

66745-9

66745-9

No. 66745-9-I

THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,
Respondent,
v.
CLEO REED,
Appellant.

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2012 FEB -9 PM 4:36

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

The Honorable Theresa Doyle
The Honorable Ronald Kessler

REPLY BRIEF

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A. REPLY ARGUMENT

1. **RESPONDENT MISSTATES THE FACTUAL RECORD AS TO THE FIRST 911 CALL, MISREPRESENTS THE LAW AS TO THE SECOND 911 CALL, AND MISUNDERSTANDS THE LAW AS TO THE THIRD STATEMENT, TO OFFICER BAGSBY.**

a. **Respondent misstates the record with regard to the first 911 call.** Respondent contends that in Ms. Ta's first call to 911, she stated that her boyfriend was choking, scratching, and threatening her. SRB, at p. 3. This misstates the record and overstates the degree, if any, that the first 911 call was a cry for help. As noted in the Opening Brief, during the first 911 call, the first thing Ms. Ta says, after asking "can you bring somebody here," is to tell the operator:

he . . . just got out of Jail I you know[.]

Exhibit 16; Appendix A (prosecutor's transcript of pre-redaction 911 calls). She then complains that Mr. Reed's wallet is in her house somewhere and he won't tell her where. Ms. Ta then states that she asked the defendant to go, states that he punched her and scratched her, and also states, "and he choking me." Exhibit 16.

Listening to the recorded 911 call makes clear that Ms. Ta is not being choked at that time. Exhibit 16. The trial court did not

find that Ms. Ta was being choked at that time, and Ms. Ta's manner of expressing herself in English makes clear she misuses the present tense frequently.¹

Respondent ignores these clear facts and instead misstates the record in order to overstate the case for its claim that the first call was a "cry for help."

Further, listening to Exhibit 16 reveals that Ms. Ta was having an argument with Mr. Reed during the call, which is what accounts for the seeming disruption in the background. She is plainly reporting past acts, and then during an ongoing argument with Mr. Reed, tells the operator she is being threatened. To the extent that the testimonial nature of the first 911 call turns on the existence or lack of an ongoing emergency or cry for help, it is important that the facts in the record be stated with accuracy.

¹ As will be seen by this Court's audio review of the 911 recording, Ms. Ta frequently used the word "choking" in the present tense, when clearly referring to past acts. Thus, for further example, in the second 911 call, made after the defendant had driven away from the McDonalds restaurant where he left her, Ms. Ta again states "he choking me" in the present tense, referring to the plainly absent defendant. Exhibit 16. Renton Police Officer Bagsby, following his interview of her in person, confirmed that Ms. Ta spoke in broken English, in this respect. 1/10/11RP at 53. Seattle Police Officer Marion, who received Ms. Ta from the Renton police, said that although Ms. Ta was able to effectively communicate, her use of English did not make sense. 1/10/11RP at 73-74.

b. The second 911 call was testimonial unless this Court accepts the Respondent's mischaracterization of the case law, including *Michigan v. Bryant*. Respondent acknowledges that when Ms. Ta made her second call to 911 while walking down a street, the defendant Mr. Reed had driven away from the area. SRB, at pp. 3-4, 15-16.

In the call, Ms. Ta is angry – not “upset,” as the Respondent contends. SRB, at p. 15. There is no emergency to resolve and no threat to end. Instead, Ms. Ta is focused solely on reporting past acts - that Mr. Reed hurt her and dropped her off somewhere from which she wants to go home, and reciting a litany of recent and less-recent grievances against him. Exhibit 16.

During this call, Ms. Ta not only knows her statements can be used to prosecute Mr. Reed, she affirmatively is seeking to put him back in jail. Exhibit 16; see State v. Powers, 124 Wn. App. 92, 101-02, 99 P.3d 1262 (2004) (“[T]he record shows that [the complainant] called 911 to report [the defendant]'s violation of the existing protective order and described [the defendant] to assist in his apprehension and prosecution, rather than to protect herself or her child[.]”). As in Powers, in this case the caller's purpose is to initiate capture and imprisonment of the defendant, here, Mr. Reed.

This in marked contrast to Davis v. Washington, involving a 911 call made while there was an ongoing emergency in the form of the defendant's presence in the home and continued risk of assault of the caller, which was non-testimonial. The Davis Court held that because the 911 call described events as they occurred, and was a frantic cry for help, the call was not testimonial because the primary purpose of the operator-caller interaction was to seek help from the police to meet the threat. Davis v. Washington, 547 U.S. 813, 828, 126 S.Ct. 2266, 165 L.Ed.2d 224 (2006).

Ms. Ta's second 911 call was testimonial. Despite the Respondent's suggestions to the contrary, the existence of injury to Ms. Ta does not change this result. In the admitted portion of the call, Ms. Ta states her nose is "bleeding." This statement was made after she asked for a cop to come and drive her home, after trying to give the operator Mr. Reed's name so he could be arrested (which the operator told her she did not want yet), after stating Mr. Reed was her fiance and that they had a child together, and after she repeated twice that she was pregnant. Exhibit 16. It was also after she stated that Mr. Reed "just got out of jail too," a statement that was redacted from within this portion of the call in order to

transmute that portion and present it as admissible as non-testimonial. Exhibit 16.

Only after these accusations and assertions does Ms. Ta finally mention that her nose is bleeding, at which point she then affirmatively rejects the operator's offers to send either medical help, and/or a fireman, and instead repeats that she wants a "cop" to come and give her a ride home.

There was no cry for help, ever, unless it is a "cry for help" to twice request a ride home from a police officer.

Nor was there an ongoing emergency. The Respondent attempts to compare the facts of this case to Michigan v. Bryant, contending that the primary purpose of Ms. Ta's second 911 call was to resolve an ongoing emergency, since the defendant was "at large." SRB, at p. 15.

This contention is a misrepresentation of Bryant. Respondent argues that the case stands for the general proposition that an ongoing emergency continues to exist when the perpetrator has fled the victim/declarant's presence. SRB, at pp. 12-13, 16. To the contrary, Bryant represents an exception to the general rule that the departure of the perpetrator from the victim/declarant's proximity weighs heavily against finding an ongoing emergency,

and thus in favor of finding non-testimonial. Michigan v. Bryant, ___ U.S. ___, 131 S. Ct. 1143, 1157-59, 179 L. Ed. 2d 93 (2011) (ongoing emergency where declarant's shooter, although he had fled, was armed and dangerous to the public and any officers, and needed to be caught for public safety reasons).

Mr. Reed had departed the scene, was not armed, and there was no indication that this was anything more than a domestic dispute. There was no indication whatsoever that he was a danger to the public or the police. There was no ongoing emergency. Thus our Supreme Court, in State v. Koslowski, 166 Wn.2d 409, 421, 428, 209 P.3d 479 (2009), ruled that a victim's statements were testimonial when made after the danger had passed and *rejected* the State's argument that the "fact that the suspects were at large" showed there was still an ongoing emergency.

The Respondent has failed to cite any case in which a 911 call was deemed non-testimonial following the departure of the caller/declarant's domestic abuse assailant from the scene.

Here, Ms. Ta's second 911 call was not made, nor was she questioned by the operator, for the primary purpose (or for that purpose to any degree at all) of ending a threatening situation. In facts such as those presented here (absent the unique situation of

a continued threat to the public in general, as with the rampaging armed shooter in Bryant), there is no ongoing emergency because the primary purpose of the call is not to “end a threatening situation.” Davis, 547 U.S. at 832; see also People v. Trevizo, 181 P.3d 375, 379 (Colo.Ct.App.2007) (holding that statements made in a 911 call were testimonial where “there was no immediate threat to the victim, [and] defendant had left the scene”).

And as noted there was no cry for help - no help was sought, and when help was offered, Ms. Ta repeatedly refused it. There was no cry for help.

Regarding redaction, Respondent’s additional argument that the 911 calls were properly redacted, relying on Bryant’s statement that redaction is proper after a call “becomes” testimonial, is inapposite. Bryant’s discussion involved the truncating of a statement to remove the second half, at the point that the statement became testimonial, for example, because the perpetrator had left. Bryant, at 1159-60. Here the second half of the second 911 call was certainly testimonial, and those portions were certainly inadmissible, but as argued in the Appellant’s Opening Brief, the second half of the call, when listened to with the first half, indicates that the entire call was testimonial. Exhibit 16. The same is true for

the first 911 call, from which the statement, “he . . . just got out of Jail” was excised. Exhibit 16; compare Exhibit 21 (redacted call transcripts).

Even more importantly, the redaction, or more aptly, the “excising” of certain testimonial statements from within the admitted portion of the calls ultimately deemed non-testimonial, was error because those statements should have properly indicated that the entirety of the calls were testimonial.

Thus, as argued in the Opening Brief, the trial court removed Ms. Ta’s statement “he just got out of jail too” from where it was found within (not at the end of) the admitted portion of the second call, which portion it then deemed to be non-testimonial ‘once so edited.’ The portions of Michigan v. Bryant cited by the Respondent stand for the proposition that when a non-testimonial call “becomes” or “transitions” to being testimonial, that latter portion may be truncated. Bryant, 131 S.Ct. at 1159-60. The case does not stand for the proposition that it is permissible to remove the very statements from within a call or portion of calls that operate to render that the remainder testimonial, in order to magically transform the ‘edited’ portions into a “non-testimonial” statement.

c. The statement to Officer Bagsby was testimonial. Ms.

Ta's subsequent statement to Officer Bagsby, the officer who responded to the second 911 call, is plainly testimonial.

Respondent offers the remarkable contention that during the time between her second 911 call and the arrival of responding police officer Bagsby, Ms. Ta somehow miraculously transitioned from her testimonial, accusatorial assertions against the defendant and all his faults in the second half of the call (which the trial court properly excised) back to a newly non-testimonial state of mind, under the reasoning that it was she who approached the arriving officer, and spoke to him unprompted and upset. SRB, at pp. 16-18.

Respondent cannot succeed with this argument. When Officer Bagsby (and his partner) arrived, the defendant was not just "gone" from the scene as he was in the second call, he was now long gone from the scene. And the officers were now there to protect her from any threat (though none had existed before anyway). It is unnecessary to repeat previous citations in the Opening Brief which demonstrate conclusively that these circumstances rendered Ms. Ta's statements to Officer Bagsby

thoroughly testimonial. No threat, no emergency, and finally, no cry for help.

Notably, in Bryant, the accuser's answers to the responding officers' questions stating who shot him were punctuated with inquiries by the victim about when emergency medical services would arrive to give him aid; this showed the victim's statements did not have a "primary purpose" 'to establish or prove past events potentially relevant to later prosecution.'" Bryant, 131 S. Ct. at 1157 (quoting Davis, 547 U.S. at 822). The present case is dramatically different. As shown by her own words and actions, Ms. Ta's purpose, was, instead, that Mr. Reed be apprehended, prosecuted and jailed on the basis of her criminal accusations. Her statements to Officer Bagsby were merely a continuation of this accusatorial attempt to have the police find and jail her boyfriend.

Respondent attempts to rely on the "informality" of Ms. Ta's statements to Officer Bagsby to contend that they were non-testimonial, relying on cases in all of which the formality or informality of the statements was deemed a minor consideration. SRB, at p. 7, 9-10 (citing cases). This contention fails. The most important question for purposes of determining testimoniality is the

question whether there was an ongoing emergency or a cry for help.

The fact that it was Ms. Ta who approached the officer to give her statements, as opposed to it being Officer Bagsby who spoke first, hardly offsets the above considerations. Bryant, at 1160 (“informality does not necessarily indicate the presence of an emergency or the lack of testimonial intent”). This case, unlike Bryant, certainly does not involve the “disorganized” and thus heavily informal circumstance of a mortally wounded victim/declarant lying on the ground and gasping his last breaths while police urgently retrieve information from him necessary to broadcast a BOLO radio alert and hunt down a dangerous armed assailant. Bryant, at 1160.

This Court must reject the Respondent’s contention that the statements to Officer Bagsby were non-testimonial under the State’s reasoning that her statements lacked some required, critical aspect of “formality” and “solemnity.” SRB, at p. 18. Indeed, this case aptly demonstrates that a person may be so enthusiastic to bear incriminatory witness against the accused that he or she initiates their accusatorial assertions without waiting for the officer to ask the first question. Respondent attempts to elevate this trivial

factor of 'who spoke first' to an unwarranted centrality in the testimonial analysis, a mode of decision which is not supported by any of the cited case law.

d. Reversal is required absent “overwhelming evidence” that Mr. Reed committed assault by strangulation. Even if the first 911 call (in which Ms. Ta states that Mr. Reed had choked her) is deemed non-testimonial and properly admitted, the remaining evidence of actual assault by strangulation was underwhelming once the second 911 call and the statement to Officer Bagsby are removed from consideration. There was in fact never any allegation by Ms. Ta that she had been unable to breathe, or that her blood flow had been restricted. There was certainly no expert medical testimony explaining whether certain injuries showed there surely must have been obstruction of Ms. Ta's blood flow or breathing. There were also no eyewitnesses called to trial to describe any claimed strangulation of Ms. Ta, despite the apparent presence of multiple other persons at both locations where the alleged physical abuse occurred. None of these individuals testified.

If the evidence presented had been overwhelming, it would not have taken the jury this amount of time to reach a verdict.

Absent the improperly admitted evidence, the remaining evidence certainly cannot meet that standard.

Based on the photographs of Ms. Ta's apparent facial-area injuries (for which she refused all medical treatment), the jury in this case plainly concluded that Mr. Reed had done *something* to Ms. Ta. But in order to survive confrontation error, there must be overwhelming evidence, not of "something," but of assault by strangulation. There was not.

Notably, the prosecutor's own assessment of the strength of its strangulation case was so very low, that the prosecutor requested a lesser degree offense instruction of simple assault, and the trial court deemed such instruction warranted. CP 133-35 (fourth degree assault instructions).

This fact seems utterly incompatible with any claim by the Respondent on appeal that the remaining evidence of a strike-level assault by strangulation is "overwhelming." This Court should reverse.

2. THE TRIAL COURT'S DENIAL OF A MISSING WITNESS INSTRUCTION CANNOT BE AFFIRMED BASED ON THE RESPONDENT'S LIST OF ALL THE REASONS THE PROSECUTOR DID NOT WISH TO CALL THE WITNESS.

a. The State admitted it freely chose to not subpoena Ms. Ta because she would not help the prosecution case, and now on appeal scoffs at the idea that the defense was entitled to a missing witness instruction. Before and during trial, the defense repeatedly argued to no avail that Mr. Reed's rights to confrontation and to a fair trial required the State to bring in the complaining witness for trial and confrontation by the accused. See, e.g., 1/3/11RP at 38-39.

[The] State has basically announced that they're not going to use Ms. Ta and, therefore, are going to proceed without her. But I have requested that the witness be produced so that my client can exercise his right to confrontation.

1/3/11RP at 38-39. The prosecutor refused to obtain Ms. Ta for trial and confrontation, announcing, "We're not going to do a material witness warrant. Counsel could do a material witness warrant. We're not going to." 1/3/11RP at 66.

The prosecutor conceded that the State simply did not believe it was a “good idea” to seek a warrant to obtain Ms. Ta’s presence, and instead was simply choosing to “go forward without her” once she indicated she would not come to court on the basis of her subpoena. 1/3/11RP at 69 (also stating, “We just are not choosing to have her arrested to come and testify”).

b. The Respondent’s arguments fail to deny that the State had a community of interest with the complainant, making her the State’s witness, and instead on appeal merely lists all the reasons the prosecutor freely chose not to call her.

Respondent on appeal never denies that the prosecutor at trial freely chose to not call Ms. Ta as a witness.

Respondent on appeal also fails completely to rebut appellant’s arguments showing the community of interest the prosecution and its office support staff had with Ms. Ta, the complainant.

Instead, the Respondent provides this Court with a list of the following assertions:

- ▶ she had no intention to cooperate and testify as the State wanted her to (SRB, at p. 22);
- ▶ she was refusing to come to court and testify favorably (SRB, at p. 24);

This is wholly inadequate – these are merely the very reasons the State freely chose to not call its witness,. They do not defeat Mr. Reed’s entitlement under the “missing witness” doctrine to tell the jury the truth – that it could assume the State was not calling Ms. Ta because her testimony would be unfavorable.

The State did not call Ms. Ta because it believed, if required to attend, she would give live testimony unfavorable to its case. Under this classic scenario, the defense asked to be allowed to tell the jury it could so assume.

The State cannot avoid operation of the rule by contending that Ms. Ta was not “its witness” under the rationale that it believed she would testify unfavorably. That is precisely the reason why the defendant is entitled to a missing witness instruction, and the State’s circular reasoning should be rejected by this Court.

Finally, the Respondent’s response to Mr. Reed’s argument that it failed to show that Ms. Ta was “unavailable” demonstrates the difficult position in which a defendant is placed in these circumstances. Absent a requirement of showing unavailability, a prosecutor can simply “choose” to prosecute a defendant without calling the prime complainant to testify, if the prosecutor can successfully convince the trial court that her accusatorial

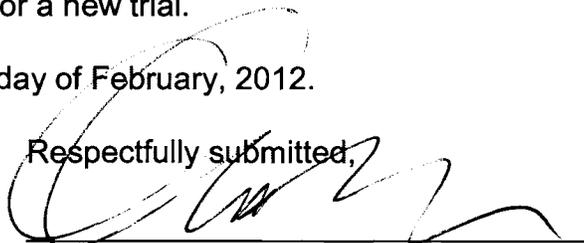
statements were “non-testimonial” and thus admissible. If the trial court also accepts the prosecutor’s argument that the witness’s desire to recant renders her “not peculiarly available” to the State, the prosecutor can then additionally prevent the defense from telling the jury that the prosecutor has failed to call the missing witness because the State believed she would testify unfavorably. As a result, the defendant is denied not only his right to confront and cross-examine the accuser, but is also precluded from telling the jury the truth of the matter – that the State is not calling the defendant’s accuser because it knows she will testify that her accusations were false. That is what has occurred here.

B. CONCLUSION

Based on the foregoing and on his Appellant’s Opening Brief, Mr. Reed respectfully requests that this Court reverse his convictions and remand for a new trial.

DATED this 9 day of February, 2012.

Respectfully submitted,



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Washington Appellate Project - 9105
Attorneys for Appellant

APPENDIX A

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
)	Plaintiff,
)	No. 10-1-06063-1 SEA
vs.)	
)	TRANSCRIPT OF 911 CALLS
CLEO PALMER REED)	
AKA CLEO REED PALMER,)	
)	
)	Defendant.
)	
)	

(Track #1)

OPERATOR: 911.

FEMALE: You know...hello yeah, yeah, yeah. [talking to someone in background].

OPERATOR: Yeah.

FEMALE: Can you...can you bring somebody here because...

OPERATOR: What address?

FEMALE: ...I...he um, he...eh, he um, try...just got out of jail I you know (unintelligible).

OPERATOR: Okay, what address are you at?

FEMALE: Uh, is in...in Kent right by...

OPERATOR: Can you give me your address?

1 FEMALE: (Unintelligible) I don't know where he put his wallet in my house. And you know
2 and I asked him (unintelligible) to go and he choking me...

3 OPERATOR: Can you...

4 FEMALE: ...he scratching me (unintelligible)...

5 OPERATOR: ...what... what address are you at?

6 FEMALE: ...you know he punched my lip, yeah.

7 OPERATOR: I need...I need your address.

8 FEMALE: I live right by (unintelligible).

9 OPERATOR: What is your street address?

10 FEMALE: Yeah, right by (unintelligible).

11 OPERATOR: Give...give me...give me the address that you're at right now.

12 FEMALE: (Unintelligible) [talking to someone in background].

13 OPERATOR: Talk...talk...don't talk to them.

14 FEMALE: Look, look, look, look and he threatening me right now he (unintelligible).

15 OPERATOR: Okay, but I...I wanna send you help as soon as possible...

16 FEMALE: Yeah, he...

17 OPERATOR: ...I need...I need to know your...

18 FEMALE: ...(unintelligible) my whole family.

19 OPERATOR: I need...

20 FEMALE: You know I...I love him. He...he...

21 MALE: [Talking in background].

22 FEMALE: ...you know he...he...he been in jail (unintelligible).

23
24

1 OPERATOR: I really need to know your address in order to send people so what is your
2 address?

3 FEMALE: Yeah, he been in jail and he (unintelligible).

4 OPERATOR: Okay, alright but what's your address?

5 FEMALE: Yeah...

6 OPERATOR: I need to know...

7 FEMALE: [Talking to someone in background].

8 OPERATOR: ...what your address is. What is your address?

9 FEMALE: [Phone disconnects].

10
11 -Call Ends-
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1 (Track #6)

2 OPERATOR: 911.

3 OPERATOR: (Unintelligible) with a transfer.

4 OPERATOR: Thank you, hello?

5 FEMALE: Hello?

6 OPERATOR: Hi, how can I help you?

7 FEMALE: Yeah, yeah, yeah this mother fucker he just beat me up right now because you
8 know he...

9 OPERATOR: At what address?

10 FEMALE: ..he mu...I don't know he drop me off here at the Renton somewhere.

11 OPERATOR: You're (unintelligible)?

12 FEMALE: Yeah, I'm Ren...I'm at Renton right now somewhere.

13 OPERATOR: Okay, what (unintelligible)?

14 FEMALE: Um, his name...his name uh...

15 OPERATOR: Okay, ma'am I don't need his name yet. What address are you at?

16 FEMALE: I don't know, I'm...I'm...I'm lo...I'm right by um, the...I'm right by the uh,
17 what cha call...I'm right by um, uh, what you call uh, the...I'm right by um...

18 OPERATOR: You see a street sign anywhere?

19 FEMALE: Yeah, I'm...I'm...I'm walking down the street right now I need to get home too.
20 And...and I need somebody (unintelligible) take uh, come back and take me...I
21 mean get me home. Because, he choking me, he beat me up, I'm bleeding on my
22 nose and he's supposed to be my...my fiancée and...and we have kid together...

23 OPERATOR: Okay.

1 FEMALE: I'm pregnant right now.
2 OPERATOR: Can you find a street sign?
3 FEMALE: I am at the bus stop right now at um, what you call...um, uh, I don't really know
4 um....
5 OPERATOR: Is there a business nearby?
6 FEMALE: Yeah, it's um, and I got his uh, I don't know where (unintelligible) but I got uh,
7 I'm right by Freddie Renton.
8 OPERATOR: By what?
9 FEMALE: I'm on...I'm in Renton...Renton uh, what you call uh, I am on Renton Street,
10 they say Renton Avenue exit.
11 OPERATOR: Renton Avenue, what's the nearest cross street?
12 FEMALE: Uh, it's...it's you know right by the Freddie Club Casino?
13 OPERATOR: Freddie's Club?
14 FEMALE: Yeah, yeah right by there.
15 OPERATOR: Are you right in front of that address?
16 FEMALE: No, I'm...I'm walking towards there right now.
17 OPERATOR: Okay, how long will it take you to get to Freddie's Club?
18 FEMALE: Uh, I don't know how...it is not that long but I'm...I'm not there right now.
19 OPERATOR: A couple of minutes?
20 FEMALE: Yeah, a couple minutes, please....
21 OPERATOR: Where did he actually hit you at?
22 FEMALE: Wh...when he pick me up from uh, (unintelligible) in uh, Seattle right by his
23 mom's house.
24

1 OPERATOR: So, it happened in Seattle?
2 FEMALE: No, it happened on the way to...
3 OPERATOR: In the car?
4 FEMALE: ...to my house. Yeah, in the car and his cousin driving. I know his cousin phone
5 number...cell phone number too.
6 OPERATOR: Okay, hang on, hang on.
7 FEMALE: Yes.
8 OPERATOR: How long ago did this actually happen?
9 FEMALE: Just now, just now. He beat me up he...
10 OPERATOR: Like a minute or five minutes ago?
11 FEMALE: Yeah, yeah, yeah, yeah just right now (unintelligible).
12 OPERATOR: How many minutes?
13 FEMALE: Just like 5 minutes just right now, yeah. And...and...and I'm pregnant with his
14 baby too.
15 OPERATOR: Is he still there?
16 FEMALE: No, he in the car with his cousin. He um, drive...he just got out of jail too and...
17 OPERATOR: Hang on a minute, you need any medical help?
18 FEMALE: You know I'm...I'm good you know. I don't know because um...
19 OPERATOR: You need me to...
20 FEMALE: ...my nose is bleeding.
21 OPERATOR: ...send the fire department or no?
22 FEMALE: I...I need a cop to come here and just...can you...
23 OPERATOR: Do you need the fire department as well?
24

1 FEMALE: No, no, not the fire department because uh, I uh, I don't know I probably am
2 gonna lost this baby, so I don't know.

3 OPERATOR: Okay, but you do not need the fire department, correct?

4 FEMALE: No, no, no, no I just need...

5 OPERATOR: Were there any guns or knives?

6 FEMALE: I just need a cop here and we could...

7 OPERATOR: Were there any guns or knives?

8 FEMALE: What's that?

9 OPERATOR: Were there any weapons?

10 FEMALE: Uh, no he don't have no weapons but he...he...he a black man. He...he big guy
11 and I...

12 OPERATOR: Okay, are you at the casino right now?

13 FEMALE: I am at the McDonald right now.

14 OPERATOR: Okay, can you get to the Freddie's Club or you're gonna wait at the McDonald's?

15 FEMALE: I'm (unintelligible) McDonalds right now.

16 OPERATOR: At the intersection...

17 FEMALE: Uh, right in the parking lot, yeah.

18 OPERATOR: Which McDonald's?

19 FEMALE: McDonald's cross street from uh, Freddie cross the street from uh, (unintelligible)
20 Bank.

21 OPERATOR: Across from the casino?

22 FEMALE: Yeah, yeah.

23 OPERATOR: Okay, are they on foot or in a vehicle?

24

1 FEMALE: I am on foot and he hi...

2 OPERATOR: What color shirt and pants do you have on?

3 FEMALE: Well, I got...I got a...a...a...a brown boot and a brown jacket on and uh,
4 and...and...and a...

5 OPERATOR: What color pants?

6 FEMALE: Pant is brown and then uh...

7 OPERATOR: Tan pants?

8 FEMALE: Uh, yeah and I got a (unintelligible) top on.

9 OPERATOR: Okay, and your fiancée left in what kind of car?

10 FEMALE: Uh, I don't know what car but it's a car...the car is white car two...four-door car,
11 yeah.

12 OPERATOR: And what direction did he leave?

13 FEMALE: Uh, well they...they...they scare right now because they...they run away because
14 he...

15 OPERATOR: Which way did they go?

16 FEMALE: They took uh, inside road right now, yes.

17 OPERATOR: Do you know what direction?

18 FEMALE: Uh, I don't know what direction because I don't drive at all because...

19 OPERATOR: Did they go on Rainier or did they go on Renton?

20 FEMALE: I think they go to Kent because his cousin live in Kent.

21 OPERATOR: Okay.

22 FEMALE: Yeah, his cousin live in Kent. And I need put his ass back in jail...

23 OPERATOR: What's your fiancée's last name?

24

1 FEMALE: His last name is Palmer, it's P A L M E R.
2 OPERATOR: What's his first name?
3 FEMALE: His first name is Cleo, C L E O.
4 OPERATOR: And...does he have a middle initial?
5 FEMALE: Uh, it is uh, what do you call uh...what you...uh, his la...his middle is
6 Reed...Reed, R E E D.
7 OPERATOR: Okay, do you know his date of birth?
8 FEMALE: Yeah, it's uh, 7...I mean uh, uh, what you call August 3rd...
9 OPERATOR: August 3rd?
10 FEMALE: Yeah.
11 OPERATOR: What year?
12 FEMALE: Yeah, August 3rd uh, '73...'72 I'm...I mean '72.
13 OPERATOR: '72?
14 FEMALE: Yeah.
15 OPERATOR: What race is he?
16 FEMALE: He's black tall 6 foot tall man.
17 OPERATOR: And how...is he thin, medium, heavy?
18 FEMALE: Yeah, he's 6 foot...he just got out of jail too.
19 OPERATOR: Is he thin, medium or heavy?
20 FEMALE: He heavy, yeah.
21 OPERATOR: Does he have long or short hair?
22 FEMALE: He...long.
23 OPERATOR: Any facial hair, glasses, hat?
24

1 FEMALE: He got a little...little uh, mustache on uh, you know like um, little mustache,
2 yeah.
3 OPERATOR: Okay, what color shirt was he wearing?
4 FEMALE: He wearing gr...uh, gray.
5 OPERATOR: Gray shirt?
6 FEMALE: Yeah, he (unintelligible).
7 OPERATOR: You know what color pants?
8 FEMALE: He got uh, jean on.
9 OPERATOR: Okay, and has he been drinking or doing drugs?
10 FEMALE: He...he...yeah, he doing drugs.
11 OPERATOR: What kind of drugs?
12 FEMALE: Uh, what you call the uh, uh, cocaine, yeah, yeah.
13 OPERATOR: Cocaine, okay any alcohol or just the drugs?
14 FEMALE: Yeah, alcohol too include.
15 OPERATOR: Okay.
16 FEMALE: Yeah.
17 OPERATOR: And your last name?
18 FEMALE: My last name is Pa, P A.
19 OPERATOR: First name?
20 FEMALE: Emily, I mean my first name is Nat, N A T.
21 OPERATOR: N A T?
22 FEMALE: Yeah.
23 OPERATOR: Is that your legal name?
24

1 FEMALE: Yeah, my legal name.
2 OPERATOR: Okay, and what's your middle initial?
3 FEMALE: Emily.
4 OPERATOR: And what's your date of birth?
5 FEMALE: Um, April...I mean uh, January 1st...I mean January 4, '72.
6 OPERATOR: And what's your cell phone number you're calling from?
7 FEMALE: It's 425-...is my cell phone...425-345-1150.
8 OPERATOR: Okay, do you live in Renton or where do you live at?
9 FEMALE: I live in Kent.
10 OPERATOR: Okay.
11 FEMALE: Yeah.
12 OPERATOR: Now, what address?
13 FEMALE: It's 1111 West James Street.
14 OPERATOR: Is that a house or apartment?
15 FEMALE: Is apartment...24.
16 OPERATOR: And does your fiancée live there with you?
17 FEMALE: He use to live there but and then he beat his...beat his cousin up earlier and his
18 cousin end up in the hospital. So, and then he...
19 OPERATOR: Do you think that's where he's going?
20 FEMALE: I don't know probably because my mom...my dad lives there you know they uh,
21 they old you know. I'm...I'm uh, scared right now that's why I need...I need to
22 get home too.
23 OPERATOR: Okay, so he might be going to that address...
24

1 FEMALE: Yeah, yeah, yeah...

2 OPERATOR: ...you just gave me?

3 FEMALE: ...yeah.

4 OPERATOR: Okay.

5 FEMALE: Can you have somebody go over there too please?

6 OPERATOR: We have officers getting out to you, okay?

7 FEMALE: Yeah, thank you.

8 OPERATOR: And you said he's in the vehicle with his cousin?

9 FEMALE: Yeah, white...white (unintelligible) it's four-door, yeah.

10 OPERATOR: What's his cousin's name?

11 FEMALE: Cause, I got...his cousin is Rick.

12 OPERATOR: Rick?

13 FEMALE: Yeah.

14 OPERATOR: Is it short for anything?

15 FEMALE: Just Rick uh, uh, that's all I know. So, I'm (unintelligible) and his...

16 OPERATOR: You know his last name?

17 FEMALE: No, I don't and...and his...his...you want his cell phone number?

18 OPERATOR: No, that's okay.

19 FEMALE: Okay.

20 OPERATOR: And do you know Rick's date of birth or middle name at all?

21 FEMALE: No, no, no I don't because I don't...I don't really you know...

22 OPERATOR: Okay, has this ever happened before?

23 FEMALE: What's that?

24

1 OPERATOR: Has this ever happened before?
2 FEMALE: No, no, no, no, no this is the first time...no earlier he choke me at my house. He
3 choke me...
4 OPERATOR: Did you call the police then?
5 FEMALE: ...he (unintelligible). I did...I did report, I thought it was...everything's gonna be
6 okay.
7 OPERATOR: Um hum.
8 FEMALE: Yeah, I did. I report earlier, I (unintelligible) he said he beg, he cry and beg to
9 me.
10 OPERATOR: Um hum.
11 FEMALE: And now when he went...because he got piss off because he went to his mom his
12 mom don't accepted him and his mom kick him out and then he got mad at me, he
13 got mad.
14 OPERATOR: Okay, so he's just upset?
15 FEMALE: Yeah, yeah because he on drug he...he on drug. Everyday he need help, he just
16 got out of jail...
17 OPERATOR: What was he in jail for?
18 FEMALE: ...for like...uh, drugs and uh, violation and he been in prison too for 7 years.
19 OPERATOR: For what?
20 FEMALE: I don't know what (unintelligible) for...for prison but, you can run his name
21 you...you'll see it.
22 OPERATOR: Okay, and what did he do to you? Did he hit you, kick you, punch you...
23
24

1 FEMALE: Uh, yeah, he...he beat me up and I'm bleeding on my nose and he choked me.
2 He...he tried to kill me and he kick me out the car.
3 OPERATOR: Okay, and you're still outside the McDonald's?
4 FEMALE: Yeah, I...I...I'm on the parking lot right now.
5 OPERATOR: Do you see the officers?
6 FEMALE: Yeah, I did I saw him (unintelligible) lights up right now.
7 OPERATOR: Does he see you?
8 FEMALE: No, I...I don't think he see me now he turn so I (unintelligible) right now.
9 OPERATOR: Can you flag your...wave your hands and flag 'em down?
10 FEMALE: I try right now. Yeah, he saw me right now.
11 OPERATOR: Okay, I'll let you go talk to him, okay?
12 FEMALE: Yeah.
13 OPERATOR: Thank you.
14 FEMALE: Because, I am pregnant and I hurt.
15 OPERATOR: Okay, I'm gonna let you go talk to the officer, okay?
16 FEMALE: Okay, thank you.
17 OPERATOR: Thank you, bye.

18
19 -Call Ends-
20
21
22
23
24