

1 herein, Paul C. Bolin (“Bolin”), which they did until July 30, 1990, when Mr. Peterson was relieved and
2 William Cater was appointed to serve as Mr. Soria’s co-counsel.

3 The proceedings in Bolin’s case which give rise to the venue and jury selection disputes at issue
4 in the evidentiary hearing involve voir dire from November 5, 1990 to December 3, 1990 and the failure
5 of Messrs. Soria and Cater to renew the change of venue motion previously heard and reserved by the
6 trial court on November 1, 1990. The sole issue to be determined at the March 18, 2013 evidentiary
7 hearing is whether Messrs. Soria and Cater provided constitutionally deficient representation by their
8 failure to renew the change of venue motion. The inquiry of that issue is limited to whether the jury
9 selection process disclosed presumed prejudice on the part of the prospective jurors occasioned by
10 pretrial publicity, including, the January 7, 1990 broadcast of the *America’s Most Wanted* program,
11 featuring Bolin’s crime.

12 **II. Evidence to be Offered at the Evidentiary Hearing Pertaining to John Lee Holt**

13 The Holt Exhibits consist of three documents designated by the Warden, as follows: the
14 *Community Attitude Survey* conducted in advance of Mr. Holt’s trial; the billing records of Varinsky and
15 Associates for the Holt Survey; and excerpts from Mr. Holt’s Exhibit 178 to his state petition,
16 comprised of questions Mr. Holt’s state counsel posed to Mr. Soria about his representation, limited to
17 jury selection and venue issues. The Warden also has designated four witnesses who were involved with
18 both Bolin’s and Mr. Holt’s respective cases: Mr. Soria, Howard Varinsky, the proprietor of Varinsky
19 and Associates, Paul Strand, Mr. Varinsky’s associate, and Bruce Binns, Mr. Soria’s investigator.

20 **III. Minute Order Directive**

21 The February 14, 2013 Minute Order directed the Warden to provide:

- 22 1. An offer of proof to establish the relevance of the Holt Exhibits;
- 23 2. An offer of proof to establish the need to have witnesses testify about the Holt
24 Exhibits (unless it is for foundation only);
- 25 3. If the offer of proof for witness testimony the Holt Exhibits is to establish
26 foundation, whether a stipulation has been sought;

1 With the *Community Attitude Survey* in Bolin’s case of only marginal relevance, it is difficult
2 to see how the Holt exhibits have any relevance at all. Moreover, whereas Messrs. Soria and Cater
3 commissioned the *Community Attitude Survey* and subsequently moved for a change of venue in Bolin’s
4 case largely because he was featured on the *America’s Most Wanted* program, no venue change motion
5 was advanced in Mr. Holt’s case, even though Mr. Soria commissioned a *Community Attitude Survey*
6 in that case as well.

7 Having failed to demonstrate the relevance of the Holt exhibits, the Warden will be precluded
8 from introducing them.

9 **B. The Need to Have Witnesses Testify About the Holt Exhibits**

10 As to this directive, the Warden refers to his previous explanation about how Mr. Soria’s prior
11 experience, knowledge, and consultation with Mr. Varinsky and Dr. Strand regarding venue issues in
12 Mr. Holt’s case will shed light on the reasonableness of his decision not to renew the venue change
13 motion in Bolin’s case.

14 In light of the decision of the Court not to admit the Holt Exhibits, reference to proceedings in
15 Mr. Holt’s trial are unnecessary and will be limited, except, perhaps, to indicate that Mr. Soria had a
16 prior working relationship with Mr. Varinsky. The ancillary directive concerning foundational testimony
17 for the Holt Exhibits and a stipulation about foundation is moot.

18 **C. Whether Questioning of Messrs. Soria, Varinsky, Binns, and Dr. Strand Will Touch**
19 **upon their Respective Impressions about Mr. Holt’s Trial, and if so Why.**

20 Except to the extent questioning of Messrs. Soria, Varinsky, and Dr. Strand will clarify the
21 reasonableness of Mr. Soria’s representation in Bolin’s case, the Warden does not intend to elicit
22 testimony about the impressions any of these witnesses may have had about Mr. Holt’s case. As for Mr.
23 Binns, the Warden does not intend to proffer any questions regarding his impressions about Mr. Holt’s
24 case.

25 This explanation is satisfactory. The Court is concerned, however, about emphasis on the
26 *Community Attitude Survey* in the Warden’s presentation of evidence. If Mr. Binns is to testify, the
27 Court directs the Warden to provide a written offer of proof of his testimony.

