

1 C. Keith Greer, (State Bar No 135537)
Jonathan Berger (State Bar No. 247044)
2 C. Tyler Greer (State Bar No. 320485)
GREER & ASSOCIATES, A.P.C.
3 16855 West Bernardo Dr. Suite 255
San Diego, California 92127
4 Telephone: (858) 613-6677
Facsimile : (858) 613-6680
5

6 Attorneys for Plaintiffs and Petitioners
PARI ZAHAU, MARY ZAHAU-LOEHNER
7 and DOUGLAS LOEHNER

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION

10 PARI ZAHAU and DOUGLAS LOEHNER,) Case No.:
11 Petitioners/Plaintiffs,)
12 v.) **FIRST AMENDED VERIFIED**
13 SAN DIEGO COUNTY SHERIFF'S) **PETITION FOR WRIT OF MANDATE**
14 DEPARTMENT; WILLIAM D. GORE, in) **PURSUANT TO THE CALIFORNIA**
his official capacity as Sheriff of San Diego) **PUBLIC RECORDS ACT AND THE**
15 County; and DOES 1 through 20, inclusive,) **CALIFORNIA CONSTITUTION AND**
Respondents\Defendants.) **COMPLAINT FOR DECLARATORY**
16) **RELIEF; REQUEST FOR**
) **ATTORNEYS' FEES AND COSTS**

17
18 Petitioners/Plaintiffs Pari Zahau, Mary Zahau-Loehner and Douglas Loehner allege
19 as follows:

20 **I. THE PARTIES**

21 1. Petitioner/Plaintiff Pari Zahau ("Pari") is the mother and only surviving parent
22 of Rebecca Zahau ("Rebecca" or "Decedent"), the "victim" whose death was investigated by
23 Respondent San Diego Sheriff's Department, and is the Decedent's authorized representative.
24 Pari is a citizen and resident of Buchanan County, State of Missouri.
25 2. Petitioner/Plaintiff Mary Zahau-Loehner ("Mary") is the Decedent's sister and
26 Detective Douglas Loehner, retired ("Det. Loehner") is the Decedent's brother-in-law. Both
27 Mary and Det. Loehner have the power of attorney for Petitioner Pari Zahau, and are
28 therefore also authorized representatives of the Decedent. Mary and Det. Loehner are

1 citizens and residents of Platte County, State of Missouri. Pari, Mary and Det. Loehner are
2 referred to collectively herein as “Petitioners.”

3 3. Petitioners are “victims of an incident” as the term applies to Gov’t Code
4 §6254.

5 4. Respondent/Defendant San Diego County Sheriff’s Department (the “Department”
6 or the “Sheriff’s Department”) is the chief law enforcement agency in San Diego County. The
7 Sheriff, who is elected by residents of San Diego County, is the chief executive of the Department.
8 The current Sheriff of San Diego County is Respondent/Defendant William D. Gore.

9 5. Under the California Public Records Act (Gov. Code § 6250, et seq., hereafter the
10 “CPRA”), the Department is a “local agency.” (Gov. Code § 6252, subd. (a).) As such, its records
11 are subject to the provisions of the CPRA. (Gov. Code § 6252, subd. (e).) Thus, the Department has
12 a duty to provide the public with the ability to inspect and obtain copies of its records that are not
13 expressly made exempt from disclosure by the provisions of the CPRA, and to the extent any record
14 contains both exempt and non-exempt information, to provide the public with any reasonably
15 segregable non-exempt information contained in its records. (Gov. Code §§ 6523, 6255.)

16 6. The true names and capacities of the Defendants/Respondents identified as DOES 1
17 through 20 are unknown to Petitioners, who will seek the Court’s permission to amend this pleading
18 in order to allege the true names and capacities as soon as they are ascertained. Petitioners are
19 informed and believe, and on that basis allege, that each of the fictitiously named
20 Defendants/Respondents 1 through 20 have jurisdiction by law over one or more aspects of the
21 public records that are the subject of this lawsuit or have some other cognizable interest in the public
22 records.

23 7. Petitioners are informed and believe, and on that basis allege that, at all times stated
24 in this pleading, that each Defendant/Respondent was the agent, servant, or employee of every other
25 Defendant/Respondent and was, in doing the things alleged in this pleading, acting within the scope
26 of said agency, servitude, or employment and with the full knowledge or subsequent ratification of
27 his/her/its principals, masters, and employers. Alternatively, in doing the things alleged in this
28

1 pleading, each Defendant/Respondent was acting alone and solely to further his/her/its own
2 interests.

3 8. As discussed in detail below, Petitioners requested the public records that are at issue
4 in this litigation from the Department pursuant to the California Public Records Act. The
5 Department denied the requests. Petitioners have a beneficial interest in obtaining the public records
6 because they are the authorized representatives of the “victim” of the subject investigation, and
7 because Petitioner’s fundamental right of access to public records under the CPRA and under the
8 California Constitution has been impaired by the Department’s refusal to provide the requested
9 records, or at a minimum, reasonably segregable information contained in records of the
10 Department. (See Gov. Code § 6250, et seq.; Cal. Const. Art. I, § 3.)

11 9. Petitioners therefore petition this Court for a writ of mandate or other appropriate
12 relief directing the Department and the Sheriff to fulfill their duties under the law to disclose the
13 public records requested by Petitioners. In addition, Petitioners seek a declaration of their right to
14 obtain the information they have requested and which the Department has refused to provide, and
15 an injunction requiring the Department and the Sheriff to provide the requested information.

16 **JURISDICTION AND VENUE**

17 10. This Court has jurisdiction over this lawsuit pursuant to Government Code Section
18 6258 et seq., Code of Civil Procedure Section 1084 et seq., the California Constitution, common
19 law and other provisions of law.

20 11. Venue in this Court is proper because the obligations, liabilities, and violations of
21 law alleged in this pleading occurred in the County of San Diego in the State of California.

22 **FACTUAL BACKGROUND**

23 12. On July 13, 2011, Rebecca Zahau was declared dead, having been found naked,
24 bound, gagged and allegedly hanging from a balcony of the Spreckel’s Mansion in Coronado,
25 California.

26 13. After a fairly brief investigation, on September 2, 2011, the Sheriff announced at a
27 press conference that the cause of Rebecca’s death was suicide. At the press conference,
28 Department personnel discussed the evidence that had been gathered and what was represented as

1 the investigating officers analysis and conclusions. No reference was made to any dissenting
2 opinions of officers involved in the investigation. Rather, only information supporting the Sheriff's
3 conclusion that Rebecca had committed suicide were disclosed.

4 14. Thereafter, Rebecca's family exhumed her body and retained the services of
5 nationally renowned forensic pathologist Cyril Wecht, M.D., to perform another autopsy. After
6 completing the autopsy, Dr. Wecht concluded that Rebecca was likely killed by manual
7 strangulation before she was hanged and the murder scene was staged to look like a hanging, and
8 that four blows to her head were sustained before she died which were were sufficient to render her
9 at least partially unconscious. He also noted deep bruises on her back that were not consistent with a
10 hanging. Lastly, he opined that injuries to her neck were not the type of injuries that would result
11 from hanging, as there would be much more significant and catastrophic trauma to her neck if she
12 had been hanged after a nine-foot drop.

13 15. Despite being given the additional evidence developed by Petitioners, the Sheriff
14 rejected Petitioners' request to reopen the case.

15 16. On October 27, 2011, in response to Petitioners' demand under the CPRA for the
16 Sheriff's investigation file, Sheriff Gore, through counsel, sent a letter to Petitioner's counsel stating:

17 The Sheriff's Department is complying with your request for the
18 investigative file pertaining to the investigation into the death of Rebecca
19 Zahau. It is our intention to release to you the entire investigative file.

20 The files you will be receiving will not be released to the public,
21 to the media, or anyone else, unless there later develops a law enforcement
22 necessity to do so. . .

23 Nevertheless, the Public Records Act requires that certain limited
24 information about every law enforcement call for service and/or arrest be
25 made available to the public. Additionally, the PRA requires that
26 additional information be made available to the "victims of an incident",
27 information that is not otherwise required to be made available to the
28 public.

1 It is pursuant to this “victims of an incident” exception that the
2 Sheriff’s Department is making its file available to you. . . The Sheriff’s
3 Department is complying with this requirement not merely by releasing
4 the information required by statute, *but by releasing the complete*
5 *investigative file.*

6 (See Exhibit G (emphasis added)).

7 17. Petitioners contend that by the Respondent Sheriff’s Department attesting that it was
8 “releasing the complete investigative file,” it waived any privilege previously associated with the
9 “investigative file” as to Petitioners, and thus can not withhold any documents requested by
10 Petitioners that are part of said “investigative file.” Moreover, since the Sheriff has already allegedly
11 produced the complete “investigative file” to Petitioners, any additional documents relating to the
12 investigation are admittedly not part of the “investigative file” and thus not subject to the privilege
13 afforded under Gov’t Code §6254(f).

14 18. On April 4, 2018, after reviewing all of the evidence gathered by the Sheriff and
15 testimony from officers involved in the investigation, including the lead detective, a San Diego
16 County jury found Adam Shacknai liable for the death of Rebecca Zahau. The same day, the Sheriff
17 issued a statement that he was standing by his finding that Rebecca committed suicide.

18 19. Petitioners thereafter asked the Sheriff to reopen the investigation in light of the
19 jury’s verdict. At that time, Sheriff Gore was running for reelection and his opponent issued a
20 statement that he would reopen the investigation if he was elected Sheriff. Shortly after that, on
21 April 16, 2018, the Sheriff announced that the Department would take another look at the evidence,
22 but the review conveniently would not be concluded until after the election.

23 20. Petitioners allege on information and belief that although Sheriff Gore on several
24 occasions made public comments intended to cause Petitioners and the general public to believe that
25 he was reopening the investigation into Rebecca’s death, these representations were in fact
26 intentionally deceptive and cleverly orchestrated by Sheriff Gore to hide his true intention and plan,
27 which was to create the false appearance that the matter was being re-looked at by an independent
28 group of three Sheriff’s Department personnel (“the Panel”), when in fact Sheriff Gore’s

1 instructions to the Panel were designed to make it virtually impossible for the panel to do anything
2 other than support Sheriff Gore's initial determination that Rebecca committed suicide.

3 21. Specifically, Petitioners further allege on information and belief that the actual
4 instructions given by Sheriff Gore to the Panel were that they were not to reconsider, change or
5 amend any of the opinions and findings of the initial investigation unless there was "new physical
6 evidence" submitted. Because the evidence submitted to the civil jury resulting in the wrongful
7 death judgment against Adam Shacknai was for the most part the same evidence upon which
8 Sheriff Gore determined that the cause of death was "beyond a reasonable doubt" suicide, the
9 panel's conclusion was essentially predetermined by Sheriff Gore.

10 22. In other words, because the panel was instructed not to question opinions and
11 conclusions from the initial investigation, it simply did not have the discretion to make an
12 "independent" determination of Rebecca's cause of death. Thus, despite Sheriff Gore representing
13 to Petitioners and the public that the matter was being reassessed, Respondents ignored new
14 evidence they were presented with, including, *inter alia*:

- 15 a. Expert testimony that the cryptic message "SHE SAVED HIM CAN YOU
16 SAVE HER" left at the crime scene by the murderer was consistent with the
17 handwriting of Adam Shacknai, and not consistent with the handwriting of
18 Rebecca Zahau;
- 19 b. An expert opinion that Adam Shacknai actually failed the polygraph test that
20 the Sheriff's polygraph examiner had classified as inconclusive;
- 21 c. Expert testimony from both Petitioner's knot expert in the civil trial and
22 Adam Shacknai's knot expert in the civil trial that the Sheriff's reenactment
23 of a woman tying her hands behind her own back was not consistent with the
24 manner in which Rebecca Zahau's hands were tied;
- 25 d. Expert testimony that with the only source of blood at the scene being
26 Rebecca's menstrual discharge, blood being found on all four sides of the
27 handle of a steak knife found at the scene established that the murderer
28 sexually violated Rebecca with the steak knife handle. The expert further

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- opined that the blood smeared on Rebecca’s inner thigh was consistent with the knife handle rubbing her inner thigh when it was extracted;
- e. Expert testimony that the finger print pattern on the carving knife found at the scene was consistent with Rebecca holding the knife behind her back in an effort to cut the rope that was binding her;
 - f. Expert testimony that the techniques used to bind Rebecca’s ankles and bind her hands behind her back, plus the knot on the noose, had maritime characteristics (noting that Adam Shacknai is a tug boat captain);
 - g. Expert testimony that the lack of finger prints and DNA on door knobs in and out of the room and the balcony where Rebecca was assaulted and hanged, as well as the knives, paint brushes and paint tube used during the crime, was consistent with the crime scene being wiped down;
 - h. Expert testimony that the four blows to the back of Rebecca’s head were sufficient to render her at least partially unconscious, and that based on her injuries she was manually strangled before the scene was staged to look like a hanging; and
 - i. Testimony from the treating doctor and family of six year old Maxwell Shacknai, who was injured two days earlier while under Rebecca’s care, was actually improving at the time Rebecca was killed, thus debunking the Sheriff’s contention that guilt over Max’s injury caused Rebecca to want to kill herself (i.e., why would she commit suicide when the child’s condition was improving).

23. Moreover, new “physical” evidence was in fact presented to Sheriff Gore which was also ignored. Specifically, at trial, Adam Shacknai testified that he had to stand on a table and reach above his head in order to cut Rebecca down, gesturing with his hand over his head while simulating holding a knife. This testimony is particularly damning because the rope from which Rebecca was allegedly hanged was cut at a height of 86.4", i.e., a height at which 5'11" [71"] Adam Shacknai could easily reach while standing on the ground. (See Exhibit H). If Adam Shacknai was

1 in fact standing on a table when he cut the rope, he would be cutting at a level below his shoulder,
2 and thus have to reach down rather than up.

3 24. This miscalculation by Adam Shacknai was apparently caused by the cut end of the
4 rope retracting up higher when Rebecca’s weight had been removed, so that when Adam Shacknai
5 came upon the body the morning of July 13, 2011, the cut end of the rope was about 118" off the
6 ground. Cutting the rope at that height would have required Adam Shacknai to stand on a table and
7 reach above his head. (Id.). This discrepancy supports the scenario that by the time Adam Shacknai
8 approached Rebecca’s body the morning of July 13, 2011, the rope had already been cut and
9 retracted, and Shacknai, in a panic, mistakenly believed he needed to come up with a story that
10 included him cutting the rope at the level it had receded to.

11 25. Sheriff Gore was reelected, and on December 6, 2018, and despite having all of this
12 aforementioned “new evidence,” plus additional new evidence not discussed herein, Respondents
13 issued another press release, stating that it had it had concluded its review and the Sheriff was
14 standing on his decision that Rebecca committed suicide.

15 26. On January 25, 2019, in response to Adam Shacknai’s legal team filing a motion to
16 have the jury’s verdict set aside for lack of evidence, the Judge issued a scathing tentative ruling
17 against Adam Shacknai, which discussed the strong evidence supporting the wrongful death verdict
18 and reached out to the Sheriff by stating that: “[T]he Court feels remiss if it does not state that
19 the Sheriff’s investigation leaves almost as many unanswered questions as it answered.” (See
20 1/25/19 Tentative Ruling attached hereto as Exhibit A, bottom of page 1). Referencing the macabre
21 phrase written on the door to the bedroom where Rebecca was assaulted, “SHE SAVED HIM CAN
22 YOU SAVE HER,” Judge Bacal further noted:

23 “The Sheriff’s investigation apparently could not determine the meaning of the
24 message and, thus, gave it no weight. However, the evidence showed that Rebecca
25 wrote extensively about herself in the first person. She was a painter, who was
26 comfortable painting letters as well as figures. Tr. Exs. 861-864. Given these facts
27 alone, common sense says that Rebecca did not paint the amateurishly painted
28 message on the door. And if she did not, someone else did. Determining who wrote

1 this message would certainly be circumstantial evidence pointing to who killed
2 Rebecca Zahau. This was only one of numerous pieces of circumstantial evidence
3 that puts the Sheriff's conclusion into question. *As a result, it is not unreasonable to*
4 *still ask, "who killed Rebecca Zahau."* (Ex. A, pg. 7, Emphasis added).

5 27. On or about March 2, 2020, Petitioners sent a CPRA request to the Sheriff seeking
6 records reflecting correspondence between officers involved in the investigation of Rebecca
7 Zahau's death and all interdepartmental memorandums, detective notes, detective binders, and
8 detective workbooks. (See Exhibit B).

9 28. On or about March 12, 2020, the Department responded to Petitioners with a letter
10 stating that the requested documents were exempt from disclosure. (See Exhibit C).

11 29. On or about May 13, 2020, Petitioners sent a CPRA request to the Sheriff seeking
12 records reflecting why the Sheriff did not endeavor to obtain the cell phone records of Adam
13 Shacknai, but did get the records of several other individuals, including Jonah Shacknai, Nina
14 Romano and Rebecca Zahau. (See Exhibit D).

15 30. On or about May 26, 2020, the Department responded to Petitioners with a letter
16 stating that the requested documents were exempt from disclosure. (See Exhibit E).

17 31. As indicated by the correspondence from the Department, in denying access to the
18 records requested by Petitioners, the Department's representatives were acting on behalf of the
19 Sheriff, William D. Gore, and the Sheriff is the public official responsible for the denial of
20 Petitioners' requests.

21 32. Since September 2011, the Department has selectively disclosed numerous
22 documents which are exempt from disclosure under Govt. Code § 6254(f) because they reflect "the
23 analysis or conclusions of the investigating officer." These documents include, *inter alia*, the
24 Medical Examiner's autopsy report, crime scene report, investigative reports from officers involved
25 in the investigation (including the final investigative report from Lead Detective Tsuida), polygraph
26 report and crime lab reports. In addition to disclosing these documents, the Sheriff waged a media
27 campaign to sell his professed conclusion to the public that Rebecca committed suicide. This
28 propaganda campaign included producing the aforementioned documents to the Zahau and

1 Shacknai Families, multiple press releases and press conferences, and the creation and
2 maintenance of comprehensive website, sdsheriff.net/coronado/. Content from this website, which
3 converts to 113 pages of material, is attached hereto as Exhibit F.

4 33. All of the released materials support the Sheriff's stated position that Rebecca
5 committed suicide, and, on information and belief, were selectively chosen by the Sheriff in an
6 effort to use the exemption privilege under Government Code §6254(f) in an effort to convince
7 Petitioners and a very skeptical public that his conclusion of suicide was proper, despite the
8 existence of substantial evidence and facts giving the appearance that Rebecca was murdered, and
9 to cover up analysis and opinions of investigating officers that were contrary to his finding of
10 suicide. Petitioners assert that this covert effort by the Sheriff violates the policies of transparency
11 and open government underlying the CPRA and should not be condoned.

12 34. By this lawsuit, Petitioners seek a determination that by Respondents previously
13 producing what was represented as being the "entire investigative file," Respondents have waived
14 any privilege associated with said file as it pertains to Petitioners. Petitioners further contend that it
15 is improper for the Sheriff to use the exemption privilege as a sword rather than a shield, by
16 selectively waiving the exemption privilege for documents and information that on the surface
17 support the Sheriff's published position, and then refusing to produce documents to the contrary.
18 Lastly, Petitioners contend that by Sheriff Gore representing to the public that he was having
19 Rebecca Zahau's death reexamined by an independent panel of officers, Petitioners have the right
20 under the CPRA to examine the specific instructions Sheriff Gore gave to the panel, and any
21 subsequent clarifications or amendments thereto.

22 **LEGAL AUTHORITY IN SUPPORT OF THIS ACTION**

23 35. The legal authority supporting this action will be set forth more fully in an
24 anticipated motion for judgment (see Local Rule 2.4.8(A)), but the essential legal basis for the
25 action is summarized here.

26 36. The requested records are public records subject to the CPRA. "'Public records'
27 includes any writing containing information relating to the conduct of the public's business
28 prepared, owned, used, or retained by any state or local agency regardless of physical form or

1 characteristics.” (Gov. Code § 6252, subd. (e).) The CPRA requires all public records to be made
2 available for immediate inspection unless they are exempt from disclosure pursuant to the express
3 provisions of the CPRA itself. (Gov. Code §§ 6253, 6255, subd. (a).) The CPRA provides that
4 when it is shown that public records are being improperly withheld, “the court shall order the officer
5 or person charged with withholding the records to disclose the public record or show cause why he
6 or she should not do so.” (Gov. Code § 6259, subd. (a).)

7 37. Government Code § 6254 (f) provides in pertinent part that: “

8 “Records of complaints to, or investigations conducted by, or records of intelligence
9 information or security procedures of, the office of the Attorney General and the
10 Department of Justice, the Office of Emergency Services and any state or local
11 police agency, or any investigatory or security files compiled by any other state or
12 local police agency, or any investigatory or security files compiled by any other state
13 or local agency for correctional, law enforcement, or licensing purposes. However,
14 state and local law enforcement agencies shall disclose the names and addresses of
15 persons involved in, or witnesses other than confidential informants to, the incident,
16 the description of any property involved, the date, time, and location of the incident,
17 all diagrams, statements of the parties involved in the incident, the statements of all
18 witnesses, other than confidential informants, to the victims of an incident, or an
19 authorized representative thereof, . . . as the result of the incident caused by . . . a
20 crime as defined by subdivision (b) of Section 13951, unless the disclosure would
21 endanger the safety of a witness or other person involved in the investigation, or
22 unless disclosure would endanger the successful completion of the investigation or a
23 related investigation. *However, this subdivision does not require the disclosure of
24 that portion of those investigative files that reflects the analysis or conclusions of the
25 investigating officer.* (Emphasis added).

18 38. Although Section 6254 exempts “investigative files that reflect the *analysis or*
19 *conclusions of the investigating officer*, such disclosure is *permissive not mandatory*, i.e., it allows
20 nondisclosure but does not prohibit disclosure. *Marken v Santa Monica-Malibu Unified School Dist.*
21 (2012) 202 Cal.App.4th 1250. In other words, the CPRA allows agencies to disclose documents
22 that are otherwise exempt from disclosure. *Id.*

23 39. However, if an agency discloses otherwise exempt materials, it does so at the peril
24 of waiving the protections otherwise afforded under the CPRA. The *selective release* of exempt
25 materials results in a waiver of CPRA protection. *See e.g. Black Panther Party v. Kehoe* (1974) 42
26 Cal.App.3d 645, 656-57; *Ardon v. City of Los Angeles* (2916) 62 Cal.4th 1176, 748-49.

1 40. The CPRA is designed to hold government accountable and embodies a strong
2 policy in favor of disclosing public records. *Dixon v. Superior Court* (2009) 170 Cal.App.4th 1271,
3 1276. Thus, exemptions are construed narrowly. *Id.*

4 41. It is well established that the law does not permit a party to use confidentiality
5 privilege as both a shield and sword. *Ford v. City of Los Angeles* (2020) 47 Cal.App.5th 277, 286
6 (2020), *review filed* (June 10, 2020); *People ex rel. Herrerra v. Stender* (2012) 212 Cal.App.4th
7 614, *as modified* (2013).

8 42. The Sheriff here selectively released a substantial number of documents that were
9 exempt from disclosure by the CPRA, including the autopsy report (*Dixon, supra*, 170Cal.App.4th
10 1271) and investigative reports (*Rackaukas, supra*, 104 Cal.App.4th 169), and established a
11 comprehensive website that disclosed, *inter alia*, the Sheriff's *analysis and conclusions* regarding
12 his published contention that Rebecca committed suicide.

13 43. Respondents have also attested that they have previously produced the "entire
14 investigative file" to Petitioners, thus waiving any claim of privilege as to Petitioners. In addition,
15 since Respondent has admittedly produced the "entire investigative file," any documents being
16 withheld at this juncture relating to the initial investigation must, by admission, not be part of the
17 "investigative file," and thus not protected from disclosure by Gov't Code §6254(f). Accordingly,
18 the requested documents should be produced.

19 44. Petitioners seek a determination that it is improper for the Sheriff to use the
20 exemption privilege as a sword rather than a shield, by selectively waiving the exemption privilege
21 for documents that support the Department's published position, and then refusing to produce
22 documents to the contrary.

23 45. Respondent has also represented to Petitioners and the general public that Sheriff
24 Gore appointed a panel of three officers to independently review the evidence related to Rebecca
25 Zahau's death and relook at the Sheriff's position regarding her cause of death. These instructions
26 given by Sheriff Gore, and communications related thereto, are not protected by Gov'd Code
27 §6254(f), and are necessary to determine whether Respondent is being truthful with Petitioners and
28 the general public, and thus should be produced to Petitioners.

1 46. Petitioners have no plain, speedy, or adequate remedy at law to enforce its rights and
2 those of the public other than the relief sought herein. Petitioners have no other means to compel the
3 Sheriff's Department to produce the public records requested, and for which disclosure has been
4 denied in violation of the law. (See Gov. Code § 6250 et seq.; Cal. Const., art. I, § 3.) The
5 Department's failure to produce the public records will continue, absent an order from this Court
6 granting the relief sought here.

7 47. Petitioners have performed all conditions precedent to the filing of this action and
8 exhausted all remedies to obtain access to the public records requested from the Department

9 48. In bringing these proceedings, Petitioners have incurred attorneys' fees and costs in
10 an amount to be determined. Fees and costs will continue to be incurred to enforce important rights
11 affecting the public interest, and Petitioners seeks reimbursement of the fees and costs as required
12 by the CPRA. (Gov. Code § 6259, subd. (d).)

13 49. An actual case or controversy exists between the parties in that Petitioners believe
14 and assert that it is entitled to access to the public records it requested under the CPRA and through
15 its constitutionally protected rights, and the Sheriff's Department disagrees and has denied access to
16 the records requested. (Gov. Code § 6250 et seq.)

17 50. The Department's violations of law set forth above will continue unless and until it is
18 commanded by this Court to produce the public records requested and to not engage in such further
19 violations of law by a declaratory judgment declaring its conduct unlawful. Additionally, absent
20 injunctive relief the Department will continue to withhold public information as it has done here,
21 resulting in great and irreparable injury to Petitioners and the public at large by depriving them of
22 immediate access to information vital to the public interest and Petitioner has no adequate remedy at
23 law, because the relief it seeks does not consist of monetary compensation but rather the
24 enforcement of its statutory and constitutional rights of access, and the harm it has suffered through
25 the Department's refusal to provide access to information that is required to be disclosed under
26 California law cannot be compensated through an award of monetary damages.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER FOR RELIEF

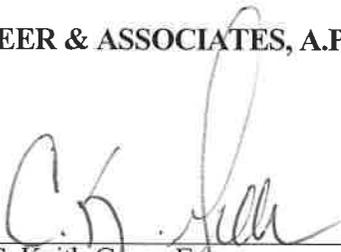
WHEREFORE, Plaintiffs/Petitioners pray for relief as follows:

1. For a writ of mandate ordering the San Diego County Sheriff's Department and the Sheriff to provide the records requested by Petitioners pursuant to the CPRA (Gov. Code §6250, *et seq.*) and the California Constitution (Cal. Const. art. I, § 3);
2. For an order granting declaratory and injunctive relief, including, but not limited to, declaring the withholding of access to the public information sought by Petitioners to be in violation of the law, enjoining the Department and the Sheriff to provide the requested information, and enjoining the Department and the Sheriff from engaging in the wrongful withholding of such information in the future;
3. For attorneys' fees and costs; and
4. For such further relief as this court deems just and proper.

Dated: July 12, 2021

GREER & ASSOCIATES, A.P.C.

By



C. Keith Greer, Esq.
Attorneys for Petitioners/Plaintiffs,
PARI ZAHAU, MARY ZAHAU-LOEHNER,
and DOUGLAS LOEHNER

VERIFICATION

I, C. Keith Greer, declare as follows:

1. I am counsel for Pari Zahau, Mary Zahau-Loehner and Douglas Loehner, the Petitioners in the above-named action, who are absent from this county, and I am authorized to make this verification on their behalf.

2. I have read the foregoing **FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDATE PURSUANT TO THE CALIFORNIA PUBLIC RECORDS ACT AND THE CALIFORNIA CONSTITUTION AND COMPLAINT FOR DECLARATORY RELIEF; REQUEST FOR ATTORNEYS' FEES AND COSTS** and know the contents thereof, and certify that the same are true of my own knowledge, except as to the matters which are stated on information and belief, and as to those matters, I believe them to be true.

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

Executed this 12th day of July, 2021, at San Diego, California.

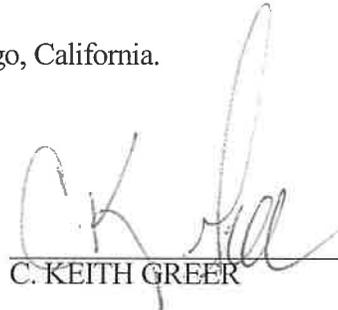

C. KEITH GREER

EXHIBIT A

EX A 00001 - 00007

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
HALL OF JUSTICE
TENTATIVE RULINGS - January 25, 2019

EVENT DATE: 01/25/2019 EVENT TIME: 01:30:00 PM DEPT.: C-69
JUDICIAL OFFICER: Katherine Bacal

CASE NO.: 37-2013-00075418-CU-PO-CTL

CASE TITLE: ESTATE OF REBECCA ZAHAU VS. SHACKNAI [IMAGED]

CASE CATEGORY: Civil - Unlimited

CASE TYPE: PI/PD/WD - Other

EVENT TYPE: Motion Hearing (Civil)
CAUSAL DOCUMENT/DATE FILED:

Defendant Adam Shacknai's motions for judgment notwithstanding the verdict ("JNOV") and new trial are denied.

Preliminary Matters

Plaintiff Pari Zahau's hearsay objections to the declarations of Anna Sumner, David Walker and Seith Wiesburst (paragraph 2 and exhibits 20-28) are sustained.

Defendant's request for judicial notice of Exhibits 1-9 is denied. Even if the Court may take judicial notice of the existence of statements by law enforcement agencies, "[t]aking judicial notice of a document is not the same as accepting the truth of its contents or accepting a particular interpretation of its meaning." *Herrera v. Deutsche Bank Nat. Trust Co.* (2011) 196 Cal.App.4th 1366, 1375. In other words, while the Court could take notice of the fact of a new investigation by the Sheriff and that a press conference about it, the statements made and conclusions reached would be hearsay and not judicially noticeable.

Background

This was an action for wrongful death, battery and conversion arising out of the July 13, 2011 death of Rebecca Zahau^[1] at her boyfriend's (Jonah Shacknai) residence. The defendant, Jonah's brother Adam, was staying in a guest house at the residence at the time Rebecca died. The case was tried to a jury, which found that Adam was liable for wrongful death and battery. ROA 1157 [Judgment].^[2]

In his motions, Adam argues that the task for the jurors was not to decide whether or not Rebecca killed herself but only to determine whether *Adam* caused Rebecca's death or battered her. In this regard, Adam is correct. On the other hand, Adam argued throughout the trial (and in his motions) that the Sheriff came to a correct conclusion when he determined that Rebecca killed herself. Indeed, Adam declined plaintiff's request that the jurors be polled as to whether or not Rebecca's death was a suicide. As this question was not an element of either of the causes of action, and Adam objected, it was not asked. However, the Court feels remiss if it does not state that the Sheriff's investigation leaves almost as many questions unanswered as it answered.^[3]

Discussion

Event ID: 2048594

TENTATIVE RULINGS
Page: 1

Calendar No.: 59

EX A 00001

A. Motion for JNOV

A motion for JNOV must be granted "whenever a motion for a directed verdict for the aggrieved party should have been granted had a previous motion been made." Code Civ. Proc., § 629. Granting a JNOV is only proper when "there is no evidence of sufficient substantiality to support the verdict.... In making this determination the court does not consider credibility of witnesses, but gives to the evidence of the party against whom the motion is directed all its legal value, indulges in every legitimate inference from such evidence in favor of that party, and disregards conflicting evidence." *Lysick v. Walcom* (1968) 258 Cal.App.2d 136, 145 (affirming order denying motion for judgment notwithstanding the verdict).

1. Evidence Linking Adam to Rebecca's Death

It is accurate that the evidence linking Adam to Rebecca's death was not considerable and entirely circumstantial. The question, though, is not whether the jury could have reached a different verdict. Instead, the relevant inquiry is whether there was enough evidence to support the jury's conclusion.

Here, it was undisputed that Adam was staying at the guesthouse on the property the night of the incident. The doors to the main house were unlocked. There was no evidence that anyone else was present at the property during the relevant time frame. There was testimony that the knots used to bind Rebecca would be familiar to someone, such as Adam, with nautical experience. Greer Decl., Ex. H [Reporter's Transcript ("RT")], p. 1249. The message on the door had characteristics similar to Adam's handwriting but not Rebecca's and was written at a height that would be more likely painted by someone of Adam's height than Rebecca's. Weisburst Decl., Ex. 4 [RT], p. 845; Greer Decl., Ex. C [RT], pp. 1546-1547. There was women's underwear found in a trash can in the guest house where Adam was staying and a black latex glove in a crawl space in the stairway leading to the basement. Weisburst Decl., Ex. 15 [Tr. Ex. 855], p. 9, Items 20, 21. Adam made an unsolicited statement about masturbating close in time to Rebecca's death. There was DNA found on the knots used to bind Rebecca but not on other portions of the rope. Weisburst Decl., Ex. 6 [RT], pp. 1301-1319. Common sense (used by everyone who ties their shoe) teaches that you don't hold a knot to tie a knot; you pull on a knot when you attempt to *untie* it. Finally, there were indications that items at the scene were wiped clean. Greer Decl., Ex. D [RT], p. 588. This evidence is no different than "the white trail jet planes often leave," (CACI 202) and is sufficient circumstantial evidence to support the verdict.

Adam notes that plaintiff's DNA expert, Suzanne Ryan, testified that Adam's DNA was not found at the scene. Weisburst Decl., Ex. 6 [RT], pp. 1284-1285. For example, only Rebecca's DNA was found where the rope was affixed to the bed, her ankles, wrists, and neck. *Id.* at pp. 1302-1303, 1308-1309, 1314, 1316-1317. Adam also argues that Latent Print Examiner Linda Wright excluded Adam as the possible source of all usable prints collected at the scene. Weisburst Decl., Ex. 13 [RT], p. 2329. However, Ryan testified that the lack of Adam's DNA could be attributed to the proper area not being tested, degradation from being exposed to the outdoors, and because some people simply do not leave much DNA behind. *Id.* at pp. 1282-1283. Ryan also testified that there was no DNA on certain items where one would expect to find it, such as the knife found outside, several bedroom doorknobs, the door on which someone wrote the message, and a tube of black paint. Greer Decl., Ex. E [RT], p. 1072. According to Ryan, the absence of DNA is consistent with items being wiped clean. *Id.* at p. 1276. Plaintiff's forensic expert Lisa DiMeo similarly testified that the lack of prints on the paint tube and door knobs means the items were wiped clean. *Id.* at Ex. D [RT], p. 588. Thus, the lack of Adam's DNA and fingerprints does not necessarily mean he was not at the scene.

Adam cites to plaintiff's forensic examination expert Michael Wakshull's testimony that he could not say that Adam "probably" painted the words on door. Weisburst Decl., Ex. 4 [RT], p. 702. However, Wakshull also said that the writing has similar attributes to Adam's writing and, as between Rebecca and Adam, it is more likely that Adam wrote the message. *Id.* at p. 845. Additionally, James Kent testified that the message was painted at a height more consistent with Adam than Rebecca. Greer Decl., Ex. C [RT], pp. 1546-1547. Finally, there was evidence that Rebecca was a skilled painter (Tr. Exs. 861-864) but no evidence that Adam had any particular skill with a paintbrush.

Adam argues that the testimony of plaintiff's forensic knot expert, Lindsey Philpott, does not tie Adam to Rebecca's death. Philpott testified that Rebecca was bound with overhand knots and clove hitches, clove hitches are made with two half-hitches. Overhand knots are so simple they have been tied by gorillas and birds, and half-hitches are simpler than overhand knots. Weisburst Decl., Ex. 5 [RT], pp. 1214-1216, 1219, 1223. However, Philpott also testified that the bindings demonstrated "a high level of sophistication and expertise in nautical knot tying," which Adam would have as a tugboat captain. Greer Decl., Ex. H [RT], p. 1249.

To be clear, there was not a lot of evidence supporting the verdict and it was all circumstantial. But, indulging in every legitimate inference, as the Court must do, it must conclude that the evidence was sufficient.

2. Standing

The wrongful death claim was brought by Rebecca's mother, Pari Zahau. Adam argues that Pari does not have standing to assert the wrongful death claim. Pari had standing if Rebecca had no surviving children or if Pari was dependent on Rebecca. Code Civ. Proc., § 377.60, subds. (a) and (b). "[I]f a parent receives financial support from their child which aids them in obtaining the things, such as shelter, clothing, food and medical treatment, which one cannot and should not do without, the parent is dependent upon their child." *Perry v. Medina* (1987) 192 Cal.App.3d 603, 610 abrogated on another point by *Saldana v. Globe-Weis Systems Co.* (1991) 233 Cal.App.3d 1505. Pari testified that her children were taught that adult children should take care of their elders. Greer Decl., Ex. L [RT], p. 489-490. Rebecca and her siblings gave their parents money. Weisburst Decl., Ex. 2 [RT], p. 390. Rebecca would send her parents about \$400 per month, but more if their bills were high. *Id.* at p. 391. Pari did not start working until after Rebecca's death. Greer Decl., Ex. L, p. 500. These facts were sufficient to support that Pari was dependent on Rebecca for financial support.

Pari brought the battery claim as a survival action on behalf of Rebecca. Adam argues that Pari had no standing to pursue a survival claim because she was not Rebecca's successor in interest. See, Code Civ. Proc., § 377.30. A successor in interest includes a beneficiary of the decedent's estate. Code Civ. Proc., § 377.11. The Court previously noted that Pari submitted a declaration in federal court attesting to her status as the successor in interest for Rebecca pursuant section 377.11. ROA # 864 [Ruling on Motion for Summary Judgment]. Additionally, there was no evidence that Rebecca had any children who would inherit from her. These facts were sufficient to establish Pari's standing on the battery claim.

3. Statute of Limitations

Adam argues that the wrongful death and battery claims were barred by the two-year statute of limitations. Code Civ. Proc., § 335.1. This action was filed November 13, 2013 and Rebecca was allegedly killed on July 13, 2011. The Court previously concluded that the claims were equitably tolled by the complaint plaintiffs filed in federal court. ROA # 163 [Ruling on JOP and Demurrer]. The Court concluded that plaintiffs had not engaged in the type of conduct - such as judge shopping or refiling a case to get a more convenient trial date - that other courts have found to be in bad faith. Adam says the testimony of Rebecca's sister, Mary Zahau-Loehner, shows bad faith because Mary testified they didn't have any evidence when they alleged Adam, Nina or Dina murdered Rebecca. Weisburst Decl., Ex. 2 [RT], p. 429. Mary later concluded that the allegations were false. *Id.* at 449. A plaintiff's misanalysis of the facts is not the type of conduct that amounts to bad faith. *Mojica v. 4311 Wilshire, LLC* (2005) 131 Cal.App.4th 1069, 1074. That is particularly true here where the case is built upon circumstantial evidence. Adam has not established that the claims were barred by the statute of limitations.

For the foregoing reasons, the motion for JNOV is denied.

B. Motion for New Trial

A new trial may be granted for any of the seven grounds set forth in Code of Civil Procedure section 657. A new trial may only be granted if there is a miscarriage of justice. Calif. Const. Art. VI, § 13.

1. Newly Discovered Evidence

Of all the bases for the requested new trial, this is the most troubling to the Court. A motion for new trial may be granted based on newly discovered evidence, material for the moving party, "which he could not, with reasonable diligence, have discovered and produced at trial." Code Civ. Proc., § 657(4). However, such a motion must be supported by affidavit or the court minutes. Code Civ. Proc., § 658. Here, after the jury verdict, the San Diego Sheriff's Department, Coronado Police Department and San Diego Medical Examiner conducted a joint review. There were some new findings related to evidence considered by the jurors. Given the small amount of evidence supporting the jurors' verdict, if there were new evidence as to only one piece, a new trial would likely be granted. However, Adam has not properly brought any such evidence before the Court.

Where a party seeks a new trial on the grounds of newly discovered evidence, "[t]he essential elements which must be established are (1) that the evidence is newly discovered; (2) that reasonable diligence has been exercised in its discovery and production; and (3) that the evidence is material to the movant's case." *Hill v. San Jose Family Housing Partners, LLC* (2011) 198 Cal.App.4th 764, 778-779. "[I]t is not sufficient for the moving party to state in his affidavit what, as he has learned, certain persons know about the matter, and how, as he believes, they will testify. He must produce the affidavits of the newly discovered witnesses as to what they know, and as to what they will testify." *Arnold v. Skaggs* (1868) 35 Cal. 684, 687-688; see also *Fernandez v. Security-First Nat. Bank* (1962) 206 Cal.App.2d 676, 678 (polygraph examination evidence is inadmissible and would not be grounds for a new trial).

Here, upon subsequent investigation, the investigators apparently concluded that the underwear found in the guesthouse were placed there by Jonah's daughter. RJN, Ex. 9, p. 3. The Court cannot take judicial notice of the truth of this statement and declines to do so. Adam failed to submit any declaration(s) from the investigators stating how they would testify. Accordingly, the Court is unable to grant a new trial on this ground.

2. Jury Misconduct

Adam argues that the jury improperly considered evidence that was not before the Court. According to Adam, the jurors focused on a pair of women's underwear that was found in the bedroom of the guesthouse even though the underwear was not discussed at trial. Adam also says the jury gave little attention to the exhibit books.

Contrary to Adam's arguments, however, it appears the jurors did exactly what they were supposed to do: they considered all of the evidence received at trial, including both testimony and the exhibits received into evidence. That is what the jurors were instructed to do. See CACI 5002.

More importantly, there is no evidence that any juror did anything improper. A verdict may not be impeached by hearsay affidavits. *People v. Williams* (1988) 45 Cal.3d 1268, 1318 (abrogated on another issue by *People v. Diaz* (2015) 60 Cal.4th 1176, 1190). No juror declarations were submitted. Instead, Adam relies on declarations submitted by private investigators (Walker and Sumner) who purport to relate their conversations with several jurors. The Court sustained plaintiff's objections to these declarations. Furthermore, the underwear was one of the items of evidence collected at the scene and this fact was properly before the jury, as it was contained in a Scene Report which was admitted into evidence. Weisburst Decl., Ex. 15 [Trial Exhibit 855], p. 9, Item 20.

During deliberations a juror inquired whether there is "any more information/evidence" regarding the underwear and other items that were collected. Adam argues that the Court erred when it responded, "The jurors have been provided with all the exhibits received into evidence" because this caused the jurors to consider evidence that was not before the Court. No admissible evidence was provided to

show what the jurors did. Again, more importantly, the Court's response was proper, since no other evidence was offered at trial regarding the underwear. Finally, any objection related to this response was waived, as the parties agreed to it. ROA # 1106.

Adam also argues one juror improperly interjected outside information. As the Court sustained the objections to Walker's declaration, there is no support for this claim. Further, juror's views of the evidence are "necessarily informed by their life experiences, including their education and professional work." *In re Malone* (1996) 12 Cal.4th 935, 963. That is all the juror is alleged to have done.

A new trial is not warranted due to alleged misconduct of the jury.

3. Fourth Amended Complaint

Adam argues the Court erred in granting plaintiff's motion to file a 4th amended complaint ("4AC") shortly before opening statements, which allowed plaintiff to introduce different facts at trial. For example, plaintiff previously alleged the initial confrontation occurred in the court yard but at trial plaintiff claimed the confrontation occurred inside the main house.

A motion to amend may be made "at any time before or after commencement of trial, in the furtherance of justice." Code Civ. Proc., § 576. In granting the motion to amend, the Court said the 4AC appeared to contain deletions but no new factual allegations. Weisburst Decl., Ex. 3 [RT], pp. 397-398. When pressed to identify any new allegations, Adam's counsel conceded there were none. *Id.*

Adam argues, as he did at trial, that the amendment foreshadowed a change in plaintiff's theory of the case. The Court said it would rule on objections to evidence as it was introduced. Weisburst Decl., Ex. 2 [RT], p. 291. The Court similarly denied Adam's *in limine* motion to preclude plaintiff from making new allegations "without prejudice to making objections at trial." *Id.* at Ex. 3 4 [RT], p. 484. Although Adam contends that plaintiff was improperly allowed to introduce new facts at trial, he does not cite to any specific evidentiary rulings. Adam has not demonstrated prejudicial error from allowing the amendment.

4. Cross-Examination of Masha Alison

Alison was a neighbor who apparently testified in deposition that she heard a woman screaming "Help me, help me" the night before Rebecca was found dead. Weisburst Decl., Ex. 3 [RT], pp. 314, 317. Adam brought a motion *in limine* (#22) to exclude her testimony as speculative. The Court denied the motion in part as to the purported location of the scream with the understanding that Alison could be cross-examined at trial and impeached with her deposition. *Id.* at Ex. 2, pp. 105-106. However, during trial the Court ruled that Alison was unavailable and allowed plaintiff to use Alison's videotaped deposition. *Id.* at Ex. 7 [RT], p. 1721. Adam argues that the ruling constitutes an irregularity in the proceedings and legal error. Code Civ. Proc., § 657(1) and (7).

A court may allow a deposition to be used at trial if it finds that the deponent is "unable to attend or testify because of existing physical or mental illness or infirmity." Code Civ. Proc., § 2025.629, subd. (c)(2)(C). On March 14, 2018, the Court spoke with Alison by telephone with counsel present. Weisburst Decl., Ex. 7 [RT], p. 1716. Alison said she was not able to appear in court because she has fibromyalgia, her body was shaking and she was "nothing but a nervous wreck." *Id.* at p. 1720. Adam argues that Alison was not unavailable as evidenced by a declaration from a private investigator who saw Alison walking around and driving. Weisburst Decl., Ex. 29 [Valenzuela Decl.]. Valenzuela's declaration is not new; it was before the Court when it ruled that Alison was unavailable. *Id.* at Ex. 7, p. 1716. Valenzuela saw Alison on March 11. That Alison was able to walk around and drive on March 11 does not mean she was well enough to attend trial three days later. Additionally, Adam has not shown prejudice, since he was able to fully examine Alison during the deposition. Thus, Adam has not demonstrated that the Court erred in allowing Alison's deposition to be played at trial.

5. Motions *in Limine*

Adam argues the Court erred in denying his motions in limine to exclude expert witness testimony (Nos. 1-6) and other *in limine* motions (Nos. 8, 10, 13-14, and 16-18). Adam has not presented anything new to cause the Court to conclude that the motions should have been granted.

6. Adam's Railing Demonstration

Adam argues the Court erred in preventing him from having someone of the same height as Rebecca to demonstrate that she could go over the balcony with her hands behind her back and feet bound. Weisburst Decl., Ex. 6 [RT], p. 1584.

The Court refused to permit the demonstration because it was speculative and did not pass scientific muster. *Id.* For experimental evidence to be admissible, the experiment must be (1) relevant, (2) conducted under substantially similar conditions as those of the actual event, and (3) not consume undue time, confuse the issues or mislead the jury. *People v. Bonin* (1989) 47 Cal.3d 808, 847 (finding the trial court erred in allowing experimental evidence where proponent failed to provide adequate foundation for it).

Here, the proposed demonstration was intended to rebut the testimony of plaintiff's expert, James Kent, that it would have been difficult for Rebecca to get over the balcony with the way her hands and feet were bound, given her height and the height of the rail and without sustaining certain injuries. Weisburst Decl., Ex. 6 [RT], p. 1583. Adam did not provide sufficient foundation for the proposed demonstration. Beyond the height of the rail, Adam would have had to show that the demonstration used the same tightness on the bindings, the model would have to have been gagged with a rope around her neck, and her ankles bound together, with one foot overlapping the other and so tightly it left a bruise. Finally, the approach would have to leave only a toe print right before the railing. Adam provided none of that. Thus, there was no error in disallowing the demonstration.

7. Plaintiff's Mannequin

Adam argues the Court erred by denying his motion *in limine* #9 and allowing plaintiff to use a life-size mannequin. "Mannequins may be used as illustrative evidence to assist the jury in understanding the testimony of witnesses or to clarify the circumstances of a crime." *People v. Cummings* (1993) 4 Cal.4th 1233, 1291, abrogated on another issue by *People v. Merritt* (2017) 2 Cal.5th 819. The Court allowed plaintiff's forensic knot expert (Philpott) to use the mannequin to show whether Rebecca could tighten the knots and bindings. Weisburst Decl., Ex. 5 [RT], p. 1183. Philpott testified that a knot on the mannequin was similar to how it was tied on Rebecca. *Id.* at p. 1184. Plaintiff was also allowed to use the mannequin during closing argument only to the extent foundation had been laid (to demonstrate what could be seen up close). *Id.* at Ex. 10 [RT], pp. 3128-3129. The Court also said it would rule on objections made during closing as to statements not supported by the evidence. *Id.* at p. 3129. Adam does not cite to any such objection. Adam has not shown that the Court erred in allowing the mannequin or that such error was prejudicial.

For the foregoing reasons, the motion for new trial is denied.

The minute order will be the order of the Court. Plaintiff is directed to serve notice on all parties within 2 court days of this ruling./n

[1] As a number of persons involved in the case share a surname, from this point forward the Court will use first names for clarity; no disrespect is intended.

[2] The Court previously granted Adam's motion for non-suit on the conversion claim.

[3] For example, when a cryptic message written in third person is painted on a door near where a young woman is hanged (nude, bound and gagged) common sense (and every mystery novel) teaches that the message has a meaning. The Sheriff's investigation apparently could not determine the

CASE TITLE: ESTATE OF REBECCA ZAHAU VS. CASE NUMBER: 37-2013-00075418-CU-PO-CTL
SHACKNAI [IMAGED]

meaning of the message and, thus, gave it no weight. However, the evidence showed that Rebecca wrote extensively about herself, in the first person. She was a painter, who was comfortable painting letters as well as figures. Tr. Exs. 861-864. Given these facts alone, common sense says Rebecca did not paint the amateurishly painted message on the door. And if she did not, someone else did. Determining who wrote the message would certainly be circumstantial evidence pointing to who killed Rebecca Zahau. This was only one of numerous pieces of circumstantial evidence that puts the Sheriff's conclusion into question. As a result, it is not unreasonable to still ask, "who killed Rebecca Zahau?"

EXHIBIT B

EX B 00001

Doug Loehner
17285 NW 127th Street
Platte City MO 64079
dougloehner@gmail.com

Custodian of Records
9621 Ridgehaven Ct.
San Diego, CA 92123

Dear Custodian of Records,

Under the California Public Records Act § 6250 et seq., I am requesting an opportunity to inspect or obtain copies of public records that pertain to the case of Rebecca Zahau. I, Doug Loehner Brother in law to Rebecca Zahau, am requesting all email communications between the following San Diego County personnel that were involved with her death investigation. Specifically the emails that were between the following personnel about her death investigation. I am requesting email communication between 07/13/2011 to present day of 02/25/2020.

Detectives A. Tsuida, T. Norton, B. Patterson, H. Lebitski, T. DuGal, D. Hillen. Also involved with her investigation Sheriff William Gore, Medical examiner Lucas and Waggoner. I am also requesting any interdepartmental memorandums, including any detective notes, from meetings where the death of Rebecca Zahau was discussed. And a copy of the detective binder, workbook on the case of Rebecca Zahau. Any email or other documented communication between Sheriff Gore and his legal team of attorneys.

I am also requesting email communication between Capitan McClain and his investigative team. I do not know the names of who was on the team, during his review of the death of Rebecca Zahau. I am also requesting all communication, including email, notes, USPS correspondence, memos between SDDS and FBI about the death of Rebecca Zahau. Including any and all responses from the FBI about the death of Rebecca Zahau.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$200.00. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of Rebecca Zahau's death.

The California Public Records Act requires a response within ten business days. If access to the records I am requesting will take longer, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

Doug Loehner

8162442277

EX B 00001

EXHIBIT C

EX C 00001-00002

✉ On 3/12/2020 11:59:11 AM, SDSD Public Records wrote:

Subject: [Records Center] Public Records Request #: S000233-030420

Body:

RE: Public Records Request of March 04, 2020, Reference # S000233-030420

Dear Mr. Loehner,

The San Diego County Sheriff's Department is in receipt of your letters received on March 2, 2020 and March 9, 2020, requesting records pursuant to the California Public Records Act (CPRA). Specifically, you seek "copies of public records that pertain to the case of Rebecca Zahau." Additionally, you request all email communications related to her death investigation, interdepartmental memorandums, including any detective notes, and a copy of the detective binder, workbook, any email or other documented communication between Sheriff Gore and his legal team of attorneys, and cell phone records.

Your request for all records related to the investigation is denied pursuant to Government Code section 6254(f). Records of a law enforcement investigation, or any investigatory or security files compiled by a law enforcement agency are exempt from disclosure pursuant to the CPRA. Cal. Gov't. Code § 6254(f); *Haynie v. Superior Court*, (2001) 26 Cal. 4th 1061, 1071-72.

Additionally, your request for any "documented communication between Sheriff Gore and his legal team of attorneys" is further denied pursuant to Government Code section 6254(k) incorporating attorney-client privilege and attorney-client work product.

The San Diego County Sheriff's Department maintains a public website that contains information related to this investigation, <https://www.sdsheriff.net/coronado/>.

Your request is now closed.

Sincerely,

Christine Lawyer, Paralegal II
San Diego County Sheriff's Department

EXHIBIT D

EX D 00001-00002

Pari Zahau
17285 NW 127th Street
Platte City MO 64079
dougloehner@gmail.com

Custodian of Records

9621 Ridgehaven Ct.
San Diego, CA 92123
Dear Amanda Lonnicky

Under the California Public Records Act § 6250 et seq., I am requesting an opportunity to inspect or obtain copies of public records that pertain to the investigation of the death of my daughter Rebecca Zahau. Det. Tsuida applied for 2 search warrants on 08-24-2011, 1 for Dina Shackani cell phone records and a second warrant on the same day for Jonah Shacknai cell records. I am requesting documentation either an email, memo, or any report as for Det. Tsuida not to obtain Adam Shacknai's cell records. He was the last person to see her alive and the same person to report her death. I did receive your response that the Sheriff's Department did not obtain Adam Shacknai's cell records. The case of Cal. Gov't. Code § 6254(f); *Haynie v. Superior Court* (2001) 26 Cal. 4th 1061, 1071-72. Would not apply as a denial as the document I am requesting does not contain names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants." The agency shall disclose the information unless the disclosure would endanger the successful completion of the investigation or a related investigation. Additionally, this exception does not require the disclosure of portions of investigative files that reflects the analysis or conclusions of the investigating officer.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$200.00. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of Rebecca Zahau's death. This information is not being sought for commercial purposes.

My son in law, Doug Loehner, and my eldest daughter, Mary Zahau-Loehner, have power of attorney over me. I am giving permission to release the information to them. Also I do not have a working email address you can use dougloehner@gmail.com for contacting me. You can also freely communicate with Doug or Mary about Rebecca's case.
Thank you for considering my request.

The California Public Records Act requires a response within ten business days. If access to the records I am requesting will take longer, please contact me with information about when I might expect copies or the ability to inspect the requested records.

EX D 00001

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely, *Pari Zahau* 5.25.20

Pari Zahau

816-244-2277

S000233-030420 - Public Records Request

Message History (5)

↩ On 3/31/2020 11:33:22 AM, Doug Loehner wrote:

TO: "SDSD Public Records"[sdsheriff@govqa.us]

Dear Christine Lawyer First I hope all is well with all of you in San Diego since we are all having to make changes with this virus.

Thank you for the response about my request for records. However after reading your email there seems to be some confusion about a few of the items that I have requested. Specially Adam Shacknai's cell phone records. Adam was the last person to see Rebecca alive and the person to report her death. In the copy of case file provided by SDSD to our family included phone records of Jonah Shacknai, Dina Shackani and Nina Romero. However Adam Shackani's phone records were not included, we don't have them. So I am requesting only Adam Shackani's cell phone records no one else's cell records. I know San Diego Sheriff's Department is in possession of Adam Shacknai's cell phone records and they were obtained during the initial investigation of Rebecca Zahau's death in July of 2011. Further the case that was cited as the reason does not apply to my request for information. Haynie v. Superior Court, (2001) 26 Cal. 4th 1061, 1071-72. has nothing to deal with my family's case in requesting records. Haynie was looking for the identity of a witness and what the witness stated during the course of an investigation. Thank you for your time, Doug Loehner

On Thu, Mar 12, 2020 at 2:01 PM SDSD Public Records wrote:

EXHIBIT E

EX E 00001-00002

Jun 17/2020 2:14:09 PM, SDSO Public Records v.0101

Subject: [Records Center] Public Records Request :: S000374-051820

Body:

RE: Public Records Request of May 15, 2020, Reference # S000374-051820

Dear Ms. Zahau,

The San Diego County Sheriff's Department is in receipt of your letter dated and received May 15, 2020, requesting records pursuant to the California Public Records Act (CPRA). Your request seeks records related to the investigation of Rebecca Zahau's death. Specifically you request, "Det. Tsuida applied for 2 search warrants on 08-24-2011, 1 for Dina Shackani cell phone records and a second warrant on the same day for Jonah Shacknai cell records. I am requesting documentation either an email, memo, or any report as for Det. Tsuida not to obtain Adam Shacknai's cell records."

Records of a law enforcement investigation, or any investigatory or security files compiled by a law enforcement agency are exempt from disclosure. Cal. Gov't. Code § 6254(f); *Haynie v. Superior Court*, 26 Cal. 4th 1061, 1071-72 (2001). Records of an investigation are not public records.

"Victims of an incident, or an authorized representative thereof..." may receive certain information about the incident that is not available to the public. This includes the "names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants." The agency shall disclose the information unless the disclosure would endanger the successful completion of the investigation or a related investigation. Additionally, this "victim of an incident" exception does not require the disclosure of portions of investigative files that reflects the analysis or conclusions of the investigating officer.

Thus, a "victim of an incident" is *only* entitled to the information underlined above. All other investigation information is exempt pursuant to Government Code section 6254, subsection (f).

The Sheriff's Department, on or around October 2011, provided investigation records pursuant to the "victim of an incident" exception under the CPRA, to the Zahau family at the request of attorney Anne Bremner, an authorized representative of the Zahau family. We understand the current request to be seeking additional investigative records, and not a request for the identical records previously provided.

The records you have requested are exempt from disclosure. The "victim of an incident" exception explained above does not include the records identified in the current request. Thus, your request, in its entirety, is denied pursuant to Government Code section 6254, subsection (f).

Your request is now closed.

Sincerely,

GovQA

Page 2

EX E 00001

Amanda Lomnicky, Legal Advisor
Office of the Sheriff – Legal Affairs Unit
San Diego County Sheriff's Department

On 5/18/2020 8:59:28 AM, SDSO Public Records wrote:

Subject: Public Records Request :: S000374-051820
Body:



Dear Pari Zahau:

The San Diego County Sheriff's Department received a public records request from you on May 15, 2020.

You requested the following information from the Law Enforcement Services Bureau:

Category of Record: Other

Description:

Your request was received and given the reference number S000374-051820 for tracking purposes. You will receive a response to your request on or before May 25, 2020.

EXHIBIT F

EX F 00001 - 00113



Home About Us Resources Community Outreach Recruitment Links Contact

CORONADO DEATH INVESTIGATION

A news conference was held on December 7, 2018 by the San Diego County Sheriff's Department, Coronado Police Department and San Diego County Medical Examiner's Department concerning the new review of the Rebecca Zahau case.

Any further questions may be directed to Lt. Michael Blevins (Sheriff's Homicide Detail) at (858) 285-6330 or by email at Sheriff'sHomicideInformation@sdsheriff.org. Inquiries to Coronado Police may be made to Lea Corbin at (619) 522-7370 or by email to lcorbin@coronado.ca.us.

For questions about the autopsy reports, please call Alex Bell at (619) 531-4959 or email alex.bell@sdcounty.ca.gov. For copies of autopsy reports, please visit <http://www.sdcounty.ca.gov/me/copies.html>.

Search Warrants: Some media agencies have expressed an interest in seeking release of search warrants through the Superior Court. For your convenience, the search warrant numbers are **41227, 41290, 41373, 41432** (Downtown Court) and **11-164 & 11-165** (South Bay Branch).

NEWS ROOM

- News Releases
- Media Guide
- 2017 Annual Report
- Media Access to Jail Inmates
- Patrol Stations
- Phone Directory

Rebecca Zahau Case Review – News Conference Video December 7, 2018



Rebecca Zahau Case Review – Documents December 7, 2018

- Media Advisory
- Sheriff's Homicide Unit News Release
- Speaker List
- Sheriff Bill Gore Statement
- Coronado Police Department Statement
- San Diego County Medical Examiner's Department Statement
- PowerPoint Presentation

Rebecca Zahau Case Review – Photos December 7, 2018

Rebecca Zahau Case Review - Photos
December 7, 2018



Coronado Death Investigation - News Releases

- ▶ Statement on Rebecca Zahau Case - April 16, 2018
- ▶ Statement on Rebecca Zahau Civil Trial
- ▶ Frequently Asked Questions - November 22, 2011
- ▶ Response by Sheriff Bill Gore - "Dr. Phil Show" - November 15, 2011
- ▶ Sheriff's Department Statement - September 22, 2011
- ▶ CA Attorney General's Decision on Rebecca Zahau Case - September 22, 2011
- ▶ Sheriff Bill Gore Statement - September 20, 2011
- ▶ Jonah Shacknai Attorney General Request September 20, 2011
- ▶ News release - September 6, 2011
- ▶ News release - September 1, 2011
- ▶ News release - August 18, 2011
- ▶ News release - July 20, 2011
- ▶ News release - July 15, 2011
- ▶ News release - July 14, 2011
- ▶ Follow-up News release - July 13, 2011
- ▶ Initial News release - July 13, 2011

News Briefing Documents

- ▶ Sheriff Bill Gore's opening comments
- ▶ Message from Chief of Police Louis Scanlon - Coronado PD
- ▶ List of Presenters
- ▶ Sheriff's PowerPoint (in PDF format) - Rebecca Zahau Investigation
- ▶ Coronado PowerPoint (in PDF format) - Max Shacknai Investigation
- ▶ Medical Examiner PowerPoint (in PDF format) - Rebecca Zahau
- ▶ Medical Examiner PowerPoint (in PDF format) - Max Shacknai
- ▶ Message from Jonah Shacknai - 9-2-2011

Videos



September 2, 2011 News Conference



Rope Demo - Front View

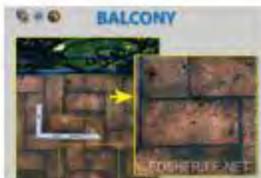


Rope Demo - Side View

Photos - Rebecca Zahau Investigation



Photos - Rebecca Zahau Investigation



Photos - Max Shacknai Investigation





[Home](#) [About Us](#) [Resources](#) [Community Outreach](#) [Recruitment](#) [Links](#) [Contact](#)

CORONADO DEATH INVESTIGATION - FAQ'S

Frequently Asked Questions

WHY DIDN'T WE COLLECT AND PROCESS THE PANTIES IN THE TRASH?

As with many items seized during the service of a search warrant, the panties in the trash at the guest house were seized because we did not know what the significance of that item was at the time. Investigators have one chance to seize items at a search warrant service, so items must be seized even if there is only a possibility it may be related. The investigation revealed this item was likely related to a girl's slumber party at the mansion in the days leading up to Rebecca's death. They were not tested for evidence of sexual assault because that examination was conducted on Rebecca herself. No evidence of such a crime was found. They were not tested further because taking into consideration the size of the mansion, and the fact it was open to family and friends, we had to focus our investigation on items directly related to the event in question; items we knew had to be handled or disturbed during the course of the event as it unfolded. Fingerprints, DNA, and other items left behind in other areas of the mansion have limited value in proving or disproving a crime.

WHY DIDN'T WE PROCESS THE BLOOD IN THE SHOWER?

The condition of the master bedroom lead investigators to believe Rebecca may have been in the shower during the time leading up to her death. The blood drop was very small, and there was evidence Rebecca was experiencing menstrual bleeding, or "spotting," at the time. Similar blood drops were found outside the door leading to the guest room where the incident occurred. Those samples were tested, and they were found to be from Rebecca. Since the master bedroom is in another part of the mansion, and there was no evidence at the scene of the event suggesting anyone else was bleeding other than Rebecca, this item was not tested.

WHY DIDN'T THE BED MOVE AS MUCH AS IT DID ON KFMB? IF SHE HUNG HERSELF, THE BED WOULD HAVE JERKED AWAY FURTHER.

The experiment conducted by employees of KFMB did not recreate the scene in a manner sufficient to stand up to the scrutiny of scientific method. In order to conduct a truly scientific experiment of this nature, one would have to have the exact carpet and padding (which was quite thick), a bed frame of the same weight and weight distribution, a mattress of the same weight and weight distribution, and the item simulating Rebecca would have to be of the same weight, weight distribution, and would have to have the flexibility of a human body. In addition, the object simulating a human body would have to go over the railing in a manner similar to what the evidence showed (bending over and sliding). Unless these elements can be duplicated exactly, this test is of no scientific value. On scene examination of the bed showed it had compressed the carpet at the contact points, and the bed was found to be rather heavy. All of this taken into consideration, none of the investigators on scene questioned the distance the bed was pulled away from the wall.

WERE THERE PRINTS AND DNA ON THE KNIVES?

The small knife had Rebecca's DNA, and only Rebecca's DNA. No fingerprints were developed from this item. The large knife had Rebecca's fingerprints, and only Rebecca's fingerprints. A low level of DNA material was found on this knife as well, but it was not enough for any comparison.

NEWS ROOM

[News Releases](#)
[Media Guide](#)
[2017 Annual Report](#)
[Media Access to Jail Inmates](#)
[Patrol Stations](#)
[Phone Directory](#)

WERE THERE PRINTS AND DNA ON THE ROPE?

Rebecca's DNA was found on the rope, particularly in areas that would have to be manipulated to tie the knots. Only Rebecca's DNA was found on these items other than one "artifact," which is a fragment of material that could be DNA, but does not contain enough information to determine who, or what, it came from (animals and plants also have DNA that can be left behind). The rope could not be fingerprinted.

WERE THERE PRINTS OF HER OR ANYONE ELSE IN THE HOUSE?

Rebecca's prints were found in all areas of the incident scene, and on items directly related to the event (knife, paint tube). There was one fingerprint from a child found on the bed frame (possibly from Max), along with one other unidentified fingerprint. These two prints were from an area of the bedframe that was not near the location the rope was secured. Immediately around the area the rope was secured to the bed we found several of Rebecca's prints, and only Rebecca's prints. We fully expected to find many fingerprints in this house because, simply stated, it is a house. Anyone living in or visiting a residence can leave behind fingerprints, which is why we had to focus on items directly related to the event.

WHY DIDN'T YOU FOLLOW-UP WITH THE NEIGHBORS WHEN THEY HEARD SCREAMS?

A detailed statement was taken from the neighbor who heard a scream. The scream heard was about two and one-half hours before Rebecca's voice mail was accessed on her phone, and the witness believed it could have been attributed to several teens which were in the area at the time. The witness could not tell exactly where the scream came from, but gestured to an area more toward the beach rather than the mansion. This interview was conducted the first day of the investigation.

WHO LOGGED ONTO HER COMPUTER IN THE MIDDLE OF THE NIGHT?

There was activity on Rebecca's computer the day before the incident. The forensic examination of the hard drive showed the file access at about 3:00 am the morning of the event was likely a "cookie" left behind by an automated update for a tool bar.

WHO WAS WALKING AROUND HER HOUSE THAT NIGHT BEFORE SHE WAS KILLED?

The person walking around the mansion the evening before the incident was identified, and her actions matched those described by a witness who saw her. Simply stated, she was a family member looking to see if anyone was home at the mansion.

WHY CAN'T YOU DO HANDWRITING COMPARISONS WITH HER SUICIDE NOTE?

The lettering used in the note left on the door was "block style" and was done with paint and a paint brush. Unless we were able to find other written notes or documents done by Rebecca or another identified person, using the same medium and style, no comparison can be done. With this type of lettering, comparison would not likely be conclusive in any event. We found the same paint on Rebecca's body, the paint brush, in the paint tube, and on the door. The samples were matched using scientific analysis.

WHY CAN'T I GET COPIES OF HER FILE?

The case file has been provided to the family. We will not be releasing the investigation except under circumstances required by law.

WHY DID YOU RUSH YOUR CASE?

We had between seven and fifteen investigators, in addition to Crime Lab personnel, looking into this case for seven weeks exclusively. There was no "rush to judgment," there was simply a large number of resources dedicated to this investigation full time. For the first seven to ten days of this investigation, it was widely believed among investigators this case was more likely to be a homicide. As the evidence began to come in, however, that belief began to change. Ultimately, the evidence convinced everyone involved this case was a suicide. No "rush to judgment," no "tunnel vision."

HOW DID SHE LEARN THESE COMPLEX KNOTS?

We don't believe she did. These knots were not as complex as they have been made out to be, which is what we discovered when we attempted to recreate the knots on Rebecca's wrists. Simply stated, this is one of those questions which will most likely never be answered with any certainty.



CORONADO POLICE DEPARTMENT

City of Coronado, California
Chuck Kaye, Chief of Police

Press Conference

December 7, 2018

Zahau Case Review

On July 13, 2011, at 0648 hour, Coronado Police received a 911 call regarding a death at 1043 Ocean Blvd. Officers found Rebecca Zahau deceased. The subsequent investigation did not find evidence of a crime. The Medical Examiner's findings concluded the death to be suicide.

In April of 2018, the San Diego County Sheriff's Department initiated a panel review of the Rebecca Zahau's death investigation. In an effort to maintain the continuity of the investigation, The Coronado Police Department assigned a detective sergeant to participate in the review.

After a thorough review of the case by the joint panel, the Coronado Police Department is satisfied with the conclusion that found no evidence that would lead us to believe that Rebecca Zahau died at the hands of another. In addition, we agree that there was no evidence that would dispute or be inconsistent with the Medical Examiner's findings that Rebecca Zahau's manner of death was a suicide.

###

700 Orange Avenue, Coronado CA 92118. 619.522.7350



William D. Gore, Sheriff

(858) 974-2259

San Diego County Sheriff's Department – Media Relations

Lt. Karen Stubkjaer, Media Relations Director

www.SDSheriff.net

mediarelations@sdsheriff.org

December 7, 2018

Coronado Death Case Review Media Briefing

The San Diego County Sheriff's Department will hold a media briefing about the review of the Rebecca Zahau case.

Friday, December 7th

1:00 p.m.

Sheriff's Investigations, Crime Lab, Property and Evidence (ICP) Building

5590 Overland Avenue, San Diego

Training Room

Park in areas marked for visitors. There is also a parking garage located southeast of the ICP building.

There will be a 250-foot cable run from the visitor parking lot and 30-foot throw.

Sheriff Bill Gore will lead a panel of experts from the Sheriff's Major Crimes Division, Sheriff's Homicide Detail, Sheriff's Crime Lab, County Medical Examiner's Office and Coronado Police Department. There will be a Q & A portion after the media briefing.

There will be no interviews granted before the media briefing.

Media packets will be distributed at the end of the news conference. A Power Point presentation, photos, video of the news conference and other materials presented at the briefing will be posted at <https://www.sdsheriff.net/coronado/>. Information that does not come from this webpage, the Sheriff's Department, Medical Examiner's Office or Coronado Police Department should not be relied upon.

Given the facility limitations, this event is not open to the public. Only national media with current, valid credentials and local media with media badges from SDPD will be allowed into the briefing. The Sheriff's Department reserves the right to limit or refuse entry in order to ensure the broadest dissemination of information. The media briefing will start promptly at 1:00 p.m. Latecomers will not be admitted.



EX F 00008





County of San Diego

GLENN N. WAGNER, D.O.
CHIEF MEDICAL EXAMINER
(656) 694-2895

MEDICAL EXAMINER'S DEPARTMENT
5570 OVERLAND AVE, STE 101, SAN DIEGO, CA 92123-1215
<http://www.sandiegocounty.gov/me>

STEVEN C. CAMPMAN, M.D.
CHIEF DEPUTY MEDICAL EXAMINER
(656) 694-2895

November 30, 2018

Zahau Investigation

At the request of the San Diego County Sheriff's Department the Chief Medical Examiner reviewed the medical findings in the Rebecca Zahau medicolegal death investigation including the investigative report, autopsy findings and toxicology results in consultation with the San Diego Sheriff's Department Homicide Detectives. No new information (from the civil procedures) was forthcoming from the Zahau lawyers.

The San Diego County Medical Examiner's Department has concluded that the initial investigative findings are well documented and correctly interpreted. The cause and manner of death in Rebecca Zahau's case remains unchanged.

A handwritten signature in cursive script that reads "G. Wagner".

GLENN N. WAGNER, D.O.
Chief Medical Examiner



San Diego County Sheriff's Department

Homicide Unit

Media Information

SUBJECT: Zahau Case Review Completed

LOCATION: 1043 Ocean Boulevard, Coronado

DATE/TIME: December 6, 2018 / 1:00 PM

On July 13, 2011, thirty-two-year-old Rebecca Zahau was found hanging in the courtyard of 1043 Ocean Boulevard, in the City of Coronado. The Coronado Police Department requested investigative assistance from the San Diego County Sheriff's Department Homicide Unit. The Sheriff's Homicide Unit responded to the scene and conducted a death investigation.

The San Diego County Medical Examiner's office performed an autopsy and declared the death a suicide. The investigation by the Sheriff's Homicide Unit found no evidence that contradicted the Medical Examiner's findings. There was no evidence a crime was committed and the death investigation was closed.

On April 4th, 2018, a civil jury rendered a verdict that Adam Shacknai was liable for Rebecca Zahau's death. The civil trial verdict prompted renewed public speculation that Rebecca Zahau's death was not a suicide. The Sheriff's Department created a review team and conducted a fresh assessment of the case. They re-evaluated existing evidence with a fresh perspective and explored theories raised during the recent civil trial. The review team consisted of one Coronado Police Department sergeant and three Sheriff's Homicide sergeants. It should be noted that no one on the review team was part of the original investigation and they had no prior connections to the case. The team's findings were shared with the Medical Examiner and the Coronado Police Department, as well as the Zahau family.

After conducting a thorough review of the case, the review team found no evidence indicating that Rebecca Zahau died at the hands of another. In addition, the team found no evidence that would dispute or be inconsistent with the Medical Examiner's findings that Rebecca Zahau's manner of death was a suicide.

For more information and related photos and videos, please go to: <https://www.sdsheriff.net/coronado/>.

We offer our deepest condolences to the involved families and hope that the conclusion of this review may help provide some answers to all those affected by this case.

Prepared by: Rich Williams, Lieutenant
Sheriff's Homicide Unit (858) 285-6330





SAN DIEGO SHERIFF'S DEPARTMENT

ZAHAU CASE REVIEW



EX F 00013



An aerial photograph of a large, multi-building estate. The main house is a large, white, two-story building with a prominent red-tiled roof and a central chimney. It is surrounded by a lush green lawn and several tall palm trees. To the right, there are smaller buildings, including a caretaker's quarters and a guest house, also featuring red-tiled roofs. A swimming pool is visible in the lower right corner, surrounded by a concrete deck and some outdoor furniture. The overall scene is bright and sunny, with clear shadows cast by the buildings and trees.

Main House

**Caretaker's
Quarters**

Guest House

EX F 00014

Involved Parties

- Rebecca Zahau
- Jonah Shacknai
 - ◆ Rebecca's boyfriend
- Maxfield (Max) Shacknai
 - ◆ Jonah and Dina's son
- Dina Shacknai
 - ◆ Jonah's ex-wife/Max's mother
- Adam Shacknai
 - ◆ Jonah's brother
- Neil Nalepa
 - ◆ Rebecca's ex-husband
- Nina Romano
 - ◆ Dina's twin sister



SEQUENCE OF EVENTS

- July 11, 2011, Max Shacknai was injured as a result of falling over a second floor stair banister at 1043 Ocean Blvd. (Coronado PD case)
- July 13, 2011, Coronado Police request Sheriff's assistance with the investigation of Rebecca Zahau's death at 1043 Ocean Blvd.
- July 16, 2011, Max Shacknai died as a result of his injuries.



SEQUENCE OF EVENTS

- August 31, 2011, Homicide Detectives and Medical Examiner Dr. Lucas discussed case findings with the Zahau family in Missouri.
- September 2, 2011, Rebecca Zahau's autopsy results released, death ruled a suicide.
- April 4, 2018, Civil Jury finds Adam Shacknai liable for Rebecca Zahau's death.
- April 16, 2018, Sheriff Gore directs team to conduct fresh review of case.
- November 30, 2018, case review concludes.



LATEX GLOVE



EX F 00018



CRY FOR HELP

- Witness provides statement that teens were heard talking on the sidewalk in front of residence, near the Spreckles Mansion. One voice said “help, help.”
- Video deposition from same elderly witness at civil trial - indicated cries of “help me, help me” came from “up on the porch of the Spreckles Mansion.”



WOMAN SEEN AT MANSION

- California Department of Justice Special Agent Victor Resendez interviewed Nina Romano who admittedly was at mansion.
- Nina's text message to Rebecca corroborates her statement.



UNDERWEAR





GARDEN GLOVES





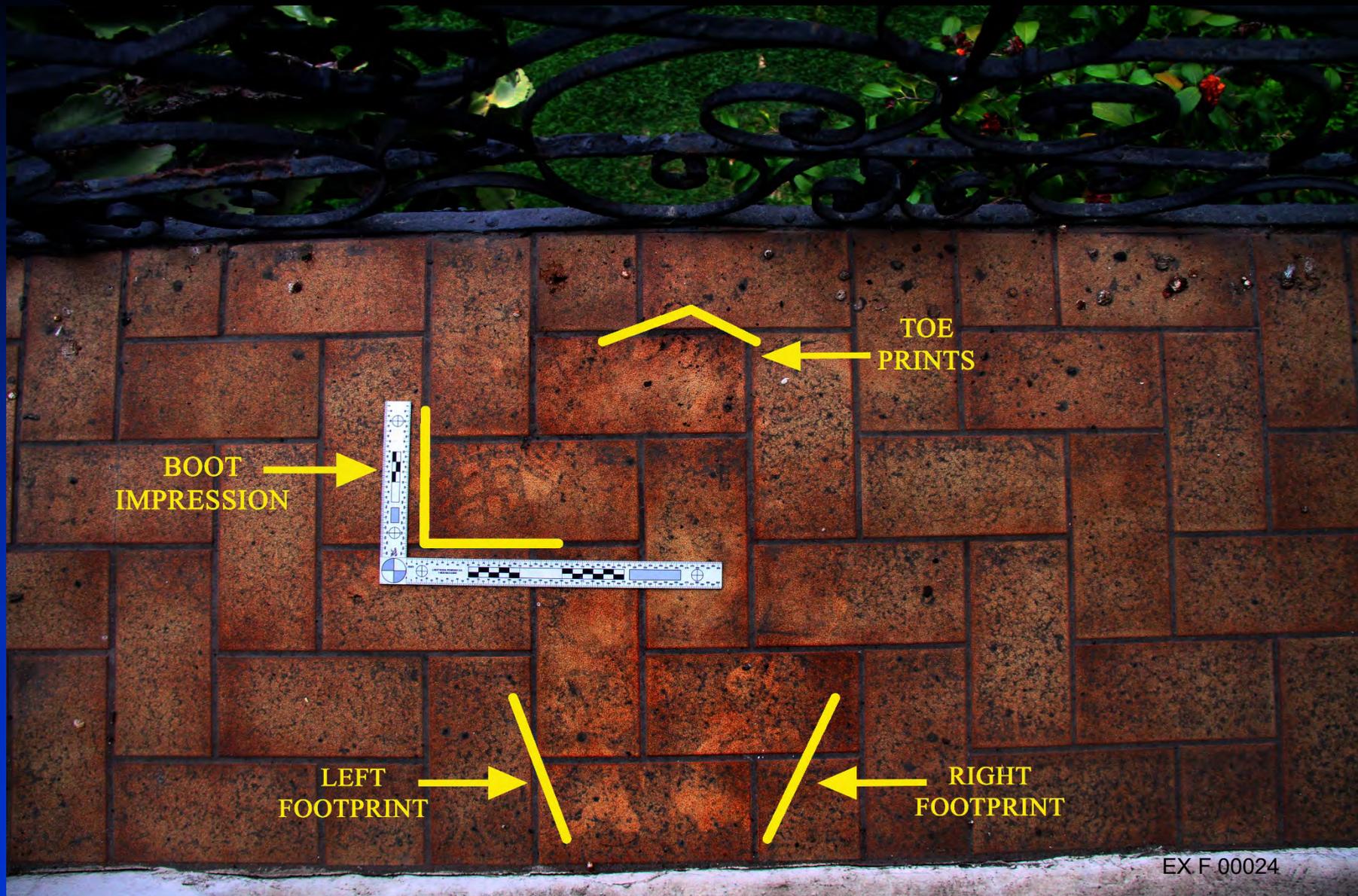
BALCONY DOORS



EX F 00023



BALCONY



BOOT
IMPRESSION

TOE
PRINTS

LEFT
FOOTPRINT

RIGHT
FOOTPRINT

EX F 00024



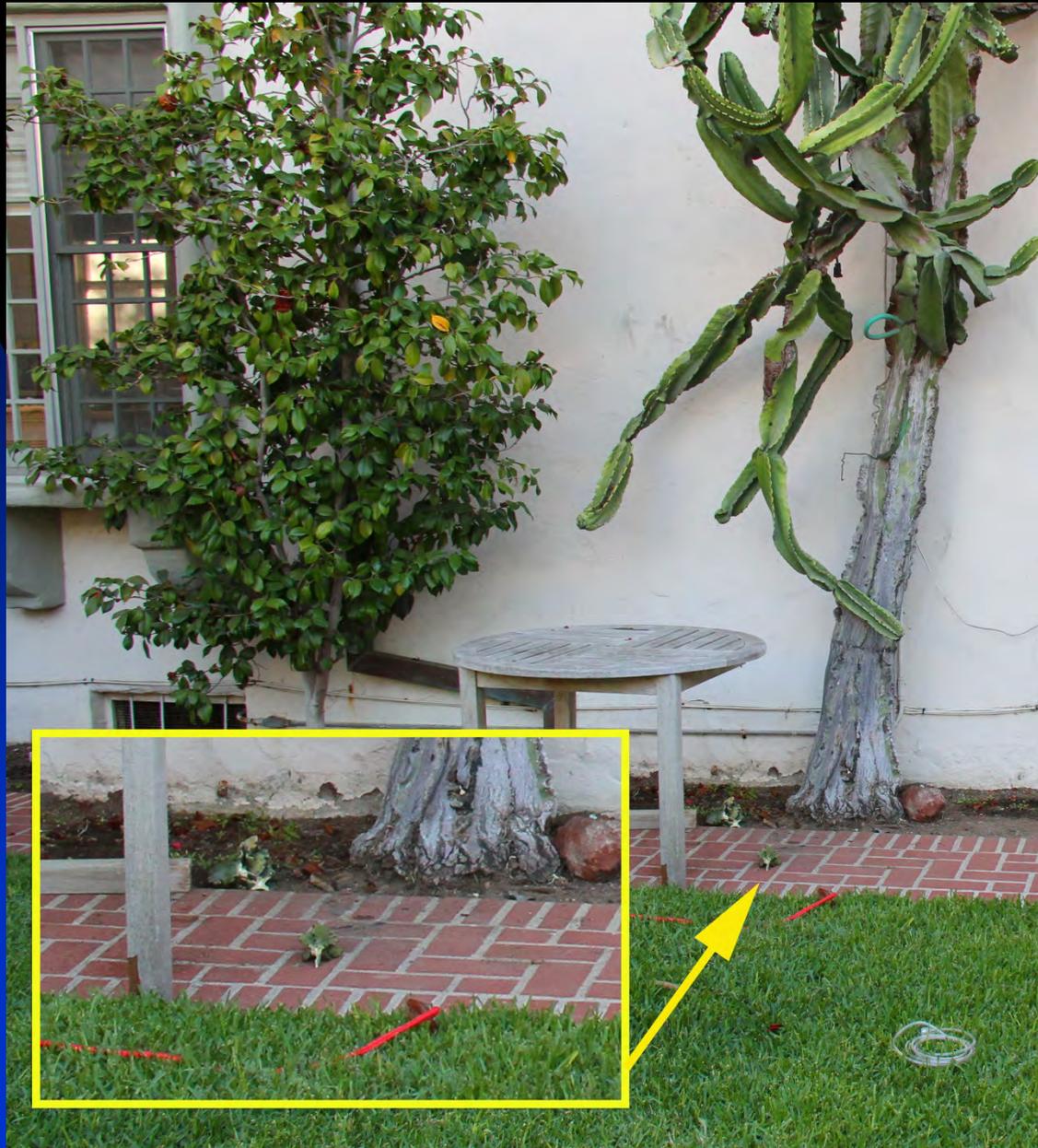
BALCONY RAILING



EX F 00025



OUTDOOR SCENE





FOREHEAD INJURIES



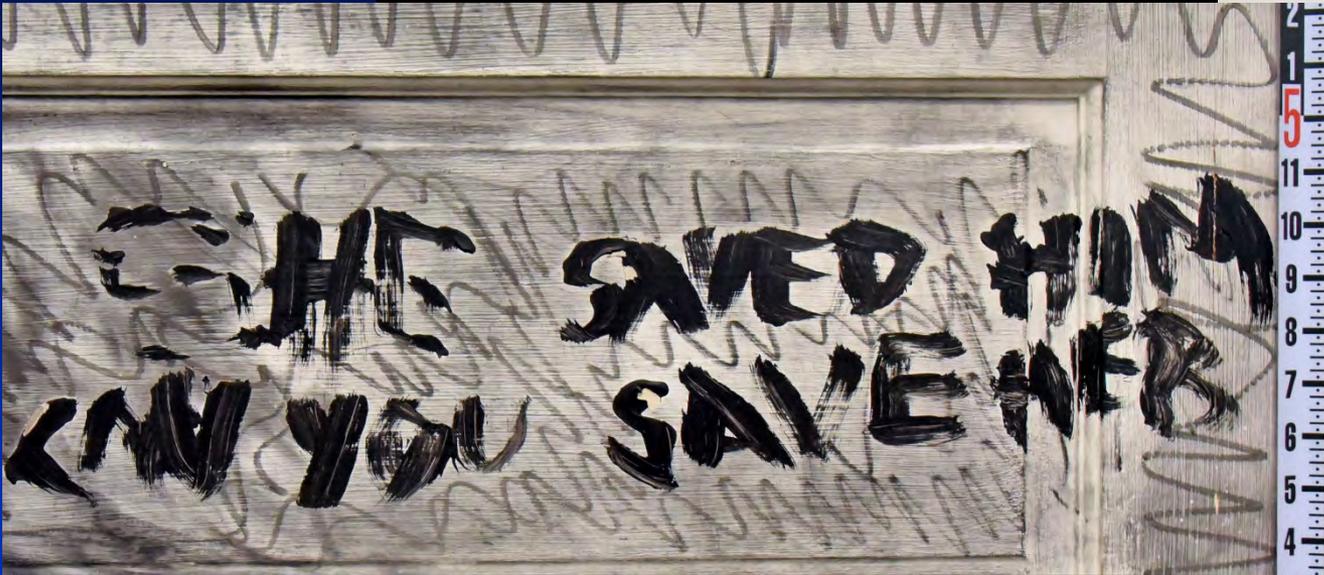


MESSAGE ON DOOR





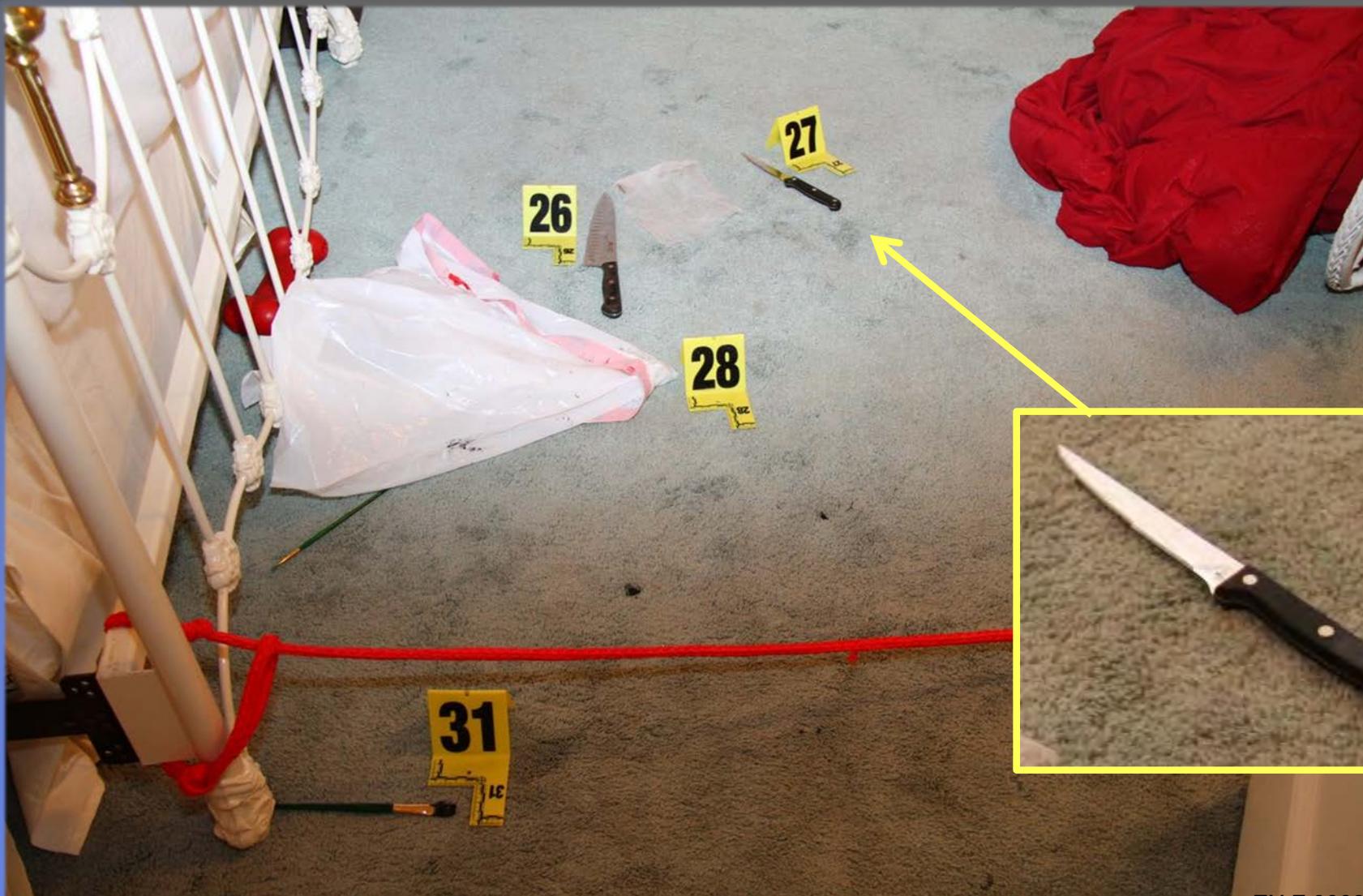
MESSAGE ON DOOR



EXF 00029



BEDROOM



EX F 00030



FINGERPRINT ORIENTATION





THE ROPE



EX F 00032



ROPE VIDEO





THE ROPE



EX F 00034



STATE OF MIND

- " m I just too much of a coward to face the truth that I m settling for the hope of a few happy years??? Which may never even come??? Am I pretending that I will be content without ever having a child????"
- " it is my own fault...i have allowed myself to be completely cut off from my own life...my life does not exist..."



STATE OF MIND

- “These will never come true as long as I m w him...is this my curse for leaving neil.”
- “being talked to like I m a worthless person by kids who are spoilt.”
- “no amount of money is worth what I am going though.”
- “if I am not thinking I am crying.”



CIVIL CASE

Burden of Proof

- “Preponderance of the evidence” means evidence that has more convincing force than that opposed to it.
- If the evidence is so evenly balanced that you are unable to say that the evidence on either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it.



CRIMINAL CASE

Burden of Proof

- Proof beyond a “reasonable doubt” is proof that leaves one with an abiding conviction that the charge is true.
- The evidence must prove the defendant is guilty. However the evidence need not eliminate all possible doubt, because everything in life is open to some possible or imaginary doubt.



SAN DIEGO SHERIFF'S DEPARTMENT

QUESTIONS



William D. Gore, Sheriff

(858) 974-2259

San Diego County Sheriff's Department – Media Relations

Lt. Karen Stubkjaer, Media Relations Director

www.SDSheriff.net

December 7, 2018

Sheriff Bill Gore Statement Rebecca Zahau Case Review

On July 13, 2011, the Sheriff's Homicide Unit was called to assist Coronado Police Department with a death investigation at 1043 Ocean Boulevard. Thirty-two-year-old Rebecca Zahau was found hanging from a balcony in the courtyard of the residence.

Sheriff's Homicide investigators worked with evidence technicians, criminalists, and Coronado Police Officers. Together, they processed the scene, gathered evidence and conducted a thorough death investigation. The investigation by the Sheriff's Department found no evidence of a crime.

On April 4th, 2018, a civil jury rendered a verdict that Adam Shacknai was liable for Rebecca Zahau's death. The civil trial verdict prompted renewed public speculation that Rebecca Zahau's death was not a suicide.

In response, the Sheriff's Department assembled a team to conduct a thorough review of the case, including a review of each of the theories raised during the civil trial. The team consisted of one Sergeant from the Coronado Police Department and three Sheriff's Homicide Sergeants. It should be noted that no one on the review team was part of the original investigation and they have no prior connections to the case.

After conducting a thorough review of the case, this review panel found no evidence that would lead us to believe that Rebecca Zahau died at the hands of another. In addition, we found no evidence that would dispute or be inconsistent with the Medical Examiner's findings that Rebecca Zahau's manner of death was a suicide.

We understand this has been a difficult process for the families. Our condolences go out to all of those involved in this tragic case.

###



EX F 00040





William D. Gore, Sheriff

(858) 974-2259

San Diego County Sheriff's Department – Media Relations

Lt. Karen Stubkjaer, Media Relations Director

www.SDSheriff.net

Coronado Death Case Review

Speaker List (in order of appearance)

Sheriff Bill Gore, San Diego County Sheriff's Department

Lieutenant Rich Williams, Sheriff's Homicide Unit

Expert Panel (left to right)

Dr. Glenn Wagner, County Medical Examiner

Captain Laszlo Waczek, Coronado Police Department

Chief Chuck Kaye, Coronado Police Department

Michael Grubb, Sheriff's Crime Lab Director

Bill Gore, Sheriff

Captain Mike McClain, Sheriff's Major Crimes Division

Lieutenant Rich Williams, Sheriff's Homicide Unit

Sergeant Paul Michalke, Sheriff's Homicide Unit

Sergeant Steve Bodine, Sheriff's Homicide Unit

Sergeant Alejandro Navarro, Sheriff's Homicide Unit

Sergeant Matt Mitchell, Coronado Police Department

Power Point presentations, photos and video of the news conference presented during the media briefing can be found at <https://www.sdsheriff.net/coronado/>.



EX F 00041





William D. Gore, Sheriff

(858) 974-2259

San Diego County Sheriff's Department – Media Relations

Lt. Karen Stubkjaer, Media Relations Director

www.SDSheriff.net

April 4, 2018

Statement on Rebecca Zahau Civil Trial

The San Diego County Sheriff's Department is aware of the recent verdict in the Rebecca Zahau wrongful death civil suit. We have cooperated with all parties on the presentation of evidence and testimony during the trial. Our thoughts are with the Zahau Family as they relive the tragic death of their daughter and sister, Rebecca.

In regards to the criminal investigation, the Sheriff's Department stands by the findings of the Medical Examiner's Office and our investigators. These findings were supported by forensic evidence and medical examinations. We are always open to reviewing any evidence that could impact our conclusions. Additionally, we are also willing to meet with the Zahau Family to look at any new evidence that came out of the civil trial.

Previously released information on this case can be found at:

www.sdsheriff.net/coronado.

Sheriff's Major Crimes Division-Homicide Unit



EX F 00042





San Diego County Sheriff's Department

Homicide Detail

Media Information

SUBJECT: Death Investigation

LOCATION: 1043 Ocean Boulevard
Coronado, Ca. 92083

DATE/TIME: 07-13-11, 12:30 P.M.

VICTIM: Female Adult

SUSPECT: Unknown

The following information is fragmentary and has not been completely verified. It is based, in part, on hearsay and is intended for early information use rather than being a formal investigative report.

On July 13, 2011, at approximately 0820 hours, The Coronado Police Department requested the assistance of the San Diego Sheriff's Department's Homicide Detail. The Coronado Police were investigating a suspicious death at 1043 Ocean Boulevard in the City of Coronado. At approximately 0648 hours, Units from the Coronado Police Department went to 1043 Ocean Boulevard in response to a 911 call. The reporting party indicated a female was possibly deceased at the residence. When the Coronado Units arrived at the scene, they located a female adult on the property who appeared to be in distress. They immediately provided medical aid until the Coronado Fire Department arrived on scene a few moments later. After a short time, the woman was determined to be deceased by the responders from the Coronado Fire Department. The condition of the victim and the scene showed suspicious circumstances that initiated the response from Coronado Police Department Investigators and in turn the Sheriff's Homicide Detail along with Investigators from the California Department of Justice and the San Diego County Medical Examiner's Office. The Sheriff's Department is conducting this investigation in partnership with the Coronado Police Department.

The San Diego Sheriff's Department has a longstanding working relationship with the Coronado Police Department and responding to assist with such an incident is within normal course.

The name of the decedent is being withheld pending notification of her next of kin. Additionally, the cause and manner of death is pending autopsy results.

Anyone with information about this incident is asked to call the Sheriff's Homicide Detail at (858) 974-2321/after hours at (858) 565-5200 or Crime Stoppers at (888) 580-TIPS(8477).

Prepared by: Tim Curran, Captain
Homicide Detail (858) 974-2321

EX F 00043



San Diego County Sheriff's Department

Homicide Detail

Media Information

SUBJECT: Death Investigation

LOCATION: 1043 Ocean Boulevard
Coronado, Ca. 92118

DATE/TIME: 07-13-11, 11:30 P.M.

VICTIM: Rebecca M. Nalepa (32 year old Asian female)

SUSPECT: Unknown

The following information is fragmentary and has not been completely verified. It is based, in part, on hearsay and is intended for early information use rather than being a formal investigative report.

This is an update to the earlier press release regarding the death investigation at 1043 Ocean Boulevard. The decedent in the case has been identified as Rebecca Nalepa the girlfriend of the homeowner. Currently, a team of detectives and crime laboratory personnel are processing the scene. The cause and manner of death is pending autopsy.

Anyone with information about this incident is asked to call the Homicide Detail at (858) 974-2321/after hours at (858) 565-5200 or Crime Stoppers at (888) 580-TIPS(8477).

Prepared by: Roy W. Frank, Sergeant
Homicide Detail (858) 974-2321



San Diego County Sheriff's Department

Homicide Detail

Media Information

SUBJECT: Death Investigation

LOCATION: 1043 Ocean Boulevard
Coronado, Ca.

DATE/TIME: 07-14-11, 10:30 A.M.

VICTIM: Female Adult

SUSPECT: Unknown

The following information is fragmentary and has not been completely verified. It is based, in part, on hearsay and is intended for early information use rather than being a formal investigative report.

This is an update on the death investigation that began on Wednesday, July 13, 2011 at 1043 Ocean Boulevard in the City of Coronado. The victim has been identified as 32 year old Rebecca Nalepa (also known as Rebecca Zahau). Nalepa was staying at the residence with her boyfriend identified as Dr. Jonah Shacknai. On July 13, 2011 The Coronado Police were investigating a suspicious death at 1043 Ocean Boulevard in the City of Coronado. At approximately 0648 hours, Units from the Coronado Police Department went to 1043 Ocean Boulevard in response to a 911 call. The reporting party, later identified as Adam Shacknai told responding Officers he found Nalepa with a rope around her neck and hanging from a balcony off the main house. When the Coronado Units arrived at the scene, they located a female adult on the property who appeared to be deceased. The victim's hands and feet were bound and she was completely nude. The responding Officers provided medical aid until the Coronado Fire Department arrived on scene a few moments later and determined the victim to be deceased. The condition of the victim and the scene showed suspicious circumstances that initiated the response from Coronado Police Department Investigators and in turn, the Sheriff's Homicide Detail along with Investigators from the California Department of Justice and the San Diego County Medical Examiner's Office. The Sheriff's Department is conducting this investigation in partnership with the Coronado Police Department. An autopsy is being conducted this morning by the San Diego County Medical Examiner's Office. The Sheriff's Crime Lab is processing numerous items of evidence and Investigators are questioning several witnesses as well as following other leads. Because of the unique and bizarre circumstances of this incident, it has yet to be determined if this will become a criminal matter or a death investigation.

The San Diego Sheriff's Department has a longstanding working relationship with the Coronado Police Department and responding to assist with such an incident is within normal course.

Anyone with information about this incident is asked to call the Homicide Detail at (858) 974-2321/after hours at (858) 565-5200 or Crime Stoppers at (888) 580-TIPS(8477).

Prepared by: Tim Curran, Captain
Homicide Detail (858) 974-2321

EX F 00045



San Diego County Sheriff's Department

PUBLIC AFFAIRS UNIT

*"Keeping
the peace
since 1850"*

July 15, 2011

Unless there is any new development, there will be no media briefing regarding the death investigation in Coronado.

There is no update at this time, so a news release will not be issued.

An autopsy has been completed.

Sheriff's Homicide Unit is still waiting on forensics and lab work to be completed.

Autopsy records as well as the search warrant affidavit will be sealed during the course of the investigation.

Sheriff's Homicide Division did not release and has no plans to release the photo of Rebecca Nalepa.

Recording of the 911 call made to Coronado Police is considered evidence and will not be released.

Sheriff's Homicide Unit is in the process of contacting the victim's family and coordinating interviews.

Melissa Aquino
Public Affairs Officer
San Diego County Sheriff's Department
(858) 974-2253

 melissa.aquino@sdsheriff.org

Connect with the Sheriff's Department on



<http://www.sdsheriff.net/>

###

The San Diego Sheriff's Department is now also on Facebook, Twitter, Nixle and www.sdsheriff.net

EX F 00046



San Diego County Sheriff's Department

PUBLIC AFFAIRS UNIT

*"Keeping
the peace
since 1850"*

July 20, 2011

There have been numerous media requests for an update regarding the death investigation in Coronado.

As we mentioned before, there is no media briefing planned unless there is a major development in the case.

At this time, nothing has changed in the investigation so a news release will not be issued.

The Sheriff's Homicide Unit is currently waiting on forensics, lab and toxicology results.

This process could take weeks and is just one element of the investigation that could hopefully help us understand what happened to Rebecca Zahau.

There are 15 detectives from the San Diego County Sheriff's Department, Coronado Police Department and California Department of Justice working on this case.

They have an in-depth background in investigations.

We understand the concerns and questions of the public, but the San Diego Sheriff's Department does not rely on hearsay, rumor or speculation.

It's important for us to take our time with this investigation, step back and not rush to judgment to ensure we don't miss anything.

We will go wherever the evidence takes us and will investigate however long it takes to make sure we get the facts right for Rebecca, her family and the public.

Hopefully, the evidence will tell the story and solve this mystery.

Melissa Aquino
Public Affairs Officer
San Diego County Sheriff's Department
(858) 974-2253

 melissa.aquino@sdsheriff.org

Connect with the Sheriff's Department on



<http://www.sdsheriff.net/>

###

The San Diego Sheriff's Department is now also on Facebook, Twitter, Nixle and www.sdsheriff.net

EX F 00047



San Diego County Sheriff's Department

PUBLIC AFFAIRS UNIT

*Keeping
the peace
since 1850*

August 18, 2011

There have been a lot of media inquiries about a briefing regarding the death investigations in Coronado.

As we mentioned before, when we have information that we are able to share we will do so. At this time, Sheriff's Detectives from the Homicide Division as well as investigators from the Coronado Police Department are still waiting on the results of all forensic tests.

When the investigations are completed, we will schedule a media briefing. I do not have a time frame as to when that will happen.

An announcement about a media briefing will be posted on www.sdsheriff.net/coronado. Please monitor this page on the Sheriff's Department website for any updates or news releases related to these investigations. There has been a lot of speculation about these cases. Information that didn't come from this website or the Sheriff's Homicide and Public Affairs Division, or the Coronado Police Department should not be relied upon.

Melissa Aquino
Public Affairs Officer
San Diego County Sheriff's Department
(858) 974-2253

 melissa.aquino@sdsheriff.org

Connect with the Sheriff's Department on



<http://www.sdsheriff.net/>

###

The San Diego Sheriff's Department is now also on Facebook, Twitter, Nixle and www.sdsheriff.net

EX F 00048



For More Information:
Public Affairs Office
(858) 974-2259

September 1, 2011

Coronado Death Investigations Media Briefing

The San Diego County Sheriff's Department will hold a media briefing about the death investigations in Coronado on Friday, September 2nd at 11:00 a.m. The briefing will be held in Training Rooms 1 through 4 of the Sheriff's Department Main Office at 9621 Ridgehaven Court, San Diego, CA 92123.

Sheriff Bill Gore will lead a panel of experts from the Sheriff's Homicide Detail, Sheriff's Crime Lab, County Medical Examiner's Office, and Coronado Police Department to discuss the findings on the deaths of Rebecca Zahau and Max Shacknai. There will be a Q and A portion after the media briefing.

Media packets will not be distributed during the briefing. Power Point presentations, photos, video and graphics presented at the briefing will be posted on www.sdsheriff.net/coronado. Information that does not come from this web page, the Sheriff's Department or Coronado Police Department should not be relied upon.

Only national media with current, valid credentials and local media with media badges from SDPD will be allowed into the briefing. Given the facility limitations, the Sheriff's Department reserves the right to refuse entry in order to ensure the broadest dissemination of information. The media briefing will start promptly at 11:00 a.m. Latecomers will not be admitted.

###

The San Diego Sheriff's Department is now also on Facebook, Twitter, Nixle and www.sdsheriff.net



San Diego County Sheriff's Department

PUBLIC AFFAIRS UNIT

*"Keeping
the peace
since 1850"*

For More Information:

Melissa Aquino

Public Affairs Officer

(858) 974-2253

September 6, 2011

There have been numerous inquiries regarding several findings in the autopsy report on Rebecca Zahau.

The information below is from Dr. Jonathan Lucas, Medical Examiner's Office:

Sticky material that appeared similar to tape residue was noted on her mid left shin and right lower leg. These were small areas (about an inch), and their significance is not clear. Their position and size would have been unusual for evidence of leg binding.

Bruises on the right side of her scalp were also seen. These were relatively minor. Because there was evidence that she went over the balcony in a non-vertical position, she may have struck her head on the balcony on the way down.

The T-shirt that was around her neck had a portion originally in her mouth that was removed by the person who found her. It is not clear why it was there, although people can place material in their mouth prior to hanging.

Blood was found on her inner thighs and the source was either menses or spotting due to an IUD (Intrauterine Device). There was no genital trauma. A small amount of blood was also noted on her big toes which appeared to be due to small scratches from the plants below the balcony.

As in any comprehensive investigation, some findings cannot be entirely explained. None of the observations listed above are inconsistent with the conclusions reached regarding the cause and manner of death of Rebecca Zahau. Our condolences go out to all of those involved in this tragic case.

For further inquiries about the autopsy reports on Rebecca Zahau or Max Shacknai, please contact Tammy Glenn at (619) 890-0778 or tammy.glenn@sdcounty.ca.gov.

###

The San Diego Sheriff's Department is now also on Facebook, Twitter, Nixle and www.sdsheriff.net

EX F 00050

JONAH SHACKNAI



September 19, 2011

Honorable Kamala D. Harris
Attorney General of the State of California
Office of the Attorney General
1300 "I" Street
Sacramento, California 95814-2919

Dear Attorney General Harris,

I write to request your assistance under Article 5, Section 13 of the California Constitution in bringing some clarity, dignity, and ultimately, closure to the devastating deaths of my youngest son, Max Shacknai, and my girlfriend and companion of two years, Rebecca Zahau, in Coronado this July.

The heartbreak of these losses, as anyone might imagine, is unbearable. My family and I struggle to move forward and deal privately with our grief. Unfortunately, despite the announcement on September 2nd of the findings of the investigation of the San Diego County Sheriff's Department, the Coronado Police Department, and the San Diego County Medical Examiner's Office that Rebecca's death was a suicide, the unrelenting and often vicious speculation and innuendo in certain media outlets continue to bring further pain to everyone who has been touched by these tragic events. It is my hope that your review of Rebecca's death will serve the interests of justice by providing confidence, comfort and resolution not just to the families directly impacted by these tragedies, but also to the public at large, which has taken an interest in these highly unusual circumstances.

Throughout this ordeal, my deepest sympathy continues to go out to Rebecca's family. Having lost Max, we unfortunately understand all too well the limitless pain they are experiencing. With my life torn apart by the sudden deaths of two loved ones in my home, I also appreciate profoundly the Zahaus' search for answers. Having received a courtesy private and highly detailed briefing from law enforcement on August 30th shortly before the authorities' September 2nd press conference, as the Zahaus and our family each separately did that same week, I was and continue to be persuaded that the announced conclusions were sound, scientific, and supported by a thorough and competent investigation. Admittedly, the circumstances of Rebecca's suicide were so unusual and upsetting that it was difficult to accept the hard facts as they were presented. However, all the evidence, including the information disclosed at the press conference and in the released materials, as well as certain other pertinent facts, helped to provide some much needed explanation and context for the events that occurred.

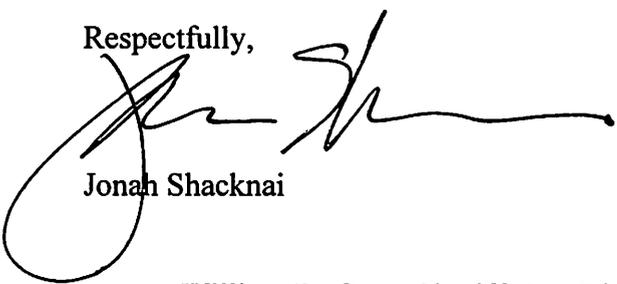
Honorable Kamala D. Harris
September 19, 2011
Page 2

That said, given the undeniably strange circumstances, Rebecca's family and others continue to have questions. Certain media outlets have recklessly exploited those questions for ratings, which in turn has fueled broader skepticism in the investigation and resulted in additional pain to those who already have suffered enough through these awful events. Following the enormous losses of Max and Rebecca, it is intolerable to sit back and watch my other children and the rest of my family, and my former wife Dina's family, tormented with these unfounded rumors and accusations. For this reason, and to further enhance the public's confidence in the integrity of the law enforcement process and finally bring closure to these terrible tragedies, I would respectfully request that you undertake to evaluate the investigatory methods and conclusions of the San Diego and Coronado authorities in this case.

If your office believes any further investigative steps are warranted, then of course the interests of justice demand they be pursued, and if your assessment serves to validate the September 2nd findings, then hopefully this matter can be resolved finally. To be clear, I have no reason to doubt the San Diego and Coronado authorities' findings, and I remain appreciative of their dedication and professionalism throughout this process. At the same time I believe the only way to achieve some dignified resolution for everyone who has been touched by the horrible events of this summer will be through the efforts of your office.

I pray Max and Rebecca are now at peace, and I hope you might be able to help the rest of us devastated by their losses achieve some peace and closure as well. Thank you very much for your consideration.

Respectfully,



Jonah Shacknai

cc: William D. Gore, Sheriff, San Diego County
Jonathan Lucas, M.D., Deputy Medical Examiner, San Diego County
Louis Scanlon, Chief of Police, City of Coronado

EX F 00052

JONAH SHACKNAI



September 19, 2011

Honorable Kamala D. Harris
Attorney General of the State of California
Office of the Attorney General
1300 "I" Street
Sacramento, California 95814-2919

Dear Attorney General Harris,

I write to request your assistance under Article 5, Section 13 of the California Constitution in bringing some clarity, dignity, and ultimately, closure to the devastating deaths of my youngest son, Max Shacknai, and my girlfriend and companion of two years, Rebecca Zahau, in Coronado this July.

The heartbreak of these losses, as anyone might imagine, is unbearable. My family and I struggle to move forward and deal privately with our grief. Unfortunately, despite the announcement on September 2nd of the findings of the investigation of the San Diego County Sheriff's Department, the Coronado Police Department, and the San Diego County Medical Examiner's Office that Rebecca's death was a suicide, the unrelenting and often vicious speculation and innuendo in certain media outlets continue to bring further pain to everyone who has been touched by these tragic events. It is my hope that your review of Rebecca's death will serve the interests of justice by providing confidence, comfort and resolution not just to the families directly impacted by these tragedies, but also to the public at large, which has taken an interest in these highly unusual circumstances.

Throughout this ordeal, my deepest sympathy continues to go out to Rebecca's family. Having lost Max, we unfortunately understand all too well the limitless pain they are experiencing. With my life torn apart by the sudden deaths of two loved ones in my home, I also appreciate profoundly the Zahaus' search for answers. Having received a courtesy private and highly detailed briefing from law enforcement on August 30th shortly before the authorities' September 2nd press conference, as the Zahaus and our family each separately did that same week, I was and continue to be persuaded that the announced conclusions were sound, scientific, and supported by a thorough and competent investigation. Admittedly, the circumstances of Rebecca's suicide were so unusual and upsetting that it was difficult to accept the hard facts as they were presented. However, all the evidence, including the information disclosed at the press conference and in the released materials, as well as certain other pertinent facts, helped to provide some much needed explanation and context for the events that occurred.

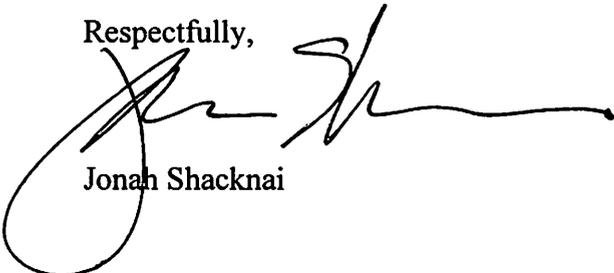
Honorable Kamala D. Harris
September 19, 2011
Page 2

That said, given the undeniably strange circumstances, Rebecca's family and others continue to have questions. Certain media outlets have recklessly exploited those questions for ratings, which in turn has fueled broader skepticism in the investigation and resulted in additional pain to those who already have suffered enough through these awful events. Following the enormous losses of Max and Rebecca, it is intolerable to sit back and watch my other children and the rest of my family, and my former wife Dina's family, tormented with these unfounded rumors and accusations. For this reason, and to further enhance the public's confidence in the integrity of the law enforcement process and finally bring closure to these terrible tragedies, I would respectfully request that you undertake to evaluate the investigatory methods and conclusions of the San Diego and Coronado authorities in this case.

If your office believes any further investigative steps are warranted, then of course the interests of justice demand they be pursued, and if your assessment serves to validate the September 2nd findings, then hopefully this matter can be resolved finally. To be clear, I have no reason to doubt the San Diego and Coronado authorities' findings, and I remain appreciative of their dedication and professionalism throughout this process. At the same time I believe the only way to achieve some dignified resolution for everyone who has been touched by the horrible events of this summer will be through the efforts of your office.

I pray Max and Rebecca are now at peace, and I hope you might be able to help the rest of us devastated by their losses achieve some peace and closure as well. Thank you very much for your consideration.

Respectfully,



Jonah Shacknai

cc: William D. Gore, Sheriff, San Diego County
Jonathan Lucas, M.D., Deputy Medical Examiner, San Diego County
Louis Scanlon, Chief of Police, City of Coronado

EX F 00054



For further information:
Office of Public Affairs
(858) 974-2259

November 15, 2011

Response by Sheriff Bill Gore Dr. Phil Show

After personally reviewing the two-part show by entertainment psychologist Phil McGraw, Sheriff Bill Gore explained, "No new information has been provided by this second autopsy." The case remains concluded.

"To date," Sheriff Gore said, "neither our detectives, nor the Medical Examiner's Office have been presented with any new evidence from this examination. If Dr. Wecht, or Miss Bremner would like to share information they believe is pertinent with our investigators, we would be glad to meet with them, rather than hear their results on television, presented as entertainment."

Sheriff Gore advised those who appeared on the "Dr. Phil" show altered and misrepresented facts, as well as omitted pertinent details all together. For example, the guests on the show referred to mixed DNA underneath Rebecca's fingernails. There were 13 samples taken from fingernails of both hands. Each of the samples was analyzed separately. In twelve of the samples, the DNA results were consistent with the presence of DNA from only one person. The DNA types found in these samples matched the DNA of Rebecca Zahau. In one of the samples, the results indicated the presence of DNA from at least two people. The majority of the DNA present was consistent with Rebecca's DNA. The amount of information obtained from the other contributor(s) was so minute; it was not possible to identify the source.

It is important to understand that small amounts of DNA can be transferred easily through any number of ways including something as ethereal as a breath.

Their 'findings' that 'someone' had logged on to Rebecca's computer had already been investigated by our detectives and it was simply determined to be an automatic computer update.

Further, Dr. Wecht did not reach out to the San Diego County Medical Examiner's Office or the Sheriff's Office to attend the autopsy, as is normal protocol to establish and maintain a clean chain of custody, should new evidence be found.

According to Sheriff Gore, "This is nothing more than sensationalism at its lowest point and the family is only enduring more suffering from this insensitivity."

###

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE



455 GOLDEN GATE AVENUE, SUITE 11000
SAN FRANCISCO, CA 94102-7004

Public: (415) 703-5500
Telephone: [REDACTED]
Facsimile: [REDACTED]
E-Mail: [REDACTED]

September 21, 2011

Mr. Jonah Shacknai
[REDACTED]
[REDACTED]

Dear Mr. Shacknai:

Thank you for your September 19 letter to Attorney General Kamala Harris, who sends her condolences for your profound loss. On behalf of both the Attorney General and her staff, we offer our sympathy for the tragedy that is the reason for your correspondence. Your letter requests an inquiry into the investigation that was conducted by the San Diego Sheriff's Office. The California Department of Justice would review a local investigation under very narrow circumstances. Some of the factors that are considered before committing the state's scarce resources include whether a clear conflict of interest exists, whether a local law enforcement agency has requested assistance, whether local investigative resources have been exhausted, and whether there are allegations of gross malfeasance by the investigative agency. Based on a review of your request, we must decline your invitation to review this investigation at this time.

Please accept our sincere condolences for your tragic loss, and feel to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dane R. Gillette".

DANE R. GILLETTE
Chief Assistant Attorney General

For KAMALA D. HARRIS
Attorney General

DRG:ckp

EX F 00056



San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William D. Gore, Sheriff

Thomas J. Cooke, Undersheriff

September 20, 2011

Sheriff Bill Gore Statement on Jonah Shacknai's Letter to the California Attorney General

I strongly believe that a thorough and professional investigation was conducted by the San Diego County Sheriff's Department, Coronado Police Department and San Diego County Medical Examiner's Office into the deaths of Max Shacknai and Rebecca Zahau. I also believe that our findings that Max's death was accidental and Rebecca's death was a suicide are supported by the forensic and medical examinations that were conducted in this matter.

Having said that, as with any investigation, the department is always open to reviewing any new evidence which could impact our conclusions.

By a letter dated, September 19, 2011, Jonah Shacknai requested Attorney General Kamala Harris to review and evaluate the investigating methods and conclusions of the San Diego County Sheriff's and Coronado Police Departments in an effort to bring badly needed closure to family members who have already suffered enough. This department understands and supports Mr. Shacknai's request and pledges our complete cooperation with the Attorney General should she decide to undertake such a review.

William D. Gore, Sheriff
San Diego County Sheriff's Department

"Keeping the Peace Since 1850"

EX F 00057



San Diego County Sheriff's Department

PUBLIC AFFAIRS UNIT

*"Keeping
the peace
since 1850"*

September 22, 2011

San Diego County Sheriff's Department Statement on California Attorney General's Decision on Rebecca Zahau's case

We respect today's decision of the California Attorney General with regard to their analysis of the Rebecca Zahau suicide in Coronado.

This investigation remains concluded.

The interminable allure of this tragedy by a small faction of the media only prolongs the unspeakable loss shared by two families.

As with any of our investigations, should new information come forward, we will carefully evaluate the material.

###

The San Diego Sheriff's Department is now also on Facebook, Twitter, Nixle and www.sdsheriff.net

EX F 00058



William D. Gore, Sheriff

(858) 974-2259

San Diego County Sheriff's Department – Media Relations

Lt. Karen Stubkjaer, Media Relations Director

www.SDSheriff.net

April 16, 2018

Statement on Rebecca Zahau Case

The Sheriff's Department has continually indicated its willingness to reevaluate the Rebecca Zahau case if new evidence was presented. After a productive conversation with the family's attorney, Keith Greer, Sheriff Bill Gore determined that, while no new evidence was presented, new analysis of existing evidence was presented in the recently concluded civil trial. In the spirit of transparency and open-mindedness, we have agreed to undertake a fresh review of the case, by investigators who have had no prior involvement with the case, to evaluate the new information. Without having the materials and reports from the civil attorney in front of us at this time, it is difficult to say how long this review will take; however, we expect it will take at least 90 days.

When our investigation is complete, we will meet with the family's attorney to discuss our findings. Ultimately, the cause and manner of death, in any case, is determined by the Medical Examiner. In San Diego County, the Medical Examiner's Office is an independent entity and separate from the Sheriff's Department.

Media Contact: Sheriff's Captain Mike McClain

(858) 974-2321



EX F 00059





City of Coronado, California

POLICE DEPARTMENT

LOUIS J. SCANLON, CHIEF OF POLICE

"Commitment to Community Through Professionalism, Integrity, Respect and Teamwork"

I would like to thank Sheriff Gore and the members of his Department for their exhaustive efforts in these joint investigations and hope the conclusions can bring closure to these tragic events. I think it's important to remember the pain these events have caused the Shacknai and Zahau families and ask that their privacy be respected. They have my deepest sympathy and condolences.

Chief Louis J. Scanlon

Autopsy of Max Shacknai

Performed Monday, July 18, 2011

Jonathan Lucas, M.D.

Medical Examiner Office

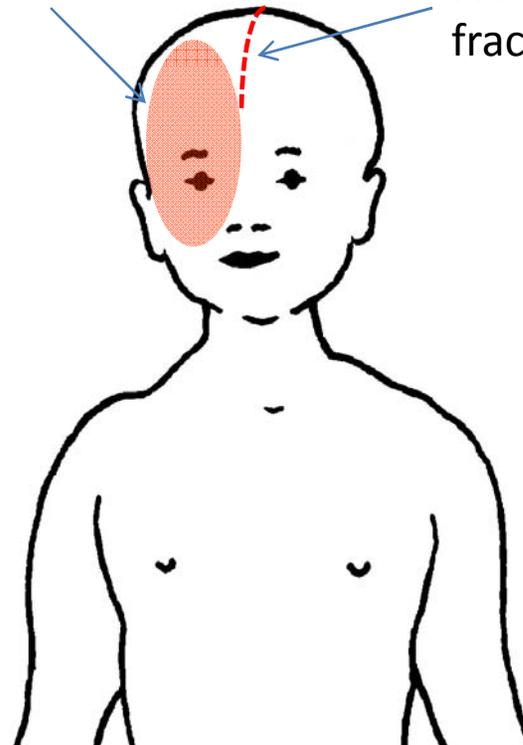
San Diego County

Max Shacknai

- Frontal/facial impact resulted in backward movement of head and hyperextension of neck.

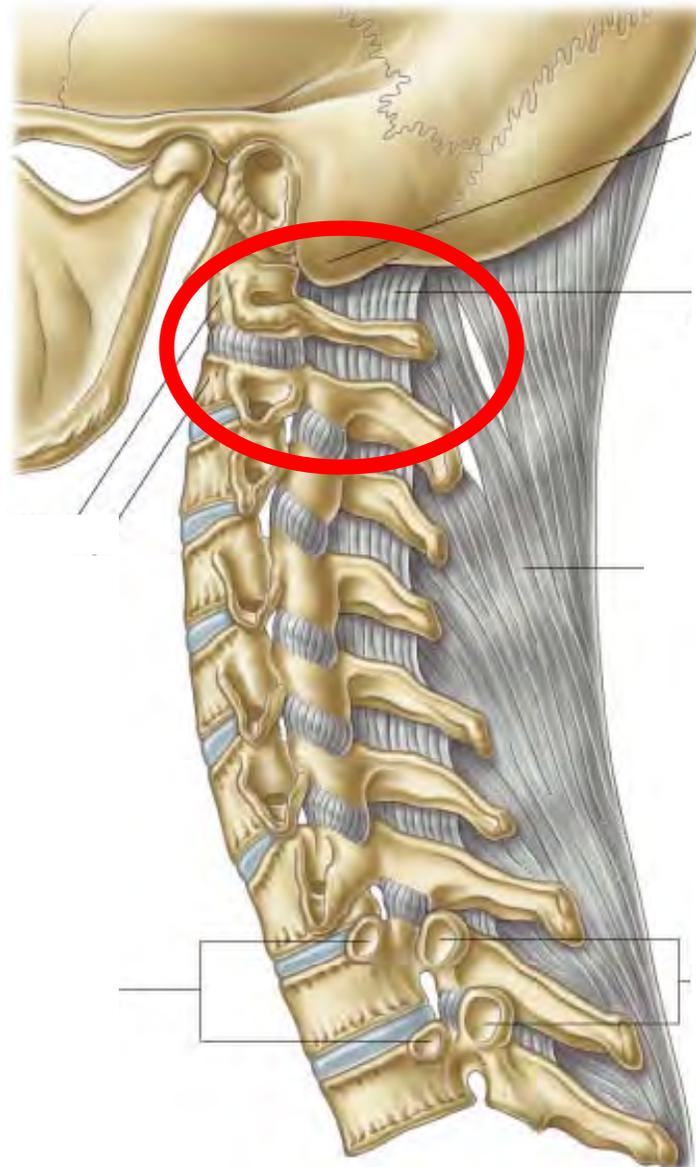
Abrasions and contusions

Frontal skull fracture



Max Shacknai

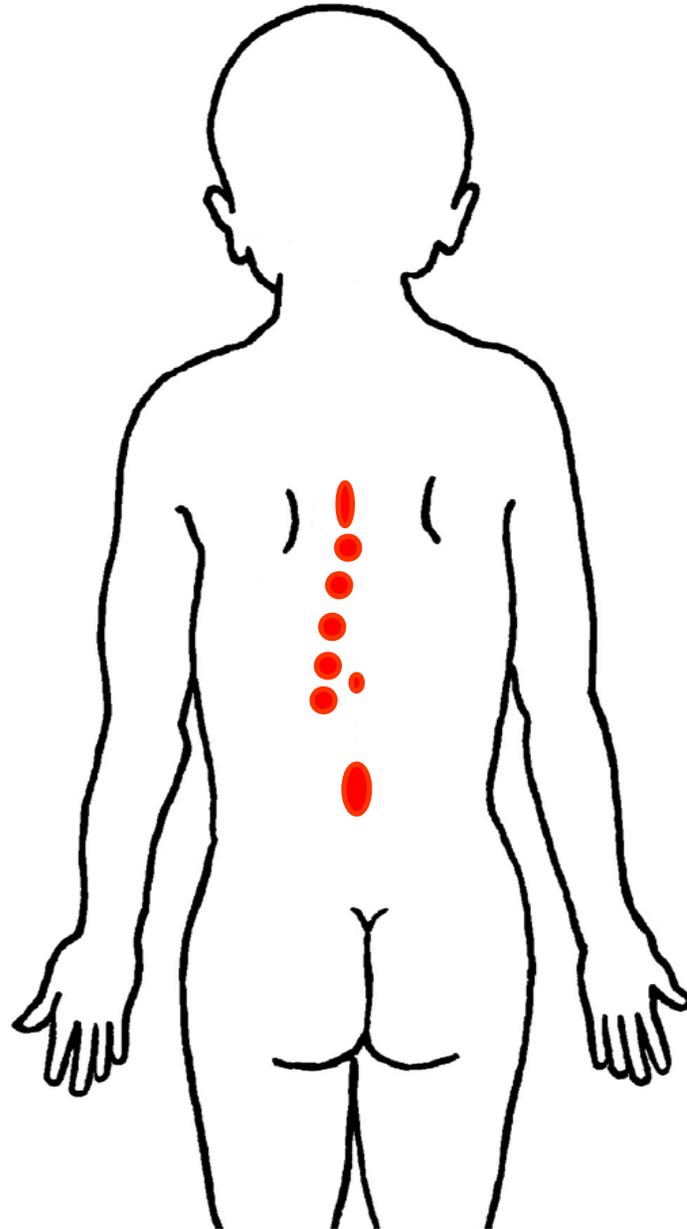
- Hyperextension caused a high cervical spinal cord injury, without fracture.
- This injury resulted in interference with heart rate and/or breathing
- The lack of oxygen to the brain was what resulted in irreversible brain damage.



© Elsevier Ltd 2005. Standring: Gray's Anatomy 39e

Max Shacknai

- Patterned abrasions or scrapes on back, roughly corresponding to ribs or spinous processes (bumps down the middle of the back)



Max Shacknai

Cause of Death

Anoxic/ischemic encephalopathy

Due to resuscitated cardiopulmonary arrest

Due to cervical spinal cord contusion

Due to blunt force trauma of head and neck

Manner of Death

Accident

Autopsy of Rebecca Zahau

Performed Thursday, July 14, 2011

Jonathan Lucas, M.D.

Medical Examiner Office

San Diego County

Rebecca Zahau

- Found hanging, fully suspended, with ankles bound and hands bound behind back
- Long sleeve T-shirt wrapped loosely around neck
- Based on the autopsy findings, she was alive when she went over the balcony

Rebecca Zahau

- Neck injuries were consistent with a drop from that height as opposed to “usual” hanging
- No evidence of a struggle or sexual assault and no other significant injuries
- Her feet were dirty consistent with standing on the dirty balcony

Rebecca Zahau

- No toxicological or physical evidence that she was rendered unconscious or incapacitated prior to the hanging.
- Her hand was easily removed from the wrist bindings

Rebecca Zahau

Cause of Death: Hanging

Manner of Death: Suicide

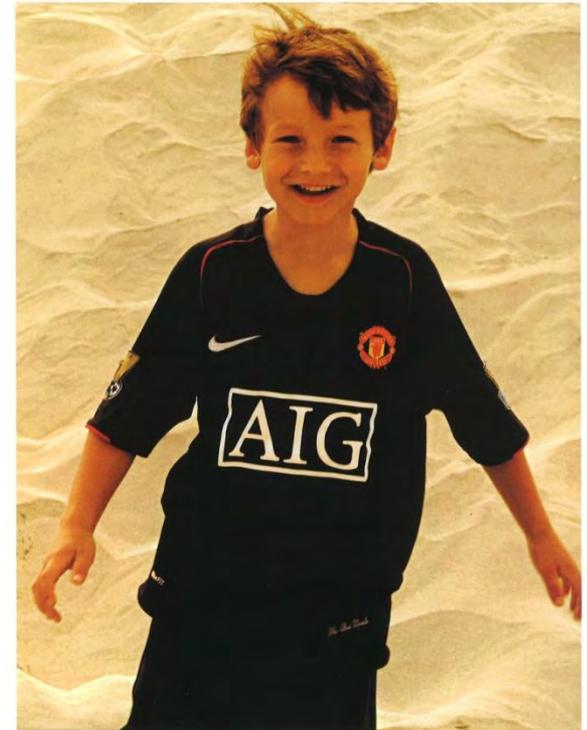


CORONADO POLICE DEPARTMENT INVESTIGATIONS DIVISION

**DEATH INVESTIGATION
CASE NUMBER 2011-1467
JULY 11, 2011
1043 OCEAN BOULEVARD
CORONADO, CA**

Maxfield Shacknai

- Son of Jonah and Dina Shacknai
- 6 year old boy
- 45 inches tall
- 57 lbs.



July 11, 2011

- Medical aid call for service at 1043 Ocean Blvd from 911 ca
- Reported child fell down stairs with CPR in progress
- 911 call transferred to Heartland Communications for Coronado Fire/Paramedics response
- Coronado Police are dispatched to investigate
- Maxfield was transferred to Sharp Coronado Hospital and then to Rady Children's Hospital

July 13, 2011

- 911 call of a woman hanging in courtyard at 1043 Ocean Blvd.
- Coronado Police & Fire/Paramedics respond. Victim Rebecca Zahau was determined to be deceased.
- Coronado Police request assistance from San Diego County Sheriff's in the investigation of Rebecca's suspicious death and Maxfield's injury investigation.

July 14, 2011

- Coronado Police Investigations received call from Rady Children's Hospital that Maxfield's condition had deteriorated.
- Investigators responded, collected evidence, and statements.

Investigation

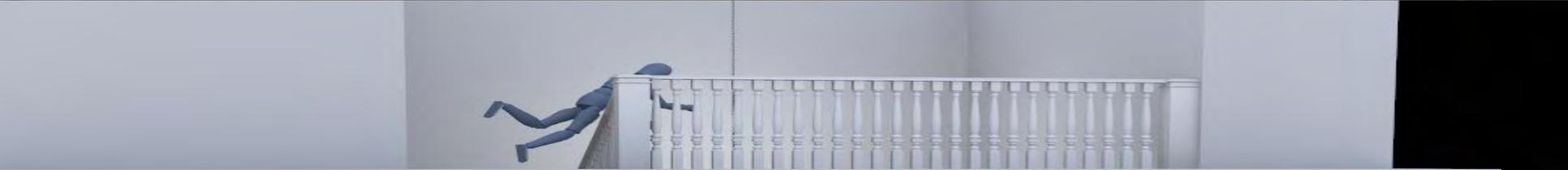
- Statements regarding history of playing in hallways and staircase
- Dog, soccer balls, and scooter present in staircase area
- Chandelier broken from the ceiling
- Prior activity leading to the fall was un-witnessed
- Fall was un-witnessed
- Injuries and evidence consistent with a fall from the second floor
- No physical evidence at scene or injuries on Max indicate a struggle



EX F 00077



EX F 00078



EX F 00079



EX F 00080

Conclusions

- **No evidence or information received in this investigation lead investigators to believe foul play was involved in the death of Maxfield Shacknai. Maxfield's death was an accident.**

CORONADO POLICE DEPARTMENT INVESTIGATIONS





**SAN DIEGO COUNTY SHERIFF'S DEPARTMENT
HOMICIDE TEAM II**

**DEATH INVESTIGATION
CASE NUMBER 11133835
JULY 13, 2011
1043 OCEAN BOULEVARD
CORONADO, CA**

Rebecca Zahau (Nalepa)

- AFA , 5' 3 ½", 100 pounds
- 03-15-79, 32 years
- Girlfriend of Jonah Shacknai



July 13th, 2011

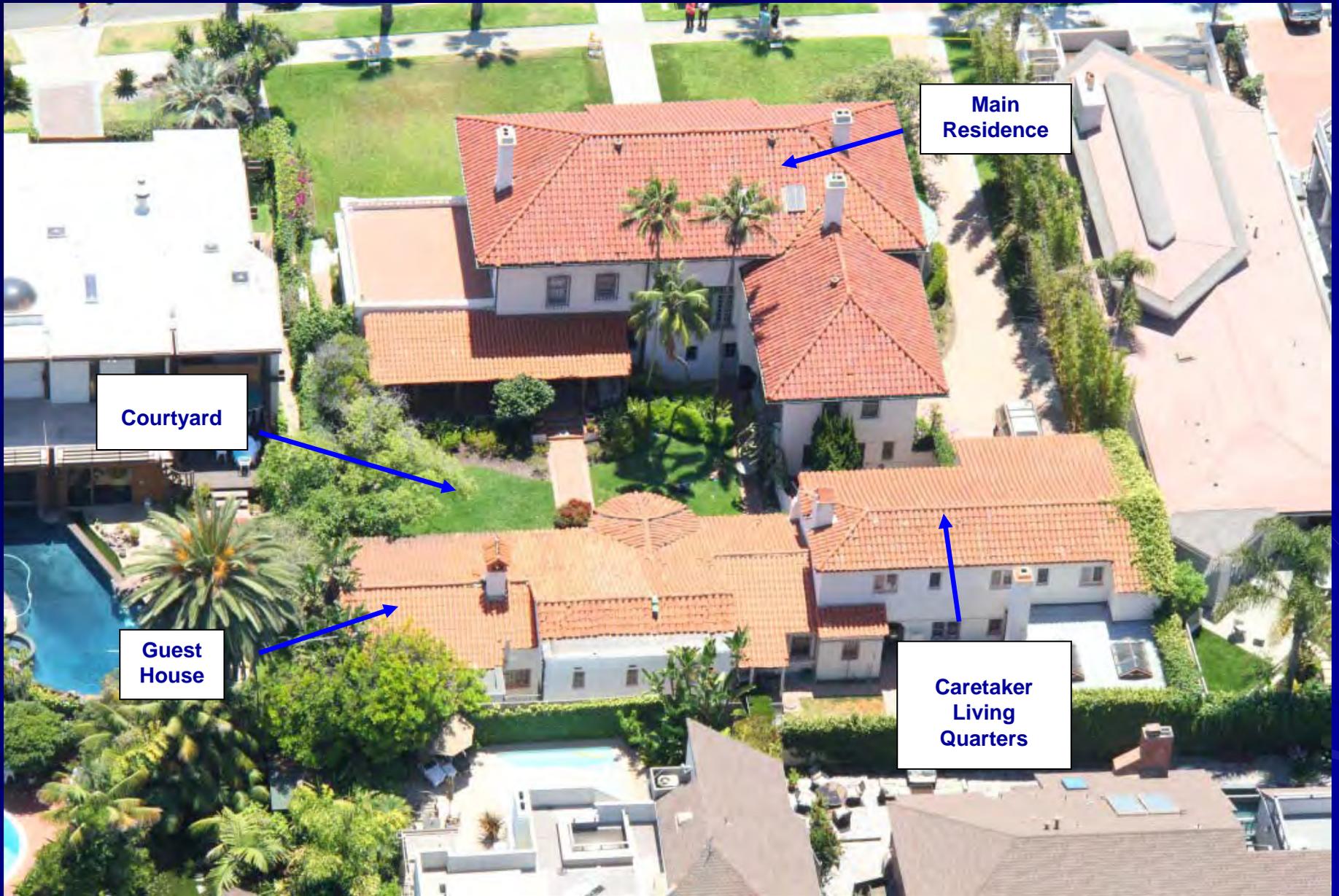
- Coronado Police requested assistance from the Sheriff's Department regarding a suspicious death at 1043 Ocean Blvd.
- Sheriff's Personnel arrived at about 0920 hours to begin the investigation.

Briefing

- Investigators and support personnel from the Sheriff's Department, Coronado Police Department and the California Department of Justice (BII)
- Learned a nude and bound female was found hanging from a balcony in the courtyard by the homeowner's brother at about 0648 hours.

Briefing

- Also learned the homeowner's 6 year old son was in a coma at Children's Hospital due to injuries resulting from a fall



Courtyard

**Main
Residence**

**Guest
House**

**Caretaker
Living
Quarters**

Preliminary Information

- The last outgoing call from Rebecca's phone was to her voice mail at about 0050 hours
- The investigation revealed that message was left to inform Rebecca of Max's grave condition and imminent death
- This was in contradiction to previous, more positive reports regarding his condition

Outside Scene

- Rebecca was found laying on the lawn in the courtyard
- Her wrists and ankles were bound with red rope, hands behind her back
- The same red rope and a t-shirt were around her neck
- The same red rope was hanging over the balcony railing

Outside Scene

- There was a table below the balcony, and a kitchen knife on the ground near Rebecca
- The investigation revealed the knife and table had been used by the reporting party to cut her down
- Adam Shacknai, the homeowner's brother, was the reporting party and had been staying in the guest house

Inside Scene

- Message painted in black paint on door leading to guest bedroom



EX F 00093

Inside Scene

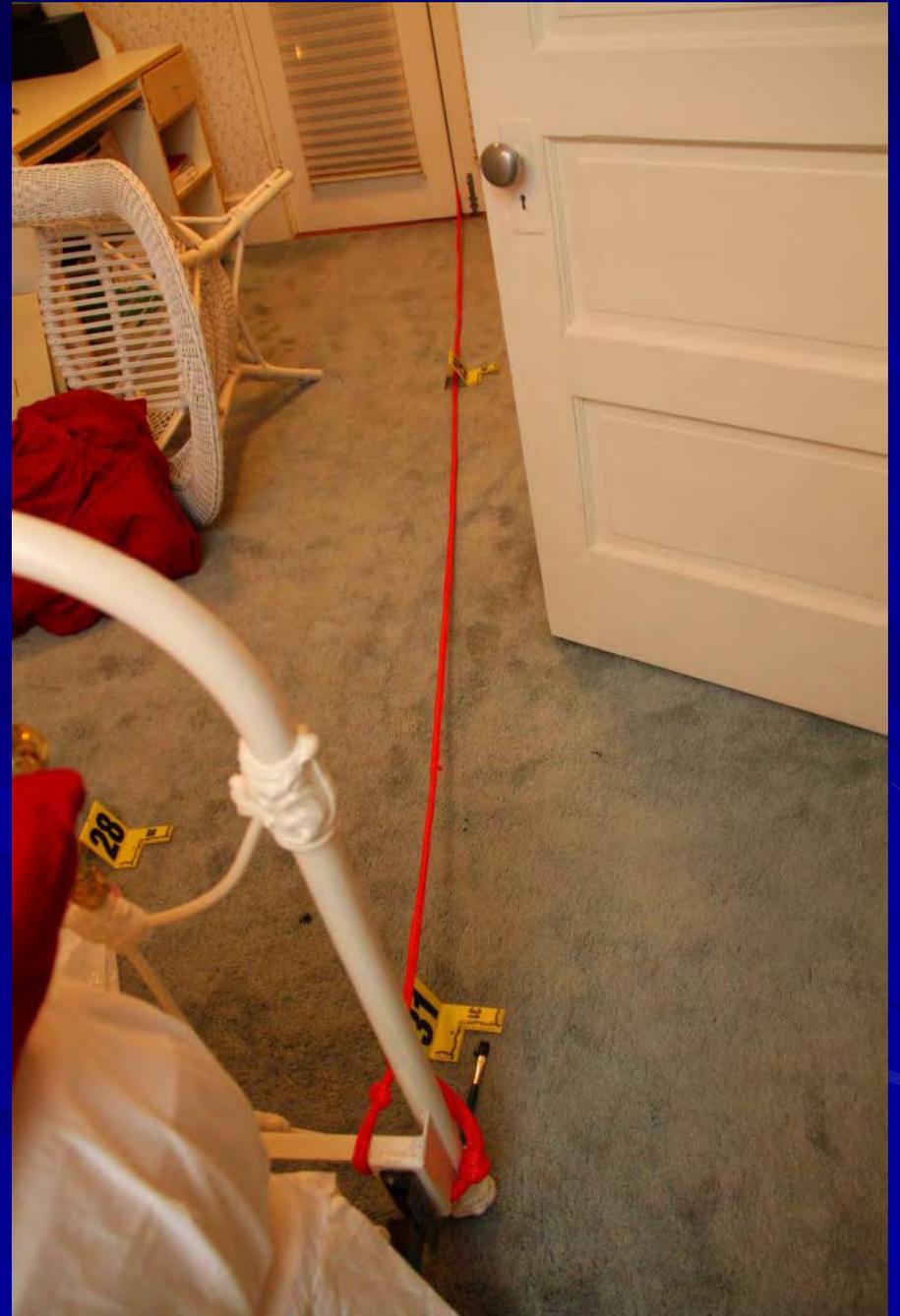
- Red rope secured to the footboard of the bed
- Two paint brushes, one with black paint on the floor near the bed
- Tube of black paint under a plastic bag on the floor near the bed
- Two kitchen knives, one large and one small on the floor near the bed
- One side of the bed pulled away from wall

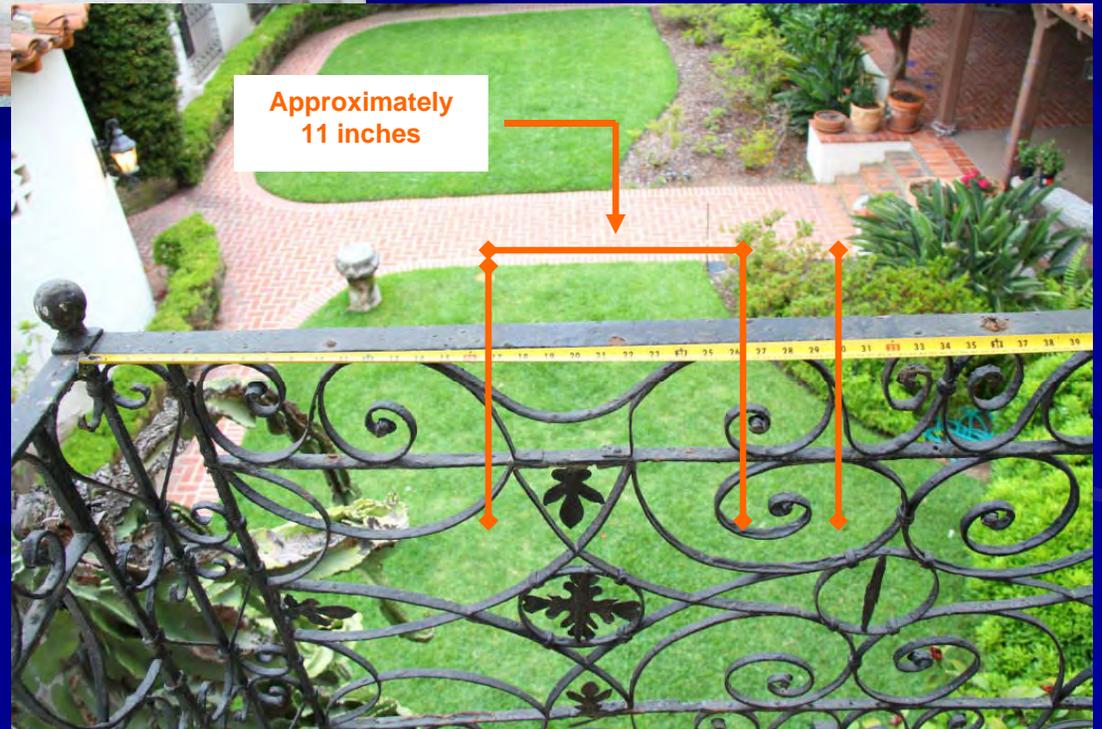
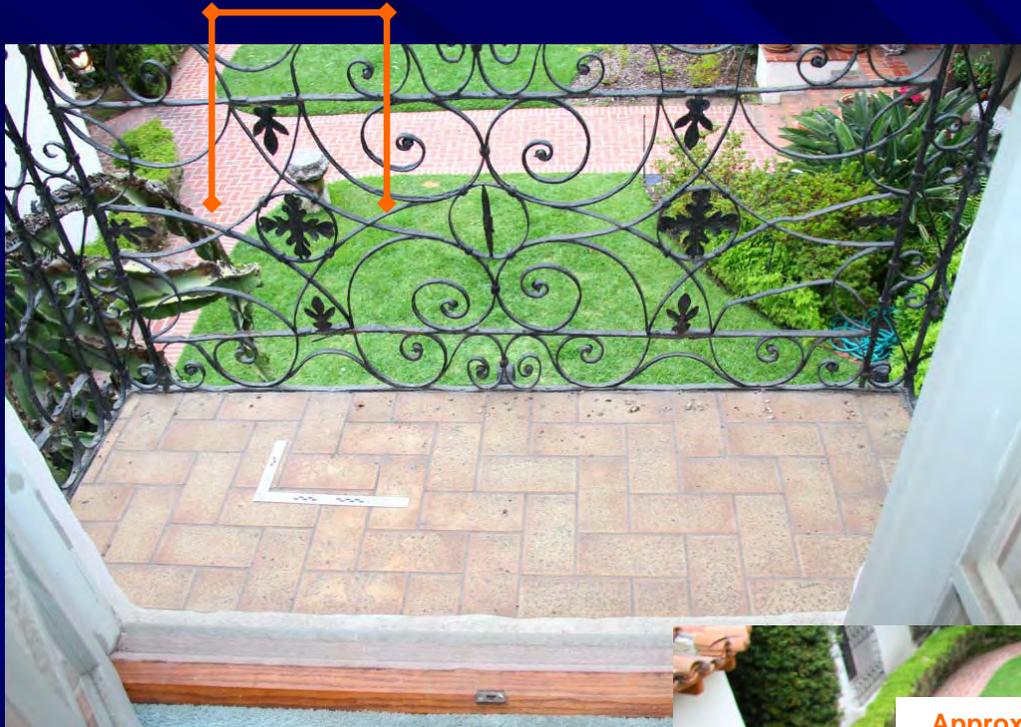


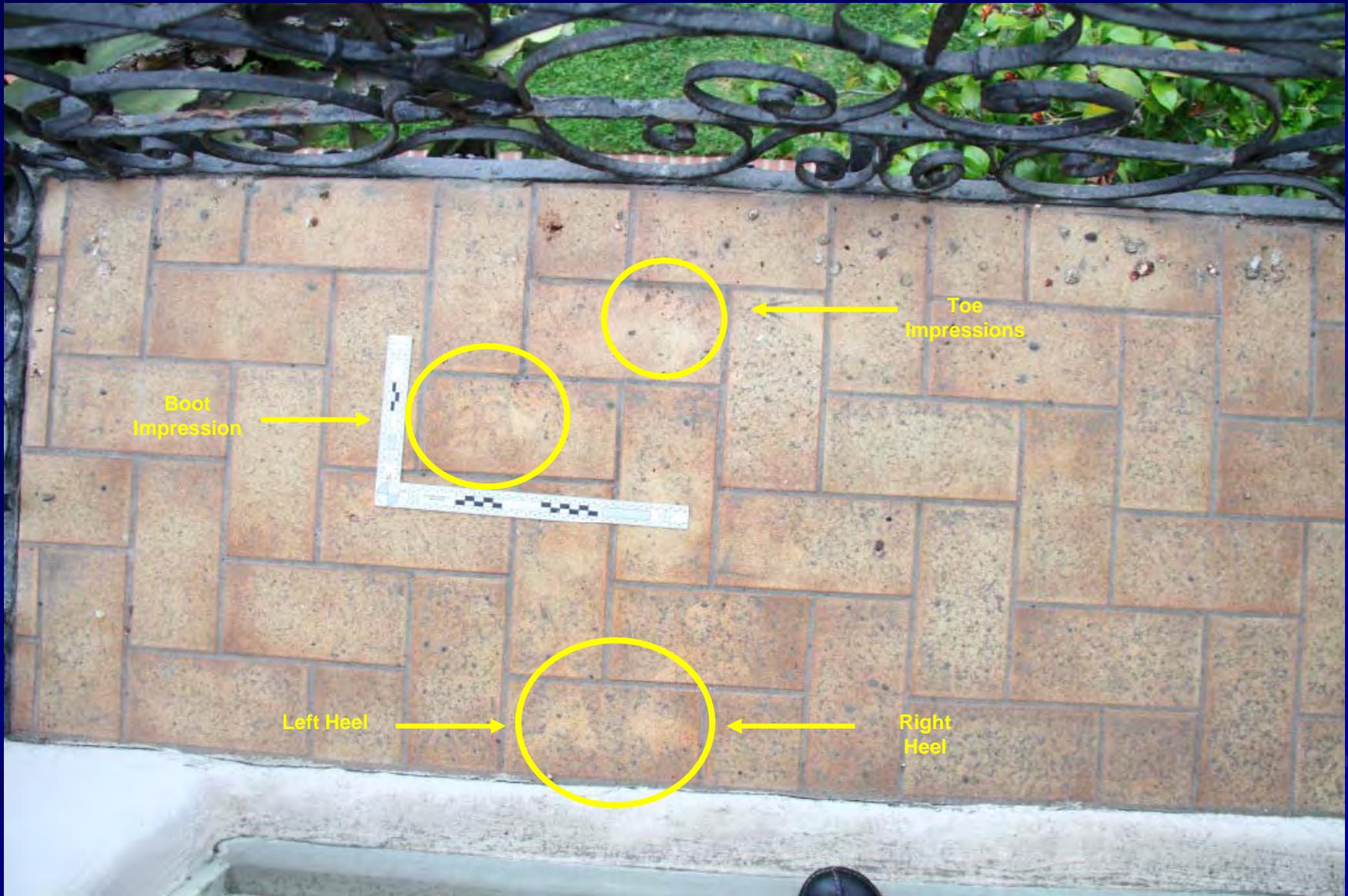
EX F 00095

Inside Scene

- Red rope went out double doors leading to the balcony, and over the railing
- Foot and toe impressions found on the balcony tile, dust on the railing had been disturbed
- Boot impression also found on the balcony tile, source identified as a Police Officer's boot, boot recovered
- No other disturbances found







Evidence Examined

- Black paint from door, brush, paint tube, victim's hand and torso, and the rope around the victim's neck all matched
- Fingerprints from the guest room entry door jamb, balcony door, the large knife, and the bed leg next to the rope were from Rebecca
- DNA profiles from the victim's bindings (hands and feet), the rope around her neck, the rope attached to the footboard of the bed, and the small knife were only from Rebecca

Evidence Examined

- Foot impressions from the balcony were consistent with the size of Rebecca's feet, and consistent with her ankles being bound
- Disturbances on the railing were consistent with the width of Rebecca's torso and the rope
- Toe impressions on the balcony were consistent with a person leaning forward over the railing

Additional Information

- No additional evidence or information was received leading investigators to believe foul play was involved
- Numerous witnesses were interviewed. All were cooperative, and we are confident in their truthfulness
- Autopsy results supported the findings of investigators

Additional Information

- A witness reported contact with Rebecca in January, having observed Rebecca had lost weight, seemed stressed, was not sleeping well and was not exercising. She had also engaged in conversations with Rebecca regarding problems she was having
- A journal found on Rebecca's phone supported this information

Additional Information

- Rebecca was distraught over Max's injury

Conclusions

- Rebecca received the news regarding Max's grave condition
- She made the decision to take her own life
- She located a rope (possibly from the garage)
- She removed her clothing, painted the message, cut the rope into sections, secured the rope to the bed

Conclusions

- She bound her feet, placed the rope and shirt around her neck, fashioned her wrist bindings, and secured her hands behind her back
- Rebecca moved out to the balcony, leaned forward over the rail, and fell

Conclusions

- Experiment conducted to determine if it is possible for a person to secure their hands behind their back in a similar fashion
- Video

SAN DIEGO SHERIFF'S DEPARTMENT HOMICIDE DETAIL



Jonah Shacknai Statement:

This is a very sad day for our family, as we are again reminded of the enormity of these tragedies. We would like to thank the San Diego County Sheriff's Department, the Coronado Police Department and the San Diego County Medical Examiner for their professionalism and dedication in investigating and explaining these terrible events. We would also like to extend our gratitude to the first responders and the medical teams at Rady Children's Hospital, who worked tirelessly to try to save Max's life, and to all of our family, friends, and colleagues for their continued sympathy and support throughout this unimaginable process.

While the investigation is over, the emptiness and sadness in our hearts will remain forever. Max was an extraordinarily loving, happy, talented, and special little boy.. He brought joy to everyone who knew him, and we will miss him desperately. Rebecca too was a wonderful and unique person who will always have a special place in my heart. Nothing will ever be the same for our families after these losses, but with today's information providing some much needed answers, we will try to rebuild our lives and honor the memories we carry with us. Thank you for respecting our privacy as we struggle forward.



San Diego County Sheriff's Department
PUBLIC AFFAIRS UNIT

*"Keeping
the peace
since 1850"*

September 2, 2011

Statement from Sheriff Bill Gore On the Coronado Death Investigations

Good morning. I am Sheriff Bill Gore and thank you all for being here this morning. I'd like to introduce some people joining me today:

Commander Mike Lawton, Coronado Police Department. (Chief Lou Scanlon is unable to be here, as he had a pre-scheduled trip out of the country).

Dr. Jonathan Lucas, Medical Examiner's Office;

Captain Tim Curran, Central Investigations, San Diego Sheriff's Department;

Sergeant Dave Nemeth, San Diego Sheriff's Department, Homicide; and,

Mike Grubb, Director, San Diego Sheriff's Department, Crime Lab.

On Monday, July 11th, Paramedics and Coronado Police responded to a 911 call at 1043 Ocean Boulevard in Coronado. They administered emergency medical care to six-year-old Max Shacknai and transported him to Sharp Hospital Coronado, and then Rady Children's Hospital. The Coronado Police Department immediately began an investigation into the cause of Max's injuries.

On Wednesday, July 13th, at 6:48 a.m., another 911 call brought Paramedics and Coronado Police Officers to the same Coronado residence. Rebecca Zahau, who resided at this house

with Max's father, Jonah Shacknai, had been discovered hanging naked from a small bedroom balcony with her feet and hands bound.

Because of their limited resources, and our long-standing partnership in conducting suspicious death investigations, the Coronado Police Department requested the assistance of the San Diego Sheriff's Department.

A Sheriff's homicide team, along with crime scene investigators from our laboratory responded, processed the scene, and began an investigation.

Tragically, Max succumbed to his injuries on Saturday, July 16th.

The investigations of Max Shacknai's, and Rebecca Zahau's deaths were worked cooperatively between the Sheriff's Department, Coronado Police Department, and the Medical Examiner's Office.

Our purpose here today is to publicly report the findings with regard to the Rebecca Zahau and Max Shacknai deaths.

Earlier this week, we met personally with both Rebecca and Max's families to provide our findings and answer their questions. I would like to point out that the Shacknai and Zahau families have been very cooperative and approachable during every step of this investigation.

There's been a lot of speculation about this case. Normally, we wouldn't comment on an investigation of this nature, however, the intensity of the local, national, and international media, coupled with the unique circumstances surrounding Rebecca's death, suggested otherwise, and that is why we are here today.

Our responsibility is to answer the one very important question:

“Were these deaths the result of criminal conduct?”

Was Max’s death a homicide? The answer is no, it was a tragic accident.

Was Rebecca’s death a homicide? Again, the answer is no, it was a suicide.

To reach these conclusions, we relied in substantial measure upon the physical evidence: the scene of each event, witness interviews, the medical evidence, and the forensic evidence – including DNA, fingerprints, and bio-mechanics. They are all compelling, and all point persuasively to a single conclusion:

These deaths were not the result of any criminal acts.

The conclusions presented today are based on good, methodical investigative work and science.

Science is our best witness in this case.

Science is not biased, nor does it lie.

I’ve asked the people behind me to provide information and answer as many questions as possible.

We will begin with Commander Mike Lawton, and Dr. Jonathan Lucas, followed by Sergeant Nemeth. Then, we will open this panel to your questions.

Now, I’ll ask Commander Lawton to step forward.

###

The San Diego Sheriff’s Department is now also on Facebook, Twitter, Nixle and www.sdsheriff.net



September 2, 2011

Coronado Death Investigations

Speaker List (in order of appearance)

Jan Caldwell, Public Affairs Director, San Diego Sheriff's Department

Sheriff Bill Gore, San Diego Sheriff's Department

Commander Mike Lawton, Coronado Police Department

Dr. Jonathan Lucas, Medical Examiner's Office

Sheriff Bill Gore, San Diego Sheriff's Department

Sgt. Dave Nemeth, Sheriff's Homicide Detail

Dr. Jonathan Lucas, Medical Examiner's Office

Expert Panel

Captain Tim Curran, Sheriff's Central Investigations Division

Mike Grubb, Sheriff's Crime Lab Director

Power Point presentations, video, photos, and diagrams presented during the briefing can be found at www.sdsheriff.net/coronado.

After the media briefing, further questions about the case can be referred to Sheriff's Homicide Lt. Larry Nesbit at (858) 974-2321 and Lea Corbin of the Coronado Police Department at (619) 522-7370.

###

The San Diego Sheriff's Department is now also on Facebook, Twitter, Nixle and www.sdsheriff.net

EXHIBIT G



William D. Gore, Sheriff

San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



Thomas J. Cooke, Undersheriff

October 27, 2011

Anne Bremner
Two Union Square - Suite 3100
601 Union Street
Seattle, WA 98101

Dear Ms. Bremner:

The Sheriff's Department is complying with your request for its investigative file pertaining to the investigation into the death of Rebecca Zahau. It is our intention to release to you the entire investigative file.

The files that you will be receiving will not be released to the public, to the media, or anyone else, unless there later develops a law enforcement necessity to do so. The purpose of this letter is to explain how you and the Zahau family can help insure that such a law enforcement necessity does not occur, thereby preserving the confidentiality of the investigation.

Law enforcement investigatory records in California are exempt from mandatory disclosure under the California Public Records Act, the state's open record law. (Government Code Section 6250 et seq). Moreover, this exemption from disclosure does not expire with the termination of the investigation.

Nevertheless, the Public Records Act requires that certain limited information about every law enforcement call for service and/or arrest be made available to the public. Additionally the PRA requires that additional information be made available to "victims of an incident"; information that is not otherwise required to be made available to the public.

It is pursuant to this "victims of an incident" exception that the Sheriff's Department is making its file available to you. We do not believe that anyone outside of the immediate Zahau family would have a legal basis to demand the same information that is being provided to you. The Sheriff's Department is complying with this requirement not merely by releasing the information required by the statute, but by releasing the complete investigative file.

"Keeping the Peace Since 1850"

Asserting the exemption and keeping the investigation confidential is SDSO policy in all investigations, unless there is a compelling law enforcement reason otherwise. As things stand presently, we see no reason to deviate from our normal practice. Therefore, it is our intention to continue to assert the exemption for law enforcement investigations against any and all requests by members of the public and the media for release of the Rebecca Zahau investigation. This decision, however, may be re-evaluated if it becomes clear that parts of the investigation have been released to the media and to the public "piecemeal", and that such a selective release of portions of the investigation has presented our investigation in a false light.

Please understand that we have no desire to intrude on your client's right to speak freely about, and even criticize, the investigation completed by this office. We are confident that the investigation conducted by this department can and will withstand scrutiny. Nor do we wish to discourage or prevent you from attaching these records to court filings in a civil lawsuit, if you believe they may assist you in some way in a lawsuit. Still, if portions of the investigation are selectively released to the media and to the public in a way that falsely represents the work performed by the Sheriff's Department, we will correct the false portrayal by opening the entire investigation for public scrutiny.

It is my hope and my expectation that the investigation will remain confidential, excepting the Zahau family. It is my understanding that the Zahau family shares this desire for confidentiality. Please impress upon your clients the need to treat these investigative records with the utmost confidentiality.

Sincerely,

WILLIAM D. GORE, Sheriff



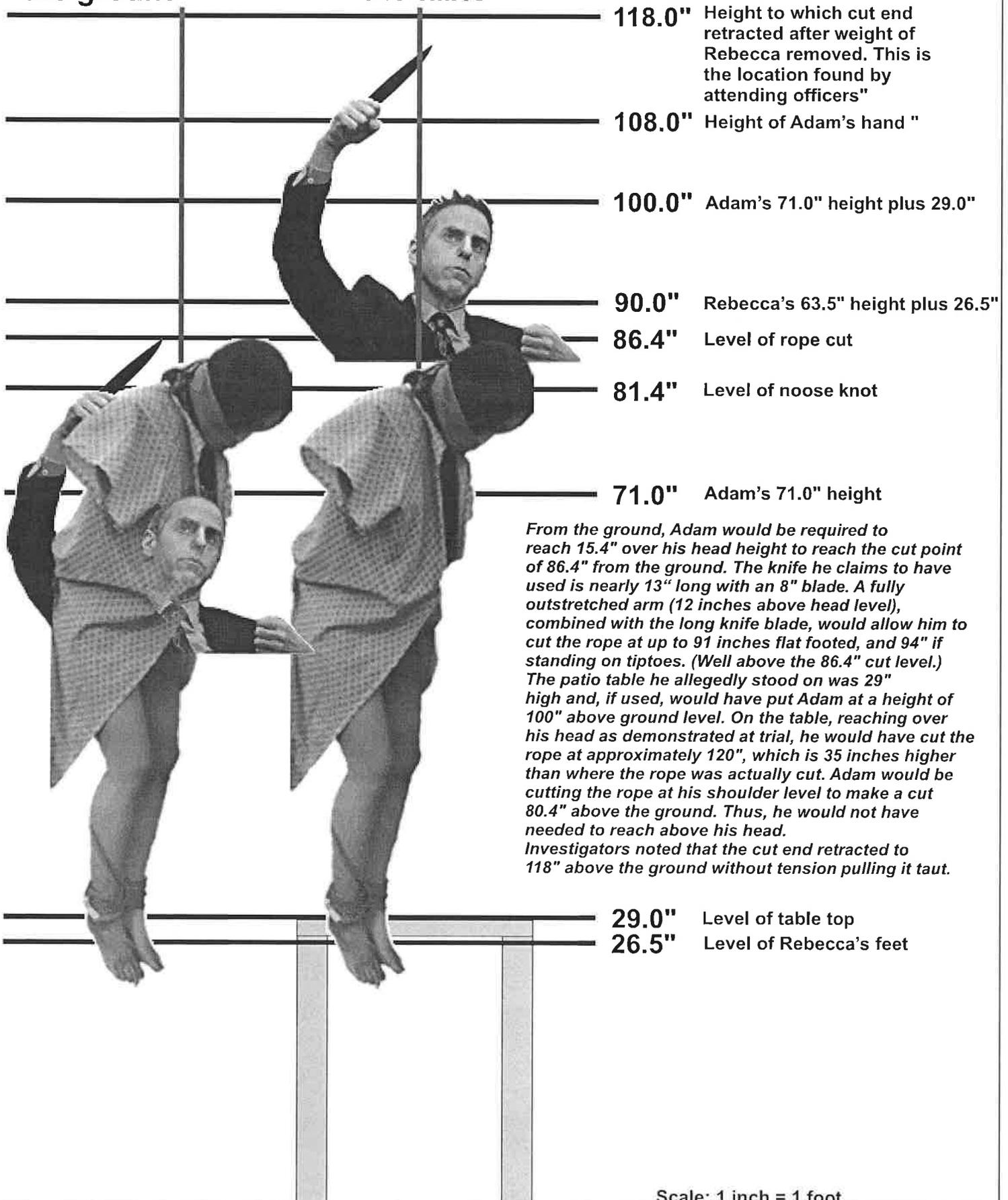
Robert P. Faigin, Esq.
Sheriff's Special Assistant/Chief Attorney
Office of the Sheriff, Legal Affairs
San Diego County Sheriff's Department

RPF:aeb

EXHIBIT H

Area below depicts Adam standing on the ground

Area below depicts Adam standing on the table



Scale: 1 inch = 1 foot