

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SANTA BARBARA
3 SANTA MARIA BRANCH; COOK STREET DIVISION
4 DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

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7 THE PEOPLE OF THE STATE OF)
8 CALIFORNIA,)
9 Plaintiff,)
10 -vs-) No. 1133603
11 MICHAEL JOE JACKSON,)
12 Defendant.)

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17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18

19 WEDNESDAY, MARCH 23, 2005

20

21 8:30 A.M.

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23 (PAGES 3132 THROUGH 3162)

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27 REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

28 BY: Official Court Reporter 3132

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1 Santa Maria, California
2 Wednesday, March 23, 2005
3 8:30 a.m.
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5 (The following proceedings were held in
6 open court outside the presence and hearing of the
7 jury:)

8
9 THE COURT: Good morning.
10 COUNSEL AT COUNSEL TABLE: (In unison)
11 Good morning, Your Honor.
12 THE COURT: I understand there's an issue
13 you wanted to address before the jury comes in.
14 MR. SANGER: Yes, Your Honor. May I have
15 just one more second.
16 Yes, Your Honor, on the issue of the
17 computer testimony, we're going to move to exclude
18 the testimony on the grounds of relevance, lack of
19 foundation with regard to this particular case. And
20 let me outline it quickly.
21 As the Court is probably aware from
22 pre-trial matters, there were quite a number of
23 computers that were seized. I think there were
24 14 computers that were somehow allegedly associated
25 with Neverland. The District Attorney has focused
26 on four, and provided us last night with the
27 particular exhibits that they wish to introduce,
28 somewhere around 6:30, 7 o'clock last night. 3134

1 Those particular items are culled from the
2 voluminous CDs and other materials that were
3 provided in the course of the case, in the course of
4 discovery, but now, for the first time, we can see
5 exactly what they want to introduce and try to
6 divine what the theory is.
7 I received some other material by e-mail
8 last night after that, which is not of much
9 consequence. The big thing is what was delivered to
10 us by hand.
11 Basically, the four computers -- none of the
12 four computers that the District Attorney seeks to

13 introduce testimony about have any material on it,
14 on them, that was subject to the time period
15 involved here.
16 One of the computers has -- or two of the
17 computers have material from 1998, and two of the
18 computers have material from September, October, and
19 November of 2003. Actually, one of the computers,
20 it appears, when it was downloaded by the sheriff's
21 department, that they somehow made a mistake and
22 changed the date to the date that they were
23 examining the material, which is something that's
24 supposed to be avoided. But looking at the
25 material, it appears that there is nothing
26 whatsoever from the time period involved, number
27 one.
28 Number two, the type of material is such 3135

1 that it is not probative in this case. It is cached
2 material. That is, material that was caught by the
3 computer because somebody had opened a photograph.
4 And it could have been by an e-mail, it could have
5 been by virtue of somebody surfing the web at a
6 particular time. And it's heterosexual material,
7 and it is not directly related to this case.
8 Thirdly, the issue of who accessed the
9 material is totally unresolved. There is no way to
10 determine who was using the computer to access this
11 material in November -- September, October, November
12 of 2003, or back in 1998. So there is no probative
13 value if you cannot link that directly to
14 Mr. Jackson or somebody else in this particular
15 case.
16 I'm prepared to go into more detail to show
17 the Court or explain to the Court what kinds of
18 material we're talking about. But I should also
19 indicate that the material that has been gleaned
20 from these computers is minuscule in comparison with
21 the total amount of material that's on the
22 computers.
23 So the best that can be said, perhaps, is
24 somebody surfed the web on some of these occasions
25 that have nothing to do with the time period. Very
26 discrete occasions on very specific dates in
27 September and November of 2003. And again, it looks
28 like a very brief four-minute look by somebody in 3136

1 1998. That is compared to gigabytes of material on
2 the disk of all sorts of other things.
3 THE COURT: Let me interrupt you and let me
4 hear from the District Attorney.

5 MR. SANGER: Very well.
6 THE COURT: Sorry.
7 MR. AUCHINCLOSS: Good morning, Your Honor.
8 The evidence that we are seeking to
9 introduce here comprises the contents -- the partial
10 contents of four hard drives from three computers.
11 Each of these computers was located in Michael
12 Jackson's bedroom. Not only in his bedroom, but in
13 his private sanctuary, which is upstairs from the
14 primary bedroom area. As you know from the
15 photographs, this is a small room with a great deal
16 of contents. These three computers each contained
17 erotic -- adult erotic materials.
18 The first one is an Apple laptop. This
19 computer has identifying information on it
20 indicating -- we found a text message that says,
21 "Michael Jackson's Computer" with the date
22 October 12th, '98. We also found text messaging in
23 the form of Internet text messaging, which is a
24 hybrid of e-mail, which provides the name "Apple
25 Head's Computer," a name we also associate with the
26 defendant.
27 We found teen pornography, or excuse me,
28 teen adult materials on this computer, which we've 3137

1 downloaded approximately 16 pages.
2 As far as the time frame of this
3 particular -- the downloading of these materials, we
4 have an associated date of 1998. So clearly --
5 well, not "clearly," I should say that the computer
6 experts cannot tell us exactly when this material
7 was downloaded. There are ways to manipulate the
8 date. The clock in the computer is not always
9 accurate. If the computer battery runs down, then
10 the clock can go off, and that's some of the
11 testimony that we would adduce in expert testimony
12 in presenting this evidence.
13 So -- but we do believe that,
14 circumstantially at least, this evidence was
15 downloaded sometime prior to the period of time that
16 the victims in this case were at Neverland.
17 The next computer, which is identified --
18 and I should mention that that computer is -- would
19 be Exhibit 626. And it's Item No. 346 as far as the
20 sheriff's records go.
21 THE COURT: The Apple.
22 MR. AUCHINCLOSS: Yes.
23 The next computer is a Vaio desktop
24 computer, Exhibit No. 627, S.B.S.O. Item No. 344.
25 This computer had connection or identification
26 information on it, linking this computer to a Marcel
27 Jackson, which we believe to be a code name,

28 computer code name, for the defendant. We know of 3138

1 no relative of the defendant named Marcel Jackson.
2 In any event, this computer held downloaded
3 photographs, 1700 downloaded photographs of adult
4 erotic material. We wouldn't seek to introduce
5 1700. It would have taken us several days to print
6 it, and we've certainly seen enough erotic material.
7 But we would introduce -- we would introduce several
8 pages showing associated porn sites that these
9 images were downloaded from.
10 The final computer is an Apple desktop,
11 Exhibit No. 628, S.B.S.O. Item No. 347-A. Now, as I
12 mentioned before, this computer has two hard drives
13 in it, apparently not an uncommon feature for some
14 desktop computers. These hard drives are analyzed
15 separately, so we have a second item number with
16 this computer, Exhibit No. 629, and S.B.S.O. Item
17 No. 347-B. This is an Apple PowerMac G-4 also
18 located in the defendant's bedroom. It appears to
19 be quite old. It also arguably or circumstantially
20 could be the computer that was referred to by Star
21 Arvizo when he said there was a desktop computer at
22 the time they visited Neverland.
23 On the first hard drive for this computer,
24 we located identification information, including
25 text messages from king77tut -- I should say 777tut,
26 privacy969, and a bigmike. Also information dealing
27 with construction of a web page called "Michael's
28 Web Page." This first hard drive had associated 3139

1 materials on it involving teen pornography -- or
2 teen adult materials, excuse me, varsityteens.com.
3 And numerous downloads of adoption agencies,
4 adoptablekids.com, with associated pictures of
5 children.
6 As the Court may recall, Mr. Jackson, I
7 believe, in the Bashir video mentioned his interest
8 in adopting children.
9 Finally, the last hard drive from the same
10 computer has what is known as WAF Reports. We have
11 approximately 100 pages in which these reports
12 indicate Internet sites which were visited by the
13 user of this computer. It's probably not complete,
14 but it does indicate that this computer was used to
15 access sites, adult erotic sites, involving teen
16 subjects, adoptable kids sites, Disney, toy sites.
17 Those are the relevant ones.
18 Now, the purpose of this evidence is to
19 provide a link between the information that was

20 adduced from Gavin and Star Arvizo concerning their
21 viewing of adult materials on defendant's computer
22 in the defendant's bedroom. We intend to use this
23 evidence circumstantially to show Michael Jackson
24 knows how to use a computer. He has four of them in
25 his bedroom. He has another Apple computer in his
26 desk in his office. That he knows how to access
27 Internet sites; that he knows how to access adult
28 erotic materials on Internet sites. 3140

1 It's a circumstantial link that provides
2 powerful corroboration for our victim in this case.
3 And the fact that all of these computers have at
4 least some tie in the computer itself to the
5 defendant, in addition to the fact that these
6 computers were located in his very bedroom,
7 certainly provides the necessary link between the
8 defendant and the person who is accessing
9 pornography, or adult material on these computers.
10 So that is what we're introducing. That's
11 the purpose. It's not a very large volume, as you
12 can see. I submitted a copy to the Court. And we'd
13 ask the Court to admit this important evidence.
14 Thank you.

15 THE COURT: Mr. Sanger.

16 MR. SANGER: And you have a copy of the
17 book, I guess.

18 THE COURT: I haven't looked at it, but it's
19 here.

20 MR. SANGER: That may make it a little
21 easier to follow.

22 First of all, there's nothing in -- on these
23 computers that in and of itself is illegal. So the
24 question is, what is the probative value of this
25 otherwise lawful material.

26 Mr. Auchincloss continually used the word
27 "download" as if somebody intentionally downloaded
28 certain items. For the most part, and particularly 3141

1 as it pertains to any adult images, it was not
2 downloaded. It's a very important distinction.
3 It's in the cache. That means that whenever you're
4 on a computer and you open -- or a picture pops up
5 on your screen, even if somebody had sent an e-mail,
6 or it's one of those automatic nasty things that
7 gets sent to you, that photograph, that image, is
8 automatically cached in your computer.
9 And without going into a lot of detail - the
10 Court may be aware of this - but many years ago,
11 I don't know if it was 15 years ago or so, maybe 20

12 years ago, has determined that when we were going to
13 have images downloaded off the Internet, it was too
14 slow for computers to each time look at the image
15 anew and create all the pixels to show it to you on
16 the screen. So therefore, when people look at a
17 picture, or when it just comes up, whether you look
18 at it or not, it comes up on the screen, you go on
19 to something else, that image is automatically
20 cached. And that is the part of the computer where
21 most of this stuff was found.

22 And I can go through in particular and
23 explain which ones. But the adult material in
24 particular was cached. That means nobody --
25 nobody -- whether it was Mr. Jackson or anybody
26 else, nobody went and said, "I want to save this
27 picture and I'm going to save it to a particular
28 area." It was simply cached. It came up on the 3142

1 screen. It could be from surfing the web. It could
2 be from getting nasty e-mails with pictures that
3 automatically pop up in the screen when you look at
4 your e-mails. That's a very important distinction.
5 The next distinction is that the amount of
6 material here is extremely minimal compared to the
7 overall content of this computer, and all the other
8 material that was cached. Going to Time Magazine
9 sites, going to all sorts of legitimate places that
10 people would go when they're using the Internet and
11 they're looking at things, or when they're getting
12 e-mails with legitimate things that pop up.
13 Legitimate -- I shouldn't say "legitimate" as
14 opposed to "illegitimate," but not sexual in nature.
15 All this stuff is lawful, but, you know, not sexual
16 in nature stuff. You know, Time Magazine, sports
17 things, pictures related to all sorts of different
18 things.

19 So this is not very probative. But I want
20 to take it one at a time, because I think it's very
21 important to see this. And I'd encourage the Court
22 to look at the book, if that's all right.
23 If you look at their Exhibit 626, which is
24 computer 346, that's Item -- Sheriffs Item 346 --
25 THE COURT: Yes.
26 MR. SANGER: The indication -- if you look
27 at the first and second pages, that's all you have
28 there. The first page says, "Michael Jackson's G-3 3143

1 computer, 10-12-98."
2 Now, nobody knows who put that there,
3 whether it was put there to give to Michael Jackson

4 or some tech person set it up for him or somebody
5 else did it. Who knows.
6 The second page is a capture of user and
7 group data files, which simply means that somebody
8 had put in there "Apple Head's computer."
9 Now, the Court's already heard "Apple Head"
10 is like an informal designation and people are
11 called that as a term of endearment, so that doesn't
12 establish even in 1998 that this was really Michael
13 Jackson's computer. But let's assume that it was.
14 If you go to pages three, four, five, six,
15 seven -- let's see here, I think all the way through
16 to the end -- no, I'm sorry. Through to page 20.
17 If you go through to page 20, these are simply
18 cached images.
19 As you can see, if you look at some of them,
20 they're actual photographs or images of people or
21 montages, and then there are also some images of
22 text. And what happens in these computers is that
23 text images are also cached, so the next time
24 somebody goes to, say, the -- some picture that
25 involved Netscape, or AOL, or some other -- some
26 other logo, that logo doesn't have to be recreated
27 on the computer hard drive. The computer can find
28 the existing logo, and that way it loads a lot more 3144

1 quickly.
2 What's even more significant about these
3 pages 3 to 20 is that they were all -- they all
4 showed up on the computer on October 28, 1998, at
5 one time in between 3:57 a.m. and 4:01 a.m. So
6 somebody -- somebody on this particular computer
7 probably got either a series of e-mails that had --
8 or an e-mail that had these images on it, or they
9 went to a website and these images popped up. There
10 is nothing indicating in these images that whoever
11 was doing this on the computer -- whether it was
12 somebody related to Mr. Jackson, or somebody
13 visiting, or somebody who had the computer before he
14 had it, or whatever, there's nothing to indicate
15 that the person actually entered this website.
16 These are pictures from the cover, as it were, of
17 the website, before the web site's actually entered.
18 If the website had been entered, there would be a
19 whole lot of other pictures.
20 So in approximately a four-minute period in
21 the early morning hours of October 28th, 1998, these
22 pictures apparently flashed on the screen for some
23 length of time. Couldn't have been too long, given
24 the time that they were recorded.
25 Now, we will show at some point -- and I
26 don't want to get too far ahead, because I don't

27 think we need to make an offer of proof right now,
28 but there are relatives of Mr. Jackson who have used 3145

1 his computer. I think we've already had some
2 testimony that there are all sorts of people using
3 computers. Mr. Jackson himself is not particularly
4 inclined to use computers. But there's nothing from
5 1998 that's going to tie Mr. Jackson to this case.
6 And when I hear the District Attorney saying this is
7 powerful evidence to link Mr. Jackson, that's
8 exactly the problem. It's offered as powerful
9 evidence, and it has virtually no probative value.
10 When you look at 344, which is the next one,
11 627, look at the -- look at the images there, you'll
12 also find that there are really two users on that
13 computer. There was a Dr. Black, and there was a
14 Marcel Jackson. Those are the screen names. And as
15 the Court knows, you can put any screen name you
16 want. Anybody can say they're Dr. Black or Marcel
17 Jackson.

18 The images from Dr. Black, whoever that is,
19 were -- primarily came up on the screen and were
20 cached in October, around October 2, 3 and 4, and
21 September 22nd, 24th of 2003, long after this was --
22 THE COURT: Before you go on, just -- I have
23 a question back on 626, of the last page, 24, in the
24 exhibit list.

25 MR. SANGER: Yes.

26 THE COURT: What's the significance of that.

27 MR. SANGER: 24. I don't have a page 24.

28 MR. AUCHINCLOSS: It's been provided to you. 3146

1 MR. SANGER: That's something I was just
2 given this morning.

3 MR. AUCHINCLOSS: Yes.

4 Would you like me to answer that, Your
5 Honor.

6 THE COURT: Yes.

7 MR. AUCHINCLOSS: Yes. At the very end of
8 each of the files over the offered exhibits is a
9 picture which Detective McCammon would testify that
10 that is the computer, that is its location, and that
11 is the state of the computer when it was originally
12 seized by Detective McCammon.

13 THE COURT: That's where the computer which
14 housed the hard drive, which is Exhibit 626, was
15 found in the search.

16 MR. AUCHINCLOSS: Exactly.

17 THE COURT: All right. Thank you.

18 MR. SANGER: Okay. All right. So we're now

19 back to --
20 THE COURT: Just one other question, just so
21 I'm clear. I think I understand this, but 626, the
22 hard drive in 626 is -- well, 627, 628 and 629 are
23 not connected to the hard drive of 626; is that
24 correct.
25 MR. AUCHINCLOSS: That's correct.
26 THE COURT: Okay.
27 MR. SANGER: That may or may not be true,
28 because there is some indication that there's 3147

1 contamination here, which we can get to. I wasn't
2 going to address that precise issue right now, but
3 it looks like some information from one hard drive
4 got on another, but we'll see.
5 THE COURT: Do you mean in the forensic
6 process.
7 MR. SANGER: As far as we can tell, it's not
8 true on the main -- on the disk that we had. It is
9 true on the forensic disk that we were given.
10 Let me go back to now the second disk that
11 we were talking about, which is --
12 THE COURT: 627.
13 MR. SANGER: Their Exhibit 627, and that's
14 Item 344.
15 Now, that, it's very clear, was used by
16 other relatives and other people related to Mr.
17 Jackson. There's a tremendous amount of e-mail on
18 there back and forth from Marie Nicole, and she
19 obviously used the computer extensively. And she
20 corresponds with people about food recipes, all
21 sorts of things.
22 As I mentioned, there were two specific user
23 names that the government thought were interesting,
24 and that was Dr. Black and Marcel Jackson.
25 Understand, that of all the other material and other
26 user names, including Marie Nicole, nothing was
27 found. But they find some adult material that again
28 was not downloaded, but was cached, by somebody 3148

1 calling themselves Dr. Black, and somebody else
2 calling themselves Marcel Jackson.
3 Now, Mr. Jackson does have a cousin named
4 Elijah who goes by Marcel. We're not going to blame
5 him for this, but -- simply because it's so easy for
6 anybody to use a user name and simply log in, and so
7 who knows what's going on. But Marcel Jackson,
8 according to the evidence on this computer, whoever
9 used that name accessed this computer on November
10 17th of 2003. And that's when the -- that's when

11 the information was downloaded on this particular
12 computer.
13 THE COURT: On this exhibit, how do I see
14 that on --
15 MR. SANGER: You don't. And that's part of
16 the problem, is the prosecutor gave me this book
17 last night. But if you have the disk from the FBI
18 and you look at the disks that were processed and
19 the notable information and other information that
20 they preserved, it is on the material that they had,
21 that the government had, and the FBI agent had
22 downloaded.
23 In addition, you can go back to the original
24 disk, but I'm just sticking right now with what is
25 already known to the government because their own
26 agents downloaded it so they could see it.
27 THE COURT: What was the date, the original
28 date, the first visit to the Jackson home by the 3149

1 Arvizos. What was the date of that.
2 MR. SANGER: That was in 2000.
3 THE COURT: 2000.
4 MR. SANGER: And this is November 17th,
5 2003. So February and March, the first part of
6 March of 2003, are the relevant time periods for
7 this case. And after that, the Arvizos were never
8 back to the ranch after March 12th or 13th. So
9 we're talking about November 17th. It appears that
10 somebody using a screen name which is similar to a
11 name of Mr. Jackson's cousin, which is the name of
12 Mr. Jackson's cousin, is -- has accessed some
13 basically -- looks like has gone to some sites, or
14 material showed up on the screen on November 17th.
15 Now, given the fact that there's several of
16 them here, it's quite possible a person went to the
17 site. There's a list of some of the sites here, but
18 there's no -- if you look at page six and page seven
19 of that exhibit, there is no indication of when
20 those sites were ever looked at, if they were. And
21 I think there's a date of 10-5-2003 at the top of
22 that as to when that -- that's -- the master site
23 was looked at. Okay.
24 THE COURT: Okay.
25 MR. SANGER: Now, if you go to the next
26 computer, which is Exhibit 628, and that's Computer
27 No. 347-A, there are two hard drives, there's the A
28 and the B. If you look at that on 347-A, we're 3150

1 hearing that this could be the desktop -- I just
2 heard Mr. Auchincloss say this could be the desktop

3 Star Arvizo saw, but remember his testimony was it
4 didn't work.
5 The images on this actually are also listed
6 to a certain extent on 647-B, so there's apparently
7 some exchange between these two hard drives. And
8 they could be, to a certain extent, mirror drives.
9 I give the Court as an example, there's a -- and
10 again, nothing here is unlawful, nothing whatsoever.
11 But there's something that's not even -- has no
12 relevance to this case called, "The Funniest
13 Grudge." And it's something taken off the Internet,
14 which is an attempt at humor with regard to Mr.
15 Jackson. And that shows up both on A and on B.
16 Now, the problem with A is that apparently
17 when the forensic people went to download this
18 material, they converted the time and the date to
19 February 26, 2004. So for 347-A, there is no
20 ability to go back in and determine whether or
21 not -- or when these things were actually recorded.
22 And as I say "recorded," if they're caught in cache,
23 it's because the image popped up on the screen at
24 some point. But there's just no way to tell from
25 the disk that was converted by law enforcement,
26 because they converted the date on it.
27 And once again, they talk about some -- what
28 Mr. Auchincloss called teenage websites. And 3151

1 actually, it's the same thing as the "Barely Legal"
2 or anything else. These are perfectly lawful. It's
3 over 18, 18-or-over kind of websites, but it appears
4 that it's a website that was not entered. It's a
5 website that was not entered. We don't know when
6 because it says, "February 26, 2004," and we assume
7 it was not the FBI that was entering the website, so
8 that was that.

9 Now, the other thing about adoption is just
10 completely off the wall. It's prejudicial. There's
11 absolutely no probative value. Mr. Jackson did
12 say --

13 THE COURT: Isn't the probative value that it
14 would tie Mr. Jackson to the computer that he was
15 interested in adopting children or --

16 MR. SANGER: Anybody in his household could
17 be interested in that. Grace Rwaramba, for
18 instance, his nanny --

19 THE COURT: I'm asking you -- I'm not asking
20 you for other reasons. Isn't that the probative
21 value.

22 MR. SANGER: If you could show Mr. Jackson
23 used the computer, yes.

24 THE COURT: Wasn't that how you show maybe he
25 used the computer, because he's interested in

26 adopting children.
27 MR. SANGER: The key word would be "maybe."
28 I'm not arguing with the Court. 3152

1 THE COURT: "Maybe," I can use that word.
2 MR. SANGER: Yes. And I'm just focusing --
3 that's the -- that's the probative value versus the
4 prejudicial effect. The probative value is very
5 weak on this. The adoption website simply shows --
6 it's not many pictures, but it shows pictures of
7 both boys and girls. And it looks like somebody had
8 looked at an adoption website for whatever purpose.
9 It's certainly not illegitimate, and there's nothing
10 salacious about that, unless the District Attorney
11 wants to argue that it's a powerful link somehow to
12 this particular case.
13 Now, when you go to 347-B, we have yet
14 another problem.
15 THE COURT: That would be 629.
16 MR. SANGER: Yes, I'm sorry. That's the
17 last one. There's a new Exhibit 629 computer, which
18 is logged in as 347-B.
19 They have these W-A-F reports in there that
20 show that people could abuse this computer for going
21 to websites. They could have gone to the websites
22 for just a very brief period of time, and we don't
23 know. It could have been anybody, and it could have
24 been at any time, because the W-A-F Reports don't
25 have any dates.
26 The interesting thing is that on this
27 computer -- and here's where contamination is a
28 problem. On this computer, 347-B, you have the 3153

1 exact same cached material that you have on 626.
2 Those few pictures -- it's not -- I don't think they
3 copied them here. They didn't copy them here, but
4 it's on the disk that law enforcement prepared.
5 It's -- the very same cached material on 347-B is
6 the material that we talked about in the very first
7 computer, which was -- which you saw, you saw the
8 pictures of it, the ones we talked about where
9 somebody had gone -- or those pictures had come up
10 in an e-mail, or they had come up by somebody going
11 to a site, they did not enter the site. And it has
12 the very same date of October 28, 1998, on it. Now,
13 the very same time, from 3:57 a.m. to 4:01 a.m. So
14 it is somehow that those images are duplicated on
15 this totally different computer. And it's
16 impossible to tell whether this is contamination
17 caused by the government, or if it's

18 contamination -- or there is some other explanation.
19 But it's hard to imagine what explanation there
20 would be for that since these are simply cached
21 images.
22 And it would be extremely improbable that
23 the exact minute -- and, in fact, it breaks it down
24 into seconds -- the exact seconds, the same exact
25 images were retrieved in this four-minute period on
26 October 28, 1998, by two separate -- completely
27 separate computers.
28 So having -- having said that, the probative 3154

1 value of this is extremely weak. It doesn't tell us
2 anything about the events of this case. It doesn't
3 tell us anything about the testimony of the
4 witnesses in this case. The state of the evidence
5 is there are computers around. There's a desktop
6 computer that didn't work. The government now wants
7 to say it's one of these. But that's that. That's
8 the evidence. The fact that somebody at some time
9 later may have accessed some adult sites that are
10 all heterosexual, most of them are just topless
11 pictures, that somebody accessed that completely
12 lawful material in September, October, and primarily
13 November of 2003, or somehow, on two of these
14 computers, at exactly the same nanosecond, somehow
15 ended up with cached pictures from one website in
16 1998, there's just no probative value to that.
17 The prosecution's homework hasn't been done,
18 because this is not in proper order and it was given
19 to us at the last minute, culled from everything
20 else they had. But if it's done, I don't see how
21 they could possibly get to the point where this is
22 probative, and I think it does tend to be very
23 prejudicial.
24 And when you hear Mr. Auchincloss talk about
25 it as a powerful link, I assume that's a prelude to
26 his closing argument, or somebody's closing argument
27 on that side, and that's exactly what it is not, and
28 that's why it should not come in. 3155

1 Thank you, Your Honor.
2 MR. AUCHINCLOSS: Just a few remarks, Your
3 Honor.
4 First of all, as with all circumstantial
5 evidence, you have to look at the evidence in the
6 context of all the evidence in the case.
7 In this case, they are saying that it is
8 just a coincidence that in these four -- or these
9 three computers, these four hard drives, it's just a

10 coincidence that they have erotic materials on them.
11 It's just a coincidence that they have teen erotic
12 materials on them. It's just a coincidence that all
13 three of these computers are found in his private
14 sanctuary, his bedroom. It's just a coincidence
15 that Gavin Arvizo and Star Arvizo were shown erotic
16 materials in his private bedroom. And it's just a
17 coincidence they were shown the same type of erotic
18 materials, teen erotic materials.
19 THE COURT: How could they have been shown
20 these materials, though.
21 MR. AUCHINCLOSS: Well, we're not saying
22 they were shown these materials. It's conceivable,
23 and it's possible that the computer from '98 has
24 information on it that was shown to these children.
25 But as you may recall, Gavin Arvizo took
26 that computer that he believes -- he wasn't sure,
27 but he believes that was the computer, the computer
28 he viewed the images on in Mr. Jackson's bedroom, 3156

1 that computer was the computer he was given. And as
2 you also know, that computer ultimately made its way
3 back to Mr. Jackson after it was broken. So we can
4 assume, circumstantially perhaps, that that computer
5 is discarded and gone. But, if it wasn't the
6 computer, it's possible -- I don't think it's
7 probable, but it's possible that one of these
8 computers was the very same computer that Gavin
9 Arvizo observed this pornography on.
10 And I might mention that the computer that
11 has these older images on it is the same computer
12 that Gavin Arvizo picked out of a lineup of
13 computers as being the one most like the computer
14 that was given to him. But again, it doesn't tie it
15 up perfectly.
16 The bottom line here is, is that this is
17 circumstantial evidence that this defendant views
18 teen pornographic, or erotic materials, on computers
19 in his bedroom, which is one of the most important
20 aspects of our -- was one of the important aspects
21 of our case. And, as you know in these cases, it's
22 always a matter of the credibility of the young
23 victim. So corroboration is always highly probative
24 to show that -- these young victims, when they're
25 telling the truth. And I don't think you can just
26 say it's a coincidence that these materials are on
27 these, all three of them, and all in his bedroom,
28 and all seeking the same sites. 3157

1 Now, I will mention a few things Mr. Sanger

2 said were wrong.
3 First of all, in the very first group of
4 information, Exhibit 626, we have an Internet cache
5 in the back of that exhibit. This is a history,
6 just like you and I have on our computers. It shows
7 the history of sites that were recently visited or
8 most recently visited. And they're virtually all --
9 we've got "Teen Steam," "Gatefold," numerous hits to
10 "Teen Sleaze," "slut1.com."
11 THE COURT: What are you referring to.
12 MR. AUCHINCLOSS: I'm referring to page 22
13 of 626. The Netscape history of showing the sites
14 that were most recently viewed.
15 THE COURT: By "recently viewed," what does
16 that mean.
17 MR. AUCHINCLOSS: Recently, the last sites
18 that were viewed on this computer.
19 THE COURT: In 1998.
20 MR. AUCHINCLOSS: Well, some of these sites
21 you can see go to 2001. There's one here that says,
22 "Karas Adult 2002, 3, 01." That's on page 23. And
23 that would be within the time frame that the Arvizo
24 children were on Neverland.
25 But more importantly, it shows knowledge.
26 It shows he understands how to use computers, which
27 not everyone does, and it shows his familiarity with
28 the Internet and Internet adult sites. 3158

1 As for --
2 THE COURT: The testimony wasn't that he
3 went on line, the testimony was that someone else
4 went on line, right. I mean, when the children say
5 they saw the -- it was the other person in the room
6 that --
7 MR. AUCHINCLOSS: Frank.
8 THE COURT: Frank.
9 MR. AUCHINCLOSS: Frank was operating the
10 computer at the time, but it was Mr. Jackson -- we
11 are saying it is our position that Mr. Jackson is
12 showing this porn to -- or this adult material to
13 these children.
14 Now, as far as the legality of it, you know,
15 they advertise themselves as being teen pictures.
16 We don't know. As far as -- the bulk of Mr.
17 Sanger's arguments go to weight. He can ask our
18 witness, our expert witness, what percentage of
19 these -- of the total information on these computers
20 comprise this type of information. But as with any
21 computer that holds a tremendous volume of this type
22 of information, every fragment is going to be a
23 small percentage of the whole.
24 THE COURT: Do you have another witness you

25 can put on, other than the one you were going to
26 call for this, right now.
27 MR. AUCHINCLOSS: Possibly.
28 THE COURT: I have some severe reservations 3159

1 about allowing you to put this on, so I'm going to
2 ask you to call another witness. I may require some
3 further foundation outside the presence of the jury
4 with your expert.
5 MR. AUCHINCLOSS: All right.
6 THE COURT: I need to -- I'm not prepared to
7 rule at this moment on it, although I am leaning
8 towards excluding it.
9 MR. AUCHINCLOSS: I guess the next step
10 would be to file some points and authorities on it
11 for you. But if you would like to call -- I think
12 maybe the best thing to do would be to allow us to
13 have -- to call our expert, and have you question
14 him, and we can question him, and maybe focus your
15 concern --
16 THE COURT: The problem with that is the
17 jury is sitting waiting. And I've asked that we --
18 you know, when we have these type of issues that we
19 set them at times when the jury's not here, and we
20 use the jury for evidence that they can hear.
21 MR. AUCHINCLOSS: Can you tell me what --
22 can you tell me what your concern is so that I may
23 attempt to address it.
24 THE COURT: No. Do you have another witness.
25 MR. AUCHINCLOSS: We can -- we'll check,
26 Your Honor. We'll see who's available.
27 THE COURT: All right.
28 (Recess taken.) 3160

1 THE COURT: What I want to do is take the
2 break now, while you're looking for a witness, so
3 you don't just start the witness.
4 So we'll take a 15-minute break now while
5 you find your witness.
6 (Recess taken.)
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1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE)

5 OF CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR,

13 CSR #3304, Official Court Reporter, do hereby

14 certify:

15 That the foregoing pages 3134 through 3161

16 contain a true and correct transcript of the

17 proceedings had in the within and above-entitled

18 matter as by me taken down in shorthand writing at

19 said proceedings on March 23, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 23, 2005.

24

25

26

27 MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

28 3162

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SANTA BARBARA

3 SANTA MARIA BRANCH; COOK STREET DIVISION

4 DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

5

6

7 THE PEOPLE OF THE STATE OF)

8 CALIFORNIA,)

9 Plaintiff,)
10 -vs-) No. 1133603
11 MICHAEL JOE JACKSON,)
12 Defendant.)
13
14
15
16
17 REPORTER'S TRANSCRIPT OF PROCEEDINGS
18
19 WEDNESDAY, MARCH 23, 2005
20
21 8:30 A.M.
22
23 (PAGES 3163 THROUGH 3320)
24
25
26
27 REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
28 BY: Official Court Reporter 3163

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28 3164

1 I N D E X

2

3 Note: Mr. Sneddon is listed as "SN" on index.

4 Mr. Zonen is listed as "Z" on index. Mr. Auchincloss is listed as "A"
on index.

5 Mr. Franklin is listed as "F" on index. Mr. Mesereau is listed as "M"
on index.

6 Ms. Yu is listed as "Y" on index. Mr. Sanger is listed as "SA" on
index.

7 Mr. Oxman is listed as "O" on index.

8

9 PLAINTIFF'S

10 WITNESSES DIRECT CROSS REDIRECT RECROSS

11 COOLEY, 3168-SN 3175-M 3189-SN 3190-M Robert Charles

12 PADILLA, Freddy 3191-SN 3209-M

13 BONNER, Craig 3224-SN 3259-M 3280-SN

14 3260-SN 3262-M

15 (Further) (Further)

16 CANTU, Antonio A. 3283-A 3313-SA

17

18

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28 3165

1 E X H I B I T S

2

3 FOR IN PLAINTIFF'S NO. DESCRIPTION I.D. EVID.

4

5 151 Photograph of two bottles of alcohol 3259 3260

6 295 Photograph corresponding

7 to Exhibit 471 3244

8 471 Various items contained through in Exhibit 470

9 529 3244

10 530 Magazine pages/ through magazines

11 551 3234

12 552 Brown bag containing book 3207

13 554 Binders containing through magazines

14 560 3227

15 626 Apple laptop, Power G-3 3279

16 627 Vaio Model PCV-W20 3279

17 628 Apple Power Mac G-4 3279

18 629 Apple Power Mac G-4 3279

19 632, Photographs corresponding 634 to Exhibits 473-477, 479-481
20 through 483, 485, 487-492, 494-508 681 510-525, and 528 3244
21 682 Photographs of cover sheets
22 through of Exhibits 554 through 560 688 3228 3229
23 689 Photographs of front covers
24 through of Exhibits 530 through 551 3236 709
25
26
27
28 3166

1 E X H I B I T S (Continued)
2 FOR IN
3 PLAINTIFF'S NO. DESCRIPTION I.D. EVID.
4 720 Brown evidence bag
5 containing a white envelope with Dieter Weizner's
6 and Udo Schaar's names and phone numbers 3256 3257
7 721 Photograph of Macaulay
8 Culkin 3257
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1 (The following proceedings were held in
2 open court in the presence and hearing of the
3 jury:)
4
5 THE COURT: (To the jury) You didn't get it.
6 It's "Simon Says."
7 All right. Call your next witness.
8 MR. SNEDDON: Detective Cooley.
9 THE COURT: Actually, we've been in session,
10 even though you haven't been here. We were handling

11 some issues that we had to handle. That's why it
12 was not a formal introduction.

13 THE CLERK: Please raise your right hand.

14

15 ROBERT CHARLES COOLEY

16 Having been sworn, testified as follows:

17

18 THE WITNESS: I do.

19 THE CLERK: Please be seated. State and

20 spell your name for the record.

21 THE WITNESS: My name is Robert Charles

22 Cooley. Last name, C-o-o-l-e-y.

23 THE CLERK: Thank you.

24

25 DIRECT EXAMINATION

26 BY MR. SNEDDON:

27 Q. Good morning.

28 A. Good morning. 3168

1 Q. You're employed by the sheriff's department,
2 correct.

3 A. Yes, I am.

4 Q. How long have you been with the sheriff's

5 department.

6 A. Be 25 years in July.

7 Q. And what are your current assignments.

8 A. My current assignment is I'm a detective

9 stationed out of the Santa Ynez/Solvang station.

10 Q. Back on November the 18th of 2003, were you

11 involved in the execution of a search warrant at the

12 Neverland Valley Ranch.

13 A. Yes, I was.

14 Q. And were you assigned some specific

15 responsibilities in connection with the execution of

16 that search warrant.

17 A. Yes, I was.

18 Q. And what responsibilities -- what was your

19 primary responsibility that day.

20 A. My primary responsibility was as a scribe at

21 the arcade building on that property.

22 Q. Would you explain to the ladies and

23 gentlemen of the jury just what it means to be a

24 scribe in connection with the execution of a search

25 warrant.

26 A. Being a scribe means that you're responsible

27 for taking and seizing all evidence that's located

28 by other searchers, and then packaging and sealing 3169

1 that evidence and documenting that evidence on a

2 report.

3 Q. All right. Did you do that on that
4 particular day in the arcade.
5 A. Yes, I did.
6 Q. And did you do it in conjunction with some
7 particular officers.
8 A. Yes, I did.
9 Q. And Officer -- Detective Conn Abel was one
10 of the people you worked with that day.
11 A. Yes, he was.
12 Q. And when you set up business or set up your
13 location in the arcade, particularly where did you
14 set up your position to become a scribe. Where you
15 did your scribing, I guess would be the best way to
16 put it.
17 A. There were actually a couple locations.
18 Down where we did the first floor, I just set up on
19 a table down there. And then when we moved up there
20 to a library area in that same building, I was right
21 outside the library door.
22 Q. And what about when you went in the cellar.
23 A. We went in the cellar. That stuff was
24 actually brought back to the table that was on the
25 first floor.
26 Q. Okay, good. Now, I'm just going to show you
27 a few items here.
28 MR. MESEREAU: Excuse me, can I see them 3170

1 before they're --
2 MR. SNEDDON: I thought you had.
3 MR. MESEREAU: I follow.
4 MR. SNEDDON: 581, 582 and 583.
5 MR. MESEREAU: Oh, okay.
6 Oh, all right. Okay, thank you.
7 Q. BY MR. SNEDDON: All right. Let's talk
8 about the first one. It's an item designated in
9 this case as Exhibit 581. Do you see that.
10 A. Yes, sir, I do.
11 Q. And inside of that are three books in a
12 brown paper bag. Do you see that.
13 A. Correct.
14 Q. Do you recognize the brown paper bag.
15 A. Yes, I do.
16 Q. When and where was the first time you saw
17 that brown paper bag.
18 A. That would have been when the items were
19 seized from the cellar area, and I placed them in
20 that brown paper bag, and that's my writing on the
21 outside of that brown evidence bag.
22 Q. So the white -- the white piece of paper
23 with the black writing is your handwriting; is that
24 correct.
25 A. Yes, it is.

26 Q. And with regard to that particular item,
27 581, did you put those books into that brown paper
28 bag. 3171

1 A. Yes, I did.

2 Q. And what did you do with the brown paper bag
3 after you put the books inside of it, into 581.

4 A. I sealed it, and then initialed and wrote my
5 name on the outside of the evidence tag, seal
6 itself.

7 Q. And do you see those initials now.

8 A. Yes, they're still there.

9 Q. Okay. Now, why don't you put that item
10 aside.

11 Now, currently -- let me just ask you this.

12 Currently that's in a plastic bag, the whole brown
13 paper bag with the three books.

14 A. That's correct.

15 Q. Do you have any knowledge about where the
16 plastic bag came from.

17 A. Not of this bag, but I know of the nature,
18 why this bag was used.

19 Q. Why was that.

20 A. This is because occasionally if evidence is
21 going to be reviewed, it's opened, that the paper
22 bag starts to get fragile and can't be sealed
23 properly, and then they'll place it back in another
24 larger bag, in this case this plastic bag, and
25 reseal the plastic bag.

26 Q. And that's a procedure you've used before.

27 A. Yes, it is.

28 Q. Now, let's direct your attention to Item 3172

1 582, which is in evidence here. You've picked up a
2 brown bag, correct.

3 A. Correct.

4 Q. Do you recognize that bag.

5 A. Yes I do.

6 Q. And when and where was the first time you
7 saw that particular bag.

8 A. This bag with this book was found up in
9 the -- correction. The book was found in the
10 library area in the upper story of the arcade
11 building.

12 Q. Yes, sir.

13 A. And I placed this book inside this paper
14 bag, and this is my handwriting on the white tag on
15 the outside.

16 Q. And after you put the bag -- after you put
17 the book into that particular bag, what did you do

18 with it.
19 A. Then I sealed the paper bag and wrote my
20 name on the outside of the seal.
21 Q. And you see the seal and your initials on
22 the bag.
23 A. Yes, it's still there.
24 Q. Okay. Now, let's look at 583 if we can.
25 583 is a smaller brown paper bag, correct.
26 A. Correct.
27 Q. All right. And when and where was the first
28 time that you saw that particular bag. 3173

1 A. This also was from the library in the upper
2 story of the arcade area.
3 Q. You're talking about the item that's inside
4 the bag, correct.
5 A. Right.
6 Q. And that was given to you by somebody.
7 A. Yes, it was.
8 Q. And who was that.
9 A. At this point I don't recall. It would have
10 been one of the searching detectives that was in the
11 library at the time.
12 Q. So they gave it to you and you put it in the
13 bag and it has a white piece of paper with writing
14 on the front, correct.
15 A. Correct.
16 Q. And is that your handwriting.
17 A. Yes, it is.
18 Q. Now, did you also seal that particular bag.
19 A. Yes, I did.
20 Q. Do you see the place where you sealed it and
21 your initials.
22 A. It's still there.
23 Q. Now, with regard to the Items 581, 582 and
24 583, after you sealed them, you put the items that
25 were given to you by the officer, seizing officer,
26 put them in the bag, you sealed it, and you put the
27 identification information on the front as you've
28 told the jury. 3174

1 What did you do with those three particular
2 items after that.
3 A. After they were sealed and we were -- we
4 concluded our search, these were turned over to
5 forensics detectives at the search warrant scene,
6 the front of the main house.
7 MR. SNEDDON: All right. Thank you. No
8 further questions.
9 THE COURT: Questions.

10 MR. MESEREAU: Yes, please, Your Honor.
11
12 CROSS-EXAMINATION
13 BY MR. MESEREAU:
14 Q. Good morning.
15 A. Good morning.
16 Q. You said your function was to be a scribe.
17 A. That's correct.
18 Q. And as a scribe, do you do any search
19 yourself.
20 A. Occasionally we will do searching also,
21 depending upon how large the area is.
22 Q. Did you search anything on that particular
23 day, November 18th.
24 A. I believe so, I did, yes.
25 Q. What did you search.
26 A. I assisted in the search of the downstairs
27 arcade building, and actually the whole building,
28 the arcade, the cellar and the upstairs library 3175

1 area.
2 Q. Now, you indicated that as a scribe, you --
3 I think you said words to the effect, you were at a
4 location where people would bring items to be seized
5 to you.
6 A. Correct.
7 Q. And where was this location that you were
8 talking about.
9 A. In particular, downstairs, the first
10 location was at the front of the arcade on a table
11 there. And then when we moved upstairs to the
12 library area, was right outside the door of the
13 library.
14 Q. And were you sort of searching and then
15 being a scribe, and then searching and being a
16 scribe, or just being a scribe the whole time.
17 A. No, I was doing some searching, and if
18 somebody found an item of evidence that needed to be
19 seized and packaged, then I would do my job as the
20 scribe, seize the item, package and then seal it.
21 Q. Do you package and seal to prevent
22 contamination.
23 A. I package and seal to preserve the evidence
24 that's given to me.
25 Q. Do you package and seal to prevent
26 contamination.
27 A. If I'm following you, to -- I'm not exactly
28 sure what you're looking for contamination-wise. 3176

1 Q. Do you know what contamination of evidence

2 means.

3 A. Fingerprints, et cetera. Is that what
4 you're looking for.

5 Q. I'm asking if you know what contamination of
6 evidence means.

7 A. I guess I'm not following the course. When
8 it's given to me, I package it as it's given to me.

9 Q. Let me -- maybe I'm not being clear. Have
10 you ever heard of the word "contamination" when it
11 comes to evidence.

12 A. Yes.

13 Q. What does that mean to you.

14 A. It depends a lot on the evidence. If it's
15 evidence that we think might need to be
16 fingerprinted, then it's placed in a paper bag and
17 sealed. If it's evidence that we think might need,
18 say, DNA, for instance, it's packaged and sealed
19 accordingly to keep others from touching it.

20 Q. Were any of the three items in front of you
21 packaged and sealed to prevent contamination.

22 A. Well, I was the last one to handle it, so it
23 was packaged in there, and then it wasn't my call
24 whether it needed to be fingerprinted later on. So
25 I just packaged it, I was the last one to handle it,
26 packaged it like I would normally package evidence,
27 and then it was turned over to forensics.

28 Q. Did you package it to preserve the items so 3177

1 it could be fingerprinted.

2 A. I would have to say I did. I was the last
3 one to handle it, and it was sealed and turned over
4 to forensics.

5 Q. Were the three items that you packaged and
6 sealed packaged and sealed to preserve the ability
7 to do any DNA testing.

8 A. That, again, would not have been my call. I
9 was wearing gloves, when I was packaging evidence,
10 so if anything later on needed to be completed,
11 fingerprinting, DNA evidence, it was packaged in
12 paper to preserve that, and then turned over to
13 forensics, and then forensics would have made the
14 call as to how they handled it after that.

15 Q. So am I correct in assuming that you
16 packaged and sealed those three items to preserve
17 the possibility of both fingerprinting and DNA
18 testing on those items.

19 A. That's one of the reasons why they're
20 packaged and sealed immediately, yes.

21 Q. And what are the other reasons why they're
22 packaged and sealed immediately.

23 A. To prevent a confusion as to evidence being
24 seized and who seized it.

25 Q. Now, when you turn them over to forensics,
26 you're saying it's their responsibility to decide
27 whether they're going to test for fingerprints or
28 not. 3178

1 A. Not exactly. It would probably be the lead
2 investigator or the investigators on the case that
3 would decide what they were going to have
4 fingerprinted and what they were going to have
5 tested for DNA.

6 Q. Now, in your function as a scribe, does it
7 ever happen that someone says to you, "See this
8 evidence. We're going to do fingerprinting
9 testing".

10 A. Has it ever happened to me.

11 Q. Yes.

12 A. Yes.

13 Q. It didn't happen in this case, correct.

14 A. In --

15 Q. With respect to these three items.

16 A. In this particular case, with respect to
17 these three items, I was not told specifically that
18 these were to be fingerprinted. I just packaged
19 them like I would normally package them.

20 Q. And you were not told specifically that
21 anyone wanted to do DNA testing on those three
22 items, correct.

23 A. That's correct.

24 Q. And who handed those items to you.

25 A. They would have been the searching
26 detectives that were assigned to that building. And
27 I do not recall who specifically handed these items
28 to me. 3179

1 Q. Don't you normally note that on the item.

2 A. Not normally in the course of search
3 warrants that I've conducted. It's my
4 responsibility to take the item and then package it
5 and seal it as the seizing deputy.

6 Q. In terms of determining what is called
7 "chain of custody," meaning who had possession of
8 the item at a particular time, don't you normally
9 note that on the package.

10 A. No, because I become -- in my particular
11 job, I become the seizing detective. Each of these
12 items was photographed where it was located, and
13 then brought to me, and I packaged it, became the
14 seizing detective, and became responsible for the
15 evidence.

16 Q. And is any record made, to your knowledge,

17 of -- excuse me, let me rephrase that.
18 Was any record made, to your knowledge, of
19 who in particular gave you either of those three
20 items.
21 A. Not to my knowledge. I have the detectives
22 listed in my report that was on scene at the time.
23 Q. If you wanted to determine who gave you one
24 of those three items, what would you do.
25 A. Probably have to go back to the detectives
26 that were on scene and ask them if they remembered
27 actually locating that item.
28 Q. You would have to rely on their memory. 3180

1 A. Correct.
2 Q. To your knowledge, no written record is made
3 when someone hands you an item of evidence that may
4 later be used in a case.
5 A. It wasn't done in this case, no.
6 Q. It wasn't done in this case.
7 A. No.
8 Q. Well, you're aware that approximately 69
9 people related to the sheriff's department descended
10 on Neverland on that particular day, right.
11 A. Correct.
12 Q. And do you know how many of those 69 people
13 or approximately 69 people were involved in the
14 search.
15 A. Of the arcade building.
16 Q. Of any part of Neverland.
17 A. Not exactly, no.
18 Q. You had a meeting of those who were going to
19 be involved in the search before you arrived,
20 correct.
21 A. Correct.
22 Q. And guidelines were given to everyone before
23 you entered Mr. Jackson's premises, right.
24 A. Assignments were made, yes.
25 Q. And are you telling the jury that there was
26 no procedure to ensure if someone took a piece of
27 evidence or whatever they wanted to use it for and
28 handed it to another officer, there was no procedure 3181

1 to identify who did that.
2 A. Not that I recall that was brought up at the
3 briefing.
4 Q. What was brought up at the briefing, now.
5 A. Again, assignments, as to who was going to
6 be searching what part of the ranch.
7 Q. But what I'm saying is this: Aren't reports
8 typically made -- if someone decides, for whatever

9 reason, good, bad, or indifferent, to focus on a
10 particular item, pick up that item, take it to a
11 scribe, like yourself, are you saying there is no
12 record made of who actually initially retrieved the
13 item and for what reason.

14 A. I did not make a record of that, no. I
15 became the seizing detective.

16 Q. Okay. So in other words, what you're saying
17 is, the, quote, seizing detective is responsible for
18 packaging items, but not responsible for determining
19 how those items even got to he or her, correct.

20 A. I can tell you which part of the arcade
21 building these items came from.

22 Q. But you can't tell me who handled them
23 before you did, right.

24 A. No.

25 Q. And you can't tell me where they were found
26 before you got them, right.

27 A. Only if I go back and look at the
28 photographs prior to them being brought to me. 3182

1 Q. And were they photographed before you got
2 them.

3 A. Yes.

4 Q. Okay. Would the photographs identify who
5 did the photographing.

6 A. The photographs would have on them who
7 actually took the photo.

8 Q. Would the photographs identify who actually
9 retrieved the item initially.

10 A. That I don't know. I would have to look at
11 the photograph to see if the detective who actually
12 located the item is in the photo.

13 Q. Well, you're aware in this case I think --
14 and tell me if you're not. But I think you're aware
15 that there have been photographs taken of magazines,
16 for example, that were allegedly in particular
17 locations at Neverland, right.

18 A. I was not aware of items seized or
19 photographs taken in other portions of the ranch
20 except for the arcade building.

21 Q. Well, if it became an issue in a case like
22 this how a particular magazine was in a particular
23 location, or how a book or a magazine got out of a
24 box, for example, that it initially was in, are you
25 saying no record is made of who would have put their
26 hands in the box and picked the book or magazine
27 out.

28 A. In my case, with these three items, that was 3183

1 not done.
2 Q. Do you know why that wasn't done.
3 A. Actually, no, I don't.
4 Q. But wouldn't you agree that in many other
5 situations you've been in, it has been done.
6 A. I have never done it acting as a scribe.
7 I've always just seized the item, made sure it was
8 photographed prior to it being moved and brought to
9 me, or if I actually went and retrieved the item,
10 I made sure it was photographed before I moved it
11 and seized it.
12 Q. I'm sorry, I didn't --
13 A. That's okay.
14 Q. Did you finish.
15 A. Yes, I had.
16 Q. Let me ask you this: Let's take one of
17 those books, okay. Doesn't matter which one. Let's
18 assume the book is found in a bookcase, all right.
19 A. Okay.
20 Q. Now, you know there were lots of bookshelves
21 in the library area, correct.
22 A. Correct.
23 Q. There were lots and lots of books all over
24 the library, right.
25 A. Correct.
26 Q. And you probably didn't count them, but you
27 certainly saw shelf after shelf after shelf, right.
28 A. Yes. 3184

1 Q. And along with the shelves, you saw boxes
2 everywhere, right.
3 A. Right.
4 Q. And there were books found in those boxes,
5 right.
6 A. Correct.
7 Q. Now, if someone opens a box, takes a book
8 out, places it on the ground, looks at other books,
9 takes them out, puts them on the ground, and
10 somewhere in that search finds something they want
11 to give to you, there's really no record of knowing
12 where that particular item was when it was first
13 seen, correct.
14 A. Correct.
15 Q. In other words, if someone took a bunch of
16 books out of a box, laid them around, and decided to
17 focus on one of them, there would be no way of
18 knowing if that person even placed that book in a
19 particular location when it was photographed, right.
20 A. Correct.
21 Q. The only real record would be that that
22 particular book was given to you and as the scribe,
23 you're responsible for saying, "We found this in

24 this area," right.
25 A. Correct.
26 Q. And you're aware that sometimes it becomes
27 an issue in an investigation as to where something
28 actually was located initially, right. 3185

1 A. Correct.
2 Q. In other words, if something's in a box, it
3 might suggest something different than if something
4 is up on a shelf in plain view, right.
5 A. Correct.
6 Q. You're saying that in this particular
7 investigation at Neverland, with approximately 69
8 sheriffs searching, no provision was made to
9 identify exactly who found an item first and where
10 they found it, right.
11 MR. SNEDDON: I'm going to object as beyond
12 the scope. I'm going to object lack of foundation
13 as to other officers. He can only speak for himself
14 THE COURT: All right. You're -- sustained.
15 MR. MESEREAU: Okay.

16 Q. Was the intention, as far as you're
17 concerned -- I'm only talking about your work as a
18 scribe. Was the intention to make sure you were the
19 only person that could identify something that was
20 found in the area where you were searching. In
21 other words, was the intention the following: "If
22 an item is used in the courtroom, the records will
23 indicate that I'm the only one responsible for
24 identifying where that item was found".
25 A. I think the intent was just to try to
26 minimize the number of people that may have to step
27 up and say, you know, "Yes, this item was seized and
28 it was seized from the arcade building during the 3186

1 course of this search."
2 Q. Uh-huh. Now, the word "scribe" suggests
3 someone who writes something, obviously, but you
4 were doing more than that, right.
5 A. Correct.
6 Q. And if someone made the decision that a
7 particular item found was going to possibly be used
8 in the case, did you then stop your searching and go
9 down and do the sort of scribe-type function.
10 A. Yes.
11 Q. And how much time did you spend in the
12 library that day, if you remember.
13 A. I don't recall.
14 Q. And was it a lot of time.
15 A. We were there for all day. And I don't

16 recall exactly how much time we spent in the
17 library, no.
18 Q. Were you looking at books in the library
19 yourself.
20 A. Yes, I was looking.
21 Q. Were you going through the shelves to see
22 what books were on the shelves.
23 A. I don't recall exactly what part of the
24 library I searched, but I'm sure I looked at some of
25 the books on the shelves.
26 Q. Well, was your desire to sort of go book by
27 book and see sort of what each book was.
28 A. I don't recall if I actually pulled every 3187

1 book out. I think I was just more looking to see
2 what was in the general area. The library was quite
3 crowded, so I mainly stayed back at the door to do
4 the seizing.

5 Q. And to your knowledge, was any effort made
6 to forensically determine who had been in the
7 library and looking at those books.

8 A. Forensically.

9 Q. Yes.

10 A. Like fingerprints afterwards, or --

11 Q. Sure.

12 A. To the best of my knowledge, that I recall,
13 everybody was wearing gloves when they were doing
14 their searching, so if you're -- I'm not sure
15 exactly what you're asking, here again.

16 Q. Well, everybody was told -- excuse me,
17 that's not the right word.

18 People were directed into the library,
19 walked wherever they wanted to walk, right. Looked
20 around as they chose. And if they saw a book
21 somewhere that interested them, bring it to you,
22 right.

23 A. That's correct. We have a list of people
24 that were in the library.

25 Q. And three books were brought to you.

26 A. These three items here.

27 Q. Yes. Those three items that were brought to
28 you. 3188

1 A. Okay.

2 Q. After those three items were brought to you,
3 did you continue looking at books.

4 A. I think, if I recall correctly at this
5 point, there was evidence coming out of the library,
6 and I mainly stayed at the door and did the seizing
7 and the scribing.

8 MR. MESEREAU: Okay. No further questions.
9 THE COURT: Redirect.
10 MR. SNEDDON: One question, Your Honor.
11
12 REDIRECT EXAMINATION
13 BY MR. SNEDDON:
14 Q. I think you told the jury before that one of
15 the ways that you ensure the integrity of where the
16 evidence came from is that you photograph in place
17 before it's picked up and taken.
18 A. That's correct.
19 Q. Is that a procedure that you use.
20 A. Yes, it is.
21 Q. To your knowledge, is that a procedure that
22 was used this day.
23 A. Yes, it is.
24 MR. SNEDDON: No further questions.
25 MR. MESEREAU: Very briefly, Your Honor.
26 //
27 //
28 // 3189

1 RE-CROSS-EXAMINATION
2 BY MR. MESEREAU:
3 Q. Mr. Sneddon used the word "in place."
4 Please tell the jury what the word "in place" means,
5 to you.
6 A. To me, "in place" means that the item was
7 photographed where the searching detective located
8 that item.
9 Q. Now, if an item is found at the bottom of a
10 box, pulled out of the bottom of the box and then
11 photographed, there is no guarantee it's going to be
12 photographed at the bottom of the box where it was
13 found, correct.
14 MR. SNEDDON: Your Honor, I'm going to
15 object as assumes facts NOT in evidence, that it
16 wasn't photographed in place.
17 THE COURT: The objection is sustained, but
18 I've warned you not to use speaking objections.
19 MR. SNEDDON: All right.
20 THE COURT: Objection sustained.
21 MR. SNEDDON: Lack of foundation.
22 MR. MESEREAU: No further questions, Your
23 Honor.
24 MR. SNEDDON: I have no further questions.
25 THE COURT: Thank you. You may step down.
26 MR. SNEDDON: Deputy Padilla.
27 THE COURT: Come to the front of the
28 courtroom, please. When you get to the witness 3190

1 stand, please remain standing. Face the clerk and
2 raise your right hand.

3

4 FREDDY PADILLA

5 Having been sworn, testified as follows:

6

7 THE WITNESS: Yes, I do.

8 THE CLERK: Please be seated. State and

9 spell your name for the record.

10 THE WITNESS: My name is Freddy Padilla.

11 F-r-e-d-d-y; Padilla, P-a-d-i-l-l-a.

12 THE CLERK: Thank you.

13 MR. SNEDDON: Why don't you hand me those,

14 these bags. Thank you.

15

16 DIRECT EXAMINATION

17 BY MR. SNEDDON:

18 Q. All right. Detective Padilla, how long have

19 you been -- you're with the sheriff's department,

20 correct.

21 A. Yes, sir.

22 Q. How long have you been with the sheriff's

23 department.

24 A. 11 years.

25 Q. And with regard to your current duty

26 assignment, what is that.

27 A. I'm a detective with the sheriff's office.

28 Q. And in what capacity are you a detective. 3191

1 A. I work personless crimes.

2 Q. On November the 18th of 2003, did you

3 participate in the execution of a search warrant at

4 Neverland Valley Ranch.

5 A. Yes, sir.

6 Q. What were your particular duty

7 responsibilities that day.

8 A. I was assigned to package the items of

9 evidence seized by the investigators and deputies at

10 the Neverland Ranch.

11 Q. Was there a particular location that you

12 were assigned to.

13 A. Yes, sir.

14 Q. Would you tell the jury where you were

15 assigned to.

16 A. The main house of the residence.

17 Q. And was there a certain location within the

18 main house.

19 A. Yes, sir.

20 Q. Where was that.

21 A. It was in Mr. Jackson's bedroom.

22 Q. And in connection with the execution of your

23 responsibilities -- maybe I didn't ask you this.
24 What was your responsibility.
25 A. The investigators would locate items of
26 evidence, seize them, and deliver them to me, and I
27 would package them and seal them, and according to
28 what they described, I would write on our SH-451, 3192

1 our sheriff's property form.
2 Q. Did you have a computer there handy where
3 you did this work on --
4 A. Yes, sir.
5 Q. -- as it was given to you.
6 A. Yes, sir.
7 Q. And on that particular day, you were given a
8 number of items; is that correct.
9 A. Yes, sir.
10 Q. All right. And....
11 MR. SNEDDON: Your Honor, I'm going to need
12 a second to retrieve a number of bags from over
13 here.
14 THE COURT: All right.
15 Q. BY MR. SNEDDON: I'm going to hand you an
16 exhibit marked as 580, clear plastic bag, binder
17 inside of it, in a brown bag, and ask you if you
18 recognize the Exhibit 580.
19 A. I don't recognize the item, but I recognize
20 the packaging and my writing.
21 Q. All right. And you said -- by "packaging,"
22 what do you mean by "packaging".
23 A. The brown paper bag. These are the bags
24 that I used at the Neverland Ranch, and I wrote down
25 the case number and the specifics about the case.
26 Q. And did you write down the officer who gave
27 you that item or gave you an item.
28 A. Yes, sir, I did. 3193

1 Q. Who was that.
2 A. This is Detective Shepherd.
3 Q. What was it that you were given that went
4 into that original brown bag.
5 A. On the property form, I would write down a
6 description according to the investigator, what they
7 seized, but here I wrote down "Magazines" on the
8 package.
9 Q. Okay. Now, after you were given the
10 magazine by Detective Shepherd, you placed it in
11 that brown bag that's inside of the Exhibit 580.
12 A. Yes, sir.
13 Q. And did you seal it in some fashion.
14 A. Yes.

15 Q. Would you describe how you sealed it.
16 A. It's the department-issued evidence tape and
17 I would staple it, seal it with the tape, and put my
18 initials and the date on it.
19 Q. And after you did that, what did you do with
20 the item.
21 A. I -- at the house, I stored it, and I
22 attempted to keep them in numerical order, given my
23 view.
24 Q. With regard to the brown bag that's -- with
25 regard to the brown bag inside the item marked as
26 580, is that what you did in this particular case.
27 A. Yes, sir.
28 Q. All right. Thank you. 3194

1 Now I've handed you an item that's marked I
2 believe, as 576; is that correct. Should be like a
3 tag down there.
4 A. The item is 303.
5 Q. And that's your item. This is the exhibit
6 item 576.
7 A. Oh, yes, sir.
8 Q. Do you see that.
9 A. Yes, I do.
10 Q. And with regard to the particular bag that's
11 been marked as exhibit item 576, do you recognize
12 that.
13 A. Yes, I do.
14 Q. And how do you recognize that.
15 A. By the -- my writing on the front of the
16 package.
17 Q. And when -- did you place something inside
18 that package.
19 A. Yes, sir.
20 Q. When and what did you place in there.
21 A. I don't know specifically. I'd have to look
22 on the SH-451.
23 Q. You don't recall, but you placed something
24 there.
25 A. Yes, sir.
26 Q. Does it indicate what officer it was that
27 gave you the items you placed in the bag, 576.
28 A. Not on this package. I'd have to look on 3195

1 the SH-451.
2 Q. Do you have your SH-451 there.
3 A. Yes, sir.
4 Q. All right. Why don't you do that. And this
5 is a document that was prepared at or about the time
6 that these entries were made; is that correct.

7 A. That's correct.
8 It says by Detective Shepherd.
9 Q. All right. And that's Item 576; is that
10 correct.
11 A. Yes, sir.
12 Q. And did you seal that item in much the same
13 fashion you described to the ladies and gentlemen of
14 the jury on the other one.
15 A. Yes, sir.
16 Q. All right. You have an item in front of you
17 marked as -- whichever one that you have that's
18 closest. It doesn't make any difference.
19 A. Exhibit 575.
20 Q. 575, all right. Do you recognize 575.
21 A. Yes, sir.
22 Q. And when and where was the Item 575 the
23 first time you saw it.
24 A. It was in the -- in the master bedroom of
25 Mr. Jackson.
26 Q. Did somebody bring you that.
27 A. Yes, sir.
28 Q. Bring something to you in that bag. 3196

1 A. Yes, sir.
2 Q. And who was that.
3 A. It was Detective Shepherd.
4 Q. And when Detective Shepherd gave you the
5 item, did you prepare the bag that's marked as
6 Exhibit 575.
7 A. That is correct.
8 Q. Did you put the item in it and seal it.
9 A. Yes, sir.
10 Q. In much the same fashion that you've
11 described.
12 A. Correct.
13 Q. All right. Let's turn our attention now to
14 569, if we could. That's in evidence.
15 With regard to 569, do you recognize that
16 item.
17 A. Yes, sir.
18 Q. And how do you recognize it.
19 A. The packaging.
20 Q. And do you recognize the handwriting.
21 A. Correct.
22 Q. Who's that. Whose handwriting is it.
23 A. It's mine.
24 Q. And with regard to that particular package,
25 you placed some items inside that package.
26 A. Correct.
27 Q. And from whom did you get the items that you
28 placed inside that package, 569. 3197

1 A. Detective Shepherd.
2 Q. And when you did that, did you seal it in
3 much the same fashion that you described to the
4 jury.
5 A. Correct.
6 Q. And with regard to after you have sealed the
7 Item 569, 575 and 576, what did you do with those
8 items.
9 A. I stored them in my view at the master
10 bedroom area.
11 Q. All right. All right, with regard to the
12 last item I've just given you, which is marked as
13 633 in evidence, do you recognize that.
14 A. Yes, sir.
15 Q. And how do you recognize that.
16 A. By the packaging.
17 Q. And whose handwriting is on that packaging.
18 A. That's my writing.
19 Q. When and where was the first time you saw
20 that bag.
21 A. When it was given to me by the investigator
22 in the master bedroom area.
23 Q. The bag itself, where was the first time
24 that you saw that bag. Not the item that's in it,
25 the bag.
26 A. The bag itself.
27 Q. Yes.
28 A. Empty. 3198

1 Q. Before you put the writing on it, yes.
2 A. You're asking where --
3 Q. I'm asking you a bad question. Let me try
4 and see if I can do it.
5 After the officer gave you an item --
6 A. Yes, sir.
7 Q. -- what did you do with it.
8 A. I put it in this bag and sealed it.
9 Q. Okay, thanks. That was a lot better.
10 A. Sorry.
11 Q. And does it indicate what officer gave you
12 the item.
13 A. Yes, it does.
14 Q. And who was that.
15 A. Detective Shepherd.
16 Q. Okay. And was it sealed and your initials
17 placed on it in much the same fashion as the others
18 I talked to you about.
19 A. Yes, sir.
20 Q. Okay. Let me hand you these items that are
21 in evidence as 588, 589.

22 All right. With regard to the Exhibit 588,
23 do you recognize that.
24 A. Yes, sir.
25 Q. And with regard to that particular exhibit,
26 when and where was the first time you saw it.
27 A. When it was brought to me by the
28 investigator in the master bedroom area. 3199

1 Q. Does that indicate to you who the officer
2 was who brought it to you.
3 A. Yes, sir.
4 Q. Who was that.
5 A. Detective O'Grady.
6 Q. And did you fill out the bag and the
7 information on the bag.
8 A. Yes, sir.
9 Q. And did you seal it.
10 A. Yes, I did.
11 Q. And place your initials on it.
12 A. Yes, sir.
13 Q. Now -- excuse me. Did you notice, with
14 regard to your SH-451, whether there's a difference
15 between the name on the bag and the name placed on
16 your SH-451 form.
17 A. Yes, I did.
18 Q. What's the difference.
19 A. On the package it says Detective O'Grady,
20 and on my SH-451, it has the name of another
21 investigator on it.
22 Q. And what, to your knowledge is the correct
23 one.
24 A. It's Detective O'Grady.
25 Q. You placed that on there when he gave you
26 the item.
27 A. That's correct.
28 Q. All right. You have now 589 in front of 3200

1 you.
2 A. Yes, sir.
3 Q. And with regard to the Exhibit 589, who gave
4 you that item.
5 A. D.A. Investigator Ellis.
6 Q. And did you place the information on that
7 particular exhibit.
8 A. Yes, sir.
9 Q. Did you place inside of that exhibit the
10 item that was given to you by Detective Ellis.
11 A. Correct.
12 Q. Or Investigator Ellis.
13 A. Correct.

14 Q. And did you then seal it. Is that correct.
15 A. That's correct.
16 Q. And made the notations on the bag.
17 A. Yes, sir.
18 Q. All right. Let me grab those.
19 Okay. The top item there, I believe, is
20 Item 710, if I'm not mistaken; is that correct.
21 A. 712.
22 Q. What is it.
23 A. This one's 712.
24 Q. 712, all right. 712. I guess I was
25 mistaken. With regard to that particular item, were
26 you given something to put inside that bag.
27 A. Yes, sir.
28 Q. Do you recognize the bag. 3201

1 A. Yes, I do.
2 Q. And how do you recognize it.
3 A. By the bag itself, my writing, and my
4 signature on the bag.
5 Q. And in that particular item, does it
6 indicate to you who the officer was that gave you
7 the item.
8 A. Yes, it does.
9 Q. Who is that.
10 A. Detective Wolff.
11 Q. And did you prepare the information, seal
12 the particular exhibit and put your initials on it
13 like you described in the other ones.
14 A. Correct.
15 Q. All right. Would you put that aside for
16 just a moment.
17 Sir, do you have an exhibit up there, let's
18 take the top one, and you just told me what it is
19 and --
20 A. Exhibit 562.
21 Q. All right. 562. Do you recognize that.
22 A. Yes, sir.
23 Q. And with regard to the particular exhibit,
24 it's a brown paper bag, did you put the notations on
25 that bag.
26 A. Yes, sir, I did.
27 Q. And was -- did an officer give you something
28 to place in that bag. 3202

1 A. That is correct.
2 Q. What officer was that.
3 A. Detective Alvarez.
4 Q. And did you do that. Did you place the item
5 in the bag.

6 A. Correct.
7 Q. And fill out the information.
8 A. Yes, sir.
9 Q. And did you then seal it and package it.
10 A. Correct.
11 Q. All right. The next one is item -- is that
12 288.
13 A. Correct.
14 Q. And with regard to 288, do you recognize
15 that.
16 A. I recognize the writing on the bag, yes,
17 sir.
18 Q. Is that yours.
19 A. Yes.
20 Q. All right. And were you given something to
21 put into that particular bag.
22 A. Correct.
23 Q. It's a large bag, right.
24 A. Yes, sir.
25 Q. And who's the officer that gave you the item
26 to put in there.
27 A. Detective Alvarez.
28 Q. And did you also place the item in that bag, 3203

1 seal it, and put your initials on the bag.
2 A. Yes, sir.
3 Q. And at that point, it was placed down with
4 the other items that were later given to somebody
5 else, correct.
6 A. Correct.
7 Q. You should have one other bag up there.
8 Perhaps it's underneath. No. 565.
9 A. I only see three.
10 Q. Okay. We'll have to search around for that.
11 SERGEANT ROBEL: Tom.
12 MR. SNEDDON: Oh. Never mind. I found it.
13 (Off-the-record discussion held at counsel
14 table.)
15 MR. SNEDDON: All right. 470, the
16 briefcase. Thanks, Lorna.
17 Q. I've handed you a briefcase that bears the
18 initials -- or the numbers 4-7-0 on it.
19 A. Yes, sir.
20 Q. It's in evidence in this particular case.
21 Do you recognize that briefcase.
22 A. I don't recognize the briefcase, no, sir. I
23 don't remember it.
24 THE BAILIFF: He has to speak up.
25 Q. BY MR. SNEDDON: I can't hear you.
26 A. I don't remember the briefcase.
27 Q. With regard to -- would you check your
28 SH-451, please. 3204

1 A. Yes, sir.
2 Q. And look under Item 317.
3 A. "Briefcase."
4 Q. Was that given to you.
5 A. Yes, sir.
6 Q. Do you see some -- open the bag if you have
7 to, Detective.
8 A. Open the plastic.
9 Q. Yeah, if you have to, sure. It's a plastic
10 bag. You're opening it. And the briefcase itself
11 that's marked as 470 has some evidence seals on it,
12 correct.
13 A. Correct.
14 Q. Do you recognize any of those seals.
15 A. I recognize the seals, but not the writing
16 on them.
17 Q. Okay. Do you know what you did with the
18 item that's 470 when it was given to you that day.
19 A. 470. May I explain one --
20 Q. Sure. That's why you're up there.
21 A. While I was seizing, there was times when
22 there was some investigators waiting in line, and in
23 my presence, under my supervision, the investigators
24 would help me seize it, and then I would take it
25 from them and place it on the line of where the
26 items were.
27 Q. All right. And is this one of those items
28 that you followed that procedure on. 3205

1 A. It looks like this isn't my writing.
2 Q. And does that indicate what officer -- does
3 your SH-451 indicate what officer brought you that.
4 A. I can't read the initials.
5 Q. On your SH-451.
6 A. Sorry. Detective Zelis.
7 Q. At the time that you were involved in the
8 process with regard to 470, did you look inside the
9 item at all.
10 A. No, sir.
11 Q. Okay. If we give you any more, we're going
12 to cover you up.
13 All right. I've just given you the item
14 that's been marked as 561; is that correct.
15 A. Correct.
16 Q. Do you recognize the brown bag.
17 A. Yes, I do.
18 Q. How do you recognize it.
19 A. By the writing and my initials on the seal.
20 Q. All right. Who is the officer who gave you

21 the items -- who gave you the items to put inside
22 that bag.
23 A. Detective Zelis.
24 Q. Did you note that on the bag.
25 A. Yes, sir, I did.
26 Q. Did you place the item inside the bag.
27 A. Yes, sir.
28 Q. And seal it and initial it. 3206

1 A. Yes, sir.
2 Q. And set it aside for later providing to
3 somebody else to take and book, correct.
4 A. That's correct.
5 MR. SNEDDON: Your Honor, I have here an
6 item that I'd like marked as 552 for identification
7 purposes. I'll show it to counsel.
8 Q. I'll show you 552. Do you recognize that.
9 A. Yes, I do.
10 Q. Where was that the first time you saw it.
11 A. It was in the master bedroom area.
12 Q. And did you -- were you given some items to
13 place in that particular bag.
14 A. Yes, I was.
15 Q. By who.
16 A. Detective Sergeant Robel.
17 Q. And now with regard to the time that the
18 items were placed in that bag, do you recall how
19 many items were placed in there and what they were.
20 A. I don't recall what specific items were
21 placed inside.
22 Q. Would you check your SH-451 form, please,
23 and see if it refreshes your recollection.
24 A. "Magazines."
25 Q. And were there multiple magazines placed in
26 there. I mean, do you have an "S" by it or did you
27 have a "magazine".
28 A. I had -- on the SH-451, I have an "S" by it. 3207

1 Q. You didn't put the number.
2 A. No, sir.
3 Q. Okay. All right. When you took the items
4 that you were given by Sergeant Robel, you placed
5 them into that particular bag; is that correct.
6 A. Correct.
7 Q. And then did you then put the notations on
8 it, seal it, and put your initials on it.
9 A. Correct.
10 Q. All right. Now, that bag, at this
11 particular point in time, only contains one item in
12 it, correct. Open the bag and look.

13 A. Yes, sir.
14 Q. And that's a book.
15 A. Correct.
16 Q. Correct, okay.
17 All right. Detective Padilla, were you give
18 an item marked as 3 -- that you marked as 364 by
19 Detective Robel.
20 A. May I look on the --
21 Q. Yes, please.
22 A. 364.
23 Q. If you have no present recollection, you
24 need to refresh your recollection, go ahead.
25 A. Yes, sir.
26 Q. And with regard to that particular item, did
27 you prepare a brown bag, with the notations on it
28 that you've described to the jury as to the other 3208

1 items, in the same manner.
2 A. Yes, sir.
3 Q. And did you seal it and put your initials on
4 it.
5 A. I need to see the bag itself.
6 Q. I was afraid you were going to ask me that.
7 I needed a recess to do these things. I'm
8 just jumping all over.
9 Madam Clerk, I believe it's 553.
10 THE CLERK: I don't have that.
11 MR. SNEDDON: You don't have that.
12 THE CLERK: No.
13 MR. SNEDDON: All right. Judge, at this
14 time I'll re-call this officer when I get a chance
15 to go through all of this stuff so we're not wasting
16 a lot of time in front of the jury.
17 THE COURT: All right. Thank you.
18 Cross-examine.
19 MR. MESEREAU: Yes, please, Your Honor.
20
21 CROSS-EXAMINATION
22 BY MR. MESEREAU:
23 Q. Good morning.
24 A. Good morning.
25 Q. You were designated the scribe in the main
26 house, right.
27 A. Yes, sir.
28 Q. And the main house is the house where you 3209

1 have Mr. Jackson's bedroom, right.
2 A. Correct.
3 Q. And Mr. Jackson's bedroom, as you recall, is
4 two levels, right.

5 A. I recall, yes.
6 Q. You got a downstairs, and you got a stairway
7 that goes to an upstairs, right.
8 A. Yes, sir.
9 Q. And did you perform your activities as a
10 scribe in Mr. Jackson's room.
11 A. It was downstairs, and it looked like a
12 lobby. There was a large T.V. in there and some
13 chairs. There was not a bed in the room where I set
14 up.
15 Q. But in the room where you say you set up,
16 was that part of Mr. Jackson's two-level bedroom.
17 A. Yes, sir.
18 Q. Was it downstairs.
19 A. Correct.
20 Q. And when you say you "set up," what did you
21 do.
22 A. I set up a table where I processed all the
23 items seized at the house.
24 Q. Did you bring the table with you.
25 A. Yes, sir.
26 Q. Was it something you actually brought to
27 Neverland as part of the search.
28 A. It was provided to me by personnel at the 3210

1 ranch.
2 Q. Okay. When you say "personnel," do you mean
3 Mr. Jackson's personnel.
4 A. No, sir. No sir. Sheriff's staff.
5 Q. Was the table you used something sheriffs
6 brought with them.
7 A. Yes, that's correct.
8 Q. Okay. So you brought a table into Mr.
9 Jackson's lower part of his bedroom, and that's
10 where you set up, right.
11 A. Yes, sir.
12 Q. And did you have a chair there, too.
13 A. I had a chair.
14 Q. And did you sort of sit there and wait for
15 people to bring items to you to log in.
16 A. Yes, sir.
17 Q. Okay. Did you participate in any search
18 activities yourself.
19 A. No, I did not.
20 Q. Were you a scribe the whole day.
21 A. Yes, sir.
22 Q. All right. Was it all of the main house.
23 A. At the main house.
24 Q. Okay. Now, you signed in and out at various
25 times that day, correct.
26 A. I was relieved by Lieutenant Klapakis.
27 Q. Okay. So Lieutenant Klapakis became the

28 scribe at times you were not there. 3211

1 A. He didn't seize any of the items. I just
2 broke for a lunch break, or left out there, or for a
3 rest room break.

4 Q. I'm not going to belabor it, but there is a
5 sign-in and -out sheet that you signed in and out
6 on, right.

7 A. I don't recall one.

8 Q. Okay. Somebody typed up a sheet with
9 various "in" and "out" times attributed to various
10 people that were there that day, right.

11 A. I don't recall.

12 Q. Have you seen that sheet.

13 A. No, sir, I haven't.

14 Q. If I show it to you, would it refresh your
15 recollection about signing in and out.

16 A. It may.

17 MR. MESEREAU: May I approach, Your Honor.

18 THE COURT: Yes.

19 THE WITNESS: I don't recall ever seeing
20 that.

21 Q. BY MR. MESEREAU: How about the following.

22 A. I don't recall. I don't remember.

23 Q. (Indicating).

24 A. I don't recall ever seeing that.

25 Q. Okay. I showed you what appear to be logs
26 of people on the search team entering in and out,
27 and you say you've never seen those sheets before.

28 A. I don't recall ever seeing them. 3212

1 Q. Do you recall signing in and out.

2 A. That was in two thousand -- I don't recall.

3 I don't recall.

4 Q. Do you recall if anyone else replaced you as
5 a scribe in Mr. Jackson's bedroom.

6 A. No one replaced me. I don't recall that.

7 Q. So you were the scribe that day, right.

8 A. For the main house area, yes, sir.

9 Q. Okay. How many people did you see searching
10 in Mr. Jackson's bedroom while you were a scribe.

11 A. I couldn't physically see the investigators
12 up in the bedroom, since it was upstairs and I was
13 downstairs, so I couldn't answer that question.

14 Q. You couldn't physically see any of them.

15 A. No, sir. I was downstairs and they were
16 upstairs. "The bedroom," are you just meaning
17 specifically as to where his bed was.

18 Q. Maybe I'm not being clear. His bedroom is
19 two levels, right.

20 A. Yes, sir.
21 Q. You walk into a door. You enter into the
22 lower level, right.
23 A. Correct.
24 Q. And you set up a table in the lower level,
25 correct.
26 A. Yes, sir.
27 Q. And you must have seen people entering or
28 leaving the bedroom, because you were on that lower 3213

1 level where the entranceway is, correct.
2 A. Correct. Yes, sir.
3 Q. Did you see activity in and out that day.
4 A. Yes, sir.
5 Q. Did you see activity in and out the whole
6 day that you were there.
7 A. Yes, sir.
8 Q. And approximately how many people did you
9 see enter or leave that day.
10 A. I would guess maybe 15 to 20.
11 Q. So 15 or 20 people were searching through
12 Mr. Jackson's bedroom area.
13 A. Yes, sir.
14 Q. As far as you know.
15 A. As far as I know, yes, sir.
16 Q. Okay. Now, would it be correct to say that
17 16 detectives, three sergeants and five D.A.
18 investigators entered into Mr. Jackson's main house
19 that day.
20 A. Yes, that would be correct.
21 Q. Okay. A total of 24 people were searching
22 through Mr. Jackson's home that day, right.
23 A. I don't know about 24.
24 Q. Would it refresh your recollection if I just
25 show you a police report which identifies who
26 entered the main house that day.
27 A. Yes, sir.
28 MR. MESEREAU: May I approach, Your Honor. 3214

1 THE COURT: Yes.
2 THE WITNESS: Yes, sir. I hadn't counted
3 them, but that's the list I prepared.
4 Q. BY MR. MESEREAU: Okay. Would you like to
5 count them.
6 A. If you'd like me to.
7 Q. Okay. Please.
8 Have you had a chance to look at that
9 document.
10 A. Yes, sir.
11 Q. And have you had a chance to count who was

12 in the main house that day.
13 A. Yes, sir.
14 Q. And would it be accurate to say about 16
15 detectives, three sergeants and five D.A.
16 investigators.
17 A. Assigned to the main house, yes, sir.
18 Q. Okay. And do you think about 20 went into
19 his bedroom.
20 A. I don't know what specific jobs each one of
21 them did. That's what I was -- do you want me to
22 continue or --
23 Q. No, go ahead.
24 A. Oh, I don't know which specific officers. I
25 thought you asked how many were assigned in the main
26 house area.
27 Q. How many did you see go in and out of his
28 bedroom. 3215

1 A. Oh, I don't know. I know they were really
2 strict on how many people were assigned to that
3 specific area of the bedroom.
4 Q. Well, just as far as you remember, how many
5 walked in and out. Because you're the scribe.
6 You're sitting at a table, the lower level, which is
7 where you enter, right.
8 A. Yes, sir.
9 Q. And it's also where you leave, right.
10 A. Yes, sir.
11 Q. So how many people did you see trafficking
12 in and out.
13 A. To be honest with you, sir, I don't remember
14 counting, even. I was told what to do, and I don't
15 recall the specific --
16 Q. Could it have been more than ten.
17 A. I don't recall.
18 Q. No number at all.
19 A. I didn't pay attention. No, sir.
20 Q. You just identified various items of
21 evidence that the prosecutor showed you, correct.
22 A. Yes, sir.
23 Q. And of those items, who did you get them
24 from. You mentioned Shepherd, right.
25 A. Yes.
26 Q. Did you mention Zelis.
27 A. Yes.
28 Q. Did you mention anybody else. 3216

1 A. Yes, I did.
2 Q. Who else.
3 A. D.A. Investigator Ellis.

4 Q. Okay.
5 A. And Sergeant -- Detective Sergeant Robel.
6 Q. Okay.
7 A. And I don't believe I mentioned any other
8 investigators.
9 Q. Were you sitting at the table when the
10 search went on.
11 A. Yes, sir.
12 Q. And your job the whole day was to have
13 people bring items to you, and you would package
14 them, right.
15 A. Yes, sir.
16 Q. And you would put them first in a paper
17 envelope, right.
18 A. In the appropriate package, depending on the
19 size of the item.
20 Q. Do you recall someone named Wolff.
21 A. Oh, yes, sir. I do.
22 Q. Was a Detective Wolff involved.
23 A. Yes.
24 Q. You saw Detective Wolff in that bedroom
25 area.
26 A. I don't recall seeing that, but I recall the
27 item.
28 Q. Now, was it your understanding as a scribe 3217

1 that you were supposed to package items to protect
2 them from contamination.
3 A. I was assigned to package them, yes, sir.
4 Q. Were you assigned to package them to protect
5 them from contamination.
6 A. Yes, sir.
7 Q. And what contamination were you trying to
8 protect them from.
9 A. Any nonauthorized personnel.
10 Q. Did you have any role in deciding whether or
11 not anything would be fingerprinted.
12 A. No, I wasn't, specifically. It was just
13 common sense. If an item appeared and if they told
14 me, "Hold for prints," I would be sure to use care
15 in what packaging to use.
16 Q. And typically who would tell you to hold for
17 prints.
18 A. The investigator.
19 Q. Do you recall being told to hold anything
20 for prints.
21 A. Yes, I recall some of the investigators were
22 real specific the way they held it and when they
23 delivered it to me.
24 Q. And how many items do you think you were
25 told to hold for prints.
26 A. I remember several of the items we tried not

27 to touch as much as possible, but I don't recall how
28 many or approximately how many specifically were to 3218

1 be held for prints.

2 Q. Now, the items the prosecutor just showed
3 you, were any of them asked to be held for prints;
4 do you know.

5 A. I don't recall specifically. I don't
6 recall.

7 Q. Would it refresh your recollection just to
8 take a look.

9 A. No, sir.

10 Q. Why not.

11 A. Because I didn't note it on there. Just
12 every item that I packaged I tried to use the least
13 amount of handling of the package.

14 Q. Okay. Let me go back a bit.

15 I think you just said at times you were told
16 to hold certain specific items for prints, true.

17 A. Yes, sir.

18 Q. And other times you were not told to hold
19 specific items for prints, right.

20 A. Yes, sir.

21 Q. If you were asked to hold something for
22 prints by an investigator, what did you do.

23 A. I would use the least amount of -- I would
24 not touch it as much as possible.

25 Q. Would you note anywhere on the packaging
26 "Hold for prints".

27 A. No, sir.

28 Q. So "Hold for prints" meant, to you, don't 3219

1 touch it as much as you might touch it otherwise.

2 A. When they would tell me, yes, sir.

3 Q. If they didn't tell you, "Hold for prints,"
4 what would you do with it.

5 A. Personally, I would not touch it as much as
6 possible.

7 Q. If they did tell you, "Hold for prints,"
8 what would you do differently.

9 A. Extra care.

10 Q. What does "extra care" mean.

11 A. The least amount possible, without dropping
12 it or contaminating it.

13 Q. But no record's ever made of "Hold for
14 prints".

15 A. No, sir.

16 Q. "Hold for prints" is just a verbal
17 suggestion that you touch it as little as possible,
18 correct.

19 A. Yes, sir. Yes.
20 Q. And if they don't tell it to you, you can
21 still touch it a little more. Is that what you're
22 saying.
23 A. Personally, yes.
24 Q. Okay. And how would you touch it.
25 A. With rubber gloves, and package it in the
26 appropriate bag.
27 Q. If you're holding for prints, do you put it
28 in a paper bag. 3220

1 A. Depends on the item.
2 Q. And what do you mean.
3 A. There's plastic packaging, and there's
4 paper.
5 Q. But if you look at what you wrote on any of
6 the items you just identified, you won't know
7 whether or not they were held for prints, true.
8 A. No, sir.
9 Q. To your knowledge, as a scribe, are you ever
10 obligated to make a notation anywhere that something
11 is to be held for fingerprinting.
12 A. Personally, I would, but I was never told
13 to.
14 Q. You were never told to.
15 A. No, sir.
16 Q. Do you recall ever doing that as a scribe in
17 any other case.
18 A. Of caring for items and try to not touch
19 them as much as possible.
20 Q. No, as a scribe in any other case, do you
21 recall actually noting on a document "Hold for
22 prints".
23 A. Yes, sir, on my cases.
24 Q. But you didn't do it in this case, right.
25 A. No, sir.
26 Q. During the time you were in Mr. Jackson's
27 bedroom working as a scribe, how many times do you
28 think anyone asked you to hold an item for prints. 3221

1 A. I recall maybe a few times.
2 Q. And you don't know what those items were,
3 right, as you sit here today.
4 A. No. Not specifically, no, sir.
5 Q. If you held something for prints, was it put
6 in a separate location.
7 A. No, sir.
8 Q. Was it given to anyone special.
9 A. No, sir.
10 Q. So items that were held for prints and items

11 that were not held for prints were given to the same
12 person after you were through with them, right.
13 A. Yes, sir.
14 Q. And who was that person.
15 A. It was Sergeant Cintron who was in charge of
16 the property room.
17 Q. When he got the items, you never saw them
18 again.
19 A. No, sir.
20 Q. And you filled out no report or document of
21 any kind that said hold an item for prints, right.
22 A. Right.
23 Q. And what about the possibility of DNA
24 testing on any of these items. Did you have any
25 procedure that you used if something was to be
26 tested for DNA.
27 A. I was not specifically instructed on
28 labeling any of the items for DNA evidence. 3222

1 Q. Were you ever verbally instructed to give
2 any special treatment for anything that might be
3 used for DNA testing.
4 A. No, sir. I don't recall specifically,
5 specifically for DNA.
6 Q. Do you recall being given any instructions
7 of any kind for handling any item that was going to
8 be forensically testing in any particular way.
9 A. Just some of the items when they brought
10 them; you know, try not to touch it as much as
11 possible. Just those items, if you're referring to
12 that.
13 Q. Okay. But there's no record of what they
14 are, right.
15 A. No, sir.
16 MR. MESEREAU: No further questions, Your
17 Honor.
18 THE COURT: All right. Anything further.
19 MR. SNEDDON: No. No questions.
20 THE COURT: All right. Thank you. You may
21 step down.
22 THE WITNESS: Thank you.
23 MR. SNEDDON: Detective Bonner.
24 THE COURT: Remain standing. Face the
25 clerk. Raise your right hand, please.
26
27 CRAIG BONNER
28 Having been sworn, testified as follows: 3223

1
2 THE WITNESS: Yes.

3 THE CLERK: Please be seated. State and
4 spell your name for the record.
5 THE WITNESS: Craig Bonner, B-o-n-n-e-r.
6 THE CLERK: Thank you.
7
8 DIRECT EXAMINATION
9 BY MR. SNEDDON:
10 Q. Morning, Detective.
11 A. Good morning.
12 Q. You're employed by the sheriff's department.
13 A. Yes, I am.
14 Q. And how long have you been employed by the
15 sheriff's department.
16 A. Over 11 years.
17 Q. And you're currently assigned to the
18 detective bureau, correct.
19 A. That is correct.
20 Q. And how long have you been a detective.
21 A. Five years.
22 Q. And you were assigned to work on the
23 investigation concerning the child molest
24 allegations against the defendant, Michael Jackson,
25 correct.
26 A. That is correct.
27 Q. And you've been part of that investigative
28 team, correct. 3224

1 A. Correct.
2 Q. Now, with regard to that particular
3 investigation, you participated in the execution of
4 the search warrant on November the 18th of 2003,
5 correct.
6 A. I did.
7 Q. And in your capacity, you actually did some
8 searching, correct.
9 A. Yes, I did.
10 Q. Now, after the warrant was executed and the
11 evidence was brought back to the Santa Barbara
12 Sheriff's Department, were you assigned some
13 responsibilities in connection with the further
14 processing of items that were seized from the
15 Neverland Valley Ranch on November the 18th, 2003.
16 A. Yes, I was.
17 Q. And could you tell the jury what your
18 responsibilities were.
19 A. Basically my responsibility was to go back,
20 open up the items that were seized, and document the
21 contents and determine if those contents were of
22 specific evidentiary value in our investigation.
23 Q. Now, specifically I want to direct your
24 attention to an item that's been referred to as Item
25 321 in your reports. Do you recall what 321 was.

26 A. Yes, I do.
27 Q. And what was that.
28 A. Some magazines of adult material. 3225

1 Q. And were these items that you opened, the
2 bag, were these items that were taken from Neverland
3 Valley Ranch and you opened the bag and looked at.

4 A. That is correct.

5 Q. Do you recall when it was you looked at the
6 Item 321, your Item 321.

7 And you're referring to a piece of paper.

8 A. I am. I'm going back to my reports and a
9 chart that I had prepared to assist in that.

10 Q. All right. Why don't you let me see that so
11 I can show it to counsel.

12 (Off-the-record discussion held at counsel
13 table.)

14 THE WITNESS: Thank you.

15 Q. BY MR. SNEDDON: All right. Let's talk
16 about Item 321, okay. And when was it that you
17 actually opened the bag and the items contained in
18 321.

19 A. That was on 11-26, 2003.

20 Q. Where did you do that.

21 A. At the Santa Barbara Sheriffs main station
22 in Goleta.

23 Q. And when you did that, what did you do with
24 regard to those items.

25 A. I opened it, photodocumented the contents,
26 and then wrote a report which documented what I
27 found the contents to be.

28 Q. When you say you photodocumented the 3226

1 contents, would you tell the jury what that means.

2 A. Basically what I did is, I took the items
3 out of the bag that they were sealed in, and I
4 spread them out, and took photographs of those items
5 so that I could go back and later ascertain, if
6 something was lost, what it actually came from.

7 MR. ZONEN: Excuse me.

8 SERGEANT ROBEL: Bless you.

9 Q. BY MR. SNEDDON: And after you completed
10 that process, did you put those items back in the
11 bag.

12 A. I did.

13 Q. And did you seal it.

14 A. I did.

15 Q. And did you initial it.

16 A. I initialed the bag, yes.

17 Q. Okay. I'm going to show you some items.

18 MR. ZONEN: Excuse me.
19 MR. SNEDDON: Mr. Mesereau.
20 (Off-the-record discussion held at counsel
21 table.)
22 Q. BY MR. SNEDDON: All right. Detective
23 Bonner, in order to try to expedite this, I've asked
24 you to look at the exhibits in that box that have
25 been marked as 554 up to 560 for identification
26 purposes prior to bringing them to court, correct.
27 A. That is correct.
28 Q. And would you, just quickly, just make sure 3227

1 that those are the numbers in that box with those
2 particular binders. That it's 554 through 560.
3 A. These are the items that I reviewed.
4 MR. SNEDDON: And, Your Honor, for the
5 record, they have been marked with the official seal
6 of 554 through 560 for identification purposes.
7 THE COURT: Thank you.
8 I'll show that they've been identified.
9 Q. BY MR. SNEDDON: All right. Now, I also --
10 by the way, do you recognize the magazines that
11 are -- did you, when I asked you to look at them in
12 detail, recognize the magazines inside of the
13 binders that are marked as 554 through 560.
14 A. I did.
15 Q. And where were those items the first time
16 you saw them.
17 A. They were contained within the packaging for
18 Item 321.
19 Q. And on the occasion in which you previously
20 identified to the jury on --
21 A. On 11-26.
22 Q. Yes.
23 A. Yes.
24 Q. Okay. Now, I've handed you a series of
25 photographs which are also marked, Your Honor, with
26 the evidence tags for identification purposes of 682
27 through 688, and I've shown them to counsel.
28 Do you recognize those photographs. Would 3228

1 you take a look at them real quickly. Or take as
2 long as you need, I guess.
3 A. I recognize these items as being pictures of
4 the cover sheets of these magazines that are in this
5 box.
6 Q. 554 through 560.
7 A. Correct.
8 Q. Did I ask you to compare the photographs,
9 682 through 688, with the front covers of each of

10 those items, 564 through 560.
11 A. Yes, you did.
12 Q. And did you do it.
13 A. Yes.
14 Q. And are those photographs accurate
15 depictions of what they purport to represent, which
16 is the front covers of those magazines.
17 A. They are.
18 MR. SNEDDON: Your Honor, I'd move that the
19 photos be admitted into evidence at this time.
20 MR. MESEREAU: No objection.
21 THE COURT: That being.
22 MR. SNEDDON: That would be 682 through 688,
23 Your Honor.
24 THE COURT: Admitted.
25 MR. SNEDDON: Your Honor, may we have the
26 Elmo, please.
27 THE COURT: "Input 4".
28 THE BAILIFF: Yes. 3229

1 Q. BY MR. SNEDDON: Okay. We're going to put
2 the Exhibit 682, which is in evidence, up on the
3 board for a second. You can do that now.
4 Now, with regard to the binders that are in
5 front of you that we have previously had marked, for
6 identification purposes, 554 through 560, can you
7 mate up the Exhibit 682 to which exhibit that would
8 be.
9 A. Can you raise the exhibit slightly.
10 Q. I think the number's over in the far --
11 A. That corresponds with the magazine 321-A.
12 Q. All right. Now, if we could have the next
13 one placed up there.
14 And with regard to the Exhibit 683, which is
15 in evidence, which binder does that correspond to,
16 exhibit number.
17 A. That is 321-B.
18 Q. Okay. What's -- there's an exhibit number
19 on the back of it. Just turn it over, if you would.
20 A. Exhibit No. 555.
21 Q. Okay. Thank you.
22 With regard to the next photograph, please,
23 that's in evidence, and that is 684, and what binder
24 would that -- what exhibit number.
25 A. That corresponds with Evidence Item No.
26 321-C, and Exhibit No. 556.
27 Q. That's 556 for identification. All right.
28 And with regard to the next photograph. And 3230

1 that is Exhibit No. 685 that's in evidence. Do you

2 recognize that, and would you marry that up with the
3 particular exhibit number.
4 A. Corresponds to Exhibit No. 557.
5 Q. All right. The next one, please. That is
6 No. 686.
7 A. That corresponds to Item -- or Exhibit No.
8 558.
9 Q. 558. All right.
10 And that is No. 687.
11 A. That corresponds to Exhibit No. 559.
12 Q. All right. And then there should be one
13 more, which is Photograph No. 688 in evidence.
14 A. Corresponds to Exhibit No. 560.
15 Q. All right. Thank you, Officer.
16 Now, I'd like to ask you a couple of
17 questions about an exhibit that is in your
18 department's Item No. 309, okay.
19 A. Okay.
20 Q. Now, were you involved in looking into the
21 Item 309.
22 A. I was.
23 Q. And do you recall when it was that you
24 looked into those items.
25 A. On December 2nd, 2003.
26 Q. And what did you do with regard to the Item
27 309.
28 A. At the time I opened it up, I inventoried 3231

1 the contents, and I believe I removed the
2 pornographic videos out and gave those a sub item.
3 Q. The adult materials.
4 MR. MESEREAU: Objection.
5 THE WITNESS: I'm sorry.
6 THE COURT: He corrected it. Go ahead.
7 Q. BY MR. SNEDDON: The adult materials.
8 A. The adult materials.
9 Q. Okay. And do you recall what it was that
10 you removed out of the Exhibit 309 when you saw it.
11 A. There were two "Barely Legal" DVDs.
12 Q. And did you repackage those.
13 A. I did.
14 Q. And do you recall if you gave them a number
15 when you repackaged them.
16 A. I did.
17 Q. What number did you give them.
18 A. I believe I gave it 309-A.
19 Q. Now, at a subsequent time, did you also go
20 back into the Exhibit 309 and repackage any other
21 items there.
22 A. I don't know that I did. However, I am
23 aware that that happened.
24 Q. Okay. So you don't think you were involved

25 in that process.
26 A. I don't recall.
27 Q. Okay. Now, you have an item that is called
28 363 for your nomenclature. 3232

1 A. Correct.
2 Q. And were you involved in reviewing that
3 particular item.
4 A. Yes, I was.
5 Q. And at the time that you reviewed it, do you
6 recall what was in there.
7 A. Yes.
8 Q. What was in there.
9 A. There were magazines of adult nature.
10 Q. And do you recall what day it was that you
11 looked at the item -- your Item 363.
12 A. That was also done on 11-26, 2003.
13 Q. And you've described to the jury what you
14 did as to Item 321 that you photodocumented. Did
15 you follow that same process with regard to your
16 Item 363.
17 A. The same procedure, yes.
18 Q. Okay. And then after you were completed,
19 what did you do with the items that were inside your
20 package 363.
21 A. Put them back into the package, sealed the
22 package, signed it, and returned it to evidence.
23 MR. SNEDDON: Tom. Do you want to take a
24 look.
25 Your Honor, I see we're a couple minutes
26 from a break. We might save some time if we do this
27 during the break. It's up to you. Otherwise, I'll
28 just keep going. 3233

1 Your Honor, I'd indicate for the record that
2 the items Mr. Mesereau's now looking at are
3 premarked as Items 530 through 551 for
4 identification purposes.
5 (Off-the-record discussion held at counsel
6 table.)
7 THE COURT: All right. We'll take our
8 morning break.
9 (Recess taken.)
10 MR. SNEDDON: Thank you, Your Honor. I
11 think we'll be able to proceed more expeditiously
12 now.
13 THE COURT: Thank you.
14 Q. BY MR. SNEDDON: All right. Detective
15 Bonner, you have a box in front of you.
16 A. Yes, I do.

17 Q. And you told the ladies and gentlemen of the
18 jury that you had at one point in time removed the
19 articles from an item that you had marked as a
20 sheriff's exhibit 363, correct.
21 A. Evidence item number, yes.
22 Q. Evidence item number.
23 A. Yes.
24 Q. And you reviewed those materials, correct.
25 A. Yes, I did.
26 Q. Now, I actually -- I misspoke myself. There
27 is a box in front of you, and there's a box at your
28 feet, correct. 3234

1 A. There's also a box at my feet.
2 Q. And have I asked you, prior to coming into
3 court here today, to review the items contained in
4 those two boxes.
5 A. Yes, I have.
6 Q. And do you recognize those items.
7 A. I do.
8 Q. With regard to those particular items, when
9 and where were they the first time you saw them.
10 A. The first time I saw them was on 11-26 at
11 the Santa Barbara Sheriff's main station in Goleta.
12 Q. I may have asked you this, but if I didn't,
13 I want to make sure. Did you photodocument those
14 items that were in the original bag, 363.
15 A. Yes, I did.
16 Q. Now, when you put them back into the bag,
17 were they in the condition they're in now, in the
18 binder, or did you just place them back in the bag.
19 A. They were not in the condition that they are
20 now in. They were still together in magazine form,
21 and I just put them back in the same condition as I
22 pulled them out of that bag.
23 Q. And with regard to the handling of these
24 magazines, were you using gloves.
25 A. Yes, I was.
26 Q. Were you using gloves with regard to the
27 handling of all the magazines that you testified
28 about here this morning. 3235

1 A. Yes.
2 MR. SNEDDON: Now, Your Honor, with regard
3 to the two boxes, I'd like to have them marked, and
4 they are marked, premarked, with the help of the
5 Court, as 530 through 551. Okay.
6 THE COURT: You're saying the materials in
7 the boxes, not the boxes. You're marking --
8 MR. SNEDDON: Right. Just the materials in

9 the box, Your Honor.
10 THE COURT: All right.
11 MR. SNEDDON: And then I've shown counsel
12 during the break a series of photographs that have
13 been marked as 689 through 709 for identification
14 purposes.
15 Q. Now, with regard to the photographs that I
16 just handed you, 689 through 709 - okay. - did I
17 also ask you to review those photographs before you
18 came into court here this morning.
19 A. Yes, you did.
20 Q. And did I ask you to compare those
21 photographs with the series of exhibits that have
22 been marked as 530 through 551.
23 A. That being 3 -- Item 363.
24 Q. Yes.
25 A. Yes.
26 Q. And your Item 363, but our items in evidence
27 that have been marked for identification purposes.
28 A. Yes. 3236

1 Q. Okay. We'll get to the numbers in just a
2 second. And did you -- with regard to those
3 photographs, you were asked to compare those with
4 the front pages of each of those -- of the items in
5 the box, correct.
6 A. Correct.
7 Q. All right. Now, with regard to the -- to
8 the photographs themselves, do they accurately
9 depict what they purport to represent, which is the
10 front covers of each of those books -- magazines and
11 items.
12 A. Yes, they do.
13 MR. SNEDDON: All right. I move that the
14 Items No. 689 through 709 be admitted into evidence,
15 Your Honor.
16 MR. MESEREAU: I'm going to object, Your
17 Honor. Chain.
18 THE COURT: All right. They're admitted.
19 Q. BY MR. SNEDDON: All right. Detective
20 Bonner, what I'm going to ask you to do now is sort
21 of the same thing we did with the other items, is
22 we're going to put on the Elmo the photographic
23 number that is in evidence and then ask you to
24 identify the specific exhibit number of the binder
25 that corresponds to the front cover of that
26 photograph. Okay.
27 A. Okay.
28 Q. Now, with regard to -- if we could put the 3237

1 first one up, which I believe is 689. It's in
2 evidence.
3 MR. AUCHINCLOSS: If we could go to
4 "Input 4," Your Honor, please. Thank you.
5 Q. BY MR. SNEDDON: All right. With regard to
6 the photograph, 689, that's in evidence, can you
7 find the exhibit number in this case that
8 corresponds with that.
9 A. The corresponding exhibit number is 531.
10 Q. 531. Okay.
11 And is that photograph an accurate
12 depiction, or it does depict the front cover of that
13 Exhibit 531, correct.
14 A. That's correct.
15 Q. All right. Let's go to the next one, 690 in
16 evidence.
17 With regard to 690, do you have an exhibit
18 number that corresponds to that.
19 A. I do. It's 532.
20 Q. 532. And that's the cover of that Exhibit
21 532, correct.
22 A. It is.
23 Q. All right. Let's go to the next one, 691.
24 With regard to 691, what exhibit number does
25 that correspond to.
26 A. Corresponds to Exhibit No. 533.
27 Q. Okay. Let's go to the next one, photograph
28 692. What exhibit number does that correspond to. 3238

1 A. Corresponds to Item No. -- or Exhibit No.
2 534.
3 Q. So -- okay. If we could have 693, please,
4 in evidence.
5 And with regard to the photograph, 693, what
6 exhibit number does that correspond to.
7 A. I'm sorry, these are slightly out of order.
8 Q. I'll tell you what, let's take that one down
9 and come back to it, by process of elimination, if
10 we can. Let's just skip that one and go to
11 Photograph No. 694.
12 A. That corresponds to Exhibit No. 536.
13 Q. All right. And Photograph 695 in evidence.
14 A. Corresponds with -- there's no exhibit.
15 Q. Must have come off inside there.
16 All right. Madam Clerk, perhaps you can
17 give us another 537, and I'll retrieve the other one
18 at the recess and replace it, if you wouldn't mind.
19 THE WITNESS: There's a sticker down here.
20 Q. BY MR. SNEDDON: There is a sticker. Okay.
21 A. 537.
22 Q. 537. All right. Thank you. Why don't you
23 just put that back on there.

24 A. That is not the cover page to this, though.
25 It's a page from within the magazine. The cover
26 page is missing on this magazine.
27 Q. So that's from within the magazine itself.
28 A. Correct. 3239

1 Q. Okay. But that would be 537.
2 A. Correct.
3 Q. Okay. And 696 is the photograph.
4 A. Corresponds to Exhibit No. 538.
5 Q. 697 in evidence.
6 A. Corresponds to Exhibit No. 539.
7 Q. 698.
8 A. Corresponds to Exhibit No. 540.
9 Q. 699.
10 A. Corresponds to Exhibit No. 541.
11 Q. 700.
12 A. Corresponds to Exhibit No. 542.
13 Q. 701.
14 A. Corresponds to Exhibit No. 543.
15 Q. 702 in evidence.
16 A. Corresponds to Exhibit No. 544.
17 Q. 703.
18 A. Corresponds to Exhibit No. 545.
19 Q. 704.
20 A. Corresponds to Exhibit No. 546.
21 Q. 705.
22 A. Corresponds to Exhibit No. 547.
23 Q. 706.
24 A. Corresponds to Exhibit No. 548.
25 Q. 707.
26 A. Corresponds to Exhibit No. 549.
27 Q. 708.
28 A. Corresponds to Exhibit No. 550. 3240

1 Q. And lastly, 709.
2 A. Corresponds with Exhibit No. 551.
3 Q. All right. Thank you.
4 We can have the lights.
5 Did you run across your number 653-F in
6 there when you were going through that.
7 A. I did not.
8 Q. All right. We'll deal with it later.
9 Okay. Why don't you take that box and put
10 it on the floor behind you there, because we're done
11 with it for right now.
12 Showing you Exhibit 565, which is in
13 evidence, do you recognize that.
14 A. Yes, I do.
15 Q. Now, with regard to the contents of 565,

16 where was it the first time you saw it.
17 A. It was within Item 309.
18 Q. And you've indicated to the jury that you
19 took some items out and separately packaged them; is
20 that correct.
21 A. That's correct.
22 Q. And is that your handwriting on the front of
23 that.
24 A. Yes, it is.
25 Q. And did you place those items into that bag.
26 A. I did.
27 Q. And then seal them.
28 A. Yes. 3241

1 Q. And put them back into evidence.
2 A. Yes.
3 Q. All right.
4 Okay. Your Honor, at the break, we had an
5 opportunity for counsel to go through another set of
6 exhibits. And I'm not sure whether they've gone
7 through the photographs, and I'll hand it to counsel
8 right now while I'm giving the exhibits to the
9 officer, and then I'll identify both of them for the
10 record, Your Honor.
11 THE COURT: All right.
12 Q. BY MR. SNEDDON: Why don't you put this on
13 the side, so we can see you.
14 I'm handing you two exhibits, one is 470, a
15 black suitcase. Briefcase, actually. Do you see
16 that.
17 A. I do.
18 Q. And do you recognize that item.
19 A. Yes, I do.
20 Q. And where was that briefcase the first time
21 you saw it.
22 A. At the Santa Barbara Sheriff's Department
23 main station.
24 Q. And do you recall -- will you tell the
25 ladies and gentlemen of the jury what you did in
26 connection with that particular briefcase, 470.
27 A. I handled this briefcase in the same manner
28 as the previous items. I checked it out of 3242

1 evidence, opened it up, and inventoried the contents
2 of it, and then sealed it back up and submitted it
3 back into evidence.
4 Q. And -- now, there's a photograph in front of
5 you, which I believe is People's No. 86 in evidence.
6 Do you recognize that photograph.
7 A. Yes, I do.

8 Q. What does that photograph depict.
9 A. This briefcase and some of the contents
10 within the briefcase.
11 Q. All right. With regard to the particular
12 briefcase, I've handed you a big box full of
13 exhibits up there. When you examined the contents
14 of the briefcase, did you put the items that you
15 examined back into the briefcase.
16 A. Yes, I did.
17 Q. I'm sorry, I didn't hear you.
18 A. Yes, I did.
19 Q. And were you using gloves again.
20 A. Yes, I was.
21 Q. All right. And did I ask you in conjunction
22 with your testimony here today - it's almost
23 afternoon now - to look at the box that I handed you
24 with all of the proposed exhibits in it.
25 A. Yes, you did.
26 Q. And that is your Item No. 317, correct.
27 A. Correct.
28 MR. SNEDDON: Your Honor, for the record, 3243

1 we've had marked for identification purposes Items
2 471 through 529.
3 And in that connection, I've shown counsel a
4 series of photographs that run from -- the first one
5 is 295, and then after that there's 632, and then
6 634 through 680. I'm sorry, 681. Let me just
7 double-check that. Yes, 681, I'm sorry.
8 Q. First of all, I'd like you to please examine
9 the photographs that I've handed you. That's 295,
10 632, and then 634 through 681.
11 A. I've finished.
12 Q. All right. Now, with regard to the
13 photographs that I've just referred you to, do you
14 recognize those photographs.
15 A. Yes, I do.
16 Q. And did you compare those photographs with
17 the items that are contained inside of the box.
18 A. Yes, I did.
19 Q. Okay. Now, one moment.
20 Your Honor, if I haven't done it, I want to
21 have just now -- the items inside the box I believe
22 I've already indicated would be marked as 471
23 through 529. Did I do that already. Did I do that
24 already. I just wanted to make sure so we didn't
25 have any problems.
26 Thank you, Madam Clerk.
27 All right. So I asked you to examine the
28 photographs and to match them up with the items, the 3244

1 Exhibit Nos. 471 through 529, correct.
2 A. That's correct.
3 Q. Now, with regard to the items that are in
4 that box that I've referred to, 471 through 529,
5 generically, just could you tell the ladies and
6 gentlemen of the jury what you observed about those
7 items in terms of what they were when you first saw
8 them on the 26th of November.
9 A. They are magazines and loose pages of adult
10 or explicit material.
11 Q. All right. So with regard to the
12 photographs that you were handed, some of those
13 simply are photographs of the -- if it's a one-page
14 explicit material thing, a photograph of that; is
15 that correct.
16 A. Correct.
17 Q. And in other cases, there's -- they're the
18 cover sheet of the entire magazine.
19 A. Correct.
20 Q. And do those photographs accurately depict
21 what they purport to represent. In other words, do
22 they purport to represent, in the case of if it's
23 one piece of paper, what was photographed.
24 A. Yes.
25 Q. Is that correct.
26 A. Yes.
27 Q. And if it's a magazine, it's the front cover
28 of that magazine; is that correct. 3245

1 A. Yes.
2 MR. SNEDDON: Your Honor, I would move
3 Exhibit 295, 632, and 634 through 681 be admitted
4 into evidence.
5 MR. MESEREAU: Objection. Foundation and
6 chain.
7 THE COURT: The chain objection is overruled.
8 That goes to the weight. I'm not clear on your
9 foundation objection.
10 MR. MESEREAU: The proof of actual seizure,
11 who seized it, who they gave it to --
12 THE COURT: They can't hear you in the back.
13 But I heard you.
14 MR. MESEREAU: It's a chain type of
15 foundational objection. Basically the proof of who
16 seized it, where they seized it, who they handed it
17 to. There's evidence that there's no record of any
18 of that.
19 THE COURT: All right. Counsel, the issue --
20 MR. SNEDDON: We established that already.
21 THE COURT: I'm going to overrule the
22 objection. The chain, as I've stated, goes to

23 weight. Go ahead.
24 MR. SNEDDON: Thank you, Your Honor. And
25 we'll need the Elmo again, Your Honor.
26 Q. Just to clarify, Officer, before we start
27 this process, the items that you're about to testify
28 to with regard to the photographs and the exhibits 3246

1 there came out of that briefcase, 470, correct.
2 Excuse me, the briefcase that's in front of you in
3 the Photograph 86.
4 A. Yes. I know it as Item 317.
5 Q. All right. Let's put up 295. And can you
6 find the exhibit number to which that corresponds.
7 A. That corresponds to Exhibit No. 471.
8 Q. Now, you have a binder in front of you that
9 has a number of different materials, correct.
10 A. That's correct.
11 Q. And with regard to the materials in that
12 particular binder, are these the loose materials
13 that were found inside the suitcase.
14 A. Yes, they are.
15 Q. Okay. Let's continue, then. If we can put
16 up 632 that is in evidence, do you recognize that.
17 A. Corresponds to Exhibit No. 472.
18 Q. Okay. And with regard to 634.
19 A. That corresponds to Exhibit No. 473.
20 Q. Okay. 635.
21 A. That correspond to Exhibit No. 474.
22 Q. 636.
23 A. That corresponds to Exhibit No. 475.
24 Q. And exhibit in evidence 630 -- what's the
25 next number you have there, the photograph number.
26 637. That would be the binder.
27 A. That corresponds to Exhibit No. 510.
28 Q. That is a whole magazine, correct. 3247

1 A. That's a whole magazine.
2 Q. It was when you first saw it.
3 A. Yes.
4 Q. And it's now in a binder.
5 A. Yes.
6 Q. 638.
7 A. That corresponds to Exhibit No. 476.
8 Q. 640.
9 I'm sorry, I skipped one. 639. I think
10 that's a magazine.
11 A. It's a loose page, Exhibit No. 511.
12 Q. Okay. 640.
13 A. It's going to correspond with Exhibit No.
14 477.

15 Q. Okay. Let's go to 641, which I believe is a
16 magazine.

17 A. Corresponds to Exhibit No. 512.

18 Q. And 642. Did you lose a tag again.

19 A. We lost a tag again. It appears I have a
20 513.

21 Q. That's correct.

22 643.

23 A. I have Exhibit No. 514.

24 Q. 644.

25 A. Corresponds to Exhibit No. 515.

26 Q. 645.

27 A. Corresponds to Exhibit No. 516.

28 Q. 646. 3248

1 A. Corresponds to Exhibit No. 517.

2 Q. 647.

3 A. Corresponds to Exhibit No. 518.

4 Q. 648. I have a note that it's a notebook.

5 A. Upside down.

6 Q. Oh, okay.

7 A. Okay. That corresponds with Item -- I'm
8 sorry, Exhibit No. 519. And that is not the cover
9 page, but it is the second page within it, which
10 identifies what it is.

11 Q. All right. 649.

12 A. Corresponds with Exhibit No. 520.

13 Q. 650.

14 A. Corresponds with Exhibit No. 521.

15 Q. 3 -- I'm sorry, 651.

16 A. Corresponds with Exhibit No. 522.

17 Q. 652.

18 A. Corresponds with Exhibit No. 523.

19 Q. 653.

20 A. Corresponds with Exhibit No. 524, and it's a
21 loose page.

22 Q. Okay. 654. And Y. That might help you.

23 317-Y.

24 A. Okay. That's Item No. -- or, I'm sorry,
25 Exhibit No. 479, and that's a centerfold. It's one
26 of the pages of it.

27 Q. Okay. 655.

28 A. Corresponds to Exhibit No. 480, and that's 3249

1 also one page within a centerfold.

2 Q. 656.

3 A. Corresponds to Exhibit No. 481, and that's
4 also a centerfold.

5 Q. 657. You might want to look at 317-BB. I

6 think there's --

7 A. Exhibit No. 525.
8 Q. Now, is there a -- never mind.
9 658.
10 A. Corresponds to Exhibit No. 483. It's also a
11 centerfold.
12 Q. 659.
13 A. Corresponds to Exhibit No. 485. It's a
14 centerfold.
15 Q. 660.
16 A. Corresponds to Exhibit No. 487. It's a
17 loose page.
18 Q. 488. I'm sorry, 661.
19 A. Corresponds to Exhibit No. 488. It's a
20 centerfold.
21 Q. 662.
22 A. Corresponds to Exhibit No. 489. It's a
23 loose page.
24 Q. 663.
25 A. Corresponds to Exhibit No. 490, is the cover
26 off of the magazine.
27 Q. 664.
28 A. Exhibit No. 491. It's a loose page. 3250

1 Q. All right. 665.
2 A. I'm sorry. Exhibit No. 492. It's a loose
3 page.
4 Q. And 666.
5 A. Exhibit No. 494. Loose page.
6 Q. And 667.
7 A. Exhibit No. 495. It's the cover off the
8 magazine.
9 Q. 668.
10 A. Exhibit No. 496. It's a centerfold.
11 Q. 669.
12 A. Exhibit No. 497. Loose page.
13 Q. 670.
14 A. Exhibit No. 498. Loose page.
15 Q. 671.
16 A. Exhibit No. 499. Loose page.
17 Q. 672.
18 A. That's Exhibit No. 500. Centerfold layout.
19 Q. 673.
20 A. Exhibit No. 501. Centerfold.
21 Q. Exhibit No. 674.
22 A. It's Exhibit No. 502. Centerfold.
23 Q. 675.
24 A. It's Exhibit No. 503. Again, centerfold.
25 Q. 677 -- I'm sorry, 676.
26 A. Exhibit No. 504. It was a pamphlet.
27 Q. 677.
28 A. Exhibit No. 505, centerfold. 3251

1 Q. 678.
2 A. Exhibit No. 506. Cover page of a magazine.
3 Q. 679.
4 A. Exhibit No. 507. Loose page.
5 Q. And 680.
6 A. Exhibit No. 508, centerfold.
7 Q. Lastly, 681.
8 A. Exhibit No. 528.
9 Q. All right. I think we can turn the lights
10 back on.
11 All right. I want to ask you some questions
12 with regard to the briefcase, Exhibit 470. Now, you
13 told the ladies and gentlemen of the jury I
14 believe -- I believe on November the 26th of 2003,
15 you opened the briefcase and photodocumented the
16 materials inside, correct.
17 A. That's correct.
18 Q. And inventoried them.
19 A. Correct.
20 Q. Now, when was the next time that you became
21 involved in dealing with the materials that were
22 contained inside of the black briefcase marked as
23 470.
24 A. On July 20th, 2004.
25 Q. And would you tell the ladies and gentlemen
26 of the jury exactly what it was that you did on
27 July 20th.
28 A. On July 20th, I went to the Santa Barbara 3252

1 Superior Court, met with the clerk who was in charge
2 of controlling the evidence that was booked in the
3 grand jury. And I, while wearing gloves, opened up
4 this item and photodocumented exactly what was
5 within there. That included not just the cover
6 pages, but every single page and every single piece
7 of paper that was inside that item that was booked
8 into grand jury evidence.
9 And I then closed it back up, gave it back
10 to the clerk who was maintaining custody of this
11 item, and I prepared a CDR disk that contained those
12 digital images that I took of the contents.
13 Q. Now, did you at some time go back -- did you
14 at some time again become involved in the handling
15 of the Exhibit 470.
16 A. Yes, I did.
17 Q. When was the next time that you were
18 involved in that.
19 A. On October 1st, 2004.
20 Q. And the purpose for that. What did you do
21 and where did you go.

22 A. A court order was signed that allowed me to
23 check this item out of evidence and bring it back to
24 the sheriff's department to have it forensically
25 examined and processed.
26 Q. Now, did you do that.
27 A. Yes, I did.
28 Q. And did you work with any other individual 3253

1 in that process.
2 A. I -- initially, after checking it out, I
3 brought it to Detective Lafferty. I later went back
4 and I met with Detective Spinner, and we went
5 through and did a much more detailed inventory of
6 those items to ensure that each one had a sub item
7 number.
8 Q. Now, Detective Spinner, do you know, he
9 works for the Santa Barbara Sheriff's Department.
10 A. Actually, he is retired, so --
11 Q. He was brought back for this case.
12 A. Correct.
13 Q. To do some fingerprint evaluation.
14 A. Correct.
15 Q. Okay. Now, in the process of doing the --
16 what you call documentation of the alpha numbers
17 given to these, were some -- did Detective Spinner
18 already have some of the magazines at the time that
19 you went through this process.
20 A. That's correct. Some of the items had
21 already been processed and were split up and in
22 binders, such as you see here today. Some of the
23 other items were not in binders. They were still in
24 complete magazine form.
25 Q. And the process that you did with Detective
26 Spinner was simply to make sure that all of those
27 items were accounted for; is that correct.
28 A. Correct. And to give each one a sub item 3254

1 number, and document that on something that was
2 written.
3 Q. And you did that.
4 A. Yes.
5 Q. And that's why we see on the display here
6 that they have an A, B, C, and in some cases AA or
7 GG, or whatever.
8 A. Correct.
9 Q. That was the process you documented with
10 Detective Spinner.
11 A. Correct.
12 Q. Now, at the time that you went to the Santa
13 Barbara Superior Court on July 20th of 2004 and

14 photodocumented the contents of the Exhibit 740 (sic),
15 to your knowledge, had some items already been
16 removed and sent to forensic examination.
17 A. Prior to grand jury.
18 Q. Yes.
19 A. Yes.
20 Q. And that's documented in reports, correct.
21 A. I believe so. Not mine.
22 Q. Right.
23 MR. SNEDDON: Mr. Mesereau.
24 (Off-the-record discussion held at counsel
25 table.)
26 MR. SNEDDON: Madam Clerk, I'm going to need
27 two exhibit numbers. Next in order would be fine.
28 THE CLERK: It would -- have you used the 3255

1 numbers through 740 yet.
2 MR. MESEREAU: Excuse me, Your Honor.
3 May the record reflect that I opened these
4 packages at Mr. Sneddon's direction.
5 MR. SNEDDON: Actually, that one was open,
6 but the small one was closed, correct.
7 MR. MESEREAU: It would be No. 122980, and
8 that's also No. 332.
9 THE COURT: All right.
10 MR. MESEREAU: Thank you.
11 MR. SNEDDON: For the record, Your Honor,
12 the items that Mr. Mesereau just examined, I'm going
13 to have the first one marked, it's a small brown
14 bag, which is the No. 332, which is the one he did
15 open, and that's Exhibit 720 for identification
16 purposes.
17 And then the next one's a larger brown bag
18 with Item No. #305 at the top, and that's marked as
19 721, and that one was already opened.
20 THE COURT: All right.
21 MR. SNEDDON: Thank you.
22 Q. Please take a look at 720. Do you recognize
23 that.
24 A. Yes, I do.
25 Q. And where was that the first time that you
26 saw it.
27 A. I found this item within a briefcase which
28 was in the upstairs area of Michael Jackson's 3256

1 bedroom at Neverland Ranch.
2 Q. And did you then take it into your custody
3 and control.
4 A. I did.
5 Q. And what did you do with it.

6 A. I provided it to Detective Padilla, told him
7 where I found it, what it was. And he then
8 processed it, giving it an item number, sealing it.
9 Q. And is the exhibit in the same condition
10 that it was when you seized it on that particular
11 day.
12 A. Yes, it is.
13 MR. SNEDDON: All right. Move that it be
14 admitted into evidence, Your Honor.
15 THE COURT: All right. It's admitted.
16 Q. BY MR. SNEDDON: And the next item is 721.
17 Do you recognize that item.
18 A. Yes, I do.
19 Q. All right. And where was that item the
20 first item that you saw it.
21 A. This item was sitting on a piece of
22 furniture within one of the bathrooms in Michael
23 Jackson's bedroom area.
24 Q. And it's a photograph, correct.
25 A. It is.
26 Q. And do you recognize the person in the
27 photograph.
28 A. Yes, I do. It's Macaulay Culkin. 3257

1 Q. And with regard to that particular exhibit,
2 go ahead and take it out of the bag for just a
3 second. Just look at it for yourself, if you would.
4 Now, with regard to that particular
5 exhibit -- 721; is that correct.
6 A. That's correct.
7 Q. 721, it looks like, on the photograph that
8 you withdrew from the brown bag, it has some writing
9 on it, correct.
10 A. It does.
11 Q. Was that writing -- was it in that condition
12 when you first saw it.
13 A. Yes.
14 Q. Did it have that writing on it.
15 A. Yes, it did.
16 Q. And then after you took that particular
17 item, what did you do with it.
18 A. I again took it down to Detective Padilla,
19 provided it to him, told him where I found it, what
20 it was. He then processed it by putting it into a
21 sealed evidence bag, and noting it on his report.
22 Q. And is it in the same condition as when you
23 seized the item on November the 11th.
24 A. For the most part.
25 Q. What's different about it.
26 A. There's a couple of corner pieces that have
27 fallen off into the bag.
28 Q. But they're in the bag, correct. 3258

1 A. Yes.
2 Q. So everything in substance is there that was
3 there when you seized it.
4 A. Yes.
5 MR. SNEDDON: All right. Move that that be
6 admitted into evidence, Your Honor.
7 MR. MESEREAU: No objection.
8 THE COURT: It's admitted.
9 MR. SNEDDON: Your Honor, I think I'm
10 finished. No further questions. Thank you.
11 THE COURT: Cross-examine.
12 MR. MESEREAU: Yes, please, Your Honor.
13
14 CROSS-EXAMINATION
15 BY MR. MESEREAU:
16 Q. You have answered questions about a large
17 number of what appear to be --
18 MR. SNEDDON: Tom, excuse me.
19 Your Honor, there is one other thing I
20 forgot to do. I've just been reminded.
21 If you don't mind, Counsel.
22 MR. MESEREAU: No, not at all.
23 MR. SNEDDON: Thank you. Appreciate it,
24 Tom.
25 Your Honor, I have a photograph that's been
26 marked as 151 for identification purposes. May I
27 show it to the witness.
28 THE COURT: Yes. 3259

1 FURTHER DIRECT EXAMINATION
2 BY MR. SNEDDON:
3 Q. Do you recognize the items depicted in the
4 photograph, No. 151.
5 A. Yes, I do.
6 Q. Where and when were those items the first
7 time you saw them.
8 A. These items were situated on the ground
9 within one of the closets in Michael Jackson's
10 bedroom area.
11 Q. Does that photograph accurately depict the
12 condition of those items at the time that you seized
13 them.
14 A. With the exception that I have picked them
15 up, yes.
16 Q. And you've picked them up.
17 A. Yes.
18 MR. SNEDDON: All right. Move that 151 be
19 admitted into evidence, Your Honor.
20 MR. MESEREAU: No objection.

21 THE COURT: It's admitted.
22 Q. BY MR. SNEDDON: All right. Would you just
23 show to the ladies and gentlemen of the jury the
24 photograph that's in evidence.
25 Now, what -- where were those -- where were
26 those found specifically in Mr. Jackson's bedroom.
27 A. Within his bedroom, there were two bathroom
28 areas. One, as you enter, was on the right. The 3260

1 other was on the left. Both bathroom areas had a
2 closet that went off of it. This one was on the
3 left side. It was a locked closet area. As you
4 entered the closet, it made an L shape going to the
5 left. It was within that L-shaped -- the bottom of
6 the L on the ground on the left side.
7 THE COURT: Counsel, can't you put that up on
8 the screen so the people out there can see.
9 Q. BY MR. SNEDDON: Okay. I think we got --
10 I kind of interrupted you. Could you tell me where
11 exactly it was, what closet it was that you found it
12 in, what bathroom.
13 A. Okay. Again, there were two bathrooms: One
14 that was on the right as you entered; one that was
15 on the left. This one was on the left side. As you
16 entered the bathroom, there was a closet that went
17 off to the right. This was a locked closet that we
18 had opened. This closet was actually in an L shape.
19 As I went in, I went into the bottom of the L,
20 continued down, and it was on the left side on the
21 ground.
22 Q. And then did you actually take the items
23 depicted in the photograph, 152, in evidence, and
24 book them into evidence.
25 A. I took them down to Detective Padilla, again
26 told him where I found it, what they were, and he
27 then booked them.
28 MR. SNEDDON: All right. Thank you, 3261

1 Counsel.
2 And thank you, Court. No further questions.
3
4 FURTHER CROSS-EXAMINATION
5 BY MR. MESEREAU:
6 Q. Regarding the items that you were just shown
7 in the last exhibit, there's a bottle of Jack
8 Daniels and a bottle of what appears to be red wine,
9 correct.
10 A. Correct.
11 Q. Do you know if those bottles were ever
12 fingerprinted.

13 A. I do not know.
14 Q. Did you have any responsibility for
15 determining if they should be chemically tested for
16 anything.
17 A. Not responsibility, but involvement.
18 Q. And what was your involvement.
19 A. We spoke about it amongst all of us that
20 were part of the team at that point in time. And I
21 know that they were sent off for DNA swabbing, or
22 that they were swabbed, and that was sent off to be
23 compared. I do not know whether or not they were
24 fingerprinted.
25 Q. But they were DNA swabbed, as far as you
26 know.
27 A. Yes.
28 Q. Did you ever get any results. 3262

1 A. I believe there were no results.
2 Q. Okay. "No results" meaning what.
3 A. That we did not get any comparable DNA
4 matter off of them.
5 Q. Were you responsible for recommending DNA
6 testing of any of these materials that you've talked
7 about today.
8 A. Again, "responsible" probably isn't the
9 word. "Involved" is probably the more correct word
10 to use.
11 Q. Do you know if any of the materials that
12 you've identified today were DNA tested.
13 A. I know that items within 317 were sent off
14 to the Department of Justice laboratory to ascertain
15 if there were materials on the items which could be
16 tested for DNA.
17 Q. And just -- just for the record, Item 317 is
18 what.
19 A. I'm sorry. It's the briefcase that had
20 these materials in it.
21 Q. Okay. And to your knowledge, there was no
22 DNA found, correct.
23 A. That is correct.
24 Q. And you're talking about -- you're talking
25 about DNA testing of the briefcase, correct.
26 A. Of the materials within the briefcase.
27 Q. Yes. Are you talking about the briefcase
28 itself, too. 3263

1 A. No.
2 Q. Okay. And what you're saying is no DNA of
3 Gavin Arvizo, or Star Arvizo, or any Arvizo, were
4 found, correct.

5 A. No DNA at all, including theirs.
6 Q. Okay. Now, you say you were involved in
7 decisions regarding DNA testing, right.
8 A. Correct.
9 Q. What does "involved" mean.
10 A. We had meetings where we discussed what was
11 going on, who was going to do what, and we -- this
12 type of -- you know, it included dispositions of
13 evidence, who was going to go do interviews with
14 whom. And we spoke about what we wanted to do and
15 in what order that we wanted to do it.
16 Q. And who was at these meetings typically.
17 A. Typically would include, at minimum,
18 Lieutenant Klapakis, Sergeant Robel, Detective
19 Zelis, Detective Alvarez, and myself, and many times
20 also included members of the prosecution.
21 Q. Now, you've identified a lot of what appear
22 to be commercially produced adult material, right.
23 A. Correct.
24 Q. And all of it appears to be commercially
25 produced, for the most part, doesn't it.
26 A. For the most part, yes.
27 Q. And all of it appears to be the type of
28 material you can lawfully purchase, correct. 3264

1 A. Depends.
2 Q. Well, you can go to most magazine stands
3 that sell this kind of material and find thousands
4 of magazines that you can buy like that, correct.
5 A. Yes.
6 Q. Okay. And it goes without saying,
7 Mr. Jackson is not being charged with possessing or
8 anything related to this kind -- illegal adult
9 material, is he.
10 A. We have not charged as such, no.
11 Q. Okay. Have you actually checked to see if
12 you can find these magazines available in a
13 commercial market type of situation.
14 A. No, I have not.
15 Q. Have you gone to newsstands to see if you
16 can find this material available at newsstands.
17 A. No.
18 Q. Have you ever done any -- made any effort to
19 find out where you can actually go buy this stuff.
20 A. No.
21 Q. Okay. And you don't know where a lot of
22 this material originated, correct.
23 A. I do not.
24 Q. You don't know if it was mailed to Mr.
25 Jackson or purchased on his behalf, correct.
26 A. For the most part, no.
27 Q. Okay. With respect to DNA testing, was the

28 DNA testing that you're aware of limited to 3265

1 materials in the briefcase.

2 A. As far as I'm aware of, yes.

3 Q. Okay. And as far as the other exhibits

4 you've talked about today, which appear to be, for

5 the most, part adult material, you're not aware of

6 any DNA testing on those exhibits, correct.

7 A. I am not.

8 Q. If any were done, would you most likely know

9 about it.

10 A. Probably, yes.

11 Q. And that would be because of your

12 involvement that you've just described.

13 A. Yes.

14 Q. Okay. Now, were you involved in actually

15 searching and seizing some of this material.

16 A. Yes, I was.

17 Q. Okay. Was that your primary role during the

18 day of the search.

19 A. Initially it was not.

20 Q. What initially was your role.

21 A. Initially myself and Detective Alvarez were

22 assigned to go conduct an interview with a witness.

23 Q. Okay. And then following that, you went to

24 Mr. Jackson's main residence, correct.

25 A. Neverland, correct.

26 Q. And you started conducting a search, right.

27 A. Initially, again, I was assigned to assist

28 in interviews. 3266

1 Q. Okay. Okay. Now, let me ask some questions

2 about Exhibits 471 to 529. Okay. And they're the

3 items that you say were found inside of 470, which

4 is the black briefcase, right.

5 A. Item 3 -- I'm sorry, I normally know things

6 by our item numbers.

7 Q. The black briefcase is Item 470, right.

8 A. Yes.

9 Q. And Exhibits 471 to 529 were found inside of

10 that briefcase, right. Do you know.

11 A. I -- I cannot -- if you show me the item, I

12 mean, obviously we're dealing with a lot of numbers

13 here. If you tell me, like, our evidence item, I

14 can tell you whether or not it came from that.

15 Q. Let me approach it from a different way.

16 I think you said at one point, in response

17 to the prosecutor's questions, that you had checked

18 out items out of 470, which is the black briefcase,

19 correct.

20 A. Correct.
21 Q. And I believe you said those items were 471
22 to 529.
23 A. I have identified them as such by
24 cross-referencing them, looking at the materials,
25 looking at the actual physical items and also
26 checking it against our evidence item number, which
27 is how we track items, as opposed to the court
28 tracking of items. 3267

1 Q. Am I correct that you testified you checked
2 out Items 471 to 529.
3 A. Yes.
4 Q. Okay. So you know what they are, right.
5 A. Yes.
6 Q. And presumably before you testified today,
7 you went over some of this with the prosecutor for
8 the government, right.
9 A. Correct.
10 Q. Okay. And when did you do that.
11 A. I did that on Tuesday.
12 Q. Okay. Did you have any items of evidence
13 with you at that point.
14 A. No, I did not.
15 Q. Okay. How did you discuss what numbers you
16 were going to testify about. Maybe that's not a
17 good question.
18 You clearly discussed what numbers you were
19 going to testify about, true.
20 A. Correct. Yes.
21 Q. And did you use anything to facilitate your
22 ability to prepare for your testimony today.
23 A. Yes, I did.
24 Q. What did you use.
25 A. District Attorney Sneddon provided me, one,
26 with the pictures that he has introduced.
27 Q. Okay.
28 A. They also were in possession of the actual 3268

1 physical evidence items, okay. I also compared that
2 with my reports that I authored and with pictures
3 that we have taken.
4 Q. Okay. Now, you took them out originally.
5 Was it at the sheriff's department.
6 A. The first time.
7 Q. Yes.
8 A. Yes.
9 Q. And what did you do with them.
10 A. I pulled them -- I opened up, for instance,
11 on this particular one, the briefcase, broke the

12 seals, I opened it up. I then inspected the
13 contents of it. As I was doing that, I was
14 dictating a report of the contents of it, and taking
15 photographs of the contents. Once that was
16 completed, I then put the materials back where they
17 were originally, closed it, sealed it, and then
18 booked it back into evidence.

19 Q. And were you alone when you did that.

20 A. Yes.

21 Q. At some point, did you separate some of
22 these materials yourself.

23 A. For Item 317.

24 Q. Any item.

25 A. Item 309, yes.

26 Q. What you did was you took the item apart,
27 right.

28 A. I took two of the items which were contained 3269

1 within the original evidence, Item 309, which was
2 the briefcase, that being the two adult material
3 DVDs, and I put them into the separate bag.

4 Q. Okay. Did you ever separate any of the
5 photographs that are contained in the exhibits you
6 referred to today.

7 A. No.

8 Q. Okay. Did you ever pull any pages or photos
9 out from any attached type of magazine.

10 A. No.

11 Q. Okay. Do you know if anybody ever did.

12 A. Yes.

13 Q. Okay. Somebody did.

14 A. Yes.

15 Q. Who did that.

16 A. Forensics personnel.

17 Q. So they took magazines and actually
18 separated pages out, correct.

19 A. Correct.

20 Q. Okay. And do you know when that was done.

21 A. I do not.

22 Q. Okay. How do you know it was done.

23 A. I have read reports. And again, during our
24 meetings where we discussed what's going on with the
25 case, again I've heard conversation to that effect.

26 Q. And were the items then returned to you.

27 A. No, they would have been returned to the
28 evidence locker, to our property office. 3270

1 Q. So they would have been returned to the
2 evidence locker, separated out from what they
3 originally were like, right.

4 A. Correct.

5 Q. And basically what you're saying is people
6 at forensics, when asked to test a particular item,
7 would take that item apart, right.

8 A. Correct.

9 Q. And your understanding was they would take
10 that item apart, because that would facilitate
11 forensic analysis of some kind, right.

12 A. Yes.

13 Q. Okay. And you were part of the -- you were
14 part of the group that decided which items to
15 forensically test in that manner, correct.

16 A. Discussed. Decisions are done at a higher
17 level than a detective.

18 Q. Who made the decisions to forensically test
19 some items and not forensically test others.

20 A. At minimum, probably with Lieutenant
21 Klapakis, and it probably also involved members of
22 the prosecution.

23 Q. Okay. And that would be Prosecutor Sneddon,
24 Zonen, Auchincloss.

25 A. Yes.

26 Q. Okay. All right. Now, there must have been
27 meetings where you had discussed whether or not to
28 forensically test certain items, correct. 3271

1 A. Correct.

2 Q. And you would presumably look at an item and
3 decide, "Do we want to test this or not," right.

4 A. Sometimes look at them; sometimes they
5 weren't checked out. For the most part we check
6 them out one time, and allow them to look at them,
7 just like we allowed you guys to look at them. And
8 based upon that, we categorized them and began to
9 make a priority list of which items should be done
10 first.

11 Q. Now, am I correct that no forensic testing
12 of any of the items you've identified today was done
13 till after the grand jury met.

14 A. I do not believe that's correct.

15 Q. Okay. What items that you identified today
16 were forensically tested before the grand jury
17 convened.

18 A. I believe certain items within 317 were
19 forensically tested and subsequently sent out to the
20 California Department of Justice for further
21 testing.

22 Q. Okay. And were you involved in that
23 process.

24 A. No, I wasn't.

25 Q. Okay. Well, to this date, you've never
26 found Gavin, or Star, or any Arvizos' DNA on

27 anything, right.
28 A. We have not. 3272

1 Q. So the first time you checked out Items 471
2 to 529 was to photograph them, as you just
3 described, right.
4 A. Correct.
5 Q. And then you repackaged them and put them
6 back in the condition you found them and rebooked
7 them into evidence, right.
8 A. Correct.
9 Q. Okay. Were you responsible for conducting
10 any fingerprint analysis of any of the items
11 contained in 470, the briefcase.
12 A. None whatsoever.
13 Q. Okay. Do you often do that in your type of
14 work.
15 A. Never have.
16 Q. Okay. Are you familiar with what is called
17 ALS, an alternate light source type of test for
18 fluids.
19 A. Yes, I am.
20 Q. Do you know if that was ever done on any of
21 the items you've identified today.
22 A. I believe it has.
23 Q. And which items would they be.
24 A. I believe it was done with certain items
25 within Item 317.
26 Q. Were you part of the group that decided to
27 make that type of test or, excuse me, to do that
28 type of test. 3273

1 A. I was part of the group that discussed it.
2 Again, the decision would have been made, but, yes,
3 I was aware of it.
4 Q. Now, if a decision was made to do forensic
5 testing, would you be the one to essentially refer
6 it to forensic people in this case.
7 A. Not in this case, no.
8 Q. You've done it in other cases, though,
9 right.
10 A. Yes.
11 Q. Typically, once a decision was made, who
12 would be the one to actually be responsible for
13 referring an item of evidence for forensic analysis.
14 A. Typically.
15 Q. Yes.
16 A. Under any other or most other instances, it
17 would be the lead investigating officer.
18 Q. Okay. And in this case, who were you

19 referring to.
20 A. Well, in this case Detective -- or Sergeant
21 Robel was the lead investigating officer.
22 Q. Okay. So as far as you know, was he the one
23 that had the responsibility, once a decision was
24 made, to refer an item of evidence for forensic
25 examination.
26 A. In this particular case, I believe it would
27 have been actually Lieutenant Klapakis.
28 Q. Okay. Okay. Let's get back to the first 3274

1 time you removed items from the black briefcase,
2 which is No. 470. You put them back, and do you
3 know what -- you rebooked them into evidence. And
4 to your knowledge, what happened after that to that
5 black briefcase.
6 A. Other than the times that I personally came
7 into contact with it, I have not had any contact.
8 I don't know for certain. However, I do know that
9 we have checked items out for you guys to look at,
10 as well as for the prosecuting attorneys to look at,
11 and then it has gone out to grand jury, and then
12 also to forensics personnel.
13 Q. Okay. When did you next handle the black
14 briefcase, No. 470, and its contents.
15 A. That would have been on July 20th.
16 Q. And again, the purpose for that was.
17 A. There was a court order that basically
18 stated, prior to us being able to remove these
19 items, I had to go and photographically document the
20 contents of the item, and turn those photographs
21 over to you guys, and eventually to provide a copy
22 to the court as a replacement for what we were
23 taking.
24 Q. Okay. And did you repackage these items
25 again.
26 A. I put them back into the briefcase.
27 Q. And how did you do that.
28 A. Put them back in where I found them as I 3275

1 opened it.
2 Q. And you had gloves on your hand, correct.
3 A. Yes, I did.
4 Q. Did you have gloves on your hands at all
5 times when you handled 470.
6 A. Yes.
7 Q. Would that include at the main residence as
8 well during the day of the search.
9 A. I didn't handle Item 470 at the main
10 residence.

11 Q. Never touched it that day.
12 A. No.
13 Q. Now, to your knowledge, an alternative light
14 source type of test can be done in approximately a
15 day, correct.
16 A. I don't know how long it takes.
17 Q. Okay. And to your knowledge, it's not a
18 destructive type of test, meaning it doesn't
19 actually --
20 A. No.
21 Q. -- harm or destroy an item of evidence,
22 right.
23 A. No.
24 Q. Okay. And I think what you're saying is at
25 some point people at forensics must have repackaged
26 the material and sent it back to re-book it into
27 evidence, right.
28 A. Correct. 3276

1 Q. Okay. Were you part of that process at all.
2 A. No.
3 Q. Okay. Is it true, based upon what you know,
4 that no fingerprint analysis of Item 470, the black
5 briefcase and its contents, was done till
6 approximately one year after the search at
7 Neverland.
8 A. That sounds about correct.
9 Q. Okay. Were you involved in the decision to
10 wait that long --
11 A. No.
12 Q. -- to test it.
13 In fact, those items in 470, the black
14 briefcase and the contents, were not tested for
15 fingerprints till approximately November of 2004,
16 right.
17 A. I know it happened after I checked it out.
18 Q. Okay. Okay. Now, you appear to have
19 focused on Item 470 more than you did a lot of the
20 adult magazines you discussed today, correct.
21 A. What do you mean by --
22 Q. Well, you seem to have been handling and
23 repackaging and handling and repackaging 470 --
24 A. Correct.
25 Q. -- in a way that you were not with a lot of
26 the adult material that you referred to today,
27 correct.
28 A. Correct. 3277

1 Q. But, are you saying that the question
2 whether or not to forensically test that material

3 all came up for discussion with the group of people
4 you mentioned.

5 A. Yes.

6 Q. Okay. And typically would the group sit
7 around and look at something and decide where it was
8 found and make a decision whether or not to test it.

9 A. We wouldn't look at it. Again, we would
10 discuss it. These items were, at the time, in
11 evidence lock-up still, and basically we went
12 through what was found, what was found within it,
13 and how it correlated to the case that we were
14 investigating and prioritized from that.

15 Q. Okay. Okay. With regard to the items
16 you've discussed today other than 470, do you
17 recall, after they were initially booked into
18 evidence, your retrieving them for any purpose.

19 A. Again, the first time was when I pulled it
20 out to inventory the contents. I have also pulled
21 it out for you guys to look at, as well as for
22 members of the prosecution to look at, and that's
23 what I -- and then also to bring them to court.

24 Q. Okay.

25 THE COURT: Counsel.

26 MR. MESEREAU: Yes, Your Honor.

27 THE COURT: I want to handle the break a
28 little differently. 3278

1 MR. MESEREAU: Sure.

2 THE COURT: I'd like to have the jury taken
3 out now. We'll start your break a couple minutes
4 early. That's a reward.

5 (Laughter.)

6 THE COURT: And then we'll start our break
7 just in a couple of minutes for the people in the
8 courtroom. I just want to address an issue.
9 You can step down, Officer. We're on our
10 break.

11 THE WITNESS: Thank you.

12

13 (The following proceedings were held in
14 open court outside the presence and hearing of the
15 jury:)

16

17 THE COURT: All right. I was just going to
18 make a ruling. I told you this morning that I had a
19 tentative ruling, which I gave you, and I wanted to
20 look at the materials a little further that were
21 submitted to the Court before I made my ruling.
22 The Court will grant the defense motion not
23 to allow that evidence in. The primary reason is,
24 it does appear to be cached material. There
25 wouldn't be any way of knowing whether anyone looked

26 at it or not. It doesn't seem to be material, as it
27 doesn't relate to the area -- the time area that I'm
28 talking about. So that will be the Court's ruling. 3279

1 We're in recess.

2 MR. SANGER: Your Honor --

3 THE CLERK: We did not have those exhibits
4 marked.

5 THE COURT: Oh, I need those exhibits marked
6 that you referred to in your opening --

7 MR. AUCHINCLOSS: Okay. Yes. That's fine.

8 THE COURT: -- these.

9 (Recess taken.)

10

11 (The following proceedings were held in
12 open court in the presence and hearing of the
13 jury:)

14

15 THE COURT: Go ahead, Counsel.

16 MR. MESEREAU: Thank you, Your Honor.

17 No further questions.

18 (Laughter.)

19 THE COURT: Anything further, Counsel.

20 MR. SNEDDON: Unfortunately, yes. It will
21 be brief.

22

23 REDIRECT EXAMINATION

24 BY MR. SNEDDON:

25 Q. You were asked by Mr. Mesereau with regard
26 to the time frame for which the contents of 3 --
27 what you call 317, we're calling 470, the black
28 briefcase, okay. 3280

1 A. Okay.

2 Q. They were sent for fingerprint analysis
3 around November of 2004, correct.

4 A. Correct.

5 Q. All right. Now, with regard to those items
6 inside of that briefcase, were they sent to other
7 forensic evaluation prior to the time that they were
8 fingerprinted.

9 A. Yes, they were.

10 Q. Was that according to the game plan that was
11 put together by the group as to how those things
12 should be processed.

13 A. Yes, they were.

14 Q. And the forensic analysis for the same
15 exhibits that were eventually fingerprinted began
16 very early on.

17 A. Yes, it was.

18 MR. SNEDDON: Nothing further.
19 MR. MESEREAU: No further questions, Your
20 Honor
21 THE COURT: All right. Thank you. You may
22 step down.
23 Call your next witness.
24 THE BAILIFF: Mr. Zonen is --
25 MR. SNEDDON: Everybody's leaving me, Judge.
26 THE BAILIFF: Mr. Zonen went to get your
27 next witness.
28 MR. SNEDDON: They're getting him. Mr. 3281

1 Auchincloss's witness, Your Honor. He should be
2 coming.
3 THE COURT: Oh, I decided the time Monday for
4 you to come in is 11:30. We'll start the jury at
5 11:30.
6 A JUROR: Thank you.
7 THE COURT: Come forward, please.
8 MR. AUCHINCLOSS: Your Honor, our next
9 witness will be Dr. Antonio Cantu.
10 THE COURT: Come forward to the witness
11 stand, please. When you get to the witness stand,
12 remain standing, face the clerk and raise your right
13 hand.
14
15 ANTONIO A. CANTU
16 Having been sworn, testified as follows:
17
18 THE WITNESS: I do.
19 THE CLERK: Please be seated. State and
20 spell your name for the record.
21 THE WITNESS: Thank you. My name is Antonio
22 A. Cantu. Last name is spelled C-a-n-t-u.
23 THE CLERK: Thank you.
24 MR. SANGER: Your Honor, could I inquire who
25 the people are who are standing in the aisleway.
26 MR. AUCHINCLOSS: Yes, you may.
27 Your Honor --
28 MR. SANGER: I did ask the Court. 3282

1 MR. AUCHINCLOSS: I'm sorry.
2 THE COURT: The Court doesn't know.
3 MR. AUCHINCLOSS: So I will be happy to
4 explain.
5 THE COURT: Go ahead.
6 MR. AUCHINCLOSS: Your Honor, as we
7 mentioned in chambers, we have a demonstration of
8 the Scenescape, which is the technology that was
9 used in this case for purposes of finding latent

10 fingerprints.
11 And if -- with the Court's permission, I
12 would like to allow our -- Detective Sutcliffe to
13 set up the Scenescape while I'm beginning my
14 examination.
15 THE COURT: All right. Go ahead.
16 MR. AUCHINCLOSS: If that's permissible.
17
18 DIRECT EXAMINATION
19 BY MR. AUCHINCLOSS:
20 Q. Good afternoon, Dr. Cantu.
21 A. Good afternoon, sir.
22 Q. Who do you work for, please.
23 A. I work for the United States Secret Service,
24 the Forensic Services Division within the United
25 States Secret Service.
26 Q. And what do you do for the Secret Service.
27 A. I am the chief scientist, research
28 scientist, for the Forensic Services Division. And 3283

1 my many duties includes the chemistry and physics of
2 things having to do with documents. For example,
3 fingerprints, or inks on paper, or any other items
4 that may be found on a document.
5 Q. How long have you worked for the Secret
6 Service in this capacity.
7 A. Well, I've been with the Secret Service
8 about 20 years. And I've been working in this
9 particular area, among others, for that extended
10 period of time.
11 Q. And tell me about what training you've had
12 that qualifies you for your position there. Maybe
13 I'll back up. First of all, tell me specifically
14 what your title is with the Secret Service.
15 A. I'm a chief forensic scientist.
16 Q. And what qualifies you for that position.
17 What training have you had.
18 A. Well, first of all, I have a degree in
19 chemistry. Chemical physics, actually. And I've
20 had some training in -- in forensic science. I
21 spent about ten years at the Bureau of Alcohol,
22 Tobacco and Firearms Laboratory, where I developed
23 the expertise particularly in the area of the
24 analysis of documents from a chemical and physical
25 point of view.
26 Q. Have you had -- tell me about your
27 experiences with the Secret Service. Have your --
28 in terms of what work you've done for them in the 3284

1 past.

2 A. Most of the work that I have done for the
3 Secret Service falls into two general areas. I
4 spent part of my time over there doing some work in
5 the area called protective research, which has to do
6 with coming up with countermeasures to possible
7 threats that would involve chemical, or biological,
8 or different materials.
9 But the rest of the time has been really the
10 area of forensic science, where my expertise has
11 been mostly in the area of the analysis of documents
12 from a chemical and physical point of view, as I
13 mentioned.
14 Q. Have you had any published papers in the
15 area of forensic science.
16 A. I've already published about 26 papers that
17 I have in the field of forensic science.
18 Q. Any of them in fingerprint analysis, or --
19 A. There are -- about seven of those are in
20 fingerprints, and two are pending publication at the
21 moment.
22 Q. How long have you been involved in the
23 chemistry of fingerprints.
24 A. In excess of 20 years.
25 Q. And can you tell me what the International
26 Fingerprint Research Group is.
27 A. That is a group of international experts
28 that, most of which, specialize in the area of 3285

1 coming up with new technology for visualizing
2 fingerprints, for developing fingerprints. And they
3 are -- the biggest centers involved in this are
4 Israel, England, Australia, and of course us in the
5 United States.
6 And we started that group at the U.S. Secret
7 Service back in the middle '80s. And now we meet
8 every couple of years, different parts of the --
9 Europe and the United States and Canada.
10 Q. Are you involved in developing new
11 techniques in locating latent fingerprints.
12 A. Yes. New techniques particularly in the
13 visualization of fingerprints. We are responsible
14 for developing a new technique for visualizing
15 fingerprints, particularly those that are visualized
16 normally by the use of ninhydrin. And it's a
17 technique for essentially looking at fingerprints on
18 paper and coming up with better, more sensitive
19 methods.
20 There's another technique for looking at the
21 fats and oils in fingerprints, and we helped develop
22 new advances in that area, being able to bring them
23 out better, and looking at weaker prints and being
24 able to see them better with this technology.

25 And then thirdly, I've been involved in a
26 technique that has to do with the use of ultraviolet
27 light basically in visualizing fingerprints.
28 Q. Tell me, what does the term "latent 3286

1 fingerprint" mean.

2 A. It's not noticeable. I mean, it's basically
3 a fingerprint that is not noticeable to the human
4 eye but becomes noticeable by means of either
5 chemical or physical techniques.

6 Q. And can you explain for the jury exactly
7 what it is, from a chemistry point of view, that
8 creates a fingerprint on a surface when a human hand
9 touches it.

10 A. Well, our fingers bear certain chemicals on
11 them. These chemicals are on the surface of the
12 hand. And every time you touch something, there is
13 some transferability of those chemicals onto the
14 surface that you touch.

15 And what we do, in our field, is try to find
16 methods of making those things be visible, either by
17 optical methods or chemical methods or physical
18 methods. And to be able to do that, one has to,
19 first of all, know what is in fingerprint residue,
20 that is, what chemicals, so you know what sort of
21 reagents to use to make them visible. So that's the
22 general philosophy of -- that is used in developing
23 fingerprints.

24 Q. Can I have just a moment.

25 A. Yes.

26 (Off-the-record discussion held at counsel
27 table.)

28 Q. BY MR. AUCHINCLOSS: All right. So tell me 3287

1 specifically -- you mentioned that there are
2 biological substances that are left behind by a
3 fingerprint, by the human hand.

4 A. Correct.

5 Q. Okay. Are those -- can you describe the
6 basic grouping of chemicals that are left behind by
7 a human fingerprint.

8 A. There are several chemicals. I can
9 generally group them into those that are
10 water-soluble chemicals, and they include amino
11 acids, and those that are water insoluble, and they
12 are the ones that are normally referred to as the
13 fats or oils, or more precisely, lipids.

14 And the water-soluble ones contain amino
15 acids, proteins, salts, and other things. But it is
16 the amino acids that are really the target items

17 that we look at to try to visualize these things.
18 As far as the water insoluble ones, it's usually the
19 lipids or the fats and oils that we use as the
20 materials that we target chemicals or methods to be
21 able to visualize these.
22 Q. So, tell me, what are the biological origins
23 of the water-soluble group of materials that is left
24 in fingerprints.
25 A. Well, I'll give you an answer to both the
26 water soluble and water insoluble. The water
27 soluble ones are the ones that are found mostly on
28 the palms of your hand or the soles of your feet. 3288

1 And there you have one type of gland referred to as
2 an eccrine gland, and they are the ones that release
3 the amino acids and certain proteins that are water
4 dispersible, and certain salts.
5 But there are other glands as well. There's
6 some that you have that are different from the
7 eccrine gland. The armpits or the groin area have
8 glands referred to as apocrine glands, and they
9 release other forms of water-soluble material.
10 And then the third group of glands that we
11 have in our skin are referred to as the sebaceous
12 glands, and these are the ones that actually put out
13 the -- the lipids or the fats and oils. And they
14 exist in the scalp and the face and the nose area.
15 But -- and of course the -- anywhere where you have
16 hair you would have these glands as well.
17 Q. So if I understand correctly, your hand
18 doesn't have any oil glands.
19 A. That's correct.
20 Q. Or fingers.
21 MR. SANGER: I'm sorry, I'm going to
22 interrupt for just a second.
23 I understand Detective Sutcliffe is going to
24 be a witness, and I didn't object to him just coming
25 in during the preliminaries here and helping to set
26 this up, but I don't think he should be here during
27 the testimony.
28 MR. AUCHINCLOSS: That's fine. I will call 3289

1 him back for the demonstration, if that's
2 permissible.
3 MR. SANGER: But all witnesses are excluded
4 on both sides.
5 MR. AUCHINCLOSS: I did notify counsel that
6 Detective Sutcliffe was here setting it up when he
7 was doing so.
8 (To Detective Sutcliffe) All right. We'll

9 call you back in, Detective, as soon as we get to
10 the demonstration. Thank you.
11 Q. All right. So getting back to these
12 substances that leave fingerprints, there's no
13 lipids or oil glands, sebaceous glands, in your
14 fingertips; is that true.
15 A. True. Yes, that is correct.
16 Q. But sometimes you will leave lipids or oils
17 or fatty substances that are produced by your body
18 by your sebaceous glands on a fingerprint.
19 A. That is correct.
20 Q. And how does the oil get on the finger.
21 A. Normally by touching your face or your hair
22 would be one way of transferring that material onto
23 your fingers.
24 Q. I see. And is that a common way of
25 establishing a fingerprint that's based on fatty
26 oils, or oils.
27 A. Yes. If you find the fatty oils in there,
28 it's usually assumed that they come from that 3290

1 contact, or perhaps handling something exogenous,
2 something outside, like face creams and lotions or
3 food.

4 Q. Okay.

5 A. Stuff like that.

6 Q. So is that a third grouping that can produce
7 a fingerprint. Foreign substances.

8 A. Yes.

9 Q. Nonbiological substances, or something that
10 came outside the body.

11 A. That is correct.

12 Q. Okay. So, tell me, explain to me what
13 optical methods are used in visualizing these latent
14 prints when they're left behind.

15 A. Optical methods would be -- there are about
16 four methods that I will describe. One of them is
17 just a visual examination of the material that
18 you're looking at that may have the fingerprints.
19 And occasionally lighting in a certain direction.
20 Or if a print, for example, is one which is found on
21 something like clay or putty, you can actually see
22 the imprint in there, very, very simply. And --
23 otherwise, you have to use other methods.

24 Now, there are cases as well where you have
25 a print that's heavy laden with material, and you
26 touch something, and then you can say, "Oh, you made
27 a smudge on the glass," or, "a smudge on the T.V.,"
28 or, "a smudge on my screen." That's, again, some of 3291

1 the residue that you leave behind. And sometimes
2 that could be actually seen without anything else
3 but just proper illumination. When some of these
4 fail and cannot be photographed or documented, then
5 there are other methods that are used.
6 For example, you could use ultraviolet
7 light. And there's certain proteins and amino acids
8 that actually fluoresce in -- when illuminated with
9 ultraviolet light. They fluoresce in the
10 ultraviolet. Tryptophan is one such material that
11 does that. And for that, you illuminate with the
12 ultraviolet light and view it in the ultraviolet
13 region.
14 And then there are other cases in which you
15 may find fluorescence, but in this case, visible.
16 That is, you illuminate with a visible light and
17 then block it with, for example, a green light
18 produced by a laser, and then you block that with
19 orange goggles and you see some fluorescence. And if
20 it's inherent, if it comes from the skin, that is
21 normally due to perhaps bilirubin - that's a
22 biological chemical - that may be in the hand.
23 And then lastly, a method that is used for
24 very smooth surfaces, very glass-like surfaces,
25 would be a reflectance technique. You illuminate,
26 and you view this thing in a reflected mode. And
27 the most sensitive of those would be viewing in the
28 ultraviolet. That is, you illuminate with 3292

1 ultraviolet, then you have to have something that
2 sees in the ultraviolet. So there's imaging devices
3 that are capable of viewing in the ultraviolet, and
4 that's what we use.

5 Q. So if I understand correctly, you might use
6 different methods depending upon the surface. Is
7 that fair to say.

8 A. That's --

9 Q. For looking for latents.

10 A. That's correct.

11 Q. And is it also fair to say that different
12 methods might capture a fingerprint that is
13 amino-acid based or water-soluble based. True.

14 A. Uh --

15 Q. Some methods are designed to capture the
16 protein-based residue. Is that fair to say.

17 A. Yes, sir.

18 Q. And are some methods more suitable for
19 capturing the oil-based residue.

20 A. Yes, that is correct.

21 Q. Okay. So I didn't ask you this question,
22 but I think the jury understands it.

23 Is it true that the -- the amino or protein

24 product that might be left behind, is that something
25 that comes from the finger itself.
26 A. Yes.
27 Q. Okay. So the amino acids are something that
28 your finger secretes. 3293

1 A. That is correct.
2 Q. Okay. All right. So tell me, if I touch
3 something, does that mean it's going to leave a
4 fingerprint.
5 A. Not necessarily.
6 Q. And why do you say that.
7 A. Well, there are several reasons why it may
8 not, and one of them is your hand is quite dry and
9 just doesn't transfer anything.
10 And secondly, the surface may be one that
11 sort of rejects any sort of materials that may be
12 put on it and it doesn't have the absorbency of the
13 material that's on your finger.
14 And then thirdly, the surface may be quite
15 corrugated or textured and it -- the transfer may be
16 there, but it's not very resolvable.
17 Q. Is it fair to say that textured objects are
18 poor surfaces for fingerprints.
19 A. Generally, yes, they are. Depending on the
20 roughness of the surface.
21 Q. For shiny, smooth paper, such as you might
22 find in a magazine, can you please describe how one
23 detects latent fingerprints that that magazine may
24 hold.
25 A. Well, I mentioned earlier, I answered the
26 question about the optical methods, and one of the
27 optical methods that I mentioned earlier was the
28 fact that if you have a very smooth surface or 3294

1 glass-like surface, you could use these reflected
2 ultraviolet techniques.
3 And for something that's a very, very smooth
4 surface, like a magazine paper, something like that,
5 one of the first techniques that I would use would
6 be to see if it could be visualized without doing
7 anything to it; that is, just by seeing if this
8 technique of reflected ultraviolet visualization
9 will bring out anything.
10 And then the next step --
11 Q. Let's stop right there. What do you mean by
12 "reflected ultraviolet". Tell me specifically what
13 you do to examine this piece of paper for
14 fingerprints without the aid of anything else, other
15 than perhaps reflected ultraviolet.

16 A. I'll do it by means of an example.
17 Q. Okay.
18 A. If you put, for example, your finger on a
19 piece of glass, that's a very smooth surface. You
20 sometimes can turn that glass around and actually
21 see the print on there.
22 When you view it in the ultraviolet, that's
23 magnified immensely, and it's due to the fact that
24 the fingerprint residue itself becomes very
25 reflective. And secondly, it -- it's a scatter
26 media for the light. It just casts the light and
27 reflects it in multi directions. The fingerprint
28 material becomes like micromirrors. It becomes very 3295

1 reflective in UV. And that's essentially how this
2 thing is able to enter the fingerprint on a very
3 smooth surface. And of course paper that is very
4 glossy is of this category as well.

5 Q. So is that -- ultraviolet light, is that
6 synonymous with ALS, or alternative light source.

7 A. No, sir.

8 Q. That's something different.

9 A. That is correct.

10 Q. Okay. So if you were -- looked at it with
11 ultraviolet light, would that be something different
12 than a Scenescop.

13 A. No.

14 Q. It would be the same as a scenescop.

15 A. It is similar to a Scenescop.

16 Q. Okay. Would you use -- now, I guess the
17 common notion is that ultraviolet light is something
18 like a black light.

19 A. That is correct.

20 Q. Okay. Is that what we're talking about
21 here.

22 A. A little more than that.

23 Q. Tell me what you mean.

24 A. "Black light" that you normally hear is what
25 you may see in places of entertainment where they
26 have the ultraviolet light tubes called "black
27 lights." That light is ultraviolet, but it's -- the
28 wavelength of it is -- first of all, it's for the 3296

1 eye safe reason, and that's the same sort of
2 ultraviolet that the sun puts out.
3 The one I'm talking about is shorter
4 wavelength. It is the ultraviolet light that the
5 sun puts out, but it's sort of blocked by the ozone
6 layer of the earth. You don't get those rays, the
7 shorter wavelength rays.

8 And the reason this technology works so well
9 is because the shorter the wavelength, the better
10 you can see this surface roughness that may be
11 caused by the fingerprint on the object. And the
12 shorter the wavelength, the less that surface has to
13 be in size. In other words, the shorter the
14 wavelength -- the one that we use is called 254
15 nanometers. That can detect roughnesses or it can
16 scatter the roughness of one 100,000ths of an inch.
17 So it works very well for very, very light
18 fingerprints on surfaces.
19 Q. Okay. So tell me what a ridge is.
20 A. Well, a ridge is the -- in a fingerprint, it
21 is the raised portion of the fingerprint that
22 meanders throughout the finger.
23 Q. So it's like one of the lines in the
24 fingerprint.
25 A. That's correct.
26 Q. So using that as an example, a ridge would
27 be material that is on the surface that you're
28 looking at. Is that fair to say. 3297

1 A. That's correct. When you transfer the
2 chemicals, you actually transfer the pattern that's
3 found on the ridges.
4 Q. Okay. And when the light hits the ridge,
5 you said it scatters. Can you give me a little
6 better idea what that means.
7 A. Yes. When the light hits the ridge, it
8 actually reflects, and -- but in multiple
9 directions.
10 Q. And if I understand correctly, the
11 ultraviolet light will reflect in multiple
12 directions, but the daylight that we have is too big
13 a wavelength to scatter and make the print visible.
14 A. It doesn't scatter as well.
15 Q. Okay. So the ultraviolet light with the
16 shorter wavelength scatters better.
17 A. That is correct.
18 Q. And allows you to see the print better.
19 A. That is correct.
20 Q. Okay. Now, that was the first method. We
21 just started talking about the methods of trying to
22 find fingerprints on a magazine. What next. What
23 else would you do on shiny magazine paper.
24 A. Okay. What we described so far is -- you
25 know, there's no chemical treatment. No nothing.
26 You just see the raw fingerprint.
27 The next step that you would do on surfaces
28 like that, or any nonporous surface as well, would 3298

1 be to use fuming with a gas. And the gas is
2 referred to as cyanoacrylate ester, or better known
3 as super glue. And the super glue gases, when they
4 see, for example, fingerprint residue, they see in
5 it things that trigger its polymerization, basically
6 a material that is basic, like amino acids. It
7 also -- water is another substance, or moisture
8 triggers this condensation and polymerization of the
9 cyanoacrylate material that's in the gaseous form,
10 and that basically forms around the fingerprint and
11 becomes another way of visualizing the fingerprint.
12 Normally they appear whitish in color after
13 you finish doing the polymerization. So in essence,
14 you put the material in this vapor, and the
15 polymerization occurs around the fingerprint. And
16 then you pull it out, and you sometimes can see the
17 fingerprint in there. But it does a couple of
18 things. It hardens the fingerprint, and it also
19 makes it just slightly bigger than what it was
20 before as far as the thickness.
21 So, if you don't see the fingerprint by
22 means of this method, then you can submit it again
23 to the ultraviolet reflection, and the super glue
24 treatment actually enhances, even, that more.
25 I've seen cases where, for example, I had a
26 substance in which I saw, let's say, ten
27 fingerprints using the RUVIS -- I'm sorry, using the
28 ultraviolet technique. It's referred to as 3299

1 Reflected Ultraviolet Imaging System. I just called
2 it RUVIS, but that's what it stands for.
3 And then I did super gluing, and multiple
4 more fingerprints showed up after that with the
5 RUVIS, with the Reflected Ultraviolet System.

6 Q. So you take a magazine, and you said you
7 somehow coat it with this super glue. Is that how
8 it works. You put a very fine coat of super glue on
9 the magazine.

10 A. It only condenses primarily around the
11 portions where the fingerprint residue is.

12 Q. Okay. And is this cyanoacrylate, whatever
13 you said, is this the same product that we use at
14 home as super glue.

15 A. Yes, it's a cyanoacrylate ester.

16 Q. And when you say "polymer," what does that
17 mean, polymerization.

18 A. The polymerization process is basically the
19 single molecule of the cyanoacrylate ester, and
20 just -- chemically it multiplies itself and becomes
21 a very long chain, and that's referred to as a
22 polymer.

23 Q. So what is the process of getting this
24 polymer to condense around the fingerprints. What
25 happens in the lab when they do that. What do they
26 do.

27 A. Oh --

28 Q. How do they get it to -- 3300

1 A. The way it's normally done, you have a
2 shaver, and some people actually use something like
3 a fish tank. And they get the cyanoacrylate liquid,
4 like your super glue, and put it in a small aluminum
5 dish. And you heat this by putting it on a heating
6 pad, or a heating mantel, or some sort of heating
7 source. And also you have some water on the site.
8 It's the moisture content that is used to condense
9 around the fingerprint residue.

10 And then you let it sit there for a period
11 of time. It sits probably ten minutes or more. And
12 then by that time, you can begin to see the
13 fingerprints being developed on the material. And
14 then you take it out. And basically that's about
15 it.

16 It is a very simple process that you see
17 periodically on "CSI" referred to as, you know,
18 super glue fuming.

19 Q. Does super glue fuming enhance the
20 water-based materials, the oil-based materials, or
21 some combination.

22 A. It enhances both.

23 Q. Okay. So it enhances -- whatever material
24 is there, it will condense and form a bigger ridge
25 or a more visible ridge. Is that fair to say.

26 A. That is fair to say. As far as the
27 water-soluble material, it has the amines. As far
28 as the water-insoluble material, it has certain 3301

1 lipoproteins, and proteins contain the amines. And
2 there's also moisture condensed in there as well.

3 Q. So let's talk about RUVIS. You mentioned
4 that term, Reflective Ultraviolet Imaging System.

5 A. Yes.

6 Q. What is RUVIS. How is that technology
7 normally used in forensic science.

8 A. I've used that term maybe two or three times
9 in my discussion, and it involves two things. The
10 system itself, the imaging system, and the
11 illuminator. The illuminator is simply an
12 ultraviolet lamp, but works in that short wavelength
13 region.

14 I might add if you're not familiar with the

15 short wavelength region, stamp collectors normally
16 use that to be able to examine their stamps. U.S.
17 stamps have material in it that only glows under
18 short wave, not long wave. So you would see that
19 type of lamp among stamp collectors.
20 So anyway, it is that type of lamp that you
21 use to illuminate your substance that you're
22 examining. And then you image it with a system that
23 is capable of seeing that region. Human eyes can
24 only see in the so-called visible region. It
25 doesn't see ultraviolet, it doesn't see infrared, so
26 you have to use special imaging systems to see in
27 those regions.
28 In the infrared, you have things called 3302

1 night vision scopes. In the ultraviolet, there are
2 scopes out there that have intensified tubes in
3 there that can see in the ultraviolet, and that's
4 what we currently have.
5 The optical system for viewing has a filter
6 in front of that system that only allows the short
7 wavelengths to go through. So essentially you're
8 illuminating with light that is of a certain
9 frequency. To be exact, it's 254 nanometers. And
10 then you have a filter on the system that is only
11 able to allow that wavelength to go through.
12 So the -- the so-called imager consists of
13 the filter, a lens, which has to be made out of
14 quartz, otherwise ultraviolet light couldn't go
15 through. And then inside is referred to as an image
16 intensifier. Basically it converts that ultraviolet
17 light that's hitting the surface into visible light,
18 into a phosphor, and then you are able to see it at
19 the other end. And some people put a camera at the
20 other end to view that, or other people can just
21 look at that phosphor screen and see the image.
22 So basically that's what the Reflected
23 Ultraviolet Imaging System is.
24 Q. Now, you've talked about infrared, and
25 you've talked about ultraviolet. Are those the two
26 ends of the light spectrum.
27 A. Well, the two ends of the visible spectra.
28 There's more to it than a one end and more to it on 3303

1 the other.
2 Q. Okay.
3 A. But if you have the visible spectra, the
4 so-called lower end would be the ultraviolet, the
5 higher end would be the infrared.
6 Q. Okay. Now, the infrared is the -- tell me

7 about the technology that is used in a product
8 called the Scenescop.

9 A. The Scenescop is basically what I just
10 described as the RUVIS, the Reflected Ultraviolet
11 Imaging System.

12 It consists of a scop that is able to see
13 in the ultraviolet, a filter, and the illuminating
14 light, and a camera sometimes sits on top. And it's
15 actually on the stand there, that you see.

16 Q. So this object to my left here is a
17 Scenescop with a camera mounted on it.

18 A. That's just the one part. That's just the
19 viewing portion. I don't see the illuminator set up
20 yet.

21 Q. Would this be the illuminator.

22 A. That would be the illuminator.

23 Q. Okay. So the Scenescop has an ultraviolet
24 light, true.

25 A. Correct.

26 Q. And a special device that makes that light
27 visible; is that true.

28 A. That is correct. 3304

1 Q. Okay. So it works in two different realms,
2 or two different ways. It projects ultraviolet
3 light and then allows you to look through a special
4 instrument to see that ultraviolet light.

5 A. The reflected light.

6 Q. The reflected light. Okay.

7 And I think you previously explained that
8 this light is uniquely suitable to observe the
9 scatter effect of very tiny residue that's left by
10 fingerprints.

11 A. On smooth surfaces.

12 Q. All right. So, lastly, we haven't talked
13 about ninhydrin. You've mentioned it, but we
14 haven't really described what it is. What is
15 ninhydrin.

16 A. Well, you've asked me questions about the
17 optical methods of examining for fingerprints.
18 There are also chemical methods, and I alluded to
19 that. The chemical methods would involve -- are
20 mostly used in porous material like ordinary paper.
21 And normally you take it in two steps. The
22 first step is to look for the water-soluble
23 components, the amino acids. And there you use
24 amino acid visualized in reagents, or reagents that
25 can visualize the amino acids.

26 The most common one that has been around
27 since the 1950s is ninhydrin, and that -- when you
28 apply ninhydrin to -- to a piece of paper that has 3305

1 fingerprint residue, and then let it dry, and over a
2 period of time, or you could artificially use some
3 heat and some humidity, the latent fingerprint or
4 the invisible fingerprint turns out to be a purple
5 image of the fingerprint. The reaction between
6 amino acids and ninhydrin is purple, and it's --
7 that chemical is referred to as Ruben's purple.

8 Q. Is there a certain order -- if you're using
9 two different methods to look for fingerprints, is
10 there a certain order you'd want to choose if you're
11 going to use the fuming method, the Scenescope, and
12 ninhydrin. Is there a method you'd want to use
13 first before the other one.

14 A. Yes. In the case in question, having to do
15 with smooth paper, you would use the optical method
16 first, followed by the cyanoacrylate ester fuming or
17 the super glue fuming, and then the ninhydrin at the
18 very end to look for the amino acids.

19 The cyanoacrylate fuming method does not
20 affect the amino acids, so you could actually see
21 them afterwards. And essentially you try to see if
22 there are more prints. Or sometimes the
23 fingerprints that you develop with ninhydrin are the
24 same ones that the cyanoacrylate or super glue
25 fuming developed.

26 Q. So you might find a ninhydrin print where
27 you didn't find it with the fuming method.

28 A. That is possible, of course. 3306

1 Q. Why wouldn't you want to use ninhydrin
2 first.

3 A. Because it may affect the polymerization of
4 the super glue.

5 Q. You might lose some fingerprints if you did
6 it that way.

7 A. That is correct. It simply involves the
8 application of ninhydrin in a solvent. So it's that
9 solvent that you're trying to avoid from getting
10 onto your evidence before anything else. So that's
11 why you do all these optical methods first.

12 Q. Are these methods that you've described for
13 looking for fingerprints on smooth magazine-type
14 paper, are they time-tested methods that are
15 accepted by law enforcement agencies around the
16 world.

17 A. As far as I know, they are.

18 Q. How about in the United States in
19 particular.

20 A. Very much so.

21 Q. Okay. And how long has ultraviolet light

22 been around used in looking for fingerprints.
23 A. In that reflected mode that I've been
24 talking about -- excuse me -- it started out, I
25 guess in the early 1970s in Japan, and then it got
26 rekindled again in Japan in the mid '80s. And it
27 was then that the Army forensic laboratory in Japan
28 became aware of it. In the middle '80s, late '80s, 3307

1 it was brought over to this country. And we began
2 to use it among just a few of us in the mid '90s.
3 And then later on, toward the end of the '90s, it
4 became more commonly known to other people. And now
5 it's rather common technology known throughout the
6 entire world.

7 Q. And I think you said ninhydrin has been used
8 for locating fingerprints for how many years.

9 A. Oh, that goes back to the '50s.

10 Q. How about cyanoacrylate, the fuming. How
11 long has that been used to enhance fingerprints.

12 A. In the '70s.

13 Q. And who is the manufacturer of the
14 Scenescope.

15 A. It's -- the company that I know that made
16 that is Spex Industries, S-p-e-x Industries. I
17 think they've been bought by a French company, and I
18 just cannot recall the name of that company. But
19 all the times that I've known it as Spex Industries.
20 In fact, their ad still says, "S-p-e-x Industries."

21 Q. And is that how you came to the attention of
22 Santa Barbara County law enforcement, through an
23 introduction from the Spex people.

24 MR. SANGER: I would object. That calls for
25 speculation.

26 THE COURT: Sustained.

27 Q. BY MR. AUCHINCLOSS: Are you sometimes
28 referred by Spex to act as an expert when people 3308

1 request expert testimony on Scenescope technology.

2 A. I've been asked by Spex about certain
3 technical things to have to do with their system.
4 And yes, I have been asked to be able to say
5 something on the technical nature of their
6 instrument.

7 Q. Okay. And as a member of the Secret
8 Service, are you being paid anything special for
9 today's testimony.

10 A. No, sir.

11 Q. Is this a service that the Secret Service
12 offers to law enforcement agencies in the United
13 States.

14 A. That is correct.
15 Q. All right.
16 MR. AUCHINCLOSS: Your Honor, at this time I
17 think we have enough time to do a brief
18 demonstration.
19 Q. I'll ask Dr. Cantu if he can tell me, first
20 off, what would be a good way to do a proper
21 demonstration of the Scenescop. Just a simple
22 demonstration to show how it works.
23 A. Well, I think you have it all set up. I
24 don't quite see the monitor to see the image.
25 Q. The monitor will show on that screen.
26 A. Oh, it will. Okay, fine.
27 Q. Yes.
28 A. All you have to do is turn the -- what I 3309

1 call the intensifier, that's the unit that actually
2 does the conversion of the ultraviolet to the
3 visible and illuminate your material. And that
4 material is going to be -- I mean, I could get my
5 credit card and put a print on there, and I'll show
6 you how it actually shows through this system. Or I
7 think -- I believe the other gentleman that was here
8 has some demonstration sheets as well.
9 Q. All right. I'm going to ask you to step off
10 the stand at this time. I'm not going to ask you
11 any more questions. But I'll make a couple of
12 requests. And we'll let the detective assist.
13 And if we could have "Input 4," Your Honor.
14 MR. SANGER: Before this occurs, Your Honor,
15 I did have an objection. But in addition to that,
16 this is not preserved. This is something that's
17 going to be up on a screen, I suppose, and it's not
18 preserved as a --
19 MR. AUCHINCLOSS: We can take a -- ask the
20 detective to take a photograph of each exhibit. And
21 we'll introduce it, if that's permissible. If
22 that's agreeable.
23 THE COURT: Does that solve your problem.
24 MR. SANGER: I'm not asking it be introduced
25 into evidence, but preserved for the record.
26 MR. AUCHINCLOSS: Yes, preserved for the
27 record. That's fine.
28 THE COURT: They'll become exhibits. 3310

1 MR. AUCHINCLOSS: Can you do that.
2 DETECTIVE SUTCLIFFE: Uh-huh.
3 MR. AUCHINCLOSS: All right. I'll ask the
4 detective at this time to find the proper setting
5 for the VHS.

6 And if you please -- could you show us the
7 fingerprint in its natural state on the Scenescop, e,
8 without cyanoacrylate fuming or any enhancement.
9 And take a picture of it when you identify that
10 print.
11 Why don't you come out here where the jury
12 can see what you're doing. Just step back.
13 MR. SANGER: So I take it that Mr. Sutcliffe
14 is doing the demonstration. It was my impression
15 that Mr. Cantu was going to be asked to do it.
16 MR. AUCHINCLOSS: I was going to have
17 Detective Sutcliffe do it. There's no testimony at
18 this time. I'm just asking him to do these two
19 demonstrations.
20 What are you doing -- well, why don't you
21 show what you're doing.
22 DETECTIVE SUTCLIFFE: Okay.
23 MR. AUCHINCLOSS: If you stand over here --
24 DETECTIVE SUTCLIFFE: It's just a --
25 MR. AUCHINCLOSS: If you would demonstrate
26 just -- if you would, please, just take -- place a
27 fingerprint, if you will, on that piece of magazine
28 paper and then try and locate it using the 3311

1 Scenescop, e.
2 All right. Did you take a photograph of
3 that.
4 DETECTIVE SUTCLIFFE: I will.
5 MR. AUCHINCLOSS: Now, if you please, if you
6 have a fingerprint pre-prepared with cyanoacrylate
7 fuming.
8 DETECTIVE SUTCLIFFE: I do.
9 MR. AUCHINCLOSS: Would you please show that
10 and take a picture of that for the jury.
11 DETECTIVE SUTCLIFFE: There is -- actually,
12 one is circled, and I have another one --
13 THE COURT: Wait. He can't testify.
14 MR. AUCHINCLOSS: You're not sworn, so you
15 can't testify.
16 DETECTIVE SUTCLIFFE: Excuse me.
17 That's it.
18 MR. AUCHINCLOSS: All right. And if you
19 would take a picture of that.
20 Thank you, Detective.
21 And you can take this down.
22 Thank you, Your Honor. I have no further
23 questions for Dr. Cantu.
24 We'll wait just a moment while -- actually,
25 you can just leave it there and come back in after
26 the jury. Okay.
27 We'll take it down afterwards.
28 Thank you. 3312

1 CROSS-EXAMINATION

2 BY MR. SANGER:

3 Q. Okay. Dr. Cantu, how are you.

4 A. I'm doing well, thank you.

5 Q. Good.

6 You have a Ph.D. in -- I think it's

7 chemistry, is it not. What is it.

8 A. Chemical physics.

9 Q. Chemical physics. All right. From the

10 University of Texas in Austin; is that correct.

11 A. That is correct.

12 Q. Now, you indicated that you are familiar

13 with this company that makes the Scenescop; is that

14 right.

15 A. Yes, sir.

16 Q. And, in fact, you had something to do with

17 helping this company develop the Scenescop; is that

18 correct.

19 A. I did to an extent.

20 Q. And this company is in competition with some

21 other companies regarding the same kind of

22 ultraviolet technology; is that right.

23 A. It is now.

24 Q. Okay. I think last I saw, they're actually

25 suing another company for violating their patents;

26 is that right.

27 A. That's unbeknownst to me.

28 Q. Do you have -- do you hold a patent on this, 3313

1 first off.

2 A. No.

3 Q. Do you have any business relationship, or

4 have you ever had any business relationship with a

5 company regarding this kind of technology.

6 A. No. I had a relationship with a company

7 that helped develop the technology before Spex

8 bought the rights to make it.

9 Q. And what was the name of that company.

10 A. Electro Optical Systems, Incorporated, in

11 Charlottesville, Virginia.

12 Q. And did you derive -- I'm not going into

13 detail, but did you derive economic benefit for

14 that.

15 A. No.

16 Q. So you worked with that company to help

17 develop something like this, or something that

18 turned into this eventual machine; is that correct.

19 A. That is correct.

20 Q. All right. Now, in this particular case,

21 you said something about a shiny surface, and it was
22 a little unclear. Were you indicating that you had
23 reviewed fingerprints in this case from shiny
24 surfaces in this case.

25 A. No.

26 Q. Okay. So, in fact, you have not actually
27 reviewed any fingerprints in this particular case;
28 is that correct, sir. 3314

1 A. No, sir.

2 Q. Okay. And I just did one of those things I
3 shouldn't do. I said, "Is that correct," and you
4 said, "No." So let me ask the question.

5 Have you reviewed any fingerprints in this
6 particular case.

7 A. I have not reviewed any fingerprints in this
8 particular case.

9 Q. So you're brought in basically -- you're
10 asked to come testify basically to how the
11 Scenescop works.

12 A. Yes, sir.

13 Q. All right. You are, nevertheless, familiar
14 with fingerprint evaluation; is that correct.

15 A. In this case.

16 Q. Not in this case in particular, but in
17 general.

18 A. I am familiar with fingerprint evaluation.

19 Q. Okay. You are not -- you are not a latent
20 print examiner.

21 A. No, sir. I'm an expert in this particular
22 area and the chemistry behind the development of
23 fingerprints.

24 Q. And I didn't mean that in an offensive
25 fashion, but different people do different things.
26 You know what a latent print examiner is.

27 A. Yes, I do.

28 Q. All right. And what you have told us about 3315

1 is part of the process of doing latent print
2 examinations, correct.

3 A. About a part of latent fingerprint
4 examination, yes. I have said that I've spoken
5 about the developmental part of the fingerprint.

6 Q. Just so we're clear -- and we're almost to
7 the end of the day here, so I'll just try to take a
8 short subject.

9 Latent print examination is, what I'm
10 getting at, is a bigger subject than what you've
11 just talked to us about here, correct.

12 A. Yes, sir.

13 Q. Okay. In other words, when you look at
14 fingerprints, you've told us, for instance, that you
15 may be able to see fingerprints, they're called
16 visible prints; is that correct.
17 A. Yes.
18 Q. And that's because somebody put their finger
19 in paint or something, and you can just see it,
20 correct.
21 A. Correct.
22 Q. It could be any other substance that allows
23 it to be visible. You might have what are called
24 plastic prints; is that correct.
25 A. I gave you a couple of examples of that.
26 Q. Please.
27 A. No, I said I gave a couple of examples.
28 Q. I thought you said you would give. 3316

1 But, for instance, a plastic print might be
2 somebody who puts their finger in clay, and you can
3 actually -- the ridges are actually transferred onto
4 the clay; is that correct.
5 A. I believe I gave that example. That, and
6 putty are the two examples I gave of the so-called
7 plastic or mold fingerprints.
8 Q. And then the next category is the latent
9 print. That's the print that you cannot see
10 unaided; is that correct.
11 A. That was -- yes, sir.
12 Q. And you told us in general about different
13 processes by way -- by which you can get the latent
14 prints so that you can make them capable of being
15 examined; is that correct.
16 A. Make them visible, yes.
17 Q. Visible. So that can either be by light
18 sources, for the ultraviolet light sources, or it
19 can be chemical; is that correct.
20 A. And physical.
21 Q. And physical. "Physical" being.
22 A. Like powder techniques.
23 Q. Okay. I see. You wouldn't call that part
24 of chemical. You'd call that --
25 A. No, it's adherence. It's an aspect of
26 chemistry in a way. In fact, cyanoacrylate
27 deposition of the polymerization is a physical
28 chemical type of process. 3317

1 Q. Because it actually not only chemically
2 reacts so that you can see the prints better, but it
3 also actually enhances the structure of whatever is
4 there so that it is more visible; is that correct.

5 A. That's the super glue fuming, yes.
6 Q. Super glue fuming, yes. All right.
7 Now, ultimately fingerprint examination and
8 comparison, when you go beyond what you're talking
9 about, which is developing prints so that you can
10 see them, in essence, fingerprint comparison and
11 examination is a subjective enterprise, is it not.
12 A. Fingerprint --
13 MR. AUCHINCLOSS: I'll object as beyond the
14 scope. There's been no testimony about comparison.
15 THE COURT: Overruled.
16 Q. BY MR. SANGER: It's subjective, is it not,
17 sir.
18 A. I'm afraid I could not answer that, because
19 it's not part of my expertise.
20 Q. Okay. You have spoken on the need in recent
21 years to increase the validation studies for the
22 purpose of enhancing fingerprint examination, latent
23 fingerprint examination for court purposes; is that
24 correct, sir.
25 A. No, I have not spoken on that. I've been
26 invited to be at meetings where they're speaking
27 about that.
28 Q. Okay. You participated in conferences. 3318

1 A. Yes.
2 THE COURT: Counsel, it's the end of the day.
3 MR. SANGER: Very well.
4 THE COURT: See you tomorrow morning.
5 (The proceedings adjourned at 2:30 p.m.)
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1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE)

5 OF CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR,

13 CSR #3304, Official Court Reporter, do hereby

14 certify:

15 That the foregoing pages 3168 through 3319

16 contain a true and correct transcript of the

17 proceedings had in the within and above-entitled

18 matter as by me taken down in shorthand writing at

19 said proceedings on March 23, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 23, 2005.

24

25

26

27 MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

28 3320