm, but rather to understand and
19 educate himself, seek forgiveness, cleanse his soul, and
20 dedicate himself to self-improvement and good works --
21 good works that have benefited the members and the full
22 community of the prison. Lyle has become strong, positive
23 force for good. In many conversations I've had with him,
24 he's exhibited philosophical depth, which authentically
25 prioritizes higher purposes, values of respect, personal

1 development, service and sacrifice, making corrections as
2 needed. These are values he's lived to a high degree while
3 incarcerated, to improve the opportunities for
4 transformation, prosocial development and realistic
5 hopefulness for himself and his fellow inmates, as well as
6 to strengthen the safety and trust of those managing the
7 prison culture. You can't fake the good he's exemplified
8 during the long period and under the severely challenging
9 conditions of his incarceration, for the most part without
10 hope for release. He's been pun -- punished brutally by
11 life and yet has labored to become a responsible citizen
12 who is not a threat to anyone. Though he has been
13 subjected to physical assault, he's not perpetrated or
14 actively participated in any phy -- physical altercations.
15 Instead he's contributed substantially to rehabilitation,
16 positive peer support, vul -- vulnerable inmate welfare,
17 and a positive prison environment. Who among us could have
18 done as well. Most people would be pleased to have such a
19 person as a neighbor, coworker, and friend, hopefully
20 they'll have the opportunity. Lyle has expressed deep
21 remorse and grown to be a person professing faith who's
22 well educated and full of prosocial capacities and
23 purpose. He's planned for and will find at-ready supports,
24 including a network of caring persons to live
25 constructively and freely in society. Lyle says that for a

1 long time he has been committed to living a life of non-
2 violence and that he's found an identity in service and
3 compassion. His history provides good reasons to believe
4 him. He's a very good bet for achieving a stable and
5 beneficial life if paroled. Thank you very much for the
6 opportunity to provide perspective.

7 **PRESIDING COMMISSIONER GARLAND:** Thank you Dr. Hart.
8 Next on the list is Father Ken.

9 **KEN DEASY:** Do -- do I --

10 **PRESIDING COMMISSIONER GARLAND:** are you, uh, Father
11 Deasy, can you hear me?

12 **KEN DEASY:** Here I am. Yes, I can --

13 **PRESIDING COMMISSIONER GARLAND:** Okay, there you are.
14 All right. Just wanted --

15 **KEN DEASY:** --get this thing on

16 **PRESIDING COMMISSIONER GARLAND:** so I can see you.
17 Okay. Go ahead

18 **KEN DEASY:** You know, I've been sitting here for a
19 long time like you guys have, and you have gone through
20 hundreds of these things, this is my first, and I am so
21 honored to walk with this guy. Um, I don't know what more
22 evidence you all need, unless of course we go, I'm sorry,
23 I'm pointing at someone. I'm not, unless we go back to
24 what happened 35 years ago, which it seems the opposition
25 has to do. They have to go back, dig stuff up, and then

1 give their own interpretation to it, which is a use of the
2 imagination. I don't deny or, uh, play little about the
3 stuff that, uh, Lyle did. I get accused all the time since
4 he opened his big mouth about me being, uh, a mentor in
5 his life, so now I get people calling me, you know, how
6 can you justify killing parents, but I was -- I was really
7 honored by that, so thank you, buddy. Um, I don't -- I
8 don't condone murder, Good Lord, but I do oppose bullying.
9 We just voted for a clown who's a bully. Half the nation
10 now is a bully. Systems are a bully. Judicial systems are
11 a bully. Jail is a bully. Now I'm just not rambling on,
12 these are places I work. I'm not sure you guys work in
13 jail. I'm not sure you guys see progress in these great
14 men and women who've been, broke the law, who've hurt
15 themselves, who have hurt others and see them grow. I'm
16 not knocking you guys, Good Lord. But you know when you
17 say to Lyle that he had the campaign that he was the most
18 loved, that he was campaigning, that he was the best, et
19 cetera, I don't think that was it. He just was
20 campaigning, seeing some sense of growth. And you don't
21 see that in prison. You don't see that sense of growth and
22 hope and a new dignity. And I can tell you that doesn't,
23 that's not easy. I was with him for eight years and I said
24 that yesterday, so I don't want to be repetitive, but you
25 know, for someone to say he hasn't grown is arrogant and

1 ridiculous, especially by reading off of someone else's
2 paper and their opinion of what he is or isn't. You know,
3 I'm not, this ain't my first barbecue dealing with kids
4 from the gang or kids from Beverly Hills, you know, and
5 I'm not perfect, but man, I know what it's like to be told
6 day after day after day, you're no good. And you know
7 what, by nature you're looking for that for the rest of
8 your life. You're waiting -- you're waiting for the axe to
9 come right through your neck. God, I know that, I'm a
10 Catholic priest. The rules, you want to talk about rules
11 that don't make sense? I would've swiped a cell phone in
12 two, not to help other people order drugs, but just
13 because I'd be so lonely, especially as I'm growing and
14 grow over eight years, the more open, the more sincere,
15 the more, uh, dedicated, the more friendly, the more his,
16 he's worried about me now, you know. I thought that was
17 pretty awesome. How much more remorse do people need? You
18 know, a man says he showed no remorse. Where? He didn't
19 show it in court? Uh, that would've been a tough place to
20 show it as well, but he showed a lot of tears and he
21 showed a lot of emotion, which I never saw before. And it
22 certainly wasn't staged. But again remorse, where do you,
23 if he didn't exe -- execute it in court or walking down
24 the jail road, the -- the High Power, he showed remorse,
25 God, day one. And he -- he only knew me as some nutcase

1 young priest that his father insisted that he see. And you
2 know, that's providential, but it's sad, it's so sad. You
3 know, what does it mean to be a risk to society? I mean,
4 what does it mean to be a risk to society? You know, in
5 the hood we say God is good all the time, and all the time
6 God is good, and that's his nature, and that's our nature
7 too. Well you know where there's goodness, there is God.
8 And even sometimes that goodness is hidden in the mud that
9 is slung on you, and you start to eat it and you start to
10 believe it. And to be, uh, to be told that you're not man
11 enough, to be told you're not athletic enough, to be told
12 that you're weak, to be told that you're sick, or, uh,
13 whatever, it hurts, man, it really -- really hurts. And
14 yeah, it screws you up, totally screws you up. And that
15 just doesn't go away. I've been in therapy for 37 years. I
16 am totally medicated as we speak. And to go through all
17 that healing is very -- very hard, because it's hard to
18 trust. It's hard to trust authorities that just wear a
19 badge and say, well I'm in charge. You know, please. It's
20 tough, you know, how could anyone rehabilitate themselves
21 in County Jail? Good Lord, talk about the lowest class of
22 people. And I'm not talking about the incarcerated. These
23 drugs are not coming from the incarcerated. And the thing
24 is -- is that you get put down even more and more, and
25 that echoes the old man in the background. You're no good,

1 et cetera, et cetera, et cetera. You know, especially as,
2 uh, you said, um, uh, I'm so glad that, uh, uh, the penal
3 community or whatever is looking into brain power
4 psychology. That is so huge. And I just think that's
5 great. But, you know, to say that Lyle is up one day and
6 then he's down the other, he's up one day and he's down
7 the other, well aren't we all. You know, if you ever take
8 the Myers-Briggs thing, we are introvert or extrovert, but
9 a lot of times we balance it out according to situations
10 and conditions. That's -- that's being brilliant. But does
11 he know that? No. Do we know that? No. And you can look
12 out the window and just say, ah, this guy doesn't know
13 what he's talking about, and that's fine, but I do, you
14 know. So we have this thing in -- in Bible land, what's
15 called Exegesis and Eisegesis. Exegesis is when you study
16 the text and you really draw the meaning out of the Bible,
17 what was the guy wanting to express? What were his
18 intentions? Eisegesis is reading your own sense of backing
19 up your opinions, your phobias, your whatever. You're
20 defending your own goodness., you know, and it can't be
21 validated anywhere. And the poor guy then needs to be
22 validated, and you know what, I testified at his
23 sentencing hearing and after telling him for eight years,
24 I ain't going to testify during the trial because I
25 wasn't, but I didn't know there was a sentencing hearing,

1 so I did. And I have absolutely no regrets from that, but
2 I had to eat a lot of, you know, and because, well he --
3 he did this, he did that, how, he did this, he did that 35
4 years ago. And to even grow an inch in 35 years, I think
5 is miraculous, and it's going to get worse. I hate to say
6 it -- it is going to get ugly because brutality, cruelty,
7 4,000 year wars, it's just gotta stop. But it's
8 encouraging our youth to do that. And, uh, I'm really
9 sorry about that. Lyle, my friend, come on out, dude. I
10 hope you guys on the Board give him a chance. You know who
11 I really worry about being a -- a threat to society, is
12 society threatening Lyle. Lyle's not going to threaten
13 them. They're going to threaten him. Now what are we going
14 to do about that, you know? So God bless you guys, and
15 thank you for your time today and, um, much better than
16 yesterday. Thank you.

17 **PRESIDING COMMISSIONER GARLAND:** Thank you, Father
18 Deasy. All right. I next have, uh, Marta Menendez Cano.

19 **MARTA CANO HALLOWELL:** Uh, okay, so it's, sorry, I
20 thought I was speaking for Mom, but I'll just speak for
21 myself, that's fine. Uh, just give me a second here to
22 turn this on. Oh, my camera doesn't seem to be, you do see
23 me, okay. All right.

24 **PRESIDING COMMISSIONER GARLAND:** Yep, we hear you.

25 **TIFFANI LUCERO PASTOR:** Marta --

1 **MARTA CANO HALLOWELL:** Can you see me?

2 **TIFFANI LUCERO PASTOR:** Marta, it's -- it's Tiffani.
3 You -- you, I think you, um, have, uh, hold on, let me
4 look at our little list here.

5 **MARTA CANO HALLOWELL:** Is it mom?

6 **TIFFANI LUCERO PASTOR:** I think it's, um, Eileen, and
7 then you go. I think the Commissioner has an old list. So
8 it's Eileen and then, um --

9 **MARTA CANO HALLOWELL:** I mean does it -- does it
10 matter? Do you want me to just go and then Eileen can go
11 or?

12 **TIFFANI LUCERO PASTOR:** Yeah, and then we have you
13 later, but if you want to do them both.

14 **MARTA CANO HALLOWELL:** Okay, that's fine. I'll just
15 do -- I'll just do, mom, I'll just do mom's right now.

16 **TIFFANI LUCERO PASTOR:** Yep.

17 **MARTA CANO HALLOWELL:** If that's okay.

18 **TIFFANI LUCERO PASTOR:** Okay.

19 **MARTA CANO HALLOWELL:** Uh, hello.

20 **PRESIDING COMMISSIONER GARLAND:** Okay, let me just
21 make, so you are Marta Menendez Cano, but you --

22 **MARTA CANO HALLOWELL:** I am, so I am speaking for
23 Marta Menendez Cano.

24 **PRESIDING COMMISSIONER GARLAND:** Okay. And that's the
25 updated list I have. Okay. Thank you. Go ahead.

1 **MARTA CANO HALLOWELL:** Yes, so that's why I figured I
2 would do that. So I am speaking for my mom. Her name is
3 Marta Menendez Cano. Um, mom deeply loved her brother. She
4 couldn't be here today, so it's why I'm speaking for her.
5 She loved her brother deeply as she also loved her sister-
6 in-law Kitty and her nephews Lyle and Erik. She was
7 devastated at their loss, particularly it was her younger
8 brother, and she frequently turned to him for help and
9 support, and needless to say, she loved him. Following
10 their deaths however, um, mom quickly put aside her grief
11 and took on the supportive role for both Lyle and her --
12 her, his brother, Erik, understanding the fragility and
13 complex emotions of teenage boys and deeming them in need
14 of, um, support and guidance. She was in constant
15 communication with Lyle, and she grew quite concerned I
16 will be honest, about his unusual behavior and his rash
17 decisions. She knew something was up, she was worried
18 about him. She didn't think Lyle was processing grief
19 properly. She couldn't understand what was going on. She
20 didn't know all the underlying reasons clearly. Since his
21 incarceration however, mom has encouraged Lyle to turn to
22 God for comfort and forgiveness. She has always had a
23 strong faith in God. As an ordained Third Order
24 Franciscan, which is within the Catholic Church, she has
25 been committed to a life centered in prayer, dedicated to

1 works of charity and promoting peace and justice in her
2 community. She encouraged him to put time and effort into
3 not only repenting and asking for forgiveness from those
4 that he deeply hurt, but most importantly to forgiving
5 himself. She knew he needed to heal, and she strongly
6 encouraged him to use his time in prison productively,
7 focusing on helping others and becoming someone of whom he
8 himself could be proud. She strongly believes that God is
9 merciful and forgives all those who repent, reconcile, and
10 reform, encouraging Lyle to trust in him and follow that
11 path. Mom has kept very close contact with Lyle through
12 her, his incarceration, speaking with him several times a
13 week and visiting him at least two to three times a year
14 as often as she could, and she did this for 35 years. She
15 made an effort to be there for him for birthdays, for
16 special events, she attended his wedding, she tried very
17 hard. Lyle's accomplishments in the last 36 years speak
18 for themselves and his Aunt Marta has always been by his
19 side as he acknowledged his actions, processed his guilt
20 and the remorse for the horrific crimes that he and his
21 brother committed, and worked towards reconciliation and
22 rehabilitation. She has been a witness to his long and
23 arduous journey and extremely proud of who Lyle has
24 become. She watched him mature and grow up, accepting full
25 responsibility for his role in the crimes, and transfor --

1 transforming into an educated, dedicated, driven, and
2 empathetic man who strives to make a difference in lives
3 of others. Mom never stopped advocating for Lyle and Erik.
4 So strong was her belief and conviction that back in 2017,
5 eight years ago, she wrote a letter to Governor Jerry
6 Brown requesting that Erik and Lyle be considered for
7 clemency. She felt that they were ready then, she felt
8 Lyle was ready then, again, eight years ago. She was so
9 passionate about this that she appear -- appeared on
10 several network television interviews where she spoke
11 about their rehabilitation efforts, emphasizing the
12 positive, his positive attitude, exemplary behavior and
13 contributions to the prison environment. Sure, he wasn't
14 perfect, but he had changed, and she thought for sure that
15 -- that he'd become a much different man. Sadly in 2018,
16 mom was diagnosed with the early onset of Alzheimer's
17 disease, most likely brought on by stress. Until very
18 recently her conversations with Lyle continued and her
19 drive to help and support him never ceased. Mom's daily
20 prayer for many, many, many years has always been, I just
21 hope that Lyle and his brother Erik get released from
22 prison before I die. And I remember even recently her
23 telling me, I know it's going to happen -- I know it's
24 going to happen. She passionately felt that Lyle's hard
25 work should earn him consideration for parole and prayed

1 that he be given the opportunity to prove the role model
2 that he has become and his value to society, he can make a
3 difference. Mom, as I mentioned, is currently in Memory
4 Care Facility in New Jersey. It really is heartbreaking
5 that she can no longer speak for herself and witness, and
6 be a witness of Lyle's rehabilitation journey. She would
7 have loved to have been here, and she would've been a very
8 powerful speaker, I can't even begin to -- to compare. She
9 would have advocated for her nephew, and I am hoping Lyle
10 was soon be able to spend time with his Aunt Marta who
11 truly believes in him and loves him with all her heart.
12 Thank you for your time and consideration.

13 **PRESIDING COMMISSIONER GARLAND:** Thank you very much.
14 All right, next I have Eileen.

15 **EILEEN CANO:** Good afternoon, members of the Parole
16 Board. My name is Eileen Cano, and I am Jose and Kitty's
17 niece. I adored my aunt and uncle dearly and had a very
18 close relationship with both of them. Actually I looked up
19 to my uncle as a mentor, and spending time with my aunt
20 was one of the best treats for me. I will admit my uncle
21 was a powerful, successful, and to some an intimidating
22 man who expected the most of his kids. You can't imagine
23 how surprised and devastated I am today to realize there
24 was a second side of them. I have known Lyle his entire
25 life. I'm about five years older than Lyle, and we spent

1 many holidays and family gatherings together growing up.
2 Lyle was an energetic, athletic, fun to be around, and
3 especially a loving older brother to Erik. He had a fun
4 sense of humor and enjoyed making others laugh. He was a
5 natural born leader and deeply loyal to those he cared
6 about. He was protective of his younger brother Erik, to a
7 fault, and he was held to high standards and took his role
8 seriously. A lot was demanded of him. He was the chosen
9 one in his dad's eyes. Lyle was expected to be his dad's
10 legacy, his pride and joy. Looking back now, I can't
11 imagine that type of pressure, and I wish so much that I
12 had known and I could have done something to protect Lyle
13 as -- as his older cousin. I will never forget exactly 36
14 years ago from yesterday, August 21, 1989, when on the big
15 screen of my work conference was a breaking news story
16 showing a clip of my aunt and uncle's bodies being taken
17 out of their Beverly Hills home. This is how I learned of
18 their deaths. I was stunned. The pain was excruciating. I
19 immediately worried about my mom, my aunt and my
20 grandmother, so I took the next train to be with them.
21 When I later found out that Lyle had played a role, it did
22 not make sense. Never in a million years did I think Lyle
23 would be capable of doing such a horrible thing. I was
24 angry. I felt betrayed and robbed of two people I really
25 loved. I suppressed the pain and focused on supporting my

1 grandmother and family. I just didn't deal with my own
2 feelings and I buried them. Even though most of my
3 immediate family was testifying, I did not even watch one
4 minute of the trials until recently, last November. I
5 couldn't bear to go there. Today I want to speak not only
6 for myself but also for three family members who cannot be
7 here today, people who love Lyle deeply and advocated for
8 him without fail. First, Maria Calota Menendez, Jose's
9 mother and my grandmother, or as we all called her Mama,
10 and I know Lyle has mentioned her. I was very close to her
11 and I accompanied her several times to the Beverly Hills
12 home in the weeks that followed Jose and Kitty's deaths.
13 Entering that home and witnessing my grandmother process
14 her grief is something that will unfortunately stay with
15 me forever. Despite all the heartache and loss, her
16 unconditional love and support for Lyle never wavered.
17 Mama adored Lyle and didn't miss one day of the trials.
18 She visited him many times in prison and forgave him years
19 ago, and I guarantee you, if she were here alive today, I
20 have no doubt she would be here pleading with you to
21 release him. One of Lyle's biggest and most vocal
22 supporters, as my sis -- sister has just mentioned, is my
23 mother Marta, Jose's sister. It was her mission to someday
24 get Lyle out of prison. She did all she could and visited
25 him many times in prison. She was one of two people who

1 attended his wedding. Every chance she could she would
2 talk about Lyle. She went on talk shows and participated
3 in numerous interviews. You can find many of her
4 statements online advocating for him. She never lost hope
5 and he, that he would one day come home. Unfortunately, as
6 you heard, she's in Memory Care, suffering from
7 Alzheimer's, unable to be here to continue her fight for
8 his release. But the most painful part of this tragedy for
9 me is my brother, Andy. It was noticeable that there was a
10 very strong bond between Lyle, Anamaria, Erik and Andy.
11 They were inseparable during the get togethers. Andy was
12 only a teenager when he had the difficult responsibility
13 to take the stand and advocate for Lyle's life. Watching
14 his testimony recently, I felt so proud that he held his
15 ground and principles to fight for Lyle. After the trials,
16 Andy's mental health declined severely, a direct result of
17 the tragedy and its aftermath, and his premature death was
18 devastating for all of us. I know Lyle has carried deep
19 remorse over the impact this had on Andy and our family. I
20 have no doubt that Andy would be one of the strongest and
21 most passionate voices today fighting for Lyle's release.
22 I know with certainty that Lyle wishes August 20, 1989 had
23 never happened and lives every day with profound remorse.
24 I truly appreciated his words at the resentencing hearing,
25 which I know were directed to me and the rest of our

1 family. I needed them. Lyle took full accountability for
2 every single action, and I felt his anguish and remorse
3 deeply. His words deeply moved and healed me. I forgave
4 Lyle long ago, but what I see in him now shows me how much
5 he's changed. He's no longer just the Lyle I once loved
6 and believed in. He's become someone even more grounded,
7 self-aware and committed to making a real difference. 36
8 years is a very long time, and it is clear how Lyle has
9 used his time to truly reflect on his actions and
10 transform his life to positively impact others. Today,
11 many will speak about Lyle's countless contributions while
12 in prison. I'm amazed by how much he achieved despite
13 having no chance of parole. While most inmates surrender
14 to the crushing weight of prison life, he rose above it.
15 Lyle did not waste his time. Lyle did not just get by. I'm
16 proud of him. His actions revealed his true character. A
17 person defined not by his mistakes, but by his compassion,
18 empathy and commitment to growth. Lyle will not be a risk
19 to the community because we as a family will hold him
20 accountable. Lyle has proven his commitment to
21 rehabilitation, not only in thought, but in action. Over
22 the past 36 years, he has demonstrated that his life is no
23 longer defined by the tragedy of his past, but by the
24 compassion, accountability, and wisdom he has cultivated
25 since. His growth is evident, not only in the words he

1 speaks, but in the countless ways he has dedicated himself
2 to helping, even while behind prison walls. He now has the
3 capacity to enrich society by being a part of it. What
4 stands mo -- out most is that Lyle's remorse is not
5 passive. It actively drives him. He has transformed his
6 pain into purpose, and his deepest commitment now is to
7 ensure that the remainder of his life is devoted to
8 service, mentorship, and healing. This is the very essence
9 of rehabilitation, and Lyle embodies it fully. Delaying
10 his release would serve no purpose. Lyle is not the young
11 man who entered prison over three decades ago. He is a man
12 who has faced the consequences of his action every single
13 day and has emerged with humility, wisdom, and a profound
14 desire to give back. His release not onl -- would not only
15 be a testament to the power of rehabilitation, but also a
16 chance for society to benefit from the compassion and
17 dedication of someone who has transformed his life in the
18 most complete sense. I ask that you please release Lyle
19 now and not delay finding him suitable for immediate
20 parole. I have already witnessed my grandmother and my
21 brother pass away without ever having a chance -- without
22 ever having a chance to fully heal and find peace after
23 his tri -- this tragedy. For my Aunt Terry, oh, just --
24 just a minute, I'm sorry. How do I get this? For my Aunt
25 Terry, my mother, and Lyle's Aunt Joan, it is not too

1 late, but time is of the essence. Their health is
2 delicate, and we are all ready for this nightmare to end.
3 We are also already and committed to welcoming Lyle
4 physically back in our, into our lives with open arms. As
5 you can see here today, Lyle has a very exten -- a large
6 and extensive support system, and all of us are committed
7 to provide him with the guidance and resources he needs to
8 ensure his success upon release. Thank you so much for
9 your time and your consideration.

10 **PRESIDING COMMISSIONER GARLAND:** Thank you very much.
11 I next have Tiffani.

12 **TIFFANI LUCERO PASTOR:** Good afternoon. I am Tiffani
13 --

14 **PRESIDING COMMISSIONER GARLAND:** Actually, let me
15 just check in with you Mr. Menendez. Are you -- you look
16 like you're squirming a little bit. Do you need a little
17 bit of a break? Does anybody need a break? Okay. I see
18 you're shaking your head. All right. I apologize for
19 interrupting. I just wanted --

20 **TIFFANI LUCERO PASTOR:** I actually --

21 **PRESIDING COMMISSIONER GARLAND:** to be sure.

22 **TIFFANI LUCERO PASTOR:** I actually would love a break
23 after this so --

24 **PRESIDING COMMISSIONER GARLAND:** Okay.

25 **TIFFANI LUCERO PASTOR:** I -- I could use.

1 **PRESIDING COMMISSIONER GARLAND:** Let's -- let's do
2 that.

3 **TIFFANI LUCERO PASTOR:** I could use the bio break
4 after.

5 **PRESIDING COMMISSIONER GARLAND:** Perfect.

6 **TIFFANI LUCERO PASTOR:** So, um, good afternoon. Uh, I
7 am Tiffany Lucero Pastor. I am the oldest daughter of
8 Karen VanderMolen Copley, who herself is the oldest
9 daughter of Joan Andersen VanderMolen, who is Kitty's, uh,
10 older sister, that makes me Kitty's great niece. There are
11 nine years separating me and Lyle. So in 1989, I was just
12 beginning my teen years, ready to take on the world. I
13 looked up to the Menendez family, um, and saw from the
14 outside which what I hoped my or wished my family could
15 be. Our life in 1989 changed prompting my fight or flight
16 mindset to -- to set in. My instinct was to run, and I
17 followed that instinct. These crimes and the abuse Lyle
18 suffered has divided us. It has cau -- caused panic and
19 anxiety, and overall it resulted in some of us retreating.
20 My story is very similar to Eileen's. I would like to
21 reiterate that we are victims and we have lost four
22 people. Our pain is real, our choices are heavy, and we do
23 not wish for our support of Lyle or Erik to bring pain to
24 anyone. We are here supporting these men because they are
25 reformed. Lyle acknowledges that, and I hope that the

1 state of California really understands the complexity of
2 where we sit, but that we sit here voluntarily. I hope the
3 state of California really understands how awful this is
4 for us, how depleted we are, how we just want to be able
5 to heal. You're hearing today from so many supportive
6 members of our family who have put, and are putting the
7 pieces back together, and who actually live with this
8 trauma and have had time to take an honest look at all of
9 our individual families and to really grapple with these
10 murders. None of us think of Lyle's killing of Kitty and
11 Jose as excusable. The Menendez family's death and the
12 abuse that proceeded has been sensationalized and
13 capitalized upon by so many and in so many ways. But for
14 us, it is our family's greatest disaster that we live with
15 each and every day. Each of us have very personal
16 experiences, but the common denominator is shame. Shame
17 that our cousins killed their parents. Shame that our
18 cousins tried to cover it up. Shame that sexual abuse was
19 occurring in this picture-perfect family. The media
20 coverage of our family tragedy was the salt in the wound
21 of losing four people in such horrific ways, but having a
22 firsthand view of the daily impact on my mother, her
23 siblings, and most of all my grandmother, Joan. It was
24 nothing short of paralyzing for me. I am now 48 years old,
25 just a little older than my Aunt Kitty when she died. I've

1 been married nearly 19 years, and happy to say that while
2 not always or even near perfect, I have a healthy marriage
3 as we each commit daily to productive and loving ways of
4 working together. And we have three amazing sons, the
5 oldest of whom is nearly the age Erik was in August 1989.
6 I have watched my boys grow and develop over the last 17
7 years. I now know that a young man's brain does not offer
8 the rational thought processes of a mature adult capable
9 of seeing the forest through the trees. Like the
10 Commissioners, I am a lawyer. I was a prosecutor. I am now
11 in a practice of law that has me working survivors of
12 childhood sexual abuse and troubled families. The irony is
13 not lost on me. In fact, most of my family cases involve
14 individuals walking around freely in society with
15 significant personality disorders and free of crime. I do
16 not know the trauma of child sexual abuse directly, but I
17 see through my work how child sexual abuse destroys lives
18 and alters the very core of a person's being. My
19 grandmother through the years, repeatedly called upon me
20 to visit my cousins and to have a relationship with them.
21 I was too skeptical. I did not want to be part of the
22 media circus. Sue would share with me that they were
23 curious about me and my life, and I would change the
24 subject. Once I became a lawyer, she called upon me even
25 more frequently. Candidly, she was nothing short of

1 relentless in her ongoing effort, not just to bring me
2 closer again to Lyle, but to see if there was anything my
3 legal training and experience could do for the boys, as
4 she always called them. To be clear, her hope is resilient
5 and contagious. I have had the opportunity to connect with
6 Lyle, willingly connect with -- with Lyle. My grandma, you
7 see was very patient with me, albeit relentless. Sue
8 allowed me to do this on my own time. I can say with great
9 certainty that Lyle has shown a true understanding of the
10 impact of trauma and how we can stop it transferring to
11 the next generation of our families. I have never before
12 had the courage to shed my shame of being related to an
13 aunt and uncle who could promulgate such unspeakable
14 horrors, topped with cousins who took matters into their
15 own hands in such a stunning way. Erik and Lyle changed
16 that for me in May 2025, and Lyle continues to do so each
17 time we speak. I went to two hearings in May of this year,
18 as the more experienced elder lawyer sister who was not
19 going to let her baby sister Tamara testify without me
20 being there. But it turns out I was the one who ended up
21 needing the support as I faced what I had been avoiding
22 for my lifetime. Lyle's remorse, his ability to truly see
23 the impact of what he did and to be accountable and to
24 take responsibility for it was life changing for me. It
25 literally opened up a whole part of me that was closed off

1 to my children, to my husband, to my sister, to my mother,
2 to my father, to everyone. He prompts me to do better. It
3 -- it is teaching me how to listen better to my clients,
4 whether they are struggling with how to live productively
5 with child sexual abuse, or grieving the loss of their
6 family as they know it. Lyle has shown me the hope and
7 life that my grandmother Joan has always been. I will no
8 longer turn away from my grandmother's calling. I decided
9 in fact that I'm picking up where she has had to pause.
10 She is 93 years old and she's at a place in her life where
11 she needs a rest. Here I am. Lyle's talked a lot about
12 love and how he had a mis -- how he had a misunderstanding
13 of love growing up. My husband and I made the specific
14 choice to raise our children in the Jesuit, not just the
15 Catholic faith, but the Jesuit faith. And so we follow or
16 hear, um, ad nauseum, the teachings of Saint Igna --
17 Ignatius of Loyola, and he famously said, love is shown
18 more in deeds than in words. The man before you today,
19 Lyle, shows his love in deeds and not in words, not just
20 in words, I should say. The decision to put love into
21 action breeds hope, and it allows faith to grow in places
22 that are dark and unbelieving. I am here to support Lyle.
23 While I cannot and will never be Joan, I could never fill
24 those shoes, I will take the baton that she has been
25 trying to give me for so long. I'm sorry. Um, you know,

1 Lyle made a choice that we've, have all had to live with.
2 I have not been around even when Joan asked me because of
3 a choice I made. I am here today because I choose to be.
4 Lyle and I have not had the benefit of time together
5 because of a choice I made. I'm a person who holds high
6 standards and values for those around me. I love my people
7 hard and I expect great things from them. I too have done
8 the work to shed the generational dysfunctions of
9 codependency, seeking love and validation from outside of
10 myself and a lack of coping skills. I too have had to
11 learn how to productively process my emotions. I too have
12 had to learn that trauma does not just magically
13 disappear. These are all changes passed from generation to
14 generation. Excuse me. These are all challenges passed
15 from generation to generation. It can have and will stop
16 with us. Lyle said that to me this past July, and I am
17 here to live it with Lyle. I will support Lyle. I will
18 answer Lyle's calls. I will let Lyle know the truth, even
19 if it's inconvenient, unpopular or hard to hear. I will
20 hold him accountable for the man he has shown us he is. I
21 will hold Lyle responsible for showing my children, three
22 boys about to embark on their own adulthood, our family's
23 future. I will call upon Lyle to show our legacy, what
24 rehabilitation and redemption are. I trust Lyle. I love
25 Lyle. I've always held Lyle close to my heart, even if I

1 didn't do a good job of showing him. He has a family
2 network here waiting for him to support him, to love him,
3 to laugh with him, to cry with him, and to remind him of
4 who he is and who he wants to be. To the Board, I ask that
5 you take what our victim family has said to heart. We
6 forgive Lyle. I forgive Lyle. I forgive him for killing
7 our aunt and uncle. I forgive him for trying to cover up
8 the awful crimes he committed. I forgive him for the 35
9 years of public scrutiny and media circus that follows. We
10 want this to end. You have the power to end our individual
11 and collective suffering. This case and the factors you
12 must consider fall upon you to grant Lyle parole. You have
13 the power to allow us to heal. The only thing that stands
14 in the way of our healing is the decision you are about to
15 make. I ask that you grant Lyle Menendez parole. Thank
16 you.

17 **PRESIDING COMMISSIONER GARLAND:** Thank you very much.
18 Let's take a break. I would like it to be no more than
19 five minutes again, in -- in consideration of everyone
20 else involved here. So it's 4:50 p.m. Let's have everybody
21 back at 4:55 p.m. The next speaker is Joan.

22 **RECESS**

23
24 **DEPUTY COMMISSIONER REARDON:** We are now back on the
25 record, Commissioner.

1 **PRESIDING COMMISSIONER GARLAND:** All right. It's 4:56
2 p.m. and as I said I think the next person to speak is
3 Joan.

4 **TIFFANI LUCERO PASTOR:** That's me again.

5 **PRESIDING COMMISSIONER GARLAND:** Oh, that's right.
6 Okay. You're making the statement for --

7 **TIFFANI LUCERO PASTOR:** Yes.

8 **PRESIDING COMMISSIONER GARLAND:** Okay.

9 **TIFFANI LUCERO PASTOR:** Okay, so I'll just, for the
10 record, just say my name again. My name is Tiffani Lucero
11 Pastor, I am Joan Andersen VanderMolen Mol -- goodness
12 gracious. I am Joan Andersen VanderMolen's oldest
13 grandchild. I am here as her personal representative. My
14 grandmother is, uh, 93 years old. She would like you to
15 know that she wanted to be here herself, but she must do
16 what is best for her physical and emotional wellbeing. My
17 Grandma Joan has asked me to be her voice today. My
18 comments today are based upon information she shared with
19 me over the course of the last 30 plus years and in the
20 months leading up to this hearing. I know the first thing
21 she wants me to say is, I sure do love Lyle. I sure am
22 proud of Lyle. The next thing she wants you to know is
23 it's time, and that Lyle does not present an unreasonable
24 safety risk to our community. I have spent my entire adult
25 life watching my grandmother grapple with this tragedy. I

1 have talked about her feelings surrounding the loss of my
2 Aunt Kitty and her family. In any discussion with her as
3 she runs through the list of my first cousins in birth
4 order recounting where everyone is and what they're doing,
5 Erik and Lyle are always part of that list, even though --
6 even though they are her nephews, Joan never wavers in her
7 love and support for Lyle. My grandmother Joan has created
8 a foundation of support for Lyle that will carry forward
9 regardless of the outcome of this proceeding. Joan is
10 Kitty Menendez's sister. She's Lyle's aunt. She and Kitty
11 enjoyed a sisterly relationship speaking for hours on a
12 weekly basis, talking about the things sisters talked
13 about, children, marriage, home life, recipes, work, and
14 the childhood they shared. The day Kitty died devastated
15 Joan beyond belief. Her sister was dead. She was in agony.
16 Joan wants you to know how much she loves Lyle and how
17 much she loves her sister Kitty. She wants you to know how
18 much she misses them both. The last 35 years has taken its
19 toll on Joan. She still mourns the death of her sister and
20 the memories they could have created had things been
21 different. But it was not just the choices that Lyle made
22 that impacted Joan and the rest of our family so
23 profound -- profoundly. Joan struggles with the shame and
24 humiliation of knowing that the boys suffered abuse and
25 her sister remained silent, enabling an abusive

1 perpetrator. Joan has had to carry the burden of wishing
2 she did more and the guilt of protecting Erik and Lyle
3 from their own father, who brutalized them in unspeakable
4 ways. She is also haunted by the fact that her sister did
5 not stand up to Jose or protect Erik and Lyle, and that
6 Kitty's marriage to Jose took priority over the safety and
7 wellbeing of the boys. Over the course of the last 35
8 years, Joan has come to understand how trauma impacts the
9 immediate victim and reaches across generational lines to
10 leave lasting scars. She has prompted us to lead our
11 children down a better path. And with that, she has shared
12 little glimpses of the abusive atmosphere in which she and
13 Kitty and their brothers were raised, and what ultimately
14 led to her move to Arizona with my grandfather so she
15 could start anew. Joan wishes so badly that she could go
16 back in time to protect the boys, as she still calls them.
17 She also is so troubled by her own inability to see things
18 more clearly and regretful for not speaking out more
19 forcefully. Regret is a heavy burden to bear for any of
20 us, much less a 93-year-old woman. But Joan believes in
21 truth. She believes in accountability. She also believes
22 in redemption. She firmly believes that Lyle has done
23 everything one could possibly ask of a person in his
24 situation. Lyle never gave up on himself. He never gave up
25 on being a good man who wholly separate and apart from

1 anyone else on his own two feet. Joan does not hide from
2 the greatest complication of her life. She does not ignore
3 the truth of her sister's killing, but Joan knows Lyle has
4 earned a second chance. He has redeemed himself and Joan
5 has forgiven Lyle. Joan describes that what she has
6 witnessed in Lyle over the last three decades as nothing
7 short of stellar. She is so proud of how he has been
8 resilient in his work on himself, even without the hope of
9 release. She is so proud of the work he has done to
10 support others who are in need of support. He worked on
11 his emotional intelligence to understand how he got to
12 where he sits today, and for that she's grateful. Lyle has
13 taken accountability for his actions with my grandmother.
14 He has expressed deep remorse and he does not try to make
15 excuses for what he did. If you know Joan, if you really -
16 - really know her, you know what her smile looks like when
17 she is happy. I see that smile when she talks about Lyle's
18 growth and redemption. Um, I want, my family wants, but
19 mostly Joan wants to be able to show Lyle that gorgeous
20 smile in person without bars. Joan has experienced Lyle's
21 emotional growth firsthand. He's taken full
22 accountability, not just in his words but in his actions.
23 She has seen him become someone worthy of a second chance
24 and worthy of our forgiveness. But she would be the first
25 to tell you that if Lyle continues to remain in prison,

1 her journey would be incomplete. Sadly, I fear we will
2 lose her before she can get her biggest wish granted, I
3 cannot emphasize enough, Joan wants you to know that she
4 has forgiven Lyle. She is proud of who he is today because
5 he has done the work to transform himself into being a
6 better man. Joan is our foundation of love, hope and
7 faith. As she approaches her 94th birthday this fall, it
8 is my grandmother's most heartfelt wish that Lyle be
9 granted a second chance. He cannot undo the past, but he
10 can, and she firmly believes he will, continue to live a
11 life of purpose in service to others and in honor of those
12 he hurt. Thank you.

13 **PRESIDING COMMISSIONER GARLAND:** Thank you. Next I
14 have, uh, Marta H.

15 **MARTA CANO HALLOWELL:** So yeah, I am, uh, this time
16 just, spoke last time on behalf of mom, but I'll introduce
17 myself for the record. Yes?

18 **PRESIDING COMMISSIONER GARLAND:** Okay. Go ahead.

19 **MARTA CANO HALLOWELL:** So my name is Marta Cano
20 Hallowell and Marta Menendez is my mom, she was Jose's
21 sister, so I'm his niece. I'm also his goddaughter, which
22 in our family clearly it is an important thing. I would be
23 remiss however if before I speak for myself, I did not
24 mention my brother Andy, even though Eileen already, um,
25 spoke about him. My family moved to New Jersey in 1979. At

1 that time, I was college bound, but Andy was five, which
2 made Erik and Anamaria seven, and Lyle nine. They were a
3 close bunch, as was spoken before, and Andy was very --
4 very close with his cousins. I sponsored many play dates
5 for them at their house while I was there and at our
6 house, so I got to enjoy some of that. However, it was
7 this friendship that led Erik to share some of the
8 molestation and sexual abuse that was going on with Andy.
9 A secret Andy would keep until he testified at the trials
10 in 1990. From -- from the very early age and beyond, this
11 secret would eat at, the secret of this -- of this
12 horrific events, and their lives would eat at Andy.
13 Eventually he struggled with the guilt of not having
14 revealed that. He blamed the murders on himself because he
15 felt he should have said something because he knew. When
16 the trial happened, Andy was 16. Eventually Andy's
17 depression spiraled, and at an early age of 29 he passed
18 away in 2003. We miss him terribly, and I know that so do
19 Lyle, Erik, and all the rest of the family. That said, I
20 know that my little brother is watching from above and is
21 incredibly proud of his cousin Lyle as he watches him. He
22 would certainly be testifying today on Lyle's behalf if he
23 could, I guarantee you, and he'd be excited to bring to
24 light the journey to rehabilitation and highlight his
25 accomplishments. I'm sure Andy is very proud of Lyle and

1 the man that he has become. Though I've kept abreast of
2 what was happening with Lyle, uh, for, since the
3 incarceration, I never really had direct contact with him.
4 I mostly kept in touch through my mom and who saw him
5 often, so I knew what was going on, I knew what they
6 thought, I knew where they were, but it was never me. I
7 did what many of the rest of us in our generation did is -
8 - is we just pulled away. It was tough. And, um, making
9 the trip out to California to see them was not easy. So we
10 kind of hid where we were in New Jersey, and it wasn't
11 until 1979 when my mom came to live with me. Uh, not 19 --
12 1979, I'm sorry, 19 -- 2019 -- 2019 when my mom came to
13 live with me in New Jersey. I began listening in on the
14 conversations that she was having with Lyle, which were,
15 happened several times a week, and she had on
16 speakerphone. It was during these conversations that I
17 witnessed firsthand Lyle's significant growth and change.
18 His enthusiastic descriptions of the projects and the
19 initiatives that he had designed and implemented within
20 the wal -- prison walls were amazing. I was surprised, all
21 of a sudden my attention was caught. His resolve to make a
22 difference and help prevent others from taking the same
23 path and suffering the same fate was really heartwarming.
24 His creativity, entrepreneurship were impressive, as are
25 the plans to expand his projects to other prisons in the

1 future. My mother drilled him with -- with questions and
2 really, um, made sure he covered, she covered all the
3 grounds with him. She asked them for details on projects
4 and programs and what they were working on, and Lyle, his
5 excitement really shown through. His sense of pride in his
6 accomplishments was evident as he elaborated on his
7 endeavors, humbly described his contributions to the
8 plans, and credited others for the opportunity that he had
9 given, he had been given. He made it clear that he was
10 thankful to be in a position from which he could make a
11 difference in the lives of others. Who was this guy? I
12 didn't recognize him, I'll have to tell you. Most
13 importantly, Lyle aimed to restore hope and purpose in a
14 hopeless environment. Lyle's determination, excitement,
15 and drive caught me completely by surprise. After all, he
16 was serving life in prison with a, with no possibility of
17 parole, and I found it hard to understand what motivated
18 him. After listening to many conversations, it became
19 clear that Lyle had truly changed. He was no longer the
20 spoiled seeming -- seemingly cocky and arrogant, self-
21 serving kid with whom I have spent many holidays and
22 summers. He had become a caring, considerate,
23 introspective, and empathetic adult, doing what he could
24 to make a difference, motivated from within to help others
25 find themselves and succeed, all of which again he was

1 doing within the prison walls, with no possibility of
2 parole. I was deeply touched by Lyle's expression of
3 remorse and repentance. As many conversations ended with,
4 I can't tell you how much, how sorry I am for all the hurt
5 that I have caused and the re -- to the rest of our
6 family. I am so embarrassed by my actions and I wish I
7 could turn back time and make different choices. Quite
8 frankly, I found Lyle's positive outlook, enthusiasm, and
9 -- and resolve inspiring, especially given his situation.
10 I have since reestablished my communication with Lyle, and
11 we speak often. During one of my more recent conversations
12 with him, he may or may not remember this, after re-
13 sentencing we spoke about cha -- the challenges that he
14 would face. I asked him about them. And I asked if he was
15 granted parole and the opportunity to have, to leave
16 prison, I voiced my concern about their worldwide
17 popularity, the media, the fanfare, et cetera. I was of
18 the opinion, um, that it was going to be very hard, and I
19 thought it would -- it would stay, I thought it would be
20 very hard to stay out of the limelight, hide and -- and
21 have a normal life. Well Lyle's reply surprised me yet
22 again. He assured me, and I quote, "Erik and I have no
23 plans to hide. We intend to be front and center advocating
24 for prison reform, for support for LWOP prisoners and
25 juvenile offenders, for the understanding of the affairs

1 of -- of the effects of child abuse and lifelong impact it
2 has on children's lives. We need to be the voice to those
3 who are not heard and cannot speak for themselves. We have
4 a responsibility to stand for all those who have reached
5 out to us through thousands of letters we have received
6 asking for advice and help." I was so impressed, I had to
7 write it all down right there. I'm like, oh my goodness, I
8 need to remember this. It was clear to me that Lyle
9 understood his unique position to make a difference in the
10 lives of many. And he's ready, determined, and committed
11 to his goals, and to follow that path. We all know that
12 life is a journey, and that Lyle has made grea -- many
13 great strides. He, as the rest of us, is a work in
14 progress. I have committed to being part of Lyle's support
15 and accountability network as he reintegrates into
16 society, and I pledge to have weekly contact with him,
17 providing guidance, support, oversight, and open
18 communication as he rein -- in his reintegration process.
19 I believe in tough love. I always have and plan to hold
20 him to a high standard and help him stay on track and
21 understand the full consequences of his actions. On behalf
22 of myself, my mother, my brother, and the rest of our
23 family, I really want to thank you from the bottom of my
24 heart for taking the time to listening to us and for
25 taking into consideration our experiences and commitment

1 as you determine Lyle's qualifications for parole. We're
2 hopeful for our life which includes Lyle back in our
3 family. As you've heard many of us state, please take into
4 consideration that we as loving family of the victims,
5 Jose and Kitty Menendez, have no doubt that Lyle will
6 thrive outside of prison, and we assure you that he will
7 have the support from his entire extended family. I love
8 Lyle and I am willing to do whatever it takes to support
9 him and help him through the process to ensure his
10 success. Thank you.

11 **PRESIDING COMMISSIONER GARLAND:** Thank you. Next on
12 the list is Tamara. Tamara, are you there?

13 **TAMARA LUCERO GOODELL:** Can you hear me?

14 **PRESIDING COMMISSIONER GARLAND:** Yes, now I see you
15 and hear you. Thank you.

16 **TAMARA LUCERO GOODELL:** Good afternoon, Commissioners
17 Garland and Reardon. My name is Tamara Lucero Goodell. I
18 am Kitty Menendez's great niece and Lyle's cousin, and as
19 my sister stated, Tiffani's baby sister. My earliest
20 memories of Kitty, Jose, Lyle and his brother Erik, go
21 back to when I was around four years old during her visits
22 to Arizona where I was born and raised. While I firmly
23 believe Erik and Lyle should be granted parole, revisiting
24 these memories brings forth emotions and fears I have kept
25 buried for many years. I began working in the healthcare

1 profession around 12 years ago. My academic and
2 professional work has focused on childhood development,
3 neuropsychological development, and in -- and
4 institutional healthcare systems that work with and for
5 the injured and those suffering from chronic illnesses and
6 disease. Given that, the offenses Lyle and his brother's
7 committed, occurred just before my ninth birthday. Trying
8 to understand what had happened was very confusing,
9 traumatic for me to process. As I grew and gained more
10 understanding about the world around me, I held a constant
11 wish or maybe a hope to understand what could have led
12 Lyle to make the decision he made on August 20, 1989. As I
13 watched and observed how Lyle's choices impacted the
14 family at multiple levels, it created a deeper desire for
15 me to understand how stressful and traumatic experiences
16 affect a growing and developing child. This greatly
17 contributed to my decision to major in human development.
18 During my studies in human development, I asked my various
19 psychology instructors and professors how a stressful or
20 traumatic home environment can impact children and what
21 lasting effects this could have into adulthood. During the
22 early 2000's, the answer was consistently the same, that
23 not enough research had been done to really understand how
24 stress and trauma creates lasting effects on a person. 25
25 years later we now understand these effects. Research and

1 neuroscience, psychology and child development has shown
2 us that these, that the stress and trauma of childhood
3 sexual abuse can profoundly affect a child development.
4 Early trauma and stressful environments can disrupt the
5 systems responsible for emotional regulation, stress
6 response, memory, and even physical health, because the
7 brain is still wiring itself in childhood. I sincerely
8 hope I don't need to go on explaining the science behind
9 the lasting impacts of the trauma of sexual abuse on a
10 child. One of the things I would like for you to consider,
11 something that you would not understand unless you have
12 experienced it personally, is to put yourself into the
13 mind and body of a child, feeling the weight of a grown
14 adult bearing down on you and their oversized hands,
15 forcing their weight around your body. Put yourself for
16 just a moment into the innocent and confused mind of the
17 same child trying to understand and make sense of the
18 world, asking, why me? What have I done? Is this what love
19 is? This feels good on my body. Why do I feel dirty? Why
20 does my body respond this way? Is this normal? Will anyone
21 believe me if I tell them? Having our family secrets and
22 incredibly dysfunctional dynamics played out as salacious
23 headlines and primetime miniseries. Drama, television,
24 movies and true crime documentaries has taken a toll on
25 all of us. Yeah, we have stood united to support Lyle and

1 we love him with open hearts, and work to discuss the
2 narrative, the true narrative from our truth. I, my
3 grandmother Joan, has spent every one of her days since
4 August 20, 1989, thinking about Lyle and Erik. Moreover,
5 she discovered, after she discovered the abuse they
6 suffered at the hands of their parents, my grandmother
7 took it upon herself to defend Lyle, to advocate for his
8 defense and fight for his ability to walk outside of
9 prison walls. How could I not have known my own sister was
10 allowing this to happen? How did I not see it, she would
11 say to me during discussions. Even though, even through
12 the scrutiny and chastising from media and the court of
13 public opinion, she pushed all of us in many ways to
14 ensure that we maintain connection with Lyle, so that he
15 always felt loved and cared about by his family. The Lyle
16 that I know and love has grown, matured and transformed
17 into a thoughtful, resi -- resilient and hardworking man.
18 He dedicated himself to building a career of reforming and
19 improving -- improving the rehabilitation programming
20 within the correctional system. He has dedicated himself
21 to building a career around making the environment for
22 inmates in the California Correctional System better so
23 that upon release incarcerated individuals can reintegrate
24 into society in healthy ways. But the adverse childhood
25 experience and rehabilitation or ACER Program, he has

1 worked to provide a wonderful resource for offenders to
2 explore how their childhood experiences and traumas relate
3 to their personality traits and how these traumas and
4 experiences contribute to criminal thinking. With the
5 Youth LWOP Allied Program, Lyle provides programming to
6 assist and support young offenders and their work towards
7 their rehabilitation goals. Lyle has intentionally worked
8 to maintain a life in prison that avoids violence and
9 avoids criminal thinking. In 2001, in an overcrowded and
10 violent Mule Creek prison, Lyle was playing a game of flag
11 football in the prison yard. Inmates were taking
12 unnecessary shots at him simply for the fact that he is a
13 Menendez brother. He never gave up in the way he played
14 clean. While Lyle kept playing hard and refused to quit.
15 Lyle refused to back down, but also refused to engage in
16 unnecessary violence. He did not resort to dirty playing
17 strategy or retaliation. Lyle kept it clean while another
18 inmate called out the others in their unnecessary actions.
19 In my discussions with him, Lyle has emphatically
20 explained to me in detail how he would take back every
21 second of what happened on August 20, 1989. He has told me
22 very openly and apologetically how much he was looking for
23 an answer to a solution, for an answer and a solution to a
24 problem that was out of his control. In a recent visit, he
25 explained that he needed to find a solution for him and

1 his brother, but because his father usually was the one
2 that solved the problems that he had -- he had to find a
3 solution and that resulted in a very impulsive solution
4 that seemed like a quick fix. In the event of his release,
5 I am very much looking forward to supporting Lyle and
6 working with him as an accountability partner on his
7 layered accountability transparency contract. The very
8 foundation of his plan is self-awareness, self-honesty,
9 and accountability, and I am ready to hold Lyle to a high
10 standard with all of these morals and values. Lyle's
11 accountability plan requires healthy relationship
12 boundaries and effective coping skills, which require
13 knowing oneself, communicating openly, respecting
14 differences, and balancing closeness with individuality.
15 They protect your wellbeing while keeping relationships
16 safe, respectful and sustainable. Ultimately, the healthy
17 boundaries and coping skills required to maintain his
18 reintegration are about keeping himself safe and about
19 keeping those around him safe. I am ready to hold Lyle
20 accountable to keep himself and those around him safe. I
21 am also prepared to challenge him on any questionable and
22 unhealthy choices in relationships, biases, or habits. The
23 actions that occurred on August 20, 1989 were tragic,
24 desperate, and unspeakable. However over the years, Lyle
25 has ensured to create opportunities for me to ask

1 questions, express my concerns, and discuss the crime.
2 Between these discussions with Lyle and his work to
3 improve the correctional system and environment while
4 incarcerated, I have come to understand him in a
5 completely different way. I have come to understand how I
6 have processed the crime in a different way. I have come
7 to understand forgiveness and repentance in a different
8 way. I have come to realize that I forgive Lyle. Although
9 I completely disagree with his unspeakable and egregious
10 actions, given the violence he survived, I have also come
11 to understand all of this in a way that has driven me,
12 like my sister, to pick up the baton and continue the
13 fighting legacy that my grandmother started in 1990. I
14 have forgiven Lyle, my family has forgiven Lyle and we are
15 so eager and would love nothing more than to welcome him
16 into our homes. Thank you, Commissioner Garland and
17 Commissioner Reardon.

18 **PRESIDING COMMISSIONER GARLAND:** Thank you very much.

19 **ATTORNEY RUMMEL:** Time out.

20 **PRESIDING COMMISSIONER GARLAND:** Yes?

21 **ATTORNEY RUMMEL:** So, um, the audio of yesterday's
22 hearing is now widely available on the news just as we
23 predicted and suspected and objected to, and I wanted to
24 make the Panel aware of it. Um, and I certainly hope
25 that's not happening today because that really does

1 undermine the fairness and integrity of this entire
2 process.

3 **DEPUTY COMMISSIONER REARDON:** Well a lot of that
4 would depend on where -- where it comes from. I mean, this
5 recording is uploaded to the BPH, so I don't think it
6 would've come from the BPH.

7 **PRESIDING COMMISSIONER GARLAND:** Well --

8 **ATTORNEY RUMMEL:** I was not thinking it came from
9 BPH.

10 **PRESIDING COMMISSIONER GARLAND:** No, I didn't take it
11 that way. Um, the entire hearing, the audio is now out?

12 **ATTORNEY RUMMEL:** I'm hearing clips, seeing clips on
13 YouTube and ABC 7. I don't know all the details because
14 it's just coming through and I'm trying to listen to the
15 family statements, which are more important here, but I'm
16 -- I'm just, I guess I'm renewing my objections to media
17 being involved in this hearing for all the reasons I
18 raised previously.

19 **PRESIDING COMMISSIONER GARLAND:** All right. So I do
20 know well, okay. Uh, oof. I'm -- I'm not pleased to hear
21 that, and it's certainly, uh, --

22 **DEPUTY COMMISSIONER REARDON:** It's disturbing.

23 **PRESIDING COMMISSIONER GARLAND:** Disturbing,
24 especially with all the, um, precautions that were put
25 into place. Um, again, sorry to delay this, but I would

1 like to, uh, talk to Mr. Wyckoff real quickly. Um, so I'd
2 like to take a break at 5:27 p.m.

3 **RECESS**

4
5 **DEPUTY COMMISSIONER REARDON:** We're now back on the
6 record, Commissioner.

7 **PRESIDING COMMISSIONER GARLAND:** All right. So it's
8 5:40 p.m. Um, I did look into Ms. Rummel's, uh, statement
9 about it being released, and that is the case. I just
10 learned that, uh, that was the plan was to release it. It
11 is pursuant to Public Records Act requests, and, um, so it
12 has been released. Uh, I -- I just --

13 **ATTORNEY RUMMEL:** I -- I have spent my career doing
14 parole hearings and I have asked for audio recordings of
15 parole hearings on countless occasions and never -- never
16 has a recording of a parole hearing been released. So I
17 think it's highly unusual. Um, it's another attempt to
18 make this a public spectacle and, um, it's interfering
19 with this hearing. It interferes with the victim's Marsy's
20 Law rights. They did not -- they did not agree to be
21 recorded and have a recording of their statements
22 disclosed. It's affecting their Marsy's Law right at this
23 hearing, the fact that yesterday's hearing was released,
24 and I would ask that we, um, we -- we adjourn this
25 hearing. This is not a fair hearing. This is not a fair

1 and impartial consideration of my client's suitability for
2 parole, underscored by the fact that, I mean CDCR is not
3 following its own rules. We -- we are sitting here
4 expecting Mr. Menendez to follow every single rule in
5 order to be released back into the community, and in the
6 middle of his hearing, we find out that CDCR's not even
7 following their own rules. It's outrageous.

8 **ERIK VANDERMOLEN:** Do you guys have anything else to
9 say? I think it's pretty crazy that none of us are all
10 speaking up and outraged by this. I, yeah, I'll hold my
11 voice, but what the fuck.

12 **PRESIDING COMMISSIONER GARLAND:** All right, uh, hang
13 on. I, I'm not sure who just spoke, but I -- I am going to
14 ask no one other than the principal people, either Counsel
15 or Commissioners to speak right now. Um, Ms. Rummel, what
16 are you asking for? A continuance?

17 **ATTORNEY RUMMEL:** It -- it -- it's nothing about this
18 hearing has been fair. We need to have a different
19 hearing.

20 **DEPUTY COMMISSIONER REARDON:** Based on what?

21 **PRESIDING COMMISSIONER GARLAND:** This Panel -- this
22 Panel has not heard any audio or heard about yesterday's
23 hearing. This Panel has, uh, spent an awful lot of time,
24 uh, with everyone in this room. We all have been through
25 this together and, um, I -- I -- I don't know how the --

1 **ATTORNEY RUMMEL:** I -- I understand that.

2 **PRESIDING COMMISSIONER GARLAND:** I don't know how the
3 release of that affects this hearing, but I am -- I am
4 here to hear what your request is on behalf of your
5 client, and I will speak with Commissioner Reardon to make
6 a decision about it.

7 **ATTORNEY RUMMEL:** First of all, I would like for, are
8 -- are you planning to release this audio recording of
9 this hearing? Because if that's the case, we -- we do not
10 want to continue to proceed with this hearing. None of
11 these family members knew that their voices would be put
12 on into the public. That is the, you know, there was a
13 violation of Marsy's Law yesterday which was I thought
14 outrageous and, but just is beyond. It, so if CDCR is
15 planning to release this video, this -- this recording of
16 this hearing, we would like to know before we make a
17 decision about whether to proceed.

18 **PRESIDING COMMISSIONER GARLAND:** Uh, my understanding
19 from, is yes.

20 **MAYA EMIG:** Commissioner, uh, this is Attorney Maya
21 Emig, I'd like to be heard as well, cause I do have a
22 specific request.

23 **PRESIDING COMMISSIONER GARLAND:** On behalf of the
24 victims?

25 **MAYA EMIG:** Well on behalf of my representation of

1 Joan VanderMolen, absolutely, if -- if I may.

2 **PRESIDING COMMISSIONER GARLAND:** Sure.

3 **MAYA EMIG:** So at the onset you, you know, this was,
4 we were, I was never given notice of this. There has never
5 been any precedence as far as this, and quite frankly,
6 there have been high level conversations that we've had
7 with the executive officer, but we were never noticed of
8 this. I -- I am asking for the exclusion of my statement,
9 and I'm assuming that you're going to hear from each one
10 of the victims. You do not have the permission to do this.
11 Period. And so I'm asking for the exclusion. I'm asking
12 for my audio not to be put out into the public domain, and
13 I'm going to stress that. And I would, and I'm sure you're
14 going to hear about this also with respect to each one of
15 those. You, there has to be notice given. It's
16 unacceptable, and I, those -- those statements were put
17 into the confidential record for a reason, and I'm just
18 going to say that there is something very personal about
19 the statements that were given. My voice is not. I'm going
20 to ask for the exclusion of that. Thank you, Commissioner.
21 I appreciate that.

22 **PRESIDING COMMISSIONER GARLAND:** Okay. Thank you, Ms.
23 Emig. And, um, as -- as far as, and I -- I don't have
24 Marsey's Law up in front of me, but I mean, is there a
25 particular provision that you think this is, um, there was

1 a right to notice of -- of release the report.

2 **ERIK VANDERMOLEN:** I, I'd also like to just interject
3 and say, I don't think Lyle is on the call.

4 **ATTORNEY RUMMEL:** He's on the call.

5 **DEPUTY COMMISSIONER REARDON:** He's here.

6 **PRESIDING COMMISSIONER GARLAND:** Yeah.

7 **JOSEPH MENENDEZ:** Yes, sir. Yes, Commissioner.

8 **PRESIDING COMMISSIONER GARLAND:** All right. Um, Mr.
9 Milius, uh, well Ms. Emig is looking for this, I -- I just
10 want to give you an opportunity -- opportunity to be heard
11 on this, um, as well, if there's anything you want to add.

12 **DEPUTY DISTRICT ATTORNEY MILIUS:** Yeah, I -- I don't
13 see how that, uh, the release of audio impacts this, uh,
14 this session. Uh, in -- in, I, during our break, I looked
15 up to see what the audio is. It seems like there's just a
16 small clip and it is of the Commissioner at the end giving
17 his ruling. Uh, there doesn't appear to be any sort of,
18 uh, uh, audio from the, any of the, uh, family members.
19 Um, as I said, I -- I don't see that there's any reason
20 to, uh, for us to, uh, stop with the proceedings as they
21 are now. Additionally at some point, a transcript will be
22 publicly available. It's, I -- I guess the objection is to
23 the sound of people's voices as opposed to the content.
24 Uh, --

25 **PRESIDING COMMISSIONER GARLAND:** Right.

1 **DEPUTY DISTRICT ATTORNEY MILIUS:** I'm not sure that
2 that is that different, I mean, I, I'm, it, I don't see
3 that as a -- a massive difference that you hear someone's
4 voice versus reading what they said on, uh, in a
5 transcript.

6 **PRESIDING COMMISSIONER GARLAND:** Well I, we might
7 disa -- disagree on that. I would, I -- I personally think
8 that there's a big difference, um, you know, from my
9 perspective, so I'm assuming that other people who are
10 pouring their hearts out might, uh, feel the same way. So,
11 um, Mr., I think it was Mr. Pastor, I, I'm going to ask
12 that you just hold off on your comments for now. Um, so
13 the request --

14 **ATTORNEY RUMMEL:** I need to take a break and speak
15 with my client, please.

16 **PRESIDING COMMISSIONER GARLAND:** Okay. Absolutely.

17 **ATTORNEY RUMMEL:** So I just want to make sure I
18 understand. CDCR had always planned to release the audio
19 recording of this hearing after the hearing, but didn't
20 inform the victims or any of the participants that they
21 were deviating from decades of policy prior to today. Is
22 that correct?

23 **PRESIDING COMMISSIONER GARLAND:** I cannot speak with
24 authority on that. I -- I, there --

25 **ATTORNEY RUMMEL:** Was the --

1 **PRESIDING COMMISSIONER GARLAND:** I -- I don't -- I
2 don't know what exactly led to this. I -- I just don't
3 want to speak out of turn. Uh, it was certainly if
4 whatever decision was made was certainly in a very
5 different pay grade and above my pay grade, uh, as they
6 said, so I wish I could --

7 **ATTORNEY RUMMEL:** Well I would like to know before
8 we, yeah, --

9 **PRESIDING COMMISSIONER GARLAND:** Okay.

10 **ATTORNEY RUMMEL:** I would like to know before we make
11 a decision about remedy here, if the entire audio
12 recording from yesterday's hearing was disclosed, and if
13 the intent is disclosed the entire audio hearing from
14 today's hearing. And then I will consult with my client
15 and we will come back, um, and I can give you our position
16 on it. And what policy, what regulation, or what policy
17 allows for this to happen in this hearing, but literally
18 no other hearing that the Parole Board conducts.

19 **PRESIDING COMMISSIONER GARLAND:** I hear you. I will
20 consult with Commissioner Reardon and we will get back as
21 soon as we can. So you're asking us to sort of, to find
22 out what the policy is or what -- what authority there was
23 and recognition that the victims, no one was iden --
24 noticed that this was going to be a released audio. And --

25 **ATTORNEY RUMMEL:** It's never been done. It's never

1 been done. And my suspicion is that CDCR should have
2 embargoed this, and they failed to, and now they're
3 covering it up by saying that they intended to release it
4 all along. And it's ironic to me that we are sitting here
5 for hours talking about Mr. Menendez following CDCR policy
6 when they are not following their own policy.

7 **PRESIDING COMMISSIONER GARLAND:** All right. 5:49 p.m.
8 We will return as soon as we can.

9 **RECESS**

10
11 **DEPUTY COMMISSIONER REARDON:** We are now back on the
12 record, Commissioner.

13 **PRESIDING COMMISSIONER GARLAND:** All right. 6:29 p.m.
14 Um, I -- I do have some more information I want to, I -- I
15 -- I don't think it'll be very satisfying to anyone, uh,
16 but I do want to just kind of explain what Commissioner
17 Reardon and I have learned and what we would, uh, propose.
18 Uh, one is that, uh, there has been a -- a policy based on
19 interpretation of the PRA that, uh, if somebody requests
20 audio tra -- or audio recordings of hearings, that they --
21 they may receive them, um, and -- and I don't know how
22 long that has been going on, it -- it may have been a
23 change, I -- I don't know that. Um, so the intention
24 apparently is that the transcript of this hearing would
25 also be, uh, released at some point. Uh, what we would

1 propose, and we certainly understand the strong
2 objections, uh, the Board will hold off on releasing it,
3 uh, until the parties have a chance to obj -- file
4 objections to the audio being recorded, particularly
5 regarding, you know, their -- their specific, um, you
6 know, statements. I know Ms. Emig has already made an
7 objection to hers and a request, I would ask Ms. Emig to
8 put that in writing.

9 **ERIK VANDERMOLEN:** Oh, I'm going to interrupt you.
10 I'm sorry, but have you seen the photos of the people,
11 like the police officer with his phone being charged, and
12 --

13 **ATTORNEY RUMMEL:** Mr. VanderMolen --

14 **ERIK VANDERMOLEN:** photos of Erik.

15 **ATTORNEY RUMMEL:** let's -- let's let the attorneys --

16 **ERIK VANDERMOLEN:** I hear you -- I hear you but these
17 are photos from your office.

18 **PRESIDING COMMISSIONER GARLAND:** Okay. I --

19 **ERIK VANDERMOLEN:** I don't care about what you say.
20 Like, whatever, like come on.

21 **ATTORNEY RUMMEL:** Mr. VanderMolen let me --

22 **PRESIDING COMMISSIONER GARLAND:** Your --

23 **ATTORNEY RUMMEL:** let me address it with them,
24 please.

25 **PRESIDING COMMISSIONER GARLAND:** your interests are

1 very well repre -- represented by Ms. Rummel. I think it,
2 I -- I -- I understand the emotion, uh, I absolutely
3 understand the emotion, uh, with all of this. I -- I -- I
4 do empathize you --

5 **ATTORNEY RUMMEL:** I don't think you can possibly
6 understand the emotion of --

7 **PRESIDING COMMISSIONER GARLAND:** I don't --

8 **ATTORNEY RUMMEL:** what this family is now
9 experiencing. We have spent, they have spent so much time
10 and energy to protect their careers, their identities,
11 their privacy and dignity, which is promised to them under
12 the California Constitution. Letters can be this. No one
13 ever said, oh, and by the way, your voices speaking your
14 most intimate private thoughts in a hearing about the most
15 devastating aspects of your life are going to be released
16 to ABC in the middle of the next hearing while you are
17 trying to make statements on behalf of your loved ones. So
18 I don't think any of us can understand what they are going
19 through. And I'll tell you where we are now. We are in a
20 position, well I guess I was naive coming into these
21 hearings, because we came into these hearings hoping and
22 expecting a fair and impartial hearing where Mr. Menendez
23 could be heard, be considered, and be understood. And we
24 have a public spectacle, and this has exacerbated it 20
25 fold -- 20 fold. And we now have family members who are

1 not going to speak because they don't believe the
2 assurances that, oh, you can file an objection. What else
3 are we not telling them is going to happen? This family,
4 like I have gotten to know these people over the course of
5 this representation. The system is unfair to victims
6 always, but this is extreme, and it's not just this
7 hearing, and it's not just yesterday's hearing. What these
8 people have been through in the course of this case is
9 outrageous, and the timing of this is terrible, and I am
10 now in a position representing him where some of the most
11 powerful voices for him, the people who know him best, who
12 witnessed what happened in that house, who understand the
13 fear and trauma that he and his brother were experiencing,
14 refuse to speak on the record on his behalf. That's where
15 we are in this hearing. There are victims that would like
16 to also be heard on that. Um, we -- we -- we know what the
17 decision, I mean we, you know, we might as well just get
18 the decision at this point. Um, but we are going to go to
19 court and we are going to ask that this transcript be
20 sealed, um, under Marsy's Law, under just fundamental
21 fairness -- fundamental fairness, that no one in all of
22 the discussions to prepare for these hearings said, oh,
23 and by the way, your voices are going to be on the evening
24 news while you are giving statements in the second case.
25 It's inexcusable. It's -- it's -- it's so disappointing. I

1 come into this Boardroom and I have fair hearings. I don't
2 always have a fair hearing, but most of the time my cli --
3 clients get a fair shot. They get listened to, they get
4 considered in the full context of all of their conduct,
5 they get understood. That has not happened today. And it's
6 not your fault, but it did not happen yesterday. And this
7 is one of the main reasons that this has become a public
8 spectacle, not a candid, open, private place for the truth
9 and -- and to -- to be, and a person to be understood as a
10 human being for the things they've done well and the
11 mistakes that they've made. That is not what happened here
12 today. But I, I'm, I will confirm with the victims, but
13 I'm pretty sure at this point there is no one who wants to
14 speak on some representation that maybe you'll hear an
15 objection to protect their privacy because their privacy,
16 their dignity, their Marsy's Law rights have not been met
17 in this hearing.

18 **PRESIDING COMMISSIONER GARLAND:** I hear you. Um, so
19 is there an objection on the floor or it is that you are,
20 that the -- the plan is that --

21 **ATTORNEY RUMMEL:** We would ask that -- that -- that
22 unless we can be assured that the audio of today is not
23 disclosed until a court can hear whether it's appropriate
24 for it to be disclosed, that there's no, I I've never
25 heard of a public records act request being honored in

1 less than 24 hours. Have you ever done a public records
2 act request to CDCR? Have you? Because it can take years.
3 And here we have one being turned around in a matter of
4 hours. So I would ask that unless we can be assured that
5 the audio of this hearing will not be disclosed until a
6 court can hear it, um, we don't even get a transcript in
7 30 days, and y'all are blasting audio out over the news
8 waves before the next hearing is concluded? Outrageous.
9 That is the only, that is how we would like to proceed. I
10 think I heard you say that, but I'd like to confirm it on
11 the record.

12 **PRESIDING COMMISSIONER GARLAND:** Um, well, I, what I
13 said was that what was being offered was, uh, no release
14 of it until, uh, your objections, uh, were submitted to,
15 or everyone who wants to object would submit that to the
16 Board. Um, and they would be honoring that until the close
17 of business on Tuesday was what I was authorized to, uh,
18 offer for better or worse.

19 **ATTORNEY RUMMEL:** Yeah, no, we're not confident in
20 the Board's ability to protect the victim's right at this
21 point, and I would actually ask Mr. Milius if he would
22 join in this objection to the audio being released in, um,
23 in his capacity as the District Attorney representing the
24 people and representing victims of crime, that the audio
25 not be released until court can hear it.

1 **DEPUTY DISTRICT ATTORNEY MILIUS:** I've spoken with,
2 uh, my supervisors, we believe that the, uh, the this, uh,
3 hearing should continue. Um, there's, I -- I haven't yet
4 to hear a specific articulation of -- of any law that has
5 been violated. We, every person who is in this hearing has
6 agreed to the release of their transcript. There, that's
7 not, like everything we say is going to come out at some
8 point. The issue is whether or not your voice is going to
9 come out. And there's no indication so far, or that the
10 commission, and I believe the Commissioners are going to
11 say themselves, they have not listened to the audio. The
12 audio in no way will impact their decision-making. The
13 victims have a right absolutely to make a statement. They
14 also have a right not to make a statement. If they don't
15 feel comfortable, they don't have to make a statement. But
16 there is nothing that has been indicated that there is any
17 -- anything inappropriate going on in this hearing by
18 these Commissioners.

19 **PRESIDING COMMISSIONER GARLAND:** So I think --

20 **ATTORNEY RUMMEL:** It's not surprising Mr. Milius
21 doesn't want to protect the victims in the case, that's
22 been a pattern of his office. A transcript is very
23 different than a voice recording. It doesn't hit the ABC
24 news network. It doesn't hit YouTube. A transcript and
25 voices are identifying and personal in a way that a

1 transcript is not. We are not objecting to a transcript in
2 30 days like every other case. We are objecting again to
3 differential, um, unfair disadvantageous conduct with
4 regard to Mr. Menendez.

5 **DEPUTY COMMISSIONER REARDON:** Commissioner, can we
6 talk again? Can -- can we talk, can we speak again?

7 **TIFFANI LUCERO PASTOR:** May -- may -- may be heard
8 as a victim? As a victim, may I be heard please.

9 **PRESIDING COMMISSIONER GARLAND:** So I -- I --

10 **TIFFANI LUCERO PASTOR:** I want to make a record. No,
11 I want to make a record. Within the Bill of Rights in
12 Marsy's Law, it states, quote, "in order to preserve and
13 protect a victim's right to justice and due process", I'm
14 going to say it again, due process, "a victim shall be
15 entitled to the following rights. Number one, to be
16 treated with fairness and respect of his or her privacy
17 and dignity. And to be free from intimidation, harassment,
18 and abuse throughout the criminal or juvenile justice
19 system." We have spent the last two days hearing from my
20 cousins accept responsibility for what they have put us
21 through. I want to know what the state of California is
22 going to take accountab -- what they are going to do to
23 take accountability for this. Because that Assistant DA
24 who is on the record saying he doesn't know what righ --
25 rights are violated, needs to go back and take a lesson in

1 due process. I want to know what this, no, I am making a
2 record. I want to know why the state of California and
3 this prison system has wholly dismissed our rights as
4 victims. I want to know who is doing this. Who has decided
5 that our rights as victims get to be thrown out of the
6 window simply because, A, this is a highly sensa --
7 sensationalized case. B, there's a political gain to be
8 had from it. And C, we do not agree with the prosecutor.
9 This is disgusting. And this process is damaged and
10 broken. The DA, the state of California, are taking our
11 dignity. You are taking our integrity, you are taking our
12 privacy, and you are wholly throwing them out the window.
13 That DA who is there, should be ashamed of himself. You
14 have made an oath to protect our rights as victims, and
15 you have completely --

16 **PRESIDING COMMISSIONER GARLAND:** Ms. -- Ms. Pastor,
17 you --

18 **TIFFANI LUCERO PASTOR:** dismissed that oath.

19 **PRESIDING COMMISSIONER GARLAND:** you really can't
20 talk to other parties. You can talk to the Panel.

21 **TIFFANI LUCERO PASTOR:** Okay.

22 **PRESIDING COMMISSIONER GARLAND:** I -- I want -- I
23 want to stop. You are --

24 **TIFFANI LUCERO PASTOR:** Just because this is a high
25 prof -- I am going to make a record, ma'am. I am tired of

1 this. I am tired of living my life in the shadows because
2 of this bologna. I am tired. I came out, I have protected
3 myself. I have stayed out of this. I have -- I have not
4 had a relationship with two human beings because I was
5 afraid. I was afraid. And I came here today, and I came
6 here yesterday, and I trusted that this would only be
7 released in a transcript. And you bet your bottom bippy
8 that a transcript is far different than an audio
9 recording. I do this for a living. I do this for a living.
10 Do you think I want to go in front of people with a
11 transcript? I want to go in front of them with an audio
12 recording. It's far more impactful. It's far more
13 meaningful. Just because this is a high prof -- profile
14 case of the most high you can possibly get, and just
15 because we are not aligned with the government or the DA's
16 Office does not mean that you get to violate the rights
17 that the State's Constitution has given us. It's a simple
18 due process, right, Ms. Rummel is right.

19 **PRESIDING COMMISSIONER GARLAND:** So --

20 **TIFFANI LUCERO PASTOR:** We have sheltered ourselves
21 from this. I have tried to build a career guarding against
22 this. I have tried to protect my children from this.
23 Yesterday -- yesterday's proceeding is out in the ether.
24 You've misled the public, you've misled this family, and
25 now to compound matters, you violated this family and this

1 victim's rights under Marsy's Law. That's the law that you
2 need to pay attention to and that the DA should be
3 protecting.

4 **PRESIDING COMMISSIONER GARLAND:** Thank you, Ms.
5 Pastor. Um, so I -- I --

6 **DEPUTY COMMISSIONER REARDON:** Commissioner --

7 **PRESIDING COMMISSIONER GARLAND:** Ms. Emig --

8 **DEPUTY COMMISSIONER REARDON:** let's talk again
9 briefly. Can we do that? We'll -- we'll let things cool
10 down a little bit, and you and I can talk briefly. We, it,
11 it'll only be like five minutes, we'll be back. Can we do
12 that?

13 **PRESIDING COMMISSIONER GARLAND:** All right. Uh, Ms.
14 Emig, I -- I did ask you earlier if you wanted to point to
15 something specific in -- in support of your objection. I
16 do. I -- I will let, let's just hear you out real quick on
17 that, if, and -- and let's try to be quick on it, if
18 there's just some --

19 **MAYA EMIG:** Yeah.

20 **PRESIDING COMMISSIONER GARLAND:** sort of specifics.

21 **MAYA EMIG:** I do. I, so I actually believe that this
22 Panel has the authority, um, that is the first level of
23 review. And then I have the second one, which is the court
24 one. And I would join, uh, Ms. Rummel in all of her
25 assertions. So under Marsy's Law, California Constitution,

1 article one, section 28 B4, um, I would also cite to Penal
2 Code, Section 3043.6. Uh, the voices are identifying and
3 personal in nature. Uh, the courts have recognized that a
4 voice is a form of personally identifying information akin
5 to an image of biometric data or signature. Because
6 Marsy's Law protects victims' privacy rights and dignity,
7 a victim's voice, um, falls under those protections. And
8 then so I want to -- I want to go into the next parts of
9 this and I can give you some more, um, citations because
10 I've, we -- we've got -- we've got --

11 **PRESIDING COMMISSIONER GARLAND:** Well I'm not writing
12 them down so -- so let me, so broadly you're saying that
13 the Penal Code provides that voices are similar to
14 personalized, uh, personal identifying information.

15 **MAYA EMIG:** Well specifically, yeah, I'm going
16 specifically into the law, but I also believe that, um,
17 that the Panel is vested with that, and that would
18 actually give us the -- the, um, the argument is that --
19 that you have the authority to embargo, you have the
20 authority, um, to embargo the voices. That is the actual
21 audio. That's our position. The other position is also,
22 um, that -- that you -- you should give us even more time
23 to give, allow us to file in court as well, and you do
24 have the authority to do that as well.

25 **DEPUTY COMMISSIONER REARDON:** When you say -- when

1 you say you guys, you're -- you're talking about this
2 Panel as opposed to the BPH? Is that what you're saying?

3 **MAYA EMIG:** Yes. Yes. You have --

4 **ATTORNEY RUMMEL:** This Panel is holding this hearing.
5 You have the right to embargo the audio. Do not disclose
6 the audio to the whole world. We would request that you do
7 that for the protection of the fairness of the hearing to
8 my client. You -- you -- you have them come in here and
9 talk about sexual abuse and then you put it out in the
10 world for everyone to listen to. We, for the fairness of
11 the process, his dignity, and for and on behalf of Ms.
12 Emig and the -- the victims under Marsy's Law.

13 **PRESIDING COMMISSIONER GARLAND:** Okay. I -- I am open
14 to, uh, ways to solve this. Um, I - I, I'm not sure what
15 to use the word, but, uh, I -- I would love to see a
16 solution. I think I understand. Um, so, so you're
17 suggesting that the Panel make an order that the voices of
18 the family not be released. Uh, is that?

19 **ATTORNEY RUMMEL:** Yes, absolutely.

20 **MAYA EMIG:** Yes. To -- to embargo the voices
21 specifically, right?

22 **ATTORNEY RUMMEL:** The entire audio -- the entire
23 audio.

24 **MAYA EMIG:** Yes.

25 **ATTORNEY RUMMEL:** I think you're giving us more

1 credit than we have, but I -- I am open to exploring that.
2 Um, uh, --

3 **DEPUTY COMMISSIONER REARDON:** I -- I -- I need to
4 talk to you Commissioner, because the process that I have
5 as far as what I do with the audio when we're done, it --
6 it gets uploaded so I -- I need direction on that. I -- I
7 need to talk to you about that.

8 **PRESIDING COMMISSIONER GARLAND:** Okay. I gotcha.
9 Okay. I think we've heard everybody's arguments. Um, this
10 is certainly not what I thought we would be doing at this
11 hour today. Um, I appreciate everyone's patience. Let,
12 let's see if we can get something resolved. Uh, Ms. Emig,
13 yes, I'll hear you. One more thing.

14 **MAYA EMIG:** No, no, no. I -- I just wanted to give
15 you the legal authority, but I can put it, I can. So, um,
16 I've got 3043.6 -- 3043.6, I've got the California
17 Constitution, article one, section one. I also have,
18 sorry, I started off with the -- the Marsy's Law Citation,
19 California Constitution, article 128, 4B, uh, and then the
20 3043.6, the -- the ability to embargo the audio.

21 **ATTORNEY RUMMEL:** And we are not going to finish this
22 hearing if as soon as we're finished you're going to
23 upload it and upload it, then -- then we do not want to
24 finish this hearing.

25 **PRESIDING COMMISSIONER GARLAND:** Yeah. I -- I -- I

1 have been, we have been assured, well right. We have been
2 assured it will be uploaded because it has to be, it will
3 not be, uh, distributed. So I have assurance from every
4 level on that. So, um, --

5 **DEPUTY COMMISSIONER REARDON:** Yeah. That, that's not
6 discretionary with me as far as my job description goes,
7 but we're -- we're going to talk, right Commissioner?

8 **PRESIDING COMMISSIONER GARLAND:** Yeah. We'll be back
9 as soon as we can. Uh, sorry, 6:47 p.m.

10 **RECESS**

11
12 **DEPUTY COMMISSIONER REARDON:** We are now back on the
13 record, Commissioner.

14 **PRESIDING COMMISSIONER GARLAND:** All right. 7:11 p.m.
15 Uh, Ms. Rummel you -- you asked, um, if we can get an
16 assurance that this can be litigated in court and it will
17 not be released until that litigation, uh, you've had a
18 chance to do that. Uh, that will be honored and so my
19 understanding is that, uh, this will be held, uh, until
20 that is concluded. Um, the Board is asking, as far as the
21 administrative remedies, I think you would have to exhaust
22 before going to court anyway, that -- that, you do file
23 those with the Board before the close of business on
24 Tuesday. If that, if you need more, you know, that's just
25 what I'm being told to tell you. Um, and so let me check

1 with you and see, well I'll let you respond to that.

2 **ATTORNEY RUMMEL:** Um, I understand. It's -- it's my
3 impression from the family members, I'll let them speak
4 for themselves if that is not enough of assurance for them
5 to speak, uh, on the record today, obviously some already
6 have, so they're at your mercy. But, um, I will, if -- if
7 anyone wants to speak we can finish with this victim
8 statements and, um, we'll go to the decision. But, you
9 know, this is an outrageous -- outrageous development, um,
10 beyond, unlike anything I've ever experienced, and I've
11 been doing this for a very long time.

12 **PRESIDING COMMISSIONER GARLAND:** You are heard.

13 **ANAMARIA BARALT:** I believe my mother would like to
14 speak, Terry Baralt.

15 **PRESIDING COMMISSIONER GARLAND:** All right. Ms.
16 Baralt, go ahead.

17 **TERESITA MENENDEZ-BARALT:** Okay.

18 **PRESIDING COMMISSIONER GARLAND:** And this is, I -- I
19 would like this to be the Victim Impact Statement. I think
20 that as far as the release, I -- I think that --

21 **TERESITA MENENDEZ-BARALT:** It's not --

22 **PRESIDING COMMISSIONER GARLAND:** you need to --

23 **TERESITA MENENDEZ-BARALT:** it's not, I am not. I'm,
24 my name is Terry Baralt. I'm known as Aunt Terry. I am not
25 going to read the statement I prepared today because I

1 don't want my voice out there. But I want my nephew to
2 hear me say how much I love him and believe in him. I'm
3 very proud of him. I know he's ready to come home. Thank
4 you for your time, and I love you Lyle. Thank you.

5 **PRESIDING COMMISSIONER GARLAND:** All right. Thank
6 you, Ms. Baralt. All right. Any other family members want
7 to speak on their Victim Impact Statement?

8 **ATTORNEY RUMMEL:** I think we'll just make the record
9 of victims who were intending to speak and now don't feel
10 comfortable speaking. Maybe we can just put, have everyone
11 have put -- put that on the record quickly before we move
12 to the decision.

13 **DEPUTY COMMISSIONER REARDON:** Who do we --

14 **PRESIDING COMMISSIONER GARLAND:** All right. I believe
15 --

16 **DEPUTY COMMISSIONER REARDON:** yeah, who do we --

17 **PRESIDING COMMISSIONER GARLAND:** oh, go ahead.

18 **DEPUTY COMMISSIONER REARDON:** who do we end with? Um,
19 Tamara? Did we hear from Tamara?

20 **PRESIDING COMMISSIONER GARLAND:** I -- I believe so.

21 **DEPUTY COMMISSIONER REARDON:** Karen?

22 **PRESIDING COMMISSIONER GARLAND:** I think we were
23 next, did we hear from Karen? I -- I think that was the
24 one, I think we stopped after Tamara. So, Karen, Erik V. -
25 -

1 **DIANA HERNANDEZ:** Tif --

2 **PRESIDING COMMISSIONER GARLAND:** I'm sorry.

3 **DIANA HERNANDEZ:** Tiffaniy will be reading -- Tiffany
4 will be reading Kathleen's statement. I believe that's
5 where we stopped.

6 **PRESIDING COMMISSIONER GARLAND:** Okay. I think we --

7 **KAREN VANDERMOLLEN-COPLEY:** No, we stopped --

8 **PRESIDING COMMISSIONER GARLAND:** so --

9 **KAREN VANDERMOLLEN-COPLEY:** we stopped at where I was
10 next, and I'm not comfortable. I say things that are
11 extremely personal and private, so my whole statement is
12 going to have to be redone if I'm going to feel like
13 everybody that I know, I'm a -- I'm a nurse case manager.
14 I just, I can't have some of this stuff out there and --
15 and -- and you guys aren't protecting it, so, no, not
16 right now. I have to redo it.

17 **DEPUTY COMMISSIONER REARDON:** At -- at this point --

18 **PRESIDING COMMISSIONER GARLAND:** All right. I --

19 **DEPUTY COMMISSIONER REARDON:** we're just trying to
20 make a record of who was left to speak and who didn't.

21 **ERIK VANDERMOLLEN:** I was -- I was next after Karen. I
22 would just like Lyle to know that we stand behind you and
23 support you. And this is --

24 **PRESIDING COMMISSIONER GARLAND:** Hang -- hang on,
25 Erik, I -- I need to stop you. The comments actually have

1 to be directed to --

2 **ERIK VANDERMOLEN:** Sure, sure --

3 **PRESIDING COMMISSIONER GARLAND:** uh, to the Panel.

4 **ERIK VANDERMOLEN:** sure -- sure, um, my apologies --
5 my apologies.

6 **PRESIDING COMMISSIONER GARLAND:** I -- I -- I, a lot
7 is, it's all a -- a bit, uh, unusual right now. So no, no
8 apologies necessary. Let's just make a record. Um, Karen,
9 Erik, Sarah, Natascha, Kathleen, Allen, and, uh, Diane.
10 And, uh, Terry, I think made a statement, but not probably
11 what she wanted to make. Is that, uh, does that sound
12 about right, Ms. Rummel or -- or Ms. Emig, as far as, uh,
13 the victims.

14 **ATTORNEY RUMMEL:** Those -- those are the people that
15 I understand planned to make statements and no longer feel
16 comfortable making statements. But if that's not correct
17 for anyone on the list of names she's just read, you can
18 speak up at this point and make your, you're welcome to
19 make your statement, but I'm representing that I've been
20 told that no one at this point feels comfortable making
21 the statements they plan to make on, in support, all in
22 support of Mr. Menendez.

23 **PRESIDING COMMISSIONER GARLAND:** All right. I think
24 that's -- I think that's the Panel's understanding as
25 well. All right. At this time, Commissioner Reardon and I

1 will, um, disconnect from the hearing. And so I do ask
2 that there is no, uh, discussion, anything, uh, between
3 anyone, uh, while we are out. There are people monitoring.
4 I just want to be really careful that everything that's
5 said, uh, on here can be heard. So, um, it's 7:16 p.m.,
6 uh, we will come back as soon as we can I promise.

7 **RECESS**

CALIFORNIA BOARD OF PAROLE HEARINGS**DECISION**

DEPUTY COMMISSIONER REARDON: We are now back on the record, Commissioner.

PRESIDING COMMISSIONER GARLAND: It is 7:42 p.m. and everyone has returned. Uh, first I -- I want to thank you all for your patience. Um, this has been an incredibly challenging day in so many ways, and for different, in different ways for different people, and, uh, I appreciate everyone hanging in there with us. Um, ultimately our -- our decision comes down to whether Mr. Menendez poses an unreasonable risk to the public. And, uh, the Panel has found today that there are still signs that he does, and this is a denial of parole. It will be a minimum denial length. Um, this is not taken lightly. Uh, we absolutely recognize the length of time you've been in prison and the progress you've made, um, but ultimately there are issues that I am going to address that I hope will provide some guidance and help for the, for your next hearing, and -- and in general, just be, um, helpful to you. That is our goal today. Um, what I'll do now is I'm going to go through each of the factors that the Board considers in determining risk. I will explain whether the factor is aggravated, mitigated, or neutral. Um, the first thing

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1 that we look at is the criminal history. Your criminal
2 history, and we know you didn't have a record, uh, before
3 the murders, but you were engaging in antisocial and
4 criminal acts obviously during these burglaries, they were
5 pretty extensive. Um, but at this point, this many years
6 later, we just find it to be a neutral factor, um, but we
7 can't find that it was mitigating because of that. Looking
8 at the degree of self-control that you exhibited during
9 the commitment offense, uh, obviously I don't think anyone
10 would disagree that you exhibited very poor self-control,
11 so this is an aggravated factor. Uh, you were associating,
12 well looking at the things that we look for as far as the
13 degree of self-control, you were associating with negative
14 peers, uh, you were impulsive, uh, made very poor
15 decisions, failing to think about the consequences, um,
16 obviously that's mitigated somewhat by the youth offender
17 factors, which I will address. Uh, you had a poor threat
18 perception, thinking there was a threat when, uh, it -- it
19 wasn't as you thought. Um, the level of violence, um,
20 shooting both of your parents while they were unarmed, uh,
21 leaving to reload your weapon, return to shoot your mother
22 in the face, all of that, it just demonstrates a
23 remarkable level of callousness and a cruel disregard for
24 others. The crime also demonstrated several aspects,

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1 demonstrated significant manipulation, criminal thinking,
2 uh, you know, using a fake ID to purchase the gun, uh,
3 lying to law enforcement, having others lie to you, you
4 know, lie for you afterwards, all of those things
5 demonstrate current or criminal thinking. I just mention
6 all those things because that's a factor in our
7 guidelines, right, we need to look at the -- the
8 circumstances, uh, that brought you to prison. And we know
9 that those two things are static or historical, they don't
10 change. And we know, and the law provides that after a
11 long period of positive rehabilitation, those factors may
12 long, no longer demonstrate current risk to the public. So
13 turning to things that you -- you have control over now,
14 Mr. Menendez. One is looking at your efforts, uh, in
15 programming to address the causative factors of your crime
16 and criminality. Um, this is, we find to be a neutral
17 factor. Uh, you certainly aren't rejecting the need for
18 change, uh, but we do see the need for additional, um, and
19 we call it dosage, you know, more time, uh, and more
20 topics that you should be addressing. Uh, we do see that
21 you've made a significant effort over the past several
22 months regarding criminal thinking. You have had, uh,
23 Mental Health counseling on trauma and other causative
24 factors over the years, but we think that, uh, there is a

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1 need for more. Commissioner Reardon will give you some
2 suggestions on that. Institutional behavior, uh, probably
3 not surprisingly the Panel does find this to be
4 aggravated, um, due to the pattern and recency of your
5 institutional misconduct, uh, that is, uh, still a
6 relevant aggravating factor. Uh, we look at your parole
7 plans, those are very mitigating. Um, you have done a
8 tremendous amount of work. As I mentioned earlier, we are
9 very impressed with your writing, uh, your support
10 network, um, your -- your plans, uh, for release are --
11 are solid, and -- and that's what we want. Uh, you are set
12 up for success once you walk out the door, I don't have a
13 doubt about that as far as your plans. I -- I -- I would
14 recommend as far as your relapse plans, you really think
15 about antisocial peers, uh, a little bit more about
16 criminal thinking, uh, really come up with a plan that
17 will help you to succeed in those areas in the community
18 as well. And then the final factor we look at is personal
19 change. And we find -- we find this, um, aggravated at
20 this point, because even with your programming, you do
21 continue to express views and engage in behaviors that
22 demonstrate the lack of change. I just want to start by
23 saying what, you know, when we look at -- at change, we
24 have to kind of look back. That's why we were asking

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1 questions about your prior, you know, what led you to
2 prison? What led you to commit this crime? So we look, and
3 we look at the -- the antisocial and criminal traits that
4 were present when you did that, and have they been
5 addressed through that positive rehabilitation and
6 demonstrated prosocial conduct? Um, and this is, you know,
7 the overall look at change is a -- is a hard one, is an
8 interesting one to assess in your case. Uh, you have an
9 impressive number of positive prosocial accomplishments,
10 your educational achievements, um, obtaining a bachelor's
11 degree from UCI, working on a Master's degree, obviously
12 very positive. Your leadership in the Green Space Project,
13 obviously very positive, very impactful. Um, your support
14 letters from inside and outside of the institution
15 demonstrates that you have made a positive impact on other
16 incarcerated people, on your family, and on custody staff.
17 Uh, we also recognize and commend you for not engaging in
18 any violence. We recognize that. I want you to know that.
19 Um, and we know that you've worked hard on gaining insight
20 and trying to understand why you committed this admittedly
21 horrendous and unnecessary crime. We find your remorse is
22 genuine. Um, and so in many ways, you look like you've
23 been a model inmate who, well you have been a model inmate
24 in many ways, who has demonstrated the potential for

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1 change. Um, but despite all those outward positives, we
2 see in two main areas that you still struggle with
3 antisocial personality traits of deception and
4 rationalization, uh, minimization and rule breaking, uh,
5 that continue to lie beneath that positive surface. So one
6 area that we're relying on, uh, won't surprise you, uh,
7 it's something we talked a lot about today, your cell
8 phone use. Um, you know, this was going on for six years.
9 Uh, there's no doubt you knew it was wrong, you knew it
10 was against the rules, you were working with others, and
11 that's a concern. I think you've recognized now that
12 there's dangers in -- in cell phone, well I don't know
13 that I can say it would be believable for you to tell us
14 that you don't know what the dangers of cell phones are.
15 You do know, uh, but you chose to disregard that. Um, you
16 know, we're not naive to say, you know, to think that
17 holding a cell phone is the same as holding a gun. That is
18 not what this is about. We are not suggesting your cell
19 phone use means that you are going out, you're going to go
20 out into the community and shoot somebody again, that's
21 not what this is about. But what we do know is that
22 incarcerated people who are willing to break rules in the
23 structured environment of prison are also more likely and
24 more susceptible to breaking rules and laws in society,

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1 and it is particularly true when the person is able to
2 rationalize or justify their actions. And we do understand
3 that you had very little hope of being released for many
4 years, although you acknowledged today you had hope over
5 the years, habeas petitions, other things have been going
6 on over the years, um, that have given you maybe some hope
7 and some incentive to behave. Um, you wrote in your
8 documents, you said, quote, "at the time, it was not on my
9 radar -- radar to stop behavior or to change my behavior.
10 I was LWOP and I was never getting out of prison. Using
11 the cell phones made my life exponentially better and more
12 connected." And there were some arguments today that
13 echoed that sentiment, that the lack of hope explains why
14 you were willing to break the rules, even knowing how
15 wrong it was. But if you think about it, in society
16 citi -- citizens are expected to follow the rules, whether
17 or not there's some incentive to do so. And it is really
18 important for you, Mr. Menendez, to really dig deep and
19 try to understand that. Um, it's, it is hard for us to
20 understand why, and even after reading all of your
21 documents and talking to you today, the answer is not
22 satisfactory. That the, it's sort of the tale of two
23 Lyles, right? You were this model guy doing everything
24 right, and yet you were getting everything you wanted with

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1 that cell phone and you weren't going to give it up. Why?
2 There's still a why that you're not able to answer and in
3 fact sort of avoided answering in some ways. You say the
4 right things about what you've learned, but again there's
5 something deeper. Um, you know, there was a -- a statement
6 in your CRA, I think I wrote it down about your, the
7 personality configuration. Um, and -- and it said, the CRA
8 clinician said, his personality configuration is
9 considered entrenched and unlikely to change. His sense of
10 entitlement and his willingness to meet his needs
11 regardless of the expected consequences within a highly
12 structured setting does not bode well for his willingness
13 to solve problems prosocially on release. You talked about
14 your family, you wrote about your family and the toxic
15 attitude, sort of, you know, lying, cheating, doing what
16 you needed to -- to get what you want, right? I, what I
17 worry about is that that's still in you in a way that
18 you're not able to control. I mean that is what you did
19 with these cell phones. Um, so we don't believe that it's
20 impossible to change it. I don't think it is at all. And I
21 don't think with the determination, uh, that you have and
22 your intelligence that it's impossible to change. But I
23 think at this point you are still, uh, really needing to
24 work on that, um, to dig a little deeper on it. The other

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1 thing that the Panel was concerned about, actually one
2 more thing on the cell phones. You know, the idea that you
3 were an LWOP, we understand that there's probably prob --
4 some, in some respects programming is not available to
5 you, hope is not available to you. We understand that. Um,
6 and -- and I think maybe it was Ms. Rummel or Ms. Emig
7 talked about, you know, sort of that lack of hope, maybe
8 that, you know, another LWOP wouldn't have accomplished
9 the things that you have. I have conducted hearings with
10 people who were forma -- formally sentenced to LWOP or to
11 people who were juvenile LWOP's. Um, many have had the
12 positive achievements that you've had despite that lack of
13 hope. But the ones who have been found suitable in my
14 hearings anyway, were not engaging in criminal thinking or
15 cell phone use in the past year, and for the previous six
16 years, they just weren't. They just weren't. In fact, uh,
17 you know, just this week, uh, Executive Board meeting, uh,
18 uh, incarcerated person lost his date. He had had a grant
19 and he lost his date because he used a cell phone. So that
20 -- that tells you the importance of this and the
21 importance to -- to really follow the rules. Um, the, um,
22 the other area that we had some concerns about today is --
23 is ongoing criminal thinking. And as I mentioned, sort of
24 those antisocial traits of deception, um, minimization. We

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1 saw that in the hearing today in a -- in a surprising way.
2 I felt that you were dodging some questions. It seemed
3 that you were trying to answer parts of things that you
4 wanted to say rather than what the questions were posed,
5 how the questions were posed to you. Uh, it might've been
6 nerves, but it came across as evasive and sometimes not as
7 credible as I would expect. Um, so, you know, some
8 examples, I -- I -- I think that if you read through the
9 transcript yourself, uh, you might recognize them. I know
10 you are very bright, uh, I think you are insightful. Um,
11 but some of the questions that we asked were prompted by
12 your own writing. Uh, they were things that I wanted to
13 understand a little bit more about, and they raised like
14 questions to me. Um, but you had trouble answering some of
15 those, or your answers just didn't seem, as I said,
16 totally credible. Uh, you denied any kind of planning in
17 the crime, that is even inconsistent with some of the
18 things you mentioned in your writing. Uh, your statements
19 to the clinician, the last, in the la -- you know, just a
20 few months ago, um, you know, there were several aspects
21 that you seemed to acknowledge that this was something
22 thought of and -- and planned at least in a, you know,
23 sort of general sense, um, and -- and you outright denied
24 that. Um, you were evasive in -- in a question that was

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1 really more of a curiosity question about why did you get
2 the Porsche and why did Erik get the Jeep? Because I
3 thought the answer would probably be, well that was his
4 personality versus mine, or there was, yeah, I liked
5 flashy things, but you just really didn't want to answer
6 it. And you talked about wanting little cars. You wanted,
7 talked about that you had had a -- a convertible, and you
8 like that. I mean a Porsch and a Jeep are a very different
9 thing. Uh, it just -- it just seemed like you were trying
10 to hide something or just not -- not tell us things. There
11 were also things that you didn't write about in your
12 writings or talk about in, or that you didn't talk about
13 in the CRA. I apologize, I'm tripping over my words, it's
14 been a long day. Um, you know, we talked about the abuse
15 of your mom. I -- I -- I thought that was an unusual
16 omission in the CRA. Um, you -- you were asked a question
17 today about being, were you a good liar? And you said no.
18 Um, but you have a history of lying and deceiving people
19 before the crime, after the crime, and as we know,
20 sometimes in prison as well. You acknowledge things in the
21 Comprehensive Risk Assessment, or in the Confidential, uh,
22 that demonstrated you were manipulating people, you know,
23 back when you were a MAC chairman. I mean there's a lot
24 there that it just seemed like you would come clean to a
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1 certain point but not all the way, and I just didn't
2 understand that. So again, I'm probably not making any
3 sense at this hour, uh, but I do want you to go back and
4 look at the transcript to see if that can be helpful to
5 you. Another example, uh, was about the use of the guns.
6 Uh, as you could tell, I kind of changed my track after
7 you answered the thing about whether you knew that you
8 thought your parents had guns in the den. As I recall what
9 you said was again, uh, well it was contrary to what
10 you've written and what I think you have said in other
11 arenas. Um, I, so I was concerned actually that you were
12 saying something that was going to go against, you know,
13 that was going to, I guess come back to bite you if, I
14 just didn't want to be the forum for you airing, you know,
15 this defense that you have that is still pending in the
16 habeas, again probably not making sense, but, uh, your
17 answer was inconsistent with what you've said before in
18 your writing. Um, so those are the things that -- that we
19 have concerns about. You know, there was a discussion, uh,
20 about, you know, that some of the things you do are coping
21 skills. Well a coping skill, just as a piece of advice,
22 should not be relying on a cell phone that is illegal in
23 prison, uh, that is not a coping skill. So what that tells
24 us is there's still some work you need to do on

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1 internalizing some programs that you have to gain real
2 coping skills that will help you on these areas that still
3 challenge you, uh, mostly related to those personality
4 traits. Um, the other things that we considered, the
5 Comprehensive Risk Assessment was a moderate-medium risk,
6 meaning the doctor did found it posed, you posed an
7 elevated risk of future violence. Um, we relied on that,
8 uh, and we also considered the other psych evals that were
9 presented. Um, overall the -- the findings of the CRA
10 clinician were pretty consistent with what we found, uh,
11 just in the hearing today, so we do rely on that. Uh, we
12 did give great weight to the youth offender factors, and
13 there is no doubt, uh, that the first two prongs for sure
14 of the youth offender laws apply to you. Uh, that is that
15 there's a diminished culpability of youth, um, due to
16 incomplete brain development before the age of 26. In your
17 case you were very, you know, vulnerable to the effects of
18 this negative and dysfunctional and abusive environment,
19 and you had limited control, no control over that, what
20 you were living in. Um, and as the doctor found in the
21 CRA, it is highly probable that youth offender factors
22 played a prominent role in your compromised decision-
23 making and judgment. We agree with that. Uh, we also see
24 the hallmark features of youth, uh, as I mentioned,

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1 impulsivity, recklessness, uh, susceptibility to negative
2 influences, and a lack of appreciation for the
3 consequences. The third prong is looking at your growth
4 and maturity in both judgment and impulse control, and for
5 the reasons I've already explained, we see that that's
6 still a hurdle for you. Uh, there are certainly signs of
7 growth, but it is as the CRA found, counterbalanced by the
8 evidence that you continue to struggle with impulse
9 control and poor judgment. Um, so, uh, well let me quote
10 from the CRA, "given his advancing age and the recent
11 reliance on meeting his needs with deviance, his disregard
12 for the rules and other dissocial behaviors cannot be
13 assumed to be simply youth related." Meaning you're --
14 you're still acting in a youthful way, uh, even in your
15 50's and that, so we can't say that it was solely due to
16 the youth factors. So while we do give great weight to
17 those mitigating factors, we can't say that it outweighs
18 our concerns. Uh, elder -- elder -- elderly parole, uh, we
19 did give special consideration to that. We know you're 57,
20 uh, you've been incarcerated for 36 years, and we know at
21 your age and with your length of incarceration there is a
22 reduced risk of recidivism. Um, but. it does appear you're
23 able bodied, you're healthy, you don't have cognitive
24 deficits, so we can't say that your age, you

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1 know, mitigates these other things at this point as far as
2 your functional risk for future violence," and that's a
3 quote from the CRA. So ultimately we do find that you
4 continue to struggle with some of the same risk factors
5 that were present at the time of your life crime and your
6 release would pose an unreasonable risk to public safety.
7 Commissioner Reardon.

8 **DEPUTY COMMISSIONER REARDON:** Thank you,
9 Commissioner. It's a joint decision. I concur in your
10 findings on the domains, as well as your ultimate finding
11 of unsuitability for the reasons stated. Mr. Menendez, uh,
12 prior to your next hearing, the Board makes the following
13 recommendations, we would like to see you address the
14 following risk factors, criminal thinking for reason
15 stated, criminal thinking involves the cell phones. Um,
16 antisocial peers, you were involved in what I would call a
17 cell phone enterprise, so you can't acquire or use cell
18 phones without associating with antisocial peers, right?
19 You know, you have to know where to get them, uh, you have
20 to know where you can -- you can sell them. Denial
21 management and also the adverse childhood experiences,
22 childhood trauma, that's probably always going to be an
23 issue that would be healthy for you to have, uh, a deep
24 exploration on, so it could help you understand, uh, some

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1 of the -- some of the behavior that still may be affected
2 by your -- your horrible childhood. Thank you,
3 Commissioner.

4 **PRESIDING COMMISSIONER GARLAND:** Uh, thank you. And I
5 -- I -- I hope there's a message you really hear right now
6 Mr. Menendez is, don't ever not have hope. I, you know, we
7 understand that that is probably how you have felt for
8 many years. This denial is not about, it's not the end. It
9 -- it is a way for you to spend some time to demonstrate
10 and -- and to practice what you preach about who you are,
11 who you want to be, who all these people see you as being.
12 Don't be some -- don't be somebody different behind closed
13 doors. That's the prosocial person that you have the
14 potential to be, uh, that everybody believes in you to be,
15 and -- and we see signs of that. We just want to see you
16 actually make that happen in a real and meaningful way.
17 Uh, you will be considered for an Administrative Review in
18 about a year from now where, uh, the Board will do a paper
19 review seeing what your progress has been and you may be
20 moved up to a hearing in about 18 months rather than the
21 full three years. You also have a right to file a Petition
22 to Advance form where you can show in writing that there's
23 been a petiti -- there's been a change of circumstances or
24 new information, uh, that demonstrates that you should be

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1 back before the Board before that three-year period. So,
2 uh, those are both options that may make you back before
3 the Board in, uh, a sooner time period. I wouldn't be
4 surprised if that's what happens and we wish you the best.
5 And I want to thank again everybody. Uh, this has been
6 probably my most challenging, uh, day in my career in
7 multiple places. I am sure you all feel that it has been,
8 uh, a challenging and -- and frustrating day. I, and I
9 certainly apologize on behalf of the Panel for that, um,
10 and I appreciate everyone's participation. It is 8:07 p.m.
11 This hearing is adjourned.

12 **ADJOURNMENT**

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, Fran Matis, 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: **K13758**

JOSEPH MENENDEZ

RICHARD J. DONOVAN CORRECTIONAL FACILITY

SAN DIEGO, CALIFORNIA

AUGUST 22, 2025

8:39 AM

Signed: *Fran Matis*

Transcribed by: Fran Matis

Dictate Express Transcription

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