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FILED

03 JUN 26 AM 10:46

STANISLAUS COUNTY SUPERIOR COURT  
STANISLAUS

BY *Cindy Park* DEPUTY

8 STANISLAUS COUNTY SUPERIOR COURT  
9 STATE OF CALIFORNIA

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10 D.A. No.1056770

11 THE PEOPLE OF THE STATE OF CALIFORNIA )

No.1056770

12 Plaintiff, )

DISTRICT ATTORNEY'S

13 vs. )

POSITION REGARDING

14 MEDIA COVERAGE )

SCOTT LEE PETERSON,

15 Defendant. )

Hrg: 7-9-03

16 Time: 8:30 a.m. )

Dept: 2 )

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17 Come now the People of the State of California to submit the  
18 following POINTS AND AUTHORITIES in support of the DISTRICT  
19 ATTORNEY'S POSITION REGARDING MEDIA COVERAGE:  
20

21 LAW

22 It is clear from an examination of the law that the media  
23 has no right to have cameras in, or to broadcast from, the inside  
24 of the courtroom. Judges have, in their discretion, allowed the  
25 media on occasion to bring their equipment into the courtroom. To  
26 ensure uniformity in the exercise of this discretion the courts  
27 adopted California Rule of Court, Rule 980. Rule 980 states:

28 "(a) [Introduction] The judiciary is responsible for

1 ensuring the fair and equal administration of justice. The  
2 judiciary adjudicates controversies, both civil and  
3 criminal, in accordance with established legal procedures in  
4 the calmness and solemnity of the courtroom. Photographing,  
5 recording, and broadcasting of courtroom proceedings may be  
6 permitted as circumscribed in this rule if executed in a  
7 manner that ensures that the fairness and dignity of the  
8 proceedings are not adversely affected. This rule does not  
9 create a presumption for or against granting permission to  
10 photograph, record, or broadcast court proceedings.

11 (b) [Definitions] For the purposes of this rule,

12 (1) "Media coverage" means any photographing, recording, or  
13 broadcasting of court proceedings by the media using  
14 television, radio, photographic, or recording equipment;

15 (2) "Media" or "media agency" means any person or  
16 organization engaging in news gathering or reporting and  
17 includes any newspaper, radio or television station or  
18 network, news service, magazine, trade paper, in-house  
19 publication, professional journal, or other news-reporting  
20 or news-gathering agency;

21 (3) "Court" means the courtroom at issue, the courthouse,  
22 and its entrances and exits;

23 (4) "Judge" means the judicial officer or officers assigned  
24 to or presiding at the proceeding, except as provided in  
25 subdivision (e) (1) if no judge has been assigned.

26 (c) [Photographing, recording, and broadcasting prohibited]  
27 Except as provided in this rule, court proceedings shall not  
28 be photographed, recorded, or broadcast. This rule does not  
prohibit courts from photographing or videotaping sessions  
for judicial education or publications and is not intended  
to apply to closed-circuit television broadcasts solely  
within the courthouse or between court facilities if the  
broadcasts are controlled by the court and court personnel.

(d) [Personal recording devices] The judge may permit  
inconspicuous personal recording devices to be used by  
persons in a courtroom to make sound recordings as personal  
notes of the proceedings. A person proposing to use a  
recording device shall obtain permission from the judge in  
advance. The recordings shall not be used for any purpose  
other than as personal notes.

(e) [Media coverage] Media coverage shall be permitted only  
on written order of the judge as provided in this  
subdivision. The judge in his or her discretion may permit,  
refuse, limit, or terminate media coverage. This rule does  
not otherwise limit or restrict the right of the media to  
cover and report court proceedings.

(1) (Request for order) The media may request an order  
permitting media coverage on a form approved by the Judicial  
Council. The form shall be filed at least five court days  
before the portion of the proceeding to be covered unless  
good cause is shown. A completed, proposed order on a form  
approved by the Judicial Council shall be filed with the  
request. The judge assigned to the proceeding shall rule

1 upon the request. If no judge has been assigned, the request  
2 shall be submitted to the judge supervising the calendar  
3 department, and thereafter be ruled upon by the judge  
4 assigned to the proceeding. The clerk shall promptly notify  
5 the parties that a request has been filed.

6 (2) (Hearing) The judge may hold a hearing on the request or  
7 rule on the request without a hearing.

8 (3) (Factors to be considered by the judge) In ruling on the  
9 request, the judge shall consider the following factors:

10 (i) Importance of maintaining public trust and confidence in  
11 the judicial system;

12 (ii) Importance of promoting public access to the judicial system;

13 (iii) Parties' support of or opposition to the request;

14 (iv) Nature of the case;

15 (v) Privacy rights of all participants in the proceeding,  
16 including witnesses, jurors, and victims;

17 (vi) Effect on any minor who is a party, prospective  
18 witness, victim, or other participant in the proceeding;

19 (vii) Effect on the parties' ability to select a fair and  
20 unbiased jury;

21 (viii) Effect on any ongoing law enforcement activity in the  
22 case;

23 (ix) Effect on any unresolved identification issues;

24 (x) Effect on any subsequent proceedings in the case;

25 (xi) Effect of coverage on the willingness of witnesses to  
26 cooperate, including the risk that coverage will engender  
27 threats to the health or safety of any witness;

28 (xii) Effect on excluded witnesses who would have access to  
the televised testimony of prior witnesses;

(xiii) Scope of the coverage and whether partial coverage  
might unfairly influence or distract the jury;

(xiv) Difficulty of jury selection if a mistrial is declared;

(xv) Security and dignity of the court;

(xvi) Undue administrative or financial burden to the court  
or participants;

(xvii) Interference with neighboring courtrooms;

(xviii) Maintaining orderly conduct of the proceeding;

(xix) Any other factor the judge deems relevant.

(4) (Order permitting media coverage) The judge ruling on  
the request to permit media coverage is not required to make  
findings or a statement of decision. The order may  
incorporate any local rule or order of the presiding or  
supervising judge regulating media activity outside of the  
courtroom. The judge may condition the order permitting  
media coverage on the media agency's agreement to pay any  
increased court-incurred costs resulting from the permitted  
media coverage (for example, for additional court security  
or utility service). Each media agency shall be responsible  
for ensuring that all its media personnel who cover the  
court proceeding know and follow the provisions of the court  
order and this rule.

(5) (Modified order) The order permitting media coverage may  
be modified or terminated on the judge's own motion or upon

1 application to the judge without the necessity of a prior  
2 hearing or written findings. Notice of the application and  
3 any modification or termination ordered pursuant to the  
4 application shall be given to the parties and each media  
5 agency permitted by the previous order to cover the proceeding.  
6 (6) (Prohibited coverage) The judge shall not permit media  
7 coverage of the following:  
8 (i) Proceedings held in chambers;  
9 (ii) Proceedings closed to the public;  
10 (iii) Jury selection;  
11 (iv) Jurors or spectators; and  
12 (v) Conferences between an attorney and a client, witness,  
13 or aide, between attorneys, or between counsel and the judge  
14 at the bench.  
15 (7) (Equipment and personnel) The judge may require media  
16 agencies to demonstrate that proposed personnel and  
17 equipment comply with this rule. The judge may specify the  
18 placement of media personnel and equipment to permit  
19 reasonable media coverage without disruption of the proceedings.  
20 Unless the judge in his or her discretion orders otherwise,  
21 the following rules shall apply:  
22 (i) One television camera and one still photographer shall  
23 be permitted.  
24 (ii) The equipment used shall not produce distracting sound  
25 or light. Signal lights or devices to show when equipment is  
26 operating shall not be visible.  
27 (iii) An order permitting or requiring modification of  
28 existing sound or lighting systems is deemed to require that  
the modifications be installed, maintained, and removed  
without public expense or disruption of proceedings.  
Microphones and wiring shall be unobtrusively located in  
places approved by the judge and shall be operated by one person.  
(iv) Operators shall not move equipment or enter or leave  
the courtroom while the court is in session, or otherwise  
cause a distraction.  
(v) Equipment or clothing shall not bear the insignia or  
marking of a media agency.  
(8) (Media pooling) If two or more media agencies of the  
same type request media coverage of a proceeding, they shall  
file a statement of agreed arrangements. If they are unable  
to agree, the judge may deny media coverage by that type of  
media agency.  
(f) [Sanctions] Any violation of this rule or an order made  
under this rule is an unlawful interference with the  
proceedings of the court and may be the basis for an order  
terminating media coverage, a citation for contempt of  
court, or an order imposing monetary or other sanctions as  
provided by law."

26 This rule is a comprehensive guideline for all those  
27 involved in the court process and the media. For the sake of  
28

1 | brevity, in place of repeating the terms "photographing,  
2 | recording, and broadcasting" from the courtroom, as used in the  
3 | rule, the term "cameras" will be use. Rule 980 directs this court  
4 | toward the conclusion that cameras should not be allowed in the  
5 | courtroom.

6 |  
7 | **DISTRICT ATTORNEY'S POSITION**

8 |       The District Attorney's position is that cameras should not  
9 | be allowed into the courtroom. Knowledge of basic human nature,  
10 | coupled with a review of the applicable factors, and adherence to  
11 | the goal of achieving justice, demand this result. This case has  
12 | many civilian witnesses who did not ask to become involved in the  
13 | criminal justice system, nor did they ask to be subjected to the  
14 | media attention this case has generated. Laci Rocha Peterson's  
15 | family implores this court to bar cameras from the courtroom  
16 | (attached as Exhibit 1). This is an eminently reasonable request  
17 | and should be honored.

18 |       In ruling on the media's request for cameras, the judge  
19 | shall consider the many factors listed in Rule 980. The People  
20 | will address each in turn. The first factor is **"Importance of**  
21 | **maintaining public trust and confidence in the judicial system."**  
22 | To thrust nervous and unwilling victims, witnesses and others  
23 | into the glaring media spotlight, and to thereafter face the  
24 | subsequent fall-out from such exposure, does not promote  
25 | confidence in the judicial system. It merely fuels 24-hour  
26 | television. This is especially true in this day and age where the  
27 | media has blurred, if not erased, the lines between "news" and  
28 |

1 "entertainment." A criminal trial is not something which this  
2 court should allow to be used for ratings.

3       The second factor is **"Importance of promoting public access**  
4 **to the judicial system."** Public access is, and should be,  
5 constrained by the physicality of the courtroom. Courtrooms are  
6 not constructed as coliseums for a reason. A real trial, as  
7 opposed to a fictional one, is not entertainment for the masses.  
8 Public access "to the judicial system" is to ensure appropriate  
9 scrutiny of judicial operations. This is more than met by virtue  
10 of the spectator gallery present in each and every courtroom in  
11 this courthouse. This factor should not be read to suggest that  
12 each and every person who may have a passing interest in any  
13 particular case should be guaranteed an actual seat in the  
14 courtroom, or a recliner seat in his or her living room.

15       The third factor is whether **"the Parties support or oppose**  
16 **the request.** The People, and Laci Rocha Peterson's family,  
17 adamantly oppose this request.

18       The fourth factor is neutral.

19       The fifth factor, **"Privacy rights of all participants in the**  
20 **proceeding, including witnesses, jurors, and victims,"** clearly  
21 tips in favor of banning cameras from the courtroom. This is not  
22 the O.J. Simpson case where the defendant was a long-time  
23 national celebrity who chose to be in the public eye. The  
24 witnesses, jurors and victims' family are not involved in this  
25 case by choice. They have the right to retain some level of  
26 privacy which can only be maintained by excluding cameras from  
27 the courtroom.

1 The sixth factor does not apply.

2 The seventh factor is, at this time, the most compelling for  
3 exclusion of cameras. There can be no question as to the  
4 indisputable **"Effect on the parties' ability to select a fair and**  
5 **unbiased jury"** if the media has access to video clips that can be  
6 played morning, noon and night. It is a given fact, in this  
7 modern, media-driven age, that a news story without video will  
8 receive less "air time" than a similar story with a video. Less  
9 exploitive and dramatic coverage of this case will significantly  
10 improve the chances of allowing a fair and unbiased jury to be  
11 selected here in Stanislaus County. Every conceivable effort must  
12 be made to allow the trial to remain here. To blithely suggest  
13 that a change of venue is the answer to media coverage  
14 conveniently overlooks three things: 1) the trial belongs in  
15 Stanislaus County, 2) the media won't be responsible for paying  
16 the extremely high costs associated with a change of venue, and  
17 3) virtually all of the witnesses live in this county or within  
18 an hour's drive. A change of venue results in extraordinary  
19 hardship for family members, witnesses, attorneys, and all the  
20 court's staff.

21 The eighth factor is a crucial factor in support of barring  
22 cameras. The **"Effect on any ongoing law enforcement activity in**  
23 **the case"** has been demonstrated in the in-camera hearings and  
24 documented in the findings of this court. Additionally, there are  
25 some law enforcement witnesses who work in undercover capacities;  
26 to allow cameras in the courtroom would place them in grave  
27 danger of being recognized.

1 Factor nine is not relevant to this case.

2 Factor ten, the **"Effect on any subsequent proceedings in the**  
3 **case,"** also supports exclusion of cameras. Cameras can be equated  
4 with more coverage, and more coverage will affect the ability of  
5 the defendant to get a fair trial-whether that be in this county  
6 or any other. To keep up with a trial by reading a newspaper  
7 requires time and effort. To watch it on television requires  
8 neither. It has reached the point where a nationwide audience  
9 has become addicted to these proceedings as if they were a  
10 daytime serial. It is time to cancel the program.

11 The eleventh factor is the **"Effect of coverage on the**  
12 **willingness of witnesses to cooperate, including the risk that**  
13 **coverage will engender threats to the health or safety of any**  
14 **witness."** This factor clearly requires exclusion of cameras. This  
15 case has been widely publicized and in today's society that is a  
16 security concern. The Modesto Police Department has received  
17 thousands of tips and/or comments on this case; many of those  
18 tips/comments have not been from rational individuals. The media  
19 has reported that the Sheriff's Department has had to take extra  
20 precautions to protect the defendant. The District Attorney's  
21 Office has now begun to receive letters, some of which have been  
22 hostile, if not threatening, as a result of the national media  
23 coverage. Some of these writers appear to be mentally unstable.  
24 Allowing cameras in the courtroom will turn witnesses into  
25 "celebrities" and potential targets all at the same time. This  
26 kind of unavoidable and unwanted notoriety is detrimental if the  
27 court wants witnesses to cooperate so that the truth may come out  
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1 and justice may be served.

2 The "Effect on excluded witnesses who would have access to  
3 the televised testimony of prior witnesses" is the twelfth  
4 factor. This factor also weighs in favor of excluding cameras.  
5 The court will no doubt order witnesses to be excluded and they  
6 will be admonished not to "listen, read or watch" anything about  
7 this case until they are excused as witnesses. This admonishment  
8 becomes completely unworkable and unenforceable with cameras in  
9 the courtroom.

10 Factor thirteen is not relevant at this time.

11 Factor fourteen is also not relevant at this time.

12 Factor fifteen--see discussion of Factor eleven, above.

13 Factor sixteen is not relevant.

14 Factor seventeen, "Interference with neighboring  
15 courtrooms," has been controlled by the presiding judge thus far  
16 and is not a factor.

17 Factor eighteen, "Maintaining orderly conduct of the  
18 proceeding" mandates that cameras be excluded from the courtroom.  
19 This court has allowed cameras in for several hearings pursuant  
20 to Rule 980 and the approved Judicial Council form #MC-510.  
21 Despite the clear warning in the order that no photographing,  
22 recording or broadcasting in court of any juror or SPECTATORS was  
23 to occur, violations have happened. (This part of the order is on  
24 page two and is also set forth in Rule 980(e)(6).) The most  
25 flagrant was when Sharon Rocha left the courtroom in tears only  
26 to be followed by the prying (and zooming) eye of camera. If the  
27 media cannot follow this most basic restriction of the court's

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1 order, how can the court expect them to refrain broadcasting  
2 side-bars, in-limine motions or other legal proceedings that  
3 should be kept confidential? The parties in this case have  
4 already expressed their distrust of microphones invading their  
5 space at counsel table, without having the ability to turn them  
6 off or even know when they are on, and having to rely on the  
7 media's promise that they won't listen in. Not only is this akin  
8 to foxes guarding the henhouse, but it is the equivalent of the  
9 media phrase that something is "off the record," which anyone  
10 with media experience knows means only that it is strictly up to  
11 the ethics of the individual media person involved; if it is a  
12 good enough story, sound bite or visual, then it's not off the  
13 record.

14 The final factor, number fourteen, is **"Any other factor the**  
15 **judge deems relevant."** This case has garnered far more than its  
16 fair share of publicity. There has been enough live coverage; it  
17 is time for the system to be given a chance to work in "calmness  
18 and solemnity;" this much is owed to the victims and their  
19 family.

#### 20 21 **Conclusion**

22 For all of the above stated reasons, the People respectfully  
23 urge this court to exercise its discretion in the true interests  
24 of justice and to prohibit any further photography, audio, or  
25 video recordings in the courtroom. Removing cameras from the  
26 courtroom is one more step towards not repeating Sheppard v.

1 | Maxwell, (1966) 384 U.S. 333.

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Dated: June 24, 2003

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Respectfully submitted,

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JAMES C. BRAZELTON  
District Attorney

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By:

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David P. Harris  
Deputy District Attorney

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June 24, 2003

Dear Judge Girolami,

We, the family of Laci Rocha Peterson, are requesting that no cameras be allowed inside the courtroom during the preliminary hearing or jury trial regarding the murders of Laci and Conner.

While we very much appreciate the media for helping us receive the critical exposure we needed during and after Laci's disappearance, we know the trial is going to be a very personal matter. It will be extremely difficult for everyone; her family, her friends, her students, etc. who know and love Laci, to hear and see the evidence and personal facts of her life and death that will be revealed **inside** the courtroom. We realize information pertaining to the trial will be printed in the paper day after day until it is over, and possibly even after it ends. We can only hope that we will not be forced to relive the ugliness of the trial and forced to endure the relentless hour after hour, day after day, play by play broadcasts on television. It is much easier to avoid reading the paper than it is to avoid seeing this played out on television.

We realize that some may say, "Don't watch the news" or "Don't watch the news channels". As I am sure you are aware, it is not necessary to **watch** any of these shows, as we are constantly inundated with the "latest breaking news" broadcasts that make it impossible to avoid, no matter which show you may be watching.

The trial, in addition to all that we have already been forced to endure, is going to be excruciatingly painful. There are many children in this city that met Laci, as she was their substitute teacher. Many of these children have been severely affected by what has happened to Laci and Conner. Some of them are afraid, some are extremely sad. These children do not need to see and hear the gruesome facts about Laci's death. They **will** hear and see this if the trial is televised. If cameras are allowed to televise this trial we will all be forced to see, hear and relive these events over and over and over for years to come.

We ask that you please consider the long-term effects that televising the trial will have on everyone involved, especially everyone close to Laci. After the trial is over, others will go on with their lives, but those of us closest to Laci will be left with only our memories of her. Please, don't let those memories be destroyed by televising the ugliness of the trial. We ask that you please take all of this into consideration when making your final decision regarding allowing this trial to be televised.

Thank you for your consideration.

Sharon Rocha  
Ron Grantski

PROOF OF SERVICE BY FAX

Re: People v. Scott Lee Peterson No. 1056770

I, the undersigned, am over the age of eighteen years and not a party to the within above-entitled action. On June 26, 2003, I served the within DISTRICT ATTORNEY'S POSITION REGARDING MEDIA COVERAGE by faxing a true copy thereof to the fax numbers:

Kirk McAllister  
1012 11<sup>th</sup> Street  
Modesto, CA 95354  
(209) 575-0240

Mark Geragos  
350 S. Grand Avenue,  
#3900  
Los Angeles, CA 90071  
(213) 625-1600

Charity Kenyon  
2500 Venture Oakes Way,  
Suite 220  
Sacramento, CA 95833  
(916) 779-7120

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

Dated:

D. Hill

Confirmation Report - Memory Send

Page : 001  
Date & Time: Jun-26-03 08:29  
Line 1 : 209 525 5545  
Line 2 :  
Machine ID : Stanislaus Co DA

Job number : 585  
Date : Jun-26 08:22  
To : 95750240  
Number of pages : 013  
Start time : Jun-26 08:22  
End time : Jun-26 08:29  
Pages sent : 013  
Status : OK

Job number : 585

\*\*\* SEND SUCCESSFUL \*\*\*

OFFICE OF JAMES C. BRAZELTON  
DISTRICT ATTORNEY District Attorney  
Court House

P.O. Box 442

Modesto, California 95353  
Tel. (209) 525-5550

FACSIMILE COVER SHEET

FAX NO: (209) 525-5545

Date: June 26, 2003

SEND TO: Law Office

ATTN: Kirk McAllister

FAX TELEPHONE NO: (209) 575-0240

NO. OF PAGES 1/3

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\*\*\*\*\*

SENDER'S NAME: D. Hill

OFFICE PHONE NO: (209) 525-5550

DEPARTMENT NAME: DA

COMMENTS: People v. Scott Lee Peterson, No. 1056770

SENT BY: DLH

DATE: 6/26/03 TIME: 8:30 a.m.

Confirmation Report - Memory Send

Page : 001  
Date & Time: Jun-26-03 08:28  
Line 1 : 209 525 5545  
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Machine ID : Stanislaus Co DA

Job number : 586  
Date : Jun-26 08:23  
To : 912136251600  
Number of pages : 013  
Start time : Jun-26 08:24  
End time : Jun-26 08:28  
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Status : OK

Job number : 586 \*\*\* SEND SUCCESSFUL \*\*\*

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DISTRICT ATTORNEY District Attorney  
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P.O. Box 442 Modesto, California 95353  
Tel. (209) 525-5550

FACSIMILE COVER SHEET

FAX NO: (209) 525-5545

Date: June 26, 2003

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ATTN: Mark Garagos

FAX TELEPHONE NO: (213) 625-1600

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\*\*\*\*\*

SENDER'S NAME: D. Hill

OFFICE PHONE NO: (209) 525-5550

DEPARTMENT NAME: DA

COMMENTS: People v. Scott Lee Peterson, No. 1056770

SENT BY: DLH

DATE: 6/26/03 TIME: 8:30 a.m.

Confirmation Report - Memory Send

Page : 001  
Date & Time: Jun-26-03 08:23  
Line 1 : 209 525 5545  
Line 2 :  
Machine ID : Stanislaus Co DA

Job number : 584  
Date : Jun-26 08:21  
To : 2919167797120  
Number of pages : 013  
Start time : Jun-26 08:21  
End time : Jun-26 08:23  
Pages sent : 013  
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OFFICE OF JAMES C. BRAZELTON  
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P.O. Box 442

Modesto, California 95353  
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FACSIMILE COVER SHEET

FAX NO: (209) 525-5545

Date: June 26, 2003

SEND TO: Law Office

ATTN: Charity Kenyon

FAX TELEPHONE NO: (916) 779-7120

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\*\*\*\*\*

SENDER'S NAME: D. Hill

OFFICE PHONE NO: (209) 525-5550

DEPARTMENT NAME: DA

COMMENTS: People v. Scott Lee Peterson, No. 1056770

SENT BY: DLH

DATE: 6/26/03 TIME: 8:30 a.m.