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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 TUESDAY, APRIL 19, 2005

20

21 8:30 A.M.

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23 (PAGES 6770 THROUGH 6828)

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

28 BY: Official Court Reporter 6770

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1 I N D E X

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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. Mesereau is listed as "M" on index. Ms. Yu is listed as "Y" on
index.

6 Mr. Sanger is listed as "SA" on index. Mr. Oxman is listed as "O" on
index.

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9 PLAINTIFF'S WITNESSES DIRECT CROSS REDIRECT RECROSS

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11 JACKSON, Janet 6773-Z 6788-M

12 6825-Z (Further)

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1 Santa Maria, California

2 Tuesday, April 19, 2005

3 8:30 a.m.

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5 THE COURT: Good morning, everyone.

6 THE JURY: (In unison) Good morning.

7 COUNSEL AT COUNSEL TABLE: (In unison)

8 Good morning, Your Honor.

9 THE COURT: Mr. Zonen, you may proceed.

10 MR. ZONEN: Good morning, Your Honor.

11

12 JANET JACKSON

13 Having been previously sworn, resumed the

14 stand and testified further as follows:

15

16 REDIRECT EXAMINATION

17 BY MR. ZONEN:

18 Q. Miss Arvizo, good morning.

19 A. Good morning.

20 Q. Yesterday, there were a number of questions

21 that were asked about that tape-recording of the

22 phone call, or series of phone calls, between Frank

23 and you that you listened to in court early in your

24 testimony, and you had testified previously that you

25 believed it was a compilation of a few different

26 calls; is that correct?

27 A. This is correct.

28 Q. All right. Now, at any time during the 6773

1 series of telephone conversations that you had with
2 Frank after you had left Neverland on that first
3 occasion, did you talk with him about the specific
4 issue of danger?

5 A. Yes.

6 Q. And what specifically did you tell him?

7 A. The death threats about my children.

8 Q. How often did you bring up that subject in
9 the course of those conversations?

10 A. Every single time.

11 Q. You were asked some questions about
12 attorneys that you had seen over the last number of
13 years, and why you might have contacted an attorney
14 to deal with Mr. Jackson. Do you remember those
15 questions from Mr. Mesereau?

16 A. Yes, I do.

17 Q. It's a little confusing because apparently
18 you have at one time or another dealt with two
19 attorneys by the same name, Feldman; is that
20 correct?

21 A. This is correct.

22 Q. The attorneys that you went to with regards
23 to the J.C. Penney's lawsuit. What was the name of
24 that law firm?

25 A. The law firm was called Rothstein & Feldman.

26 Q. All right. Now, the Feldman that we're
27 referring to, is that Larry Feldman?

28 A. No. That is not Larry Feldman. 6774

1 Q. It's a different Feldman?

2 A. It is a different Feldman.

3 Q. Do you know his first name?

4 A. I come to know now that his name is George
5 Owen Feldman.

6 Q. Did you actually deal with Mr. Feldman,
7 George Feldman?

8 A. I've never dealt with George Owen Feldman.

9 Q. Who are the attorneys from that law firm,
10 Feldman & Rothstein, who you actually dealt with?

11 A. From that law firm, dealt with Mr.
12 Rothstein, Anthony Ramieri, and a Michael Adler.

13 Q. Now, did you contact Feldman & Rothstein?

14 A. And --

15 Q. Not Larry Feldman?

16 A. There was one more, but he was with Michael
17 Adler.

18 Q. Did you contact the law firm of Feldman &
19 Rothstein for purposes of dealing with Michael
20 Jackson in any way?

21 A. No.

22 Q. When was the first time issues of Michael
23 Jackson or actions involving Michael Jackson came up
24 with a lawyer?

25 A. Mr. Dickerman.

26 Q. And then Larry Feldman thereafter?

27 A. Then Larry Feldman thereafter.

28 Q. There were questions that were asked of you 6775

1 by Mr. Mesereau as to the amount of money that
2 Louise Palanker gave to you or your family. Did you
3 ever ask Louise Palanker for money?

4 A. No.

5 Q. How many separate checks were turned over to
6 your family by Louise Palanker?

7 A. It was two checks in the amount of \$10,000.

8 Q. All right. Were you present at the time
9 either of those checks were written?

10 A. I wasn't present.

11 Q. Were you present at either time the checks
12 were given to you?

13 A. No.

14 Q. Did you know in advance that David was going
15 to be given that money?

16 A. No.

17 Q. Did he discuss it with you in any way prior
18 to him getting the money from Louise Palanker?

19 A. No.

20 Q. Did you assist in cashing or depositing
21 either of the two checks?

22 A. No.

23 Q. Were you aware that one of them was written
24 to you?

25 A. Yes.

26 Q. Did you have to endorse that one, sign it?

27 A. Yes, I did.

28 Q. There's been a lot of testimony so far about 6776

1 the cleanroom at your mother's house for Gavin while
2 he was ill. The money that came to create that
3 clean room came from where?

4 A. From Wheezy, Louise Palanker.

5 Q. Did you have any conversation with Louise
6 Palanker, either before or after that check was
7 given to you, about how that check would be used?

8 A. No.

9 Q. Were you given any money by Fritz Coleman?

10 A. No.

11 Q. Did you ever ask for money from Fritz
12 Coleman?

13 A. No.

14 Q. Were you given any money by George or Ann
15 Lopez?

16 A. No.

17 Q. Did you ever ask for money from either
18 George or Ann Lopez?

19 A. No.

20 Q. Were you present at any time when that issue
21 of a wallet became the subject of discussion between
22 George Lopez and your husband, your then husband
23 David Arvizo?

24 A. No.

25 Q. Were you aware of that at the time that it
26 happened?

27 A. No.

28 Q. When did you first learn about that 6777

1 incident?

2 A. I think I heard it from Jamie. And this was
3 after David was no longer with us.

4 Q. At some point in time, did you learn that
5 there was an unnamed benefactor who was prepared to
6 give you money?

7 A. Yes.

8 MR. MESEREAU: Objection. Leading and
9 beyond the scope.

10 THE COURT: Overruled. The answer was,
11 "Yes." Next question.

12 Q. BY MR. ZONEN: Who is it who told you about
13 that?

14 A. Jamie.

15 MR. MESEREAU: Objection. Leading; beyond
16 the scope.

17 THE COURT: Overruled.

18 MR. ZONEN: The answer is in?

19 THE COURT: The answer was, "Jamie."

20 Q. BY MR. ZONEN: Was that Jamie Masada?

21 A. Yes, that was Jamie Masada.

22 Q. What was your response to this offer of
23 money?

24 A. I told him, "No, thank you"; that all I
25 wanted was friends and prayers.

26 Q. Do you know the name of the person who was
27 this benefactor?

28 A. I never knew. 6778

1 Q. Do you remember when that took place?

2 A. This was -- the best I can remember, it was
3 after all this Neverland stuff happened. That's the
4 best I can remember.

5 Q. Did you ever ask Jay Leno for money?

6 A. No.

7 Q. Did you ever meet Jay Leno?

8 A. I've never met Jay Leno.

9 Q. Did you ever have a telephone conversation
10 with Jay Leno?

11 A. I've never had a telephone conversation with
12 Jay Leno.

13 Q. Were you ever present at the time your son
14 made any telephone calls to Jay Leno or had a
15 conversation with him?

16 A. No.

17 Q. Were you present at any of the fund-raisers
18 that took place at The Laugh Factory?

19 A. No.

20 Q. Mr. Mesereau asked you questions about
21 medical insurance covering Gavin's illness during
22 that period of time. Did his medical insurance
23 cover all of the expenses of his illness during that
24 period of time?

25 A. Yes. This is correct.

26 Q. Did you ever tell anybody that -- that
27 insurance was not covering the medical expenses?

28 A. No. 6779

1 Q. Were you ever concerned about whether the
2 medical insurance would continue?

3 A. I was concerned because David wasn't
4 working. He didn't want to go back to work.

5 Q. Did you express that concern to anybody, to
6 your recollection?

7 A. To my recollection, I don't think so.

8 Q. At one point you purchased an automobile --
9 or, excuse me. At one point -- let me do that one
10 more time.

11 You were asked a question by Mr. Mesereau as
12 to whether or not you purchased an automobile. Did
13 you actually take steps towards purchasing an
14 automobile?

15 A. Yes, I did.

16 Q. What was it that you did toward purchasing
17 an automobile?

18 A. Okay. I had -- I had called a car
19 dealership from a phone booth, from the phone book.
20 And the person -- they transferred me over to the
21 sales department. And the gentleman who spoke on
22 the phone sounded really nice. So I figured that's
23 the way I'm going to go, through this dealership,
24 through this man. And then --

25 Q. Which dealership was it?

26 A. I think it was -- I don't remember. But I
27 remember it was -- I think it was Hollywood Ford.

28 I think it was. That's the best I can remember. 6780

1 And so I had a -- I don't know whether it
2 was a travelers check or a cashier's check, one of
3 those things made out to that, in that amount, but I
4 then changed my mind and I had it cancelled. But
5 I -- so I never did purchase a car.

6 Q. Okay. You had a travelers check that you
7 actually made out for a certain amount of money?

8 A. Yes, I did.

9 Q. Were you able to cancel that check?

10 A. Yes, I was. I -- yes. I didn't follow
11 through with the purchase of the car.

12 Q. You were asked questions about conversations
13 with Mr. Jackson by Mr. Mesereau. Prior to the
14 phone call on the 5th of February, or the date that
15 you received that phone call from Mr. Jackson when
16 he was in Miami, inviting you to come to Miami, had
17 you had any conversations with Mr. Jackson prior to
18 that day?

19 A. No.

20 Q. Had you asked him for any money?

21 A. No.

22 Q. Prior to that date?

23 A. No.

24 Q. Or since that date?

25 A. No.

26 Q. Did you receive any money from him?

27 A. No.

28 Q. What was the state of your -- what was your 6781

1 life like prior to that phone call?

2 MR. MESEREAU: Objection; vague.

3 MR. ZONEN: Let me change the question.

4 Q. On the 4th of February, the day before you
5 received that phone call, were there any problems
6 that you were dealing with at that time?

7 MR. MESEREAU: Objection; vague.

8 THE COURT: Sustained.

9 Q. BY MR. ZONEN: Were your children healthy
10 prior to that?

11 A. Our life prior to Mr. Jackson's --

12 Q. No, just limit it to just the question.

13 A. Okay.

14 Q. Were your children healthy in early
15 February?

16 A. Yes.

17 Q. Gavin was dealing with no medical issues
18 other than the ones that he deals with on a regular
19 basis?

20 A. This is correct.

21 Q. How long had you been in a relationship with
22 Mr. Jackson at that time, Major Jackson?

23 A. It was a new, promising relationship with
24 him.

25 Q. Were you aware, prior to Mr. Jackson's
26 telephone call to you, that he was even in Miami?

27 A. No.

28 Q. Did you express any desire to anybody to go 6782

1 to Miami?

2 A. No.

3 MR. ZONEN: Your Honor, finally, this might
4 be beyond the scope of the cross-examination in
5 which I would ask the Court's indulgence to reopen.
6 I've advised Mr. Mesereau of this. We neglected to
7 show part of the surveillance tapes. We missed it
8 on Friday. And I'd like to show the last part
9 of it. It's about 60 seconds' worth, if I could do
10 that at this time.

11 MR. MESEREAU: Beyond the scope, Your Honor.

12 THE COURT: All right. I'll allow you to
13 reopen.

14 MR. ZONEN: Thank you.

15 Q. You had previously seen some surveillance
16 tapes prior to coming into court and then you saw
17 some surveillance tapes on Friday. This is an
18 additional footage I'd like to show you at this
19 time. And then we're going to stop the tape and
20 have you identify it.

21 If you could turn down the lights, please.

22 THE COURT: It's going to be on "Input 1"?

23 MR. AUCHINCLOSS: Yes, Your Honor.

24 And we're on "Input 1," Your Honor?

25 MR. ZONEN: Bob, did you rewire this?

26 THE COURT: I think you all ought to go
27 together and hire a teenaged boy to handle this for

28 you. 6783

1 (Laughter.)

2 MR. ZONEN: Any teenaged boy.

3 MR. SANGER: You don't have that hooked up.

4 THE BAILIFF: Do you want to play it off the
5 DVD?

6 MR. AUCHINCLOSS: I think we'll just play it
7 off the DVD.

8 We'll need "Input 4," Your Honor.

9 (Off-the-record discussion held at counsel
10 table.)

11 MR. AUCHINCLOSS: Your Honor, I'm just going
12 to fast-forward through a portion of it that we've
13 already seen.

14 MR. ZONEN: We're ready, Your Honor.
15 Go ahead and stop it.

16 Q. Miss Arvizo, do you recognize those people?

17 A. Yes.

18 Q. And who is that?

19 A. This is now my now husband, Mr. Jay Jackson,
20 and my two boys, Gavin and Star.

21 Q. And they appear to be carrying something.
22 What is that?

23 A. Yes. This is -- they're carrying their
24 military uniforms.

25 Q. From the laundry?

26 A. Yes, from the cleaners.

27 Q. Do you know what street they're on?

28 A. Yes, actually, this is right near Jay's Army 6784

1 base, which is way far from where Jay was living.

2 Q. In West Los Angeles, do you mean?

3 A. Yes.

4 MR. ZONEN: And for the record, the date on

5 the lower right-hand corner is March 20th, '03, and

6 the time was 3:47 p.m.

7 Go ahead, please.

8 And stop it.

9 Q. They're stopping now. The date on the lower

10 right-hand corner, March 21, '03, at 8:01 a.m.

11 Do you know who's in that car?

12 A. Yes, I do.

13 Q. Who is that?

14 A. This is me.

15 Q. All right. And that car is --

16 A. And my boys.

17 Q. That car is your family car?

18 A. This at the time was -- I'm now married to

19 Jay, but that was Jay's car.

20 Q. Okay. The -- do you know where you are?

21 A. Yes, I am.

22 Q. Where is that, in this slide?

23 A. Yes. Right here, I am dropping off the

24 children at their school. Gavin and Star. I'm

25 parked right there in front of their school.

26 Q. Is the school John Burroughs Middle School?

27 A. This is John Burroughs Middle School.

28 Q. And would 8:01 a.m. be consistent with about 6785

1 the time that you would drop them off at school?

2 A. Yes, this is consistent.

3 Q. Let's go ahead and -- March 21st was a day,

4 in fact, that they went to school?

5 A. Yes, I had already by this time immediately

6 reenrolled them back into John Burroughs Middle

7 School.

8 MR. ZONEN: Go ahead.

9 Go ahead, stop it.

10 Q. It now says March 22nd at 5:10 p.m.

11 Do you know what we're looking at here?

12 A. Yes, this is Jay Jackson's apartment. Where

13 you see that little rag or shirt, rag, shirt,

14 hanging off the balcony, that's his apartment.

15 His -- I don't know -- what's that called? Balcony.

16 That's what it is, balcony. And right beyond the

17 palm you can see me, I'm standing right there.

18 Q. And again, this says March 22nd, '03, at

19 5:10 p.m.

20 A. So if you look closer to the wall where the

21 palm is, right above the palm, that's me.

22 MR. ZONEN: Stop it for just one second.

23 Q. I've asked to stop it one more time. Just a

24 couple of questions.

25 Behind this apartment building, what is

26 there? In other words, is it a parking lot or

27 something that's right behind? Let me ask it

28 differently. 6786

1 A. Okay.

2 Q. Are we looking at the back of the apartment
3 or the front?

4 A. Yes, you are looking at the back of the
5 apartment building.

6 Q. Standing up on the balcony where you appear
7 to be, what can you see looking down?

8 A. You can see the street. You can see other
9 apartments. And beyond that, you can see the
10 actual -- like a little eating area, market area,
11 stuff like that.

12 Q. Okay.

13 A. This was Korea Town.

14 Q. Can you tell, based on looking at this
15 picture, where the person would be who is taking the
16 photograph?

17 A. Yes. Based on this angle, they would be
18 right there, on the street, because right there is
19 an actual city street.

20 Q. Do you know the name of the street right
21 there?

22 A. No, I don't. It's just the back side of the
23 apartment building. The apartment building is
24 surrounded by three public city streets. And that's
25 one of them.

26 Q. Were you aware -- I mean, now that you know
27 the date, March 22nd, were you aware at that time

28 you were being filmed actually at that time? 6787

1 A. No. It's by -- by -- sometimes I would see
2 them and sometimes I wouldn't.

3 Q. But on this particular occasion --

4 A. But on this particular occasion, I did not
5 see them.

6 MR. ZONEN: Go ahead.

7 Your Honor, we have no further questions.

8 THE COURT: Mr. Mesereau?

9 MR. MESEREAU: Yes, please.

10

11 RE-CROSS-EXAMINATION

12 BY MR. MESEREAU:

13 Q. Miss Arvizo, the day after you claim you
14 were beaten severely in the J.C. Penney parking lot,
15 you returned to J.C. Penney, true?

16 MR. ZONEN: Objection; exceeding the scope
17 of the redirect examination.

18 THE COURT: Sustained.

19 Q. BY MR. MESEREAU: Now, you told -- the
20 prosecutor asked you about -- excuse me. Let me
21 rephrase it.

22 The prosecutor asked you about what happened
23 to you in the parking lot in his redirect
24 examination, okay? And I'd like to explore some
25 more of those facts, all right?

26 You were in a public parking lot, what time
27 of day?

28 A. I was in a public parking -- I don't know if 6788

1 you know a mall. Way, way, way at the end. And
2 this particular area where we're talking about,
3 there's actually no windows, no anything. It's
4 almost empty.

5 Q. It was a public parking lot at J.C. Penney,
6 true?

7 A. Incorrect. It was a mall parking lot, which
8 was at the furthest distance where this Tower
9 Records sits independently. And there's no windows
10 or no -- nothing of view. So it's kind of like in
11 a -- the farthest away, where -- it's almost
12 isolated, that area.

13 Q. Is that where your car was parked?

14 A. Yes, this is where the car was parked.

15 Q. Is that where Gavin ran to with the items
16 that were not paid for?

17 A. I wouldn't know that. I wasn't there.

18 Q. Well, at some point, you saw something going
19 on near the automobile, correct?

20 A. That's incorrect.

21 Q. Did you ever see something going on near
22 your automobile in the parking lot?

23 A. No.

24 Q. Did you see something going on at some point
25 that concerned you?

26 A. That's too vague. Everything concerned me.

27 Q. Well, at some point, did you walk out of a

28 building and see some activity around Gavin and 6789

1 David?

2 A. When I had came out of the mall, I had to
3 walk the farthest distance of the parking lot and
4 that's where I saw David getting beat up by this
5 male and this female. But, no, I did not see Gavin.

6 Q. Didn't you tell the jury the other day that
7 nothing happened to David?

8 A. As far as to the extent that happened to me,
9 no. But I did see him getting hit by this male and
10 this female.

11 Q. And for how long did you see David being hit
12 by a male and a female?

13 A. The best I can remember, it's from when I
14 had view of to where I walked up to them.

15 Q. How far away from the car was David when you
16 saw him being beaten up by J.C. Penney security
17 people?

18 A. Well, initially I didn't see where the car
19 was. I just saw David. It's until afterwards did I
20 become aware where the car was located.

21 Q. Did you ever learn that Gavin had the car
22 keys with him?

23 A. I was explained that afterwards.

24 Q. And where were you coming from?

25 A. I was coming from having had accepted a job
26 for loss prevention from Oshman's.

27 Q. Now, you claim that at one point one of the

28 J.C. Penney security guards twisted your neck, 6790

1 correct?

2 A. This is correct.

3 Q. You said the person got behind you, put a
4 hand on your chin, grabbed your hair and twisted
5 your neck, true?

6 A. This is correct.

7 Q. Okay. You said your head was being pulled
8 from side to side, front and back, correct?

9 A. This is correct. And these are things that
10 are happening all in a fast motion. But this
11 attorney, defense attorney, wanted me to break it
12 down to millisecond to millisecond.

13 Q. Did you break it down from millisecond to
14 millisecond?

15 A. I tried to do my best.

16 Q. Okay. Did you tell the truth?

17 A. Of course.

18 Q. Okay. Now, you said one of the J.C. Penny
19 security guards was calling you "Bitch, bitch,"
20 right?

21 A. I think so.

22 Q. Would it refresh your recollection to see
23 your --

24 A. I'm saying I think so. I'm saying yes.

25 Q. Now, J.C. Penney security guards were
26 assaulting you, if you remember?

27 A. The best I can remember, it was two males

28 and a female, and then that other one from that 6791

1 other store. That's the best I can remember. And
2 we're talking about this event that occurred almost
3 seven years ago.

4 Q. You walked over to where you saw David being
5 struck, correct?

6 A. Yes, I did.

7 Q. And you claim you never struck anyone, true?

8 A. This is correct.

9 Q. You claim you never resisted in any shape or
10 form, right?

11 A. This is correct.

12 Q. You were just attacked by these people for
13 no reason, right?

14 A. Yes, this is correct.

15 Q. You said your head was being twisted like
16 the exorcist, correct?

17 A. Yes.

18 Q. You said that someone struck you with their
19 knee, right?

20 A. Yes.

21 Q. You said at some point you were --

22 MR. ZONEN: I'm going to object as hearsay,
23 unless it's inconsistent with current testimony.

24 The deposition would be hearsay.

25 THE COURT: Overruled.

26 You may proceed.

27 Q. BY MR. MESEREAU: You said you were dragged

28 on the ground, true? 6792

1 A. Yes.

2 Q. And who dragged you?

3 A. I remember how he looked, and it was one --
4 it was one of the J.C. Penney's people. That's the
5 best I can remember.

6 Q. Now, you were handcuffed at one point,
7 right?

8 A. Yes, I was.

9 Q. And you were then dragged with the
10 handcuffs, right?

11 A. Yes.

12 Q. And you had trouble breathing, right?

13 A. Yes.

14 Q. You fell and you were dragged and dragged
15 and dragged, right?

16 A. Yes.

17 Q. That was in public view, correct?

18 A. Like I said, this area is the furthest of
19 the shopping parking mall and it's actually almost
20 behind this building, Tower Records. And on this
21 side of the building, there is no windows. So, yes.

22 Q. Was it a public parking lot?

23 A. Yes.

24 Q. Was it a parking lot attached to a mall?

25 A. Yes.

26 Q. Was J.C. Penney's in that mall?

27 A. J.C. Penney's was on the other side of the

28 mall. 6793

1 Q. Was Tower Records in the mall?

2 A. No, Tower Records is an independent
3 building, and that's where these people did what
4 they did.

5 Q. Now, you said your head, neck, arms, hand,
6 fingers, back, butt, thighs and calves were all
7 injured, right?

8 A. This is correct.

9 Q. Do you know approximately what time this
10 happened?

11 A. Okay. Like I said before, this is something
12 that happened seven years ago, and the best I can
13 remember, it was in the afternoon. Actually, the
14 afternoon.

15 Q. Do you know what day it was?

16 A. No. I can't.

17 Q. Well, you arrived sometime between 6:00 and
18 6:30, correct?

19 A. That sounds about right.

20 Q. And was it during the week or a weekend, if
21 you remember?

22 A. I wouldn't be able to tell you that.

23 Q. Now, you said that David was driving around
24 the parking lot and delaying what you were doing
25 because you were kissing him over and over, right?

26 A. The best I can remember -- the best I can
27 remember is that David couldn't find a parking space

28 close to the mall. And so, yes, I was. I was happy 6794

1 to have a job.

2 Q. And you said that your appointment was
3 delayed because you were driving around the mall
4 with David kissing him, correct?

5 A. Like I said, there was no parking near the
6 entrance area. So he was trying to find a parking
7 space.

8 Q. There was no parking because the lot seemed
9 pretty full, true?

10 A. No. The -- since I was just going to run in
11 and out to go pick up the drug test, and we were on
12 our way to go wash clothes, so that's why.

13 Q. But you testified under oath you were
14 driving around the lot because David -- because you
15 kept kissing David, right?

16 A. He was my husband.

17 Q. Did you say that?

18 A. That -- yeah, that he was my husband.

19 Q. Was that your testimony?

20 A. Yes.

21 Q. Now, yesterday, you said Gavin was six or
22 seven, correct?

23 A. It's approximately six, seven, maybe -- the
24 boys are about a year difference. So depending --
25 if we count back seven years, so maybe six, seven,
26 seven, eight, about there. Because you didn't ask
27 me specifically. You said "boys," I think.

28 Q. Well, you testified on December 14th, the 6795

1 year 2000, that Gavin was eight years old when this
2 happened, right?

3 A. When -- when -- he's mixing up things
4 purposely. My son was deposed right in the middle
5 of chemotherapy and radiation treatment. And
6 that -- and at that age, he was ten years of age.
7 But when this happened, he must have been --
8 the boys are a year apart. He was either six or
9 seven, seven or eight. And this is the best I can
10 remember. The deposition was done when my son Gavin
11 was ten and my son Star was nine.

12 Q. Do you remember testifying that Gavin was
13 eight years old when that incident happened?

14 A. This was seven years ago. The best I can
15 tell you is either the boys were six and seven, or
16 seven and eight. They're only a year difference.
17 So -- I'm not really good at math, so if you would
18 like to subtract seven years from now, that's about
19 when.

20 Q. Now, you testified that one of the security
21 guards, a female, kept using the "F" word at you,
22 right?

23 A. I think so. I believe so.

24 Q. That she was going to "F" you up, right?

25 A. I think so, yes.

26 Q. And she said -- you testified she called you
27 an "F asshole," right?

28 A. I think so, yes. 6796

1 Q. Would it refresh your recollection to see
2 your testimony?

3 A. No, I'm saying yes, I think so.

4 Q. And you testified she did this for no
5 reason, right?

6 A. That's how I felt. That's my opinion.

7 Q. They didn't know --

8 A. Because definitely I did not go inside the
9 store. And definitely I did not do what they were
10 claiming that I had done, which was burglary, petty
11 theft and assault and battery.

12 Q. And this woman said this to you when you
13 walked over to what was happening to David?

14 A. I think they were just overzealous security.
15 And so they did what they did. I think they
16 themselves were in the moment.

17 Q. Now, you said you were hit with a closed
18 fist, correct?

19 A. Yes.

20 Q. By this woman; right?

21 A. Yes.

22 Q. You said you saw David being choked,
23 correct?

24 A. Yes, I did.

25 Q. Now, you also mentioned that a male security
26 guard assaulted you, correct?

27 A. They all assaulted me.

28 Q. And at some point you hit the ground, right? 6797

1 A. Yes.

2 Q. Okay. And while this happened, the security
3 guards kept cursing at you, right?

4 A. I believe it was only the -- one of the
5 males, and the female.

6 Q. You indicated that one of the security
7 guards took his badge and twisted it into your face,
8 correct?

9 A. I think so. But at that time I couldn't
10 tell there was a badge.

11 Q. Well, you testified that he took a badge,
12 twisted it into your face and said to you, "For the
13 tenth time," and did it, right?

14 A. Yes, I came to find out afterwards that
15 that's what it was.

16 Q. You testified you thought you were going to
17 die, right?

18 A. Yes, it did feel that way.

19 Q. And at no time did you resist any of this
20 assault, right?

21 MR. ZONEN: Objection; asked and answered.

22 THE COURT: Overruled.

23 You may answer.

24 THE WITNESS: This is correct.

25 Q. BY MR. MESEREAU: And you said at some point
26 you were face down on your stomach, right?

27 A. Yes.

28 Q. And you said at no time did David ever come 6798

1 over to help you, right?

2 A. Yes. This is correct.

3 Q. You said he just stood there on the

4 sidewalk, right?

5 A. That's right. He just stood there on the

6 sidewalk.

7 Q. You said that the woman was hitting you over

8 the head with her handcuffs, right?

9 A. Yes.

10 Q. And you said she was pulling your hair,

11 right?

12 A. This says -- if -- yeah, that's the best I

13 can remember.

14 Q. And you said the male security guard is the

15 one who grabbed your breasts and touched you in your

16 private areas, right?

17 A. This is correct.

18 Q. You also said he was kicking you, right?

19 A. I think so. Yes.

20 Q. And the woman was kicking you as well,

21 right?

22 A. Yes.

23 Q. And you said you had no idea why you were

24 being assaulted this way, right?

25 A. This is correct.

26 Q. You said you were being choked, correct?

27 A. Yes.

28 Q. You said you were kneed by one of the two 6799

1 guards, right?

2 A. Yes.

3 Q. You said they all scratched you, correct?

4 A. Yes. I did receive scratches.

5 Q. You said you were hit with handcuffs that

6 were like brass knuckles, right?

7 A. They had -- I was trying to describe where

8 they were on their hand.

9 Q. You said that you were smashed like a

10 cockroach, correct?

11 A. Probably so.

12 Q. Did you say that?

13 A. I probably did, trying to -- for them to get

14 a visual.

15 Q. You said that the male was holding on to

16 your breast with one hand, right?

17 A. This is correct.

18 Q. You said they were hitting you all at the

19 same time everywhere, correct?

20 A. Yes.

21 Q. You said that Star was assaulted for no

22 reason, right?

23 A. Yes.

24 Q. You said Gavin was assaulted for no reason,

25 right?

26 A. That's right.

27 Q. And how many security guards do you remember

28 being in the parking lot with your family? 6800

1 A. Okay. The best I can remember is first it
2 was the male and female. Then another male. Then
3 another male. And then way towards the end, there
4 was another male, but that other male didn't do a
5 single thing. That's the best I can remember.

6 Q. You said everything became like an echo,
7 like a cave in a tunnel, correct?

8 A. Yes. It did.

9 Q. And that's when you thought you were going
10 to pass away, correct?

11 A. Pass out.

12 Q. Well, you said you thought you were going to
13 die, right?

14 A. Yes, but you're taking it -- he's mixing up
15 words. I did feel that way.

16 Q. And you said they took Gavin and they shoved
17 him into some vomit, right?

18 A. Yes.

19 Q. And you said at some point Gavin just laid
20 there, right?

21 A. He did.

22 Q. Okay. Were you handcuffed standing up or
23 when you were on the ground; do you know?

24 A. I -- I remember that. And the best is --
25 yes, I was laying down when they handcuffed me.

26 Q. And you said at one point you were called an
27 "F-ing wetback," right?

28 A. Yes. 6801

1 Q. And you said they were all laughing while
2 they did this, right?

3 A. Yes, they were.

4 Q. And you said Gavin and Star were following
5 while you were dragged, right?

6 A. Oh, yes. Oh, that is -- that is burned
7 right there.

8 Q. You said at one point your breasts were
9 outside your blouse and Gavin helped you redress,
10 right?

11 A. Gavin and Star. My breasts were outside of
12 my bra, and the boys -- because I was handcuffed,
13 the boys got my breasts, put them inside my bra and
14 buttoned me up. So, yes, it was my boys.

15 Q. And you said that one of the security guards
16 told you, "I hate blacks and I hate Mexicans,"
17 right?

18 A. One of the security guards, that was his
19 focus.

20 Q. Is that what you claim that one of them
21 said?

22 A. I think so. But, you know, I'm -- since --
23 this is seven years ago. This is the best I can
24 remember. And since he takes things out of context
25 and mixes words around, I'm -- you know, but that
26 does sound correct.

27 Q. You said under oath, "Gary said, 'I hate

28 blacks and I hate Mexicans," right? 6802

1 A. Yes.

2 Q. You were asked how you felt about the fact
3 that clothes were taken without being paid for and
4 that's when you said, "David is extremely honest.
5 He's too honest," right?

6 A. Yeah.

7 Q. You said Gavin helped you get your cell
8 phone out of your pocket, right?

9 A. Yes, I remember that.

10 Q. And you were both dialing 9-1-1, right?

11 A. Yes.

12 Q. And at some point, all of you were arrested,
13 right, you and David and the children?

14 A. The children were never arrested.

15 Q. Did they go to the station with you?

16 A. No, they never went to the station.

17 Q. Where did they go?

18 A. They -- when I was standing outside, the
19 police officer did not want to take the boys into
20 custody. So he had the station call my parents. My
21 parents came. And my -- and the officer gave the
22 boys to my parents and that's from right there.
23 Then I was taken to the police station after my
24 parents came from there, from the area, and took the
25 children with them.

26 Q. And you went to the station, correct?

27 A. This is correct.

28 Q. Your photograph was taken, right? 6803

1 A. Yes.

2 Q. Did your photograph show bruises on your
3 face?

4 A. I don't think so. I had makeup on at the
5 time.

6 Q. Do you remember testifying that at the
7 station, you didn't show bruising, you showed marks,
8 correct?

9 A. This is correct.

10 Q. You said, "As days went by, they started
11 getting darker and changing colors, you know, every
12 day, every week," right?

13 A. Yes.

14 Q. Okay?

15 A. Yes. Yes.

16 Q. You said you had no black and blue marks
17 prior to the incident, right?

18 A. Yes, this is correct.

19 Q. Now, the prosecutor asked you questions
20 about a woman who worked at the law firm that
21 represented you named Mary Holzer, correct?

22 A. Yes.

23 Q. And you told Mary Holzer that the
24 photographs in the J.C. Penney case were the result
25 of David's beatings, not anybody at J.C. Penney,
26 right?

27 A. That's incorrect.

28 Q. You said your hand was broken, correct? 6804

1 A. Yes. Right here.

2 Q. You said they stomped on your hand, correct?

3 A. I think so. I think so.

4 Q. Would it refresh your recollection if I show
5 you that page?

6 A. No, I'm saying I think so, so that's a
7 "yes."

8 Q. You didn't ask that anyone in your family be
9 taken to a hospital, right?

10 A. Yes, I did. I asked -- I asked the officer
11 and the officer said, "We're going to just process
12 you. It shouldn't take long. And then you can go
13 to the doctor's."

14 Q. Do you remember testifying, your response to
15 the following question: "Did you urge anybody at
16 any time, including to the police, that either of
17 your sons be taken to the hospital or receive
18 emergency treatment?" And the answer was, "No"? Do
19 you remember that?

20 A. Yes.

21 Q. And you were asked, "Why is that? You
22 didn't think there was an emergency?" You said, "At
23 that point I could breathe again. And since my mom
24 knows how to fix everything, you know" --

25 "Q. You were going to leave it in her
26 hands?

27 You said, "Yes," right?

28 A. Yes. Yes. 6805

1 Q. All right. You said you're not a doctor,
2 and you didn't have any reason to think you needed
3 emergency treatment, right?

4 A. That's correct. But there's also somewhere
5 in the deposition where I stated -- what I had asked
6 the J.C. Penney's people, for them to call the
7 paramedics or something like that - this is the best
8 I can remember - and he declined it. And it's in
9 there.

10 Q. And you testified at the time you just
11 wanted the J.C. Penney guards arrested. You didn't
12 want any lawsuit, right?

13 A. Show me that.

14 Q. Sure.

15 MR. MESEREAU: May I approach, Your Honor?

16 THE COURT: Yes.

17 THE WITNESS: So this is correct, then.

18 MR. ZONEN: I'll object as vague to the
19 question, "at the time." At the time of the
20 deposition or the time of the event?

21 THE COURT: You're refreshing her memory. Go
22 ahead.

23 THE WITNESS: That's right. At --

24 THE COURT: Wait. Just a moment.

25 Q. BY MR. MESEREAU: Have you had a chance to
26 look at that page?

27 A. Yes.

28 Q. Does it refresh your recollection about what 6806

1 you said in that deposition under oath?

2 A. Yes.

3 Q. You said you wanted them arrested, you

4 weren't interested in suing, right?

5 A. That's correct. At that moment, that

6 second, when the officers came, that's what I

7 wanted.

8 Q. You later changed your mind and decided to

9 file a suit, correct?

10 A. Because the time had already expired for

11 these people to be arrested.

12 Q. You claim you had a back injury, right?

13 A. Yes, I did.

14 Q. You said prior to this event you had never

15 had a back injury before?

16 A. This is correct.

17 Q. Okay. You were asked if you knew whether or

18 not David was aware that Gavin was going to run out

19 of the store with the unpurchased items, and you

20 said, "I didn't have to, no. I know David's honest

21 character," right?

22 A. Yes.

23 Q. You testified that in the parking lot, your

24 breasts were fondled for minutes, not seconds,

25 right?

26 A. That's how I felt.

27 Q. You said your pelvic area was touched for

28 minutes, correct? 6807

1 A. That's how I felt.

2 Q. You said you were hit with closed fists,
3 right?

4 MR. ZONEN: Objection; asked and answered.

5 THE WITNESS: Yes.

6 Q. BY MR. MESEREAU: And you said the security
7 guard spit intentionally --

8 MR. ZONEN: There was an objection to the
9 last question, Your Honor.

10 THE COURT: Overruled.

11 Q. BY MR. MESEREAU: You said the security
12 guards at J.C. Penney spit intentionally into Star's
13 face, correct?

14 A. I think so.

15 Q. Would it refresh your recollection if you
16 see that?

17 A. I think so. "I think so" meaning "yes."

18 Q. Did you say that under oath?

19 A. I don't know if -- this is seven years ago,
20 so I don't know whether it was Star or Gavin, so
21 that's why I'm saying yes, I think so. But since he
22 said Star --

23 Q. Would it refresh your recollection to look
24 at the deposition transcript?

25 A. Okay. I'm saying to you, because he's
26 saying this, I said yes, I think so --

27 THE COURT: Just a moment.

28 THE WITNESS: Okay. 6808

1 THE COURT: He asked you a question whether
2 it would refresh your recollection to look at the
3 transcript.

4 THE WITNESS: It's okay.

5 I remember it happening to one of my boys.

6 And he's specifying --

7 THE COURT: Ma'am, you're not answering my
8 question.

9 THE WITNESS: Okay.

10 THE COURT: Do you want -- will it refresh
11 your recollection to look at the transcript?

12 THE WITNESS: It's a yes.

13 Q. BY MR. MESEREAU: You also said the security
14 guards started spitting pumpkin seeds at your
15 family, correct?

16 A. Oh, yeah, I remember that. That's right
17 there, burned.

18 Q. And at that point in the deposition is where
19 you said that David Arvizo had never struck you or
20 your children at any time, right?

21 A. Yes, this is correct.

22 Q. When did you first go to a lawyer after this
23 incident?

24 A. I think it was about a year later.

25 Q. So a year after the incident you change your
26 mind and decided you did want to sue, right?

27 A. That was too long ago, the question.

28 Q. Well, during the time of the alleged events 6809

1 you described, you said you weren't going to sue
2 anyone and then you changed your mind, right?

3 A. There was a criminal proceedings. I was
4 charged with crimes. I was charged with burglary,
5 petty theft, assault and battery. That process took
6 months. And those people needed to apologize.

7 Q. So you only sued for an apology?

8 A. Yes, I did.

9 Q. At one point didn't your lawyer ask for
10 millions of dollars?

11 A. No.

12 Q. But you accepted 152,000, right?

13 A. No. On -- in my hand, what I received, was
14 only about 32,000. That's it.

15 Q. Now, did you talk to the prosecutor last
16 night about what you were going to testify to today?

17 A. I -- on the telephone he spoke to me that he
18 would like to show these surveillance videos, and
19 that's it.

20 Q. Did the prosecutor talk to you last night
21 about Louise Palanker?

22 A. Yes, he did.

23 Q. Do you remember testifying yesterday you
24 didn't know what happened to the money Louise
25 Palanker gave you and David?

26 A. This is correct.

27 Q. But last night you talked to the prosecutor

28 and now you remember it was used on the room for 6810

1 Gavin?

2 A. No. He refreshed my memory as far as what
3 it was. That's all.

4 Q. Now, you said today -- excuse me. Let me
5 rephrase.

6 You said today that you never asked for any
7 money to help Gavin, right?

8 A. This is correct.

9 Q. To your knowledge, the only person in your
10 family that ever asked for money to help Gavin was
11 David, right?

12 A. Yes. This is -- now I know.

13 Q. But on the Washington Mutual account, which
14 was set up to take funds for Gavin, you were the
15 signatory, right?

16 A. Yes.

17 Q. You were the one who withdrew money from the
18 account, correct?

19 A. This is correct.

20 Q. So you're on that account for Gavin which
21 you have no knowledge of any fund-raisers, right?

22 A. This is correct.

23 Q. You're the signatory on that account, but
24 you don't know why anybody even deposits money into
25 it, correct?

26 MR. ZONEN: That's argumentative.

27 Objection.

28 THE COURT: Overruled. 6811

1 You may answer.

2 THE WITNESS: Okay. Can you ask it

3 differently?

4 Q. BY MR. MESEREAU: Sure. You've said you had

5 no knowledge of any fund-raisers for Gavin, correct?

6 A. This is correct.

7 Q. You said you never asked anybody for any

8 financial help at any time, right?

9 A. This is correct.

10 Q. You said you never asked anybody for

11 financial help to assist Gavin, right?

12 A. Yes, this is correct.

13 Q. Yet at the same time, you set up a bank

14 account --

15 A. Is this a question or a statement, what

16 you're starting right now?

17 Q. Yet at the same time, you set up a bank

18 account for Gavin's benefit with you being the

19 signatory, correct?

20 A. Yes, I did follow David's instructions.

21 Q. And you have no idea why anybody put any

22 money into that account, correct?

23 A. This is correct.

24 Q. You just saw the money there and withdrew

25 it, right?

26 A. Yes. I was David's personal secretary.

27 Q. Never asked a question of anybody, "Where

28 did this money come from?" Right? 6812

1 A. That's correct.

2 Q. Just assumed it was for you to withdraw,
3 right?

4 A. No. I did what David told me.

5 Q. And you said yesterday you couldn't remember
6 what any of that money was spent on, right?

7 A. This is correct.

8 Q. And you had no idea that Chris Tucker was
9 going to wire some money into that account, right?

10 A. Yes, this is correct.

11 Q. And all your discussions with your friend
12 Aja Pryor, who was his fiancée, the issue of Chris
13 Tucker giving money never came up, right?

14 A. This is correct. Like I testified
15 yesterday, I didn't become friends with Aja until
16 after David was completely out of the picture.
17 While Gavin was sick we hardly even spoke. The one
18 I spoke most to was Ann Lopez.

19 Q. And in your discussions with Ann Lopez, you
20 never learned that George Lopez was planning to put
21 together a fund-raiser for Gavin, right?

22 A. Yes, this is correct.

23 Q. And in all your discussions with Jamie
24 Masada, you never learned that he was putting any
25 fund-raisers together for Gavin's benefit, right?

26 A. Yeah, this is correct.

27 Q. And in any of your discussions with Fritz

28 Coleman, you never learned that Fritz Coleman was 6813

1 helping to assist your family with Gavin's illness,
2 right?

3 A. Yes, this is correct.

4 Q. No one told you about any of this, right?

5 A. That's right.

6 Q. You never knew that comedians showed up at
7 The Laugh Factory on a number of occasions to help
8 raise money for Gavin, right?

9 A. This is correct.

10 Q. You never knew that Gavin was in the lobby
11 with his father accepting funds, right?

12 A. This is correct.

13 Q. Now, you said you began to buy a car and
14 then changed your mind, correct?

15 A. Yes. This is true.

16 Q. And approximately when was that?

17 A. The best I can remember, the best, because I
18 never even stepped foot in the dealership, was the
19 fall of 2001. I think -- no. No, no, that's
20 incorrect. I apologize.

21 It was definitely the fall. No, it was, the
22 fall of 2001. That's the best I can remember.

23 Q. And was the company that you were going to
24 purchase an automobile from Hollywood Ford?

25 A. Yes, it was.

26 Q. Did you go to Hollywood Ford yourself?

27 A. I never went to Hollywood Ford.

28 Q. How did you communicate with Hollywood Ford? 6814

1 A. I looked in the phone book, and I -- I got
2 their phone number from there, and I called.

3 Q. Do you recall using any money that had been
4 donated for Gavin's benefit on cosmetic surgery?

5 A. No, I used a credit card.

6 Q. Was it your credit card?

7 A. Yes. My credit card. Which is still
8 outstanding.

9 MR. ZONEN: I'm going to object as exceeding
10 the scope of the redirect.

11 THE COURT: Sustained.

12 Q. BY MR. MESEREAU: The prosecutor mentioned
13 the room that was constructed for Gavin at your
14 parents' house, okay? Do you remember him asking
15 you questions about that?

16 A. Yes, I believe so.

17 Q. And that's the room that today you say
18 Louise Palanker's money was spent on, right?

19 A. This is what Mr. Zonen made me aware,
20 refreshed my memory yesterday.

21 Q. Did you hire a contractor to fix up that
22 room?

23 A. No.

24 Q. Do you know if anyone did?

25 A. I now know that David did hire, through
26 Wheezy, through Louise Palanker. I know now.

27 Q. Did you have anything to do with a

28 contractor fixing up that room for Gavin? 6815

1 A. No.

2 Q. Did you ever meet a contractor who was
3 fixing up that room for Gavin?

4 A. No.

5 Q. Did you even tell a contractor what to do to
6 fix the room up for Gavin?

7 A. No.

8 Q. Did you have any involvement at all in
9 making sure that room was fixed up properly to help
10 Gavin with his illness?

11 A. I think so. It's my mom's house. It
12 started with it being in my mom's house.

13 Q. Did you ever see it being repaired?

14 A. No. I was with my two other children.

15 Q. Do you remember when it was repaired by a
16 contractor so that it would be an appropriate room
17 for Gavin?

18 A. No.

19 Q. You never had a discussion with anyone about
20 what the requirements were for Gavin in that room?

21 A. No.

22 Q. That was all David, too; is that correct?

23 A. Yes, this is correct.

24 Q. So David was the one who was telling the
25 contractor what the specifications were for this
26 renovated room, right?

27 A. Yes, this is correct.

28 Q. And David was the one telling the contractor 6816

1 what Gavin's requirements were to make sure he
2 didn't get exposed to germs and things of that sort,
3 right?

4 A. I think so.

5 Q. Was all David, right?

6 A. Yes. I wasn't there. I was with my two
7 other kids.

8 Q. It was done at your parents' home but David
9 was the one taking care of everything, right?

10 MR. ZONEN: Objection; asked and answered.

11 THE WITNESS: Yes, that's correct.

12 THE COURT: Sustained.

13 Just a moment.

14 Next question.

15 Q. BY MR. MESEREAU: Now, in response to the
16 prosecutor's questions, you said that you never
17 obtained any of the money from the first Louise
18 Palanker check, correct?

19 A. Yes, this is correct.

20 Q. That was a \$10,000 check written to Janet
21 Arvizo, correct?

22 A. Yes.

23 Q. Was that presented to you by David?

24 A. No.

25 Q. Well, who presented the check to you?

26 A. I -- I think this is how it went. I
27 endorsed it, give it back to David, and that was it.

28 Q. You just said -- excuse me. Who gave you 6817

1 the check to begin with?

2 A. David had me endorse it, and that's it.

3 Q. And you know --

4 A. I think so. That's how it happened.

5 Q. Did you know David was going to deposit the
6 check into your parents' account?

7 A. Now I understand, this is my understanding,
8 that my mother cashed it for him.

9 Q. You didn't know that was going to happen at
10 the time?

11 A. No, I was with my two other kids.

12 Q. Well, you saw a check for \$10,000 --

13 A. Yes.

14 Q. -- made out to Janet Arvizo, correct?

15 A. Yes.

16 Q. And you knew it was made out to you by
17 Louise Palanker, correct?

18 A. Yes.

19 Q. And you're saying that David asked you to
20 endorse it, but didn't tell you where it was going?

21 A. This is correct.

22 Q. And you never knew until recently that it
23 was deposited into your parents' account?

24 A. Yes. This is correct.

25 Q. Okay. When did you first learn it had been
26 deposited into your parents' account?

27 A. It wasn't deposited, it was cashed. Just

28 with a lot of events that are occurring now. 6818

1 Q. And you never knew where any of that money
2 went, true?

3 A. This is correct. I was -- I did what David
4 told me. I was like his personal secretary.

5 Q. Did you ever learn that Louise Palanker had
6 written a second check for \$10,000 to David?

7 A. I am aware now.

8 Q. Did you know at the time?

9 A. At the time, no.

10 Q. Well, you were communicating with Louise
11 Palanker a lot at that point, weren't you?

12 A. Yes, I was.

13 Q. Wheezy was your friend, correct?

14 A. Still.

15 Q. And you were talking to her quite often,
16 were you not?

17 A. I feel -- I feel I was.

18 Q. Yet, Wheezy never mentioned she was
19 contributing \$20,000 to your family?

20 A. Yes, that's correct.

21 Q. Wheezy never mentioned she was writing a
22 \$10,000 check to you?

23 A. This is correct.

24 Q. Wheezy never mentioned she was writing a
25 \$10,000 check to David?

26 A. This is correct.

27 Q. You never knew anything about this, right?

28 A. Yes, this is correct. At that time, 6819

1 David -- David was more in control of all these
2 previous friendships that I had had.

3 Q. By the way, do you recall David's using
4 Von's to cash checks?

5 A. No.

6 Q. Did you ever learn that David would go to
7 Von's and cash checks?

8 A. No.

9 Q. Okay. To your knowledge, did David have his
10 own account anywhere at that time?

11 A. No.

12 Q. He had no bank account at all?

13 A. No.

14 Q. Did he use a credit union at Von's?

15 A. Maybe. I don't know.

16 Q. But you never heard anything about that,
17 right?

18 A. No.

19 Q. Now, in one of the police reports involving
20 David's domestic violence, you said you had been
21 abused by him throughout your marriage, true?

22 MR. ZONEN: Objection; exceeding the scope
23 of the redirect.

24 THE COURT: Sustained.

25 MR. MESEREAU: It would have to do with her
26 injuries, Your Honor.

27 THE COURT: All right. I'll allow the

28 question. 6820

1 MR. MESEREAU: Thank you.

2 Q. Do you remember telling the police, when
3 David was arrested, that throughout your 16-year
4 marriage he had physically abused you?

5 A. Yes. Finally I said something.

6 Q. You told the police that he would hit you on
7 all parts of your body, right?

8 A. Yes, he did.

9 Q. You said he forced your head under water,
10 right?

11 A. Yes, he did.

12 Q. You said he prevented you from wearing
13 makeup, right?

14 A. That's correct.

15 Q. And in a number of interviews with the
16 police, you said he had beaten you throughout that
17 marriage, right?

18 A. Yes, he did.

19 Q. Yet, in the J.C. Penney case, you said none
20 of your bruises or injuries had anything to do with
21 David, right?

22 A. That's correct.

23 Q. When you testified under oath in the J.C.
24 Penney case that initially you weren't bruised but
25 as time went on they got blacker and blacker, what
26 did you mean?

27 A. Well, that I had -- even though I had -- I

28 did have visible abrasions, that even though these 6821

1 people had hit me, it wasn't immediate. I could see
2 them.

3 Q. Did your attorney have those photographs
4 taken that the prosecutor introduced into evidence
5 yesterday?

6 A. Yes.

7 Q. You didn't go to a lawyer till a year later,
8 right?

9 A. No. He's incorrect. Those photographs were
10 taken immediately with the criminal court
11 proceedings. That stuff, criminal case, whatever.
12 Had nothing to do with the civil case. I had those
13 photos already. Well, actually, my -- the defense
14 attorney had those photos.

15 Q. Who hired the photographer?

16 A. Actually, I think it was -- I don't remember
17 very clear. I don't remember very clear. But it
18 was per the defense attorney's actions, ways, I
19 don't know what you would call it, suggestion. I
20 don't know.

21 Q. It wasn't taken -- excuse me. Those photos
22 were not taken by the police, correct?

23 A. This is correct.

24 Q. They were taken at the direction of a
25 lawyer, correct?

26 A. Yes. This is correct. A defense attorney.

27 Not a civil lawyer.

28 Q. Where were those photos taken? 6822

1 A. That I do remember. It's at -- it's a place
2 in El Monte. I don't remember the name, but it's El
3 Monte.

4 Q. Was it an office of a photographer?

5 A. No, it's actually one of those, like,
6 one-hour photo places.

7 Q. Who took you there?

8 A. I think it was David. Yes, I think it was
9 David.

10 Q. Do you know when he took you there?

11 A. Immediately.

12 Q. But didn't you testify in the deposition you
13 didn't have these bruises immediately?

14 A. No. That's right. When the -- when the
15 defense attorney had told us, then that's the time.

16 Q. Who went there to get their photographs
17 taken?

18 A. I believe it was me and David. And then I
19 think Gavin was -- the boys were with us. I think
20 so.

21 Q. And were you doing this all at the direction
22 of David?

23 A. No. I was doing it in the direction of the
24 defense attorney.

25 Q. And what was this defense attorney's name?

26 A. Mr. Fountain.

27 Q. The prosecutor asked you questions about

28 Attorney Bill Dickerman. You first met Attorney 6823

1 Bill Dickerman on February 21st, 2003, correct?

2 A. Incorrect. I remember the date. It was

3 February 25th.

4 Q. Did you ever tell anyone that you met with

5 Bill Dickerman on February 21st?

6 A. No.

7 Q. Have you ever discussed with Bill Dickerman

8 the date you first met him?

9 A. No.

10 Q. Are you aware of Gavin telephoning Jay Leno

11 at any time?

12 A. No.

13 Q. Never heard anything about that?

14 A. No. I've heard now.

15 Q. Did Gavin ever tell you, "I tried to reach

16 Jay Leno"?

17 A. No.

18 Q. Were you ever standing in the background

19 during a phone call that Gavin made to Jay Leno?

20 A. No.

21 Q. Have you ever spoken to Jay Leno?

22 A. I've never spoken to Jay Leno.

23 MR. MESEREAU: If I may just take one

24 second, Your Honor, I'll be ready to wrap this up.

25 THE COURT: Yes.

26 Q. BY MR. MESEREAU: Were you aware of Gavin

27 making any attempt to contact celebrities by phone?

28 A. No. 6824

1 Q. To your knowledge, did Gavin ever try to
2 contact any celebrity from your home?

3 A. No.

4 Q. Did you ever contact any celebrity from your
5 home?

6 A. No.

7 Q. Did you attempt to contact any celebrities
8 at any time?

9 A. No.

10 MR. MESEREAU: No further questions.

11

12 FURTHER REDIRECT EXAMINATION

13 BY MR. ZONEN:

14 Q. Ms. Arvizo, did you earlier testify that you
15 had contacted George Lopez when your son became ill?

16 A. Yes.

17 Q. All right. Did you contact any other people
18 when your son became ill to notify them that he was
19 ill?

20 A. I think I contacted Jamie Masada, Louise.

21 These are all previous people that I had already
22 known before Gavin had become ill. And that's it.

23 That's the best I can remember.

24 Q. When did you first learn that Gavin had been
25 injured in the altercation at J.C. Penney's?

26 A. Okay. My parents had come and picked up the
27 children from the parking lot, because the officer

28 did not want to take them to the police station. 6825

1 And so it was my mom who called me up and told me
2 that -- that she's tried everything, everything,
3 first aid, and that was still not enough for the
4 kids to feel better.

5 Q. You say she called you up. Where did she
6 call you?

7 A. She called me -- at that time I had a cell
8 phone.

9 Q. But where were you at the time? At what
10 time was this?

11 A. I was staying in the place that we were
12 staying in.

13 Q. Okay. I'm asking you when. So had you
14 already been arrested and released from jail?

15 A. Yes.

16 Q. And had you already gone to the hospital?

17 A. Yes.

18 Q. For your own injuries?

19 A. Yes.

20 Q. So at the time that you were being arrested
21 at J.C. Penney's in the parking lot, were you aware
22 that Gavin was injured at that time?

23 A. I had seen them, the way they had hit both
24 the boys, but I figured my mom, you know, could do
25 what she always does, and in first aid, just like
26 when they fall or scrape or anything, that she can
27 tend to them. So that's what I figured. I didn't

28 think it was beyond what my mother could care for. 6826

1 But my mom made me aware that it was beyond her
2 capability.

3 Q. Did you know at the time that you were
4 arrested that your son Gavin had a broken elbow?

5 A. No, I didn't.

6 Q. Did you know at the time that you were
7 arrested that you had a broken bone in your hand or
8 wrist?

9 A. No, I didn't.

10 MR. ZONEN: Thank you. I have no further
11 questions.

12 THE COURT: All right. We'll take our
13 morning break.

14 (Recess taken.)

15 --o0o--

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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 6773 through 6827

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 April 19, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 April 19, 2005.

24

25

26

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

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 TUESDAY, APRIL 19, 2005

20

21 8:30 A.M.

22

23 (PAGES 6829 THROUGH 6988)

24

25

26

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

28 BY: Official Court Reporter 6829

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24

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26

27

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. Mesereau is listed as "M" on index. Ms. Yu is listed as "Y" on
index.

6 Mr. Sanger is listed as "SA" on index. Mr. Oxman is listed as "O" on
index.

7

8

9 PLAINTIFF'S WITNESSES DIRECT CROSS REDIRECT RECROSS

10

11 ALVAREZ, Victor M. 6835-Z 6839-M 6847-Z (Re-called)

12 VENTURA, Maria A. 6851-Z

13 CALDWELL, 6869-Z 6878-SA 6884-Z

14 William F.

15 FORNEY, Rod 6893-Z 6897-SA

16 DAVY, Michael 6902-SN 6921-M

17 WILLIAMS, Janet 6948-SN 6973-SA

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28 6831

1 E X H I B I T S

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

3

4 590-A Book "Bob and Rod" by Tom Bianchi 6952 6954

5 590-B Book "Before the Hand of Man"

6 By Roy Dean 6952 6954

7 590-C Book "Room to Play" by Simen Johan 6952 6954

8 590-D Book "Naked as a Jay Byrd" by

9 Dian Hanson 6952 6964

10 591 Solaire Universelle Day Nudisme Volume 11 6955 6956

11 592 Nudist - March 1935 6957 6959

12 593 American Sunbather, May 1961 6957 6959

13 594 Nudist, February 1935 6957 6959

14 595 The Nudist, May 1935 6957 6959

15 596 Book "Man, A Sexual Study of

16 Man," Text by Larry Stevens 6959 6961

17 597 Book "The Golden Age of Neglect" by Ed Templeton 6959 6961

18 598 The Nudist, June/July 1935 6962 6964

19 599 Book "Taormina Wilhelm

20 VonGloeden" 6959 6961

21 600 The Nudist, August 1935 6962 6964

22 601 Sunshine and Health, The Nudist, May 1937 6962 6964

23 602 The Nudist, February 1936 6962 6964

24 603 The Nudist, June 1936 6962 6964

25 604 The Nudist, August 1936 6962 6964

26 605 The Nudist, October 1936 6962 6964

27 606 Sunshine and Health, The

28 Nudist, April 1937 6962 6964 6832

1 E X H I B I T S (Continued)

2 FOR IN

PLAINTIFF'S NO. DESCRIPTION I.D. EVID.

3 607 Sunshine and Health, The

4 Nudist, December 1937 6962 6964

5 608 Sunshine and Health, The Nudist, October 1937 6962 6964

6 609 Sunshine and Health, The

7 Nudist, February 1937 6962 6964

8 610 Sunshine and Health, The Nudist, January 1937 6962 6964

9 611 Sunshine and Health, The

10 Nudist, December 1937 6962 6964

11 612 Sunshine and Health, The Nudist, September 1938 6962 6964

12 613 Sunshine and Health, The

13 Nudist, July 1939 6962 6964

14 614 Eden Quarterly, Issue 7 6964 6969

15 615 Sunshine and Health, The Nudist, November 1937 6964 6969

16 616 Sunshine and Health, The

17 Nudist, November 1937 6964 6969

18 617 Sunshine and Health, The Nudist, February 1938 6964 6969

19 618 Sunshine and Health, The

20 Nudist, March 1938 6964 6969

21 619 Sunshine and Health, The Nudist, September 1937 6964 6969

22 620 Eden Quarterly, Issue 8 6969 6972

23 621 Sunshine and Health, The

24 Nudist, June 1937 6969 6972

25 822 "The Art of Dave Nestler, Wicked Intentions" 6836 6849

26 823 VHS Tape, Item 811 6839

27 824 VHS Tape, Item 812 6839

28 6833

1 E X H I B I T S

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

3

4 825 VHS Tape, Item 815 6839

5 826 VHS Tape, Item 816 6839

6 827 Audio cassette tape, MJ 6876

7 828 Audio cassette tape, Michael Jackson 6876

8 829 Mini video cassette tape

9 Arvizo Move 6877

10 831 Photo of cabinet with TV, VCR, audio and VHS tapes 6874 6878

11 832 Photo of audio tapes blown up 6874 6878

12 833 Photo of VHS tapes blown up 6874 6878

13 834 Evidence bag containing

14 Exhibits 592 through 595 6957 6959

15 835 Evidence bag containing Exhibits 598 and 600 through

16 613 6962

17 836 Evidence bag containing Exhibits 614 through 619 6964 6969

18 837 Evidence bag containing

19 Exhibits 620 and 621 6969 6972

20 838 Evidence bag containing book "Poo-Chi" 6971 6972

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1 THE COURT: Any further questions, Mr.

2 Mesereau?

3 MR. MESEREAU: No, Your Honor.

4 THE COURT: Call your next witness.

5 MR. ZONEN: Thank you, Your Honor. We'll

6 call Detective Vic Alvarez to the stand, please.

7 THE COURT: Come forward, please.

8 When you get to the witness stand, remain

9 standing. Face the clerk over here, and raise your

10 right hand.

11

12 VICTOR M. ALVAREZ

13 Having been sworn, testified as follows:

14

15 THE WITNESS: Yes.

16 THE CLERK: Please be seated. State and

17 spell your name for the record.

18 THE WITNESS: Victor M. Alvarez;

19 A-l-v-a-r-e-z.

20 THE CLERK: Thank you.

21

22 DIRECT EXAMINATION

23 BY MR. ZONEN:

24 Q. Detective Alvarez, you've previously

25 testified in these proceedings, have you not?

26 A. Yes.

27 Q. And identified yourself as a detective with

28 the Santa Barbara County Sheriff's Office? 6835

1 A. Yes.

2 Q. You're going to be testifying to a number of
3 different items this morning, although fairly
4 rapidly. Is that your understanding?

5 A. Yes.

6 Q. Now, the last time that you were on the
7 witness stand testifying, or perhaps one of the last
8 few times you were on the witness stand testifying,
9 you were testifying to some items that you had
10 personally seized from Neverland Ranch during the
11 course of that search back in November of '02; is
12 that correct?

13 A. Yes.

14 Q. November 18, '02, am I right?

15 A. '03.

16 Q. I'm sorry --

17 A. It would be '03.

18 Q. I'm sorry, '03. Okay. November 18 of '03.

19 Exactly.

20 At the time of your testimony, you had --
21 one particular item had fallen out of a bag and was
22 not present in court at the time it was presented to
23 you. Is that your recollection?

24 A. Yes.

25 Q. I'd like to show you Court Exhibit 822.

26 Court Exhibit 822, and specifically -- occupational
27 hazard here -- specifically Sheriff's No. 304-B.

28 Would you take a look at this item and tell us if 6836

1 you recognize that item?

2 A. Yes.

3 Q. Is that an item that you seized?

4 A. That's correct.

5 Q. Is that the item that fell out of the bag?

6 A. Yes.

7 Q. Okay. And just describe it for us, please.

8 A. It is a -- appears to be a paperback. It is
9 titled, "The Art of Dave Nestler," N-e-s-t-l-e-r.

10 Q. Was that taken to another detective who then
11 booked it into evidence?

12 A. The title is "Wicked Intentions" and -- yes.

13 Q. I'm sorry, there were two questions. The
14 title of the magazine again was what, please?

15 A. "Wicked Intentions."

16 Q. And that magazine was then booked in by
17 whom?

18 A. I believe it was Detective Padilla.

19 MR. ZONEN: Okay. I would move to introduce
20 that item into evidence at this time, Your Honor.

21 MR. SANGER: I need to cross-examine on
22 that, if I may, please, before the Court rules.

23 THE COURT: All right.

24 MR. SANGER: Thank you.

25 THE COURT: I'll withhold ruling on that.

26 MR. ZONEN: Okay. I'll proceed with other
27 exhibits, if I may.

28 Q. Detective Alvarez, did you have an 6837

1 opportunity to review a number of VHS videos and
2 compare them as against a number of DVDs?

3 A. Yes.

4 Q. All right. I would like to show you each of
5 the DVDs and each of the videos and ask you if, in
6 fact, they are duplicate copies of one another, if I
7 may.

8 A. Sure.

9 MR. ZONEN: May I approach the witness?

10 THE COURT: Yes.

11 Q. BY MR. ZONEN: Let me begin with four court
12 exhibits, and the four court exhibits are No. 815,
13 a DVD; 816, a DVD; 817, a DVD; and 818, a DVD. Have
14 you seen those four previously?

15 A. I have.

16 Q. And can you tell us if you viewed the
17 contents of those four?

18 A. I have.

19 Q. And what is the subject matter of those four
20 DVDs?

21 A. These are surveillance tapes.

22 Q. Is one of a residence on Soto Street?

23 A. One is a residence on Soto Street.

24 Q. And the other three?

25 A. Of Ramer Street. One of Jay Jackson. One
26 of Davellin.

27 Q. Okay. Did you -- were you in court on

28 Friday where some of those surveillance tapes were 6838

1 played?

2 A. Yes, I was.

3 Q. And are those, in fact, the same as the ones
4 that you're currently holding?

5 A. They are.

6 Q. All right. Now, did you have an opportunity
7 to compare them as against videotapes?

8 A. I did.

9 Q. Let me now show you exhibits for
10 identification, please, No. 823, No. 824, No. 825
11 and No. 826. And could you take a moment and look
12 at each of those four VHS videos?

13 A. Yes.

14 Q. Do those four correspond to the four DVDs
15 you've already identified?

16 A. They do.

17 Q. Are they duplicates of them?

18 A. The DVDs are actual exact copies of the VHS
19 tapes.

20 MR. ZONEN: Thank you. No further
21 questions.

22

23 CROSS-EXAMINATION

24 BY MR. SANGER:

25 Q. Exhibit 822, Detective --

26 A. Yes. The magazine.

27 Q. The magazine. It's just a separate

28 magazine? 6839

1 A. Yes.

2 Q. That's marked as 822, correct?

3 A. That's correct.

4 Q. And you've indicated that it was actually
5 304-B as designated by the sheriff's department.

6 Was that your testimony?

7 A. Yes. That's -- it came from Item 304, the
8 original item, and this is -- this was found with
9 Item No. 304.

10 Q. Okay. So really it was not booked into
11 sheriff's department evidence as 304-B, was it?

12 A. I believe it was.

13 Q. Okay. On your booking form, your sheriff's
14 department booking form, the one that was filled out
15 by Detective Padilla --

16 A. Correct.

17 Q. -- that would be the form that he used to
18 designate by number the various items that were
19 seized; is that correct?

20 A. Yes.

21 Q. And he indicated that the contents of that
22 one bag were 304?

23 A. Right.

24 Q. All right. He did not designate it 304-A
25 or B, correct?

26 A. Not at that time.

27 Q. Okay. Now, I think you've told us -- and I

28 don't want to be redundant, but I think I asked you 6840

1 about your training and experience when you were on
2 the stand previously --

3 A. Correct.

4 Q. -- is that correct?

5 And I don't know if I went into detail, but
6 let me ask quickly, if I can, you were trained at a
7 police academy; is that right?

8 A. Yes.

9 Q. Which police academy?

10 A. Allan Hancock.

11 Q. Allan Hancock, all right. That's a POST
12 Academy?

13 A. That's right.

14 Q. And you have also had inservice training; is
15 that correct?

16 A. Yes.

17 Q. And you were also a bailiff in Department 9,
18 or whatever number it was over the years, Judge
19 Lodge's department down in Santa Barbara; is that
20 correct?

21 A. Yes.

22 Q. So you had an occasion to see how evidence
23 was handled in court, correct?

24 A. Correct.

25 Q. And you had an occasion to see countless
26 witnesses, police officers, detectives,
27 cross-examined with regard to the chain of custody;

28 is that right? 6841

1 A. Correct.

2 Q. And in your training and experience, both
3 your POST Academy training and your inservice
4 training and your experience as a police officer or
5 a sheriff, you're aware that chain of custody is
6 important; is that correct?

7 A. Correct.

8 Q. And when an item is seized originally by
9 your department, specifically the sheriff's
10 department, it is given a sheriff's booking number,
11 correct?

12 A. Correct.

13 Q. And it's put usually into an evidence bag,
14 assuming it's the kind of object that can be put
15 into a bag; is that correct?

16 A. Yes.

17 Q. That bag is sealed; is that right?

18 A. Correct.

19 Q. And the idea is to come into court and open
20 the bag, and say, "Sure enough, here's the same
21 contents that were put into that bag originally,"
22 right?

23 A. Yes.

24 Q. You would agree that it is not a proper
25 police practice to lose an item from a bag; is that
26 right?

27 A. This wasn't lost.

28 Q. Okay. It wasn't here when the item was in 6842

1 front of the jury when you testified originally, was
2 it?

3 A. No, it wasn't.

4 Q. It fell out of the bag?

5 A. It was in the box.

6 Q. Okay. Fell out the bag, right?

7 A. Yes.

8 MR. ZONEN: Objection; argumentative.

9 THE COURT: Overruled. Next question.

10 Q. BY MR. SANGER: And you would agree it's not
11 a proper police practice to have things fall out of
12 the bag before you're standing in front of the jury
13 or sitting in front of the jury and introducing the
14 contents of the bag, correct?

15 A. Whether it's proper or not, I -- I don't
16 know, but it happened.

17 Q. When do you believe that somebody gave this
18 item the designation of 304-B?

19 A. Originally what happened was at the initial
20 search of Neverland Ranch, all these items were
21 put -- for example, 304, there were more than one
22 item. Later on, as these items were opened, they
23 were given As, Bs and Cs, depending on what was
24 searched and what was found.

25 Q. Okay. Detective Padilla gave it the number
26 304, correct?

27 A. As a group, yes.

28 Q. Who gave it -- to your knowledge, do you 6843

1 know who actually gave it a designation 304-B?

2 A. I'd say it was Detective -- or Sergeant
3 Bonner.

4 Q. All right. So you were not -- you did not
5 give it the number 304-B; is that correct?

6 A. I did not. I gave it the original number,
7 304.

8 Q. Did you ever see that item between the time
9 you handed it to Detective Padilla and the time that
10 you found it was in the box?

11 A. Yes.

12 Q. When did you see it?

13 A. When Sergeant Bonner was itemizing the
14 items.

15 Q. So you saw him --

16 A. This is not the second time I have seen
17 this.

18 Q. You saw it when Sergeant Bonner actually
19 gave it a designation 304-B?

20 A. That's correct.

21 Q. And then your understanding was it was
22 supposed to be put back in the bag, 304, right, to
23 preserve the chain of custody?

24 A. Either in 304 or designated as 304-B in its
25 own container.

26 Q. In any event, when you took the stand, 304,
27 the bag that you thought contained 304-A and B, only

28 contained A and not B; is that correct? 6844

1 A. Correct.

2 Q. Now, this particular item, which you told us
3 is "The Art of Dave Nestler," is that a book of art
4 by that particular individual?

5 A. Yes.

6 Q. All right. And that is an item that, to
7 your knowledge, is legal for an adult to purchase
8 commercially, correct?

9 A. Yes.

10 Q. I'm not talking about copyrights. What I'm
11 talking about --

12 A. Yes, yes.

13 Q. -- it's something that somebody could buy.
14 If they can find it in a store, right, an adult can
15 buy it? There's nothing illegal about that, right?

16 A. Yes.

17 Q. And there's nothing illegal about an adult
18 possessing that?

19 A. I don't think so.

20 Q. All right. Thank you.

21 Now, let me just ask you, the second part of
22 your testimony pertained to these videos, and you
23 have related the videos to the DVDs. The actual --

24 A. Or the DVDs to the video. Either way, yes.

25 Q. Okay. Am I missing something there?

26 A. The DVDs are made from the original videos.

27 Q. You said you related them. That was my

28 word. 6845

1 A. Yes.

2 Q. Okay. On the stand you said these DVDs were
3 taken from these videos, right? That's, in essence,
4 what you're saying?

5 A. Yes.

6 Q. There we go. And in that regard, the
7 videos -- your understanding is that these video
8 were located in Bradley Miller's office; is that
9 correct?

10 A. Correct.

11 Q. And Bradley Miller is a private investigator
12 that worked for Mark Geragos, correct?

13 A. Correct.

14 MR. ZONEN: Objection; speculative.

15 THE COURT: Overruled. The answer is,

16 "Correct."

17 MR. ZONEN: Lack of foundation.

18 THE COURT: Proceed.

19 MR. SANGER: Thank you.

20 Q. The -- you've looked at the videos, correct?

21 A. I have.

22 Q. And they appear to be surveillance films of
23 some sort, correct?

24 A. Yes.

25 Q. They appear to be taken from a public place,
26 a place where a person would lawfully be, a street
27 or sidewalk; is that correct?

28 A. Yes. 6846

1 Q. And that is consistent with what private
2 investigators do from time to time, correct?

3 A. I'm not a private investigator.

4 Q. No, sir. But you've seen private
5 investigators' surveillance videos before, have you
6 not?

7 A. I have.

8 Q. And sometimes private investigators, for
9 whatever reason, do surveillance videos, correct?

10 A. Yes.

11 MR. SANGER: All right. Thank you. I have
12 no further questions.

13

14 REDIRECT EXAMINATION

15 BY MR. ZONEN:

16 Q. The magazine that's in front of you, I think
17 it's right below your hands at the moment.

18 A. Yes.

19 Q. What is the Court number again on that? The
20 one that we've identified as 304-B, sheriff's
21 number?

22 A. 822. Exhibit 822.

23 Q. Where in Neverland did you find that
24 particular exhibit?

25 A. This was in --

26 MR. SANGER: I'm going to object. That's
27 beyond the scope of direct, actually.

28 MR. ZONEN: Then I would move to reopen on 6847

1 that question if that's the case.

2 THE COURT: It is the case. I'll allow you
3 to reopen.

4 MR. ZONEN: Thank you.

5 Q. Where exactly was it that you found that?

6 A. This was along with Item 304.

7 Q. Yes.

8 A. And it was in the master bedroom downstairs
9 bathroom, next to the sink area by the tub. There's
10 a sink. There's a tub. It was in the middle there.

11 Q. Was it something that was contained in a
12 drawer or in a suitcase or in any kind of a closed
13 container?

14 A. I believe it was out in the open.

15 Q. It was in the open at the time?

16 Now, you said the magazine wasn't lost, it
17 was in the box. Tell us what you mean by that.

18 A. As we brought the exhibits into the
19 courtroom, it was actually placed in one of the
20 boxes that we carried it in. So it just --

21 Q. And what happened with the magazine?

22 A. It was in the box and wasn't presented in
23 court.

24 Q. Okay. Fell out of the -- what was it
25 originally contained in within the box?

26 A. If it's labeled 304-B, then it was in
27 plastic and must have just fell out of the plastic.

28 Q. And did you then retrieve it from the box? 6848

1 A. I did.

2 MR. ZONEN: Thank you. No further

3 questions.

4 MR. SANGER: No further questions, Your

5 Honor.

6 THE COURT: You may step down.

7 MR. ZONEN: As to Exhibit No. 822, we would

8 move that into evidence at this time.

9 MR. SANGER: I'll submit it.

10 THE COURT: It's admitted.

11 MR. ZONEN: And we'll call Maria Ventura to

12 the stand.

13 THE COURT: She's on her way.

14 Counsel, the in-camera hearing that was

15 requested, I think we'll conduct that at about ten

16 minutes before the next break. I think ten minutes

17 is a sufficient amount of time for that in-camera

18 hearing. So that will extend the jurors' lunch by

19 ten minutes and shorten yours by every minute you

20 take over ten.

21 (Laughter.)

22 MR. SNEDDON: Why are you looking at me,

23 Judge? I have a guilty conscience maybe.

24 THE COURT: You must have a guilty

25 conscience.

26 MR. SANGER: Your Honor, could you give us a

27 little more --

28 THE COURT: Mr. Mesereau knows. 6849

1 MR. MESEREAU: Oh, oh, oh. I know what it
2 is.

3 THE COURT: Come forward, please. When you
4 get to the witness stand, please remain standing.
5 Face the clerk here and raise your right
6 hand.

7

8 MARIA A. VENTURA

9 Having been sworn, testified as follows:

10

11 THE WITNESS: Yes.

12 THE CLERK: Please be seated. State and
13 spell your name for the record.

14 THE COURT: For the attorneys' information,
15 we have two interpreters. I've given them
16 permission to switch off as they need a break. They
17 know when they need to, and so they may do that
18 while you're questioning the witness.

19 MR. ZONEN: Thank you.

20 May I proceed?

21 THE COURT: Yes.

22 THE WITNESS: Maria A. Ventura.

23 THE INTERPRETER: May the interpreter spell?

24 Ventura is spelled V-e-n-t-u-r-a.

25 MR. ZONEN: Thank you.

26 //

27 //

1 DIRECT EXAMINATION

2 BY MR. ZONEN:

3 Q. Miss Ventura, are you the mother of Janet

4 Arvizo?

5 A. Yes, sir.

6 Q. Do you have other children as well?

7 A. Yes.

8 Q. Does Janet Arvizo have children?

9 A. Yes.

10 Q. And how many children does she have?

11 A. Three.

12 Q. All right. These are the three children

13 from her marriage with David Arvizo?

14 A. Yes, sir.

15 Q. Does she have a child also with her marriage

16 to Jay Jackson?

17 A. Yes.

18 Q. And that child is how old?

19 A. The little one?

20 Q. Yes, the little one.

21 A. Eight months.

22 Q. Okay. Now, the three older children, the

23 children who are the children of Janet and David

24 Arvizo --

25 A. Yes, sir.

26 Q. -- are their names Davellin, Star and Gavin?

27 A. Yes.

28 Q. And those three are your grandchildren? 6851

1 A. Yes.

2 Q. Do you talk with those three children on a
3 regular basis?

4 A. Well, they're my kids.

5 Q. Does that mean yes, you do?

6 A. Yes.

7 Q. All right. And do the children speak enough
8 Spanish that they're able to communicate effectively
9 with you?

10 A. Yes.

11 Q. I'd like to direct your attention back to
12 the early --

13 A. You can speak louder, because I can't hear.

14 I can't hear.

15 Q. I would like to direct your attention back
16 to the early part of 2003, January and February of
17 2003.

18 A. That's fine.

19 MR. AUCHINCLOSS: It's not you. It's the
20 interpreter.

21 MR. ZONEN: I was wondering why --

22 THE WITNESS: What did you say?

23 MR. ZONEN: That's what happens when trials
24 go on long enough.

25 Q. Miss Ventura, can you hear me now?

26 A. Yes, I do. It was for her.

27 Q. I understand.

28 (Laughter.) 6852

1 Q. I would like to direct your attention back
2 to the early part of 2003.

3 A. That's fine.

4 Q. Were you aware as to where your daughter and
5 her three children were visiting during that period
6 of time?

7 A. Yes.

8 Q. And where was that?

9 A. Neverland. I can't say it very well, but
10 there, Neverland.

11 Q. Is Neverland a place where you had once
12 visited?

13 A. Never.

14 Q. Did you know what Neverland was prior to
15 that time of January and February and March of 2003?

16 A. No.

17 Q. Did you know who Michael Jackson was prior
18 to February of 2003?

19 A. No.

20 Q. Do you know who Michael Jackson is today?

21 A. We all know, because you see it on T.V.

22 Q. All right. Now, did you ever see a
23 documentary on television that was titled "Living
24 with Michael Jackson"?

25 A. No.

26 Q. Did you ever see anything on T.V. that
27 featured your grandchildren, where your

28 grandchildren were shown on television? 6853

1 A. No. I only see parts of it in the Mexican
2 channel, because those are the channels I watch.

3 Q. Did you ever see any shots at all of your
4 grandchildren on television?

5 A. Lately, just little clips, short little
6 clips on 52 and 34.

7 Q. Did you become aware of the fact that your
8 grandchildren had been featured on television in a
9 documentary?

10 A. No.

11 Q. At some point in time, did you have a number
12 of reporters or press who came to your home?

13 A. Oh, yes. My door, my mailbox. They opened
14 my mailbox.

15 THE INTERPRETER: Okay, okay.

16 (Laughter.)

17 THE WITNESS: They even opened my mailbox.

18 They yelled at me. I even had to call the police
19 several times. They parked everywhere.

20 The worst ones were the 52, Channel 52. The
21 light was so bright they seemed like a soccer field.

22 The police came and told them to take that away.

23 And that reporter, she said no, because she had to
24 do a report. Another police officer came and he did
25 make them to turn it off, and then they -- six
26 o'clock p.m., they turned it on again.

27 Q. BY MR. ZONEN: Do you know what it was that

28 caused all of these reporters to come to your home? 6854

1 A. Yes.

2 Q. What was it?

3 A. The participation of that man, the

4 involvement of that man.

5 Q. All right. Did you --

6 A. They wanted to find out what I knew from new

7 talk, but I didn't know anything. I found out later

8 when I watched all those reports, all those

9 newscasts, everything.

10 Q. At some point in time, did your children

11 come to your home from Neverland?

12 A. Yes.

13 Q. Did you do something to facilitate their

14 coming to your home, to cause them to come to your

15 home?

16 MR. MESEREAU: Objection; leading.

17 THE COURT: Overruled.

18 THE WITNESS: I had to lie and say that I

19 was ill so that they could come.

20 Q. BY MR. ZONEN: Who did you --

21 A. Because those children love me very much,

22 because I raised them.

23 Q. Okay. The children specifically, who was it

24 who you told that you were sick?

25 A. The truth is I don't remember. The one

26 thing I know is that my children called me.

27 MR. MESEREAU: Objection; nonresponsive.

28 THE COURT: Sustained. 6855

1 Q. BY MR. ZONEN: Was it --

2 MR. MESEREAU: Move to strike.

3 MR. ZONEN: I'm sorry?

4 MR. MESEREAU: Move to strike.

5 THE COURT: It wasn't stated, so it doesn't
6 need to be stricken.

7 Q. BY MR. ZONEN: Was it one of your
8 grandchildren who called you?

9 A. Yes.

10 Q. Do you remember which of the three?

11 A. No.

12 Q. Do you remember if it was one of the boys as
13 opposed to Davellin?

14 A. Yes. Yes. I don't remember if it was Gavin
15 or Star.

16 Q. Did you tell that grandchild that you were
17 sick?

18 MR. MESEREAU: Objection; leading.

19 THE COURT: Overruled.

20 THE INTERPRETER: I'm sorry, Your Honor.

21 THE COURT: Overruled.

22 You may answer.

23 THE WITNESS: Yes.

24 Q. BY MR. ZONEN: Why did you do that?

25 A. So that they could come.

26 Q. Okay. Were you, in fact, sick at the time?

27 A. No. Well, no. Well, yes, actually, because

28 I do have arthritis and thyroid problems and things. 6856

1 Q. All right.

2 A. High cholesterol. I mean, I can make you a
3 longer list.

4 (Laughter.)

5 Q. It's not necessary.

6 Did they, in fact, come, the three children?

7 A. Yes.

8 Q. Do you know if it was the same day or at a
9 subsequent time, at a later time?

10 A. They called me in the afternoon. Later in
11 the afternoon they called me and they said, "Mom" --

12 MR. MESEREAU: Objection; hearsay.

13 THE COURT: Overruled.

14 You may complete your answer.

15 THE WITNESS: They call me "mom," because
16 they do call me "mom," so they asked me if I was
17 sick. And I said yes, because I was -- I was
18 desperate and I was anguished because I hadn't seen
19 them, and I would get a heart attack from not seeing
20 them.

21 Q. BY MR. ZONEN: And did they arrive that day
22 or soon thereafter?

23 A. The following day, I believe, is when they
24 came.

25 Q. All right. Do you know who it was who
26 delivered them to the house?

27 A. No. Because my house is like this, the

28 entrance is right here, so they had to walk. 6857

1 Q. All right. Did they come into the home, the
2 three children?

3 A. Yes.

4 Q. This is your El Monte home, the home in El
5 Monte?

6 A. Yes. My house.

7 Q. The person who -- how long have you lived in
8 that house?

9 A. 36 years.

10 Q. And your husband --

11 A. Approximately. More or less.

12 Q. Your husband's name is what, please?

13 A. David.

14 Q. And David has been married to you for how
15 many years?

16 A. He's been my only boyfriend and my only
17 husband and he's still with me.

18 Q. How old were you when you met him?

19 A. 20. 20.

20 Q. And David does what kind of work?

21 A. He's a trucker.

22 Q. And he has worked in that capacity for how
23 long?

24 A. His whole life, since I met him.

25 Q. Is he still working?

26 A. Yes.

27 Q. And he's still a trucker?

28 A. Yes. 6858

1 Q. For which company does he work?

2 A. I'm not -- I'm going to say it, but I don't
3 know if it's right. Ralph's?

4 Q. A grocery store chain?

5 A. Yes, the markets.

6 Q. All right. Going back to when the three
7 children arrived at your house, did you see the
8 person who drove them to the house?

9 A. No.

10 Q. Did that person walk them to the door?

11 MR. MESEREAU: Objection; leading.

12 THE COURT: Overruled.

13 You may answer.

14 THE WITNESS: Why are you saying that?

15 Q. BY MR. ZONEN: Did that person --

16 A. No, I'm saying him. Why does he say to
17 wait? Is it --

18 Q. Because he can.

19 (Laughter.)

20 THE WITNESS: I'm sorry.

21 THE COURT: Okay.

22 MR. ZONEN: Let me change the question.

23 Q. Did you see at any time the person or
24 persons who delivered your three children to your
25 home?

26 MR. MESEREAU: Objection; asked and
27 answered.

28 THE COURT: Sustained. 6859

1 Q. BY MR. ZONEN: Do you know who the person
2 was who delivered the children to the house?

3 A. Miguel's people.

4 Q. Is "Miguel" Michael Jackson?

5 A. Yes. It's "Miguel" in Spanish.

6 Q. Thank you.

7 Miss Ventura, when your children came into
8 the house, was your daughter Janet and her then
9 boyfriend Jay at your home at the time that the
10 three grandchildren arrived?

11 A. No. I received them by myself.

12 Q. At some time later that day or at another
13 day, did Janet and Jay arrive at your home?

14 MR. MESEREAU: Objection; leading.

15 THE COURT: Overruled.

16 You may answer.

17 THE WITNESS: Yes, they came later.

18 Q. BY MR. ZONEN: Was it the same day or a
19 different day?

20 A. Yes. The same day.

21 Q. The same day. All right. Would you
22 describe for us how the children were behaving at
23 the time that they arrived from Neverland?

24 A. Those children that came were not my
25 grandkids.

26 Q. Explain that to us, please.

27 A. The -- their entire life, my grandkids and I

28 were very close. Their happiness, their sadness, 6860

1 their games, all of that. I was always very
2 important for all three of them.

3 When they came back, they didn't talk to me
4 the same way. They were different kids. And -- and
5 even up till now Gavin is not the same child.

6 MR. MESEREAU: Objection. Nonresponsive;
7 move to strike.

8 THE COURT: Overruled.

9 Q. BY MR. ZONEN: After the three children
10 returned from Neverland to your home, did you
11 receive any phone calls at your home?

12 A. Many. Many, many. Day and night. I had a
13 red telephone, and it had a square like that. And
14 in that little square sometimes it said "Neverland,"
15 and some other time "Frank," or I don't know. And
16 the voice would say, "Gavin, Star, Davellin,
17 somebody answer."

18 MR. MESEREAU: Objection; nonresponsive.

19 THE COURT: Excuse me. Sustained.

20 Q. BY MR. ZONEN: Could you actually hear
21 messages being left on your phone?

22 A. Yes.

23 Q. Were there -- was -- were there voices on
24 the messages asking for your grandchildren?

25 MR. MESEREAU: Objection; leading.

26 THE COURT: Overruled.

27 Just a moment.

28 THE WITNESS: Yes. 6861

1 THE COURT: Have you offered her some water?

2 I'm --

3 Yourself too, if you --

4 THE INTERPRETER: I have my bottle. Thank
5 you.

6 THE COURT: Go ahead.

7 Q. BY MR. ZONEN: Could you tell if it was one
8 voice or more than one voice leaving messages on the
9 phone?

10 A. Sometimes it said on there "Neverland."

11 Q. Okay.

12 A. And some other times it was that Frank.

13 What really hurts me is that my

14 granddaughter erased it. Otherwise -- she always
15 liked to -- well, one of the phones broke down, and
16 she tried to make, out of two phones, make one.

17 MR. MESEREAU: Objection; nonresponsive.

18 THE COURT: Sustained.

19 MR. ZONEN: All right. The latter part of
20 the answer, Your Honor, you're referring to?

21 THE COURT: We'll leave the first two
22 sentences in.

23 Q. BY MR. ZONEN: You told us what you were
24 able to see on the screen on the phone, and you told
25 us you were also able to hear a voice.

26 A. Yes.

27 Q. Is that your --

28 A. Yes. The phone had a little square, and 6862

1 then you could hear the person talk.

2 Q. All right.

3 A. And I never allowed the kids to pick up the
4 phone because I was always watching out for that.

5 You know, I would also get calls very late at night,
6 maybe thinking that I was asleep.

7 But ever since that time when they came,
8 when they were no longer the same kids, I couldn't
9 sleep anymore because I was always watching out for
10 that phone.

11 Q. Let me ask you some questions about the
12 messages. Were the messages always left in English?

13 A. Yes.

14 Q. Were you able to understand the messages?

15 A. No. What I understood is as soon as I saw
16 "Neverland" --

17 MR. MESEREAU: Objection; nonresponsive.

18 THE COURT: Sustained.

19 Q. BY MR. ZONEN: What were you able to
20 understand of the messages?

21 MR. MESEREAU: Objection; hearsay.

22 MR. ZONEN: It's not for the truth of the
23 matter.

24 THE COURT: I'll allow the question.

25 THE WITNESS: What I understood is that it
26 said "Neverland" and that they were calling my
27 grandkids. That's what I understood.

28 Q. BY MR. ZONEN: You were able to hear the 6863

1 names of the kids being called?

2 A. Yes.

3 Q. All right. Could you tell if it was the
4 same voice each time or if it was a different voice?

5 A. The same one.

6 Q. Give us a sense of how many times this
7 person called.

8 MR. MESEREAU: Objection; foundation.

9 THE COURT: Overruled.

10 You may answer.

11 THE WITNESS: The number of times I can't
12 tell you, but I know that it was very often.

13 Q. BY MR. ZONEN: Over what period of time did
14 the calls continue? In other words, was it over
15 days, over weeks, or months? How would describe the
16 length of time that the calls continued?

17 A. A long time. I couldn't tell you days or
18 whatever, because I just -- I didn't keep track of
19 days, hours. And I watched my grandkids until my
20 daughter took them, took the boys. And Davellin
21 stayed with me.

22 Q. Did you ever become aware of the fact that
23 there were people watching you?

24 MR. MESEREAU: Objection; leading.

25 THE COURT: Overruled.

26 THE WITNESS: All around my house there was
27 a lot of cars. There was a lot of people.

28 Q. BY MR. ZONEN: Did anybody ever come to the 6864

1 door and attempt to contact you or the children?

2 A. Many people came to the door of my house.

3 Cameras. I was -- I was hiding. I was almost like
4 a prisoner. I had to hide. I couldn't even stick
5 my face out like that, because everybody would just
6 come on, come on over.

7 Q. Within a week or two after your
8 grandchildren returned to your home, did anybody
9 come to the door, knock on the door, and inquire
10 about the children?

11 A. Yes. All the time. All the time.

12 Q. Anybody throw stones at your house?

13 A. Yes. Once. I'm speaking slow so that you
14 can be talking.

15 I was sitting down watching the soap operas,
16 because I'm always watching my soap operas. That
17 T.V. I have in the dining room. Davellin sleeps --
18 or used to sleep in the bedroom that goes out --
19 that's out to the street. But sitting like this,
20 here's the dining room and there was her bedroom.
21 But I was sitting down when I heard,
22 "brrrr," something like that.

23 MR. ZONEN: (To the interpreter) That was
24 well done.

25 (Laughter.)

26 THE WITNESS: But I thought to myself, well,
27 it must be the kids just out in the street. But,

28 no, then again, and again. And then by the third 6865

1 time is when I stood up --

2 MR. MESEREAU: Objection. Nonresponsive and
3 narrative.

4 THE COURT: Narrative; sustained.

5 Q. BY MR. ZONEN: What did you then do?

6 A. I stood up and I walked around. And
7 Davellin just rushed out of the bedroom, and she
8 asked me, "Mama" -- "Mom, did you hear that?"
9 So I told her, "Yes, somebody's throwing
10 rocks at the house."

11 We both went up to the door. And when we
12 went out like that, we saw a man standing next to
13 the car. It was a small car. I don't know if it
14 was black or blue, because it was getting late.

15 MR. MESEREAU: Objection. Narrative;
16 nonresponsive.

17 THE COURT: Sustained.

18 Q. BY MR. ZONEN: After you saw the vehicle,
19 did you see the person near the vehicle?

20 A. Yes.

21 Q. Could you --

22 A. Right at the time that my granddaughter and
23 I went out, we turned like that, because right at
24 the time, a rock was coming on its way, and it hit
25 right on the window of Davellin's bedroom.

26 Q. While you were standing watching?

27 A. Yes. Right at the time that we went out,

28 like that. 6866

1 MR. MESEREAU: Objection. Narrative;

2 nonresponsive.

3 THE COURT: Sustained.

4 MR. ZONEN: Perhaps we could get the

5 translation of the last -- I don't know if the

6 interpreter translated the last statement.

7 THE COURT: Well, I sustained the objection,

8 narrative, so --

9 MR. ZONEN: Let me back you up a couple

10 steps.

11 Q. You actually saw somebody throw a stone?

12 A. Yes.

13 Q. Was it the person standing next to the car?

14 A. Yes.

15 Q. Can you describe that person for us, as best

16 you can?

17 A. I know that it was a man that was standing

18 there, and he had a cap. Right at the time that we

19 saw the man, Davellin and I, I told Davellin, "Call

20 the police."

21 MR. MESEREAU: Objection, Your Honor.

22 Narrative.

23 THE COURT: Sustained as to the last

24 sentence.

25 Q. BY MR. ZONEN: Were you standing with

26 Davellin at the time you saw the stone being thrown?

27 A. When he threw -- when he threw the last rock

28 that I saw that hit Davellin's bedroom window, we 6867

1 were both standing there.

2 Q. Did you then contact law enforcement?

3 A. That's when I told Davellin to run and call
4 the police.

5 Q. Did you --

6 A. And so that man very quickly got in the car
7 and took off.

8 Q. And did you, in fact, call the police?

9 A. No.

10 MR. ZONEN: May I have just one moment,
11 please, Your Honor?

12 THE WITNESS: I don't really remember, but,
13 yes.

14 MR. ZONEN: Thank you, Your Honor. I have
15 no further questions.

16 MR. MESEREAU: No questions, Your Honor.

17 THE WITNESS: But the other day --

18 THE COURT: Thank you. There are no other
19 questions. You may step down.

20 MR. ZONEN: I'm sorry, Your Honor, I need to
21 call the next witness. I neglected to do that.

22 Your Honor, we will not be needing the
23 interpreter any further.

24 Who's doing this, you or Bob?

25 MR. MESEREAU: Bob.

26 THE COURT: Counsel, maybe you'd like to take
27 this moment to explain the scheduling issue that you

28 were going to raise while we're waiting for the 6868

1 witness.

2 MR. SNEDDON: Approach the bench?

3 THE COURT: No, it's all right. You can
4 just tell us. Go ahead and tell us. I mean, it's
5 not a private matter.

6 MR. SNEDDON: I think it is, because it
7 involves some evidentiary issues.

8 BAILIFF CORTEZ: Your microphone, sir.

9 THE COURT: All right. Approach the bench.

10 (Discussion held off the record at sidebar.)

11 THE COURT: Please remain standing. Face the
12 clerk and raise your right hand.

13

14 WILLIAM F. CALDWELL

15 Having been sworn, testified as follows:

16

17 THE WITNESS: I do.

18 THE CLERK: Please be seated. State and
19 spell your name for the record.

20 THE WITNESS: William F. Caldwell;

21 C-a-l-d-w-e-l-l.

22 THE CLERK: Thank you.

23

24 DIRECT EXAMINATION

25 BY MR. ZONEN:

26 Q. Sergeant Caldwell, your current occupation,
27 please?

28 A. I'm a sergeant for the Santa Barbara 6869

1 Sheriff's Department.

2 Q. You've been in the Sheriff's Department in
3 Santa Barbara County for how long?

4 A. 27 years.

5 Q. What is your current position?

6 A. I'm a detective sergeant in the Coastal
7 Station.

8 Q. I'm sorry, which station?

9 A. Detective sergeant in the Coastal Station,
10 Carpinteria area.

11 Q. You've held that particular position for how
12 long?

13 A. Four years.

14 Q. Were you involved, among other detectives,
15 with searches that were executed on the 18th of
16 November, 2003?

17 A. Yes, sir.

18 Q. The area where you searched was what,
19 please?

20 A. It was the office of Bradley Miller, a
21 private investigator in Beverly Hills, California.

22 Q. And do you remember the address?

23 A. I don't. 211 South Beverly Drive, No. 108,
24 I believe.

25 Q. Very good. In Beverly Hills?

26 A. Yes.

27 Q. All right. Can you tell us at approximately

28 what time you conducted that search? 6870

1 A. At approximately 9:30 in the morning.

2 Q. And how many of you went to conduct that
3 search?

4 A. Three of us.

5 Q. And who were they?

6 A. Investigator Tonello from the District
7 Attorney's Office and Detective Forney from the
8 sheriff's department.

9 Q. The three of you. And did you have any
10 uniformed officers with you at that time?

11 A. Yes. Officer Roy Tinkler from the Beverly
12 Hills Police Department.

13 Q. When you arrived at that location, was
14 anybody at the office?

15 A. No, sir.

16 Q. Was the office closed and locked?

17 A. Yes, it was.

18 Q. Were you able to gain entry into the office?

19 A. Yes.

20 Q. And how were you able to do that?

21 A. We contacted the property manager who ran
22 the building, and she provided a key for entrance
23 into the outer door of the office.

24 Q. And did that get you through the outer door
25 into the office?

26 A. Yes.

27 Q. Did you at some time, either prior to or

28 after gaining entry into the outer door, make an 6871

1 effort to contact Brad Miller?

2 A. Yes.

3 Q. And how did you do that?

4 A. I previously obtained Mr. Miller's cell
5 phone number and I tried to call it and I left a
6 message on his voice mail on the cell phone.

7 Q. Were you able to get ahold of him?

8 A. No.

9 Q. Did you attempt to gain entry into the inner
10 doors in the office?

11 A. Yes.

12 Q. How many inner doors were there?

13 A. A total of three.

14 Q. And where did they lead to?

15 A. One of the offices was open. The door led
16 to a secretarial area, and then the other two doors
17 were locked.

18 Q. All right. Were you able to gain entry into
19 the two rooms that were locked?

20 A. Yes.

21 Q. How did you do that?

22 A. Through use of a sledgehammer.

23 Q. What does that mean?

24 A. We forcibly opened the door by pounding on
25 the door with a sledgehammer.

26 Q. How were you able to do that? What -- kind of
27 give us a sense of what's involved. We've all seen

28 it on T.V., but I don't know that we've ever -- 6872

1 MR. SANGER: I'm going to object.

2 Relevance, Your Honor.

3 THE COURT: Sustained.

4 MR. ZONEN: Sustained as to the entirety of
5 that question or just the comments at the end?

6 THE COURT: The entirety.

7 Q. BY MR. ZONEN: Did you gain entry into that
8 office?

9 A. Yes, sir.

10 Q. And what were the two rooms that you gained
11 entry into?

12 A. One of the offices was the office of Bradley
13 Miller, the private investigator, and the second
14 room was a conference room.

15 Q. All right. Did you seize a number of items
16 from that location?

17 A. Yes.

18 Q. All right. Did you have something to do
19 with the documentation of the items that were
20 seized?

21 A. Yes.

22 Q. Tell me what your role was in that.

23 A. My role was to complete the property form at
24 the scene. Detective Forney would bring me the
25 items, and I would number them and list the items on
26 a property form, and put them in bags, and number
27 the bags.

28 MR. ZONEN: Excuse me. I'm sorry. 6873

1 Q. I would like to show you three exhibits
2 currently marked for identification No. 831, 832,
3 and 833.

4 If I may approach the witness, Your Honor.

5 THE COURT: You may.

6 Q. BY MR. ZONEN: If you would look at those
7 three photographs and please tell us what they are.

8 A. Exhibit 831 is a photograph of a cabinet
9 with a television and VCR and a number of video and
10 audiotapes.

11 Exhibit 832 is a blow-up of some audio
12 tapes.

13 And Exhibit 833 is a blow-up of some VHS
14 video cassette tapes.

15 Q. Now, the audiotapes and the videotapes, the
16 VHS tapes that you can see in 832 and 833, are they
17 also visible in 831?

18 A. Yes, sir.

19 Q. And can you describe in that photograph
20 where they are?

21 A. They're located on a shelf above the VCR,
22 which is standing on top of the television.

23 Q. Were items seized from that general
24 location --

25 A. Yes.

26 Q. -- as depicted in 831?

27 A. Yes.

28 Q. And among the items that were seized, can 6874

1 you just describe what they were, please?

2 A. Videotapes and audiotapes.

3 Q. I'd like to now show you a series of tapes,
4 if I can.

5 If I could approach the witness with all of
6 them.

7 THE COURT: All right.

8 Q. BY MR. ZONEN: I would like to show you, if
9 I can, Exhibit No. 823, and that is Court Exhibit
10 823.

11 A. Okay.

12 Q. Can you tell us what this item is?

13 A. It's a videotape. It's entitled, "Arvizo
14 2-19 and 2-21." And it says, "Re MJ." And it's my
15 Evidence Item No. 811. It was seized from this
16 cabinet that I've talked about earlier.

17 Q. And who was it who actually seized it from
18 the cabinet?

19 A. Detective Rod Forney.

20 Q. Did you see it in the cabinet?

21 A. Yes.

22 Q. Court Exhibit No. 824, please. Take a look
23 at that, Court Exhibit No. 824, and tell us what
24 that is.

25 A. It's a VHS cassette tape. It's entitled,
26 "To Brad Re Arvizo." It's my evidence Item No. 812.
27 And it was seized from the top shelf, as indicated

28 in the photo. 6875

1 Q. No. 825, please, Court Exhibit No. 825, tell
2 us what that is.

3 A. This is a VHS video cassette tape. It's
4 entitled, "Arvizo Move, 3-5-3. MJJ." And it's my
5 Evidence Item No. 815. And this, as well, was
6 seized from that same location, the cabinet above
7 the television.

8 Q. Showing you Item 826, please.

9 A. This is a VHS video cassette tape. It's
10 entitled, "To Brad, Jeanette, March, Johnny."
11 There's a phone number, "1-866-256-6275." And it's
12 marked, the other side, "MJJ, Arvizo, 2003." It's
13 my Evidence Item No. 816. And it was seized from
14 the location as indicated, the cabinet above the
15 television.

16 Q. Item 827, Court Exhibit Item 827, tell us
17 what that is.

18 A. This is an audio cassette tape. It's marked
19 "MJ" or labeled "MJ." It's my Evidence Item No.
20 817. And it was seized on that same shelf above the
21 television.

22 Q. Court Exhibit No. 828, please tell us what
23 that is.

24 A. This is an audio cassette tape. It's
25 entitled, "Michael Jackson." It's my Evidence Item
26 No. 818. It's also labeled on the side, "Michael
27 Jackson," and it says, "Arvizo, ST, MT, 2-16-03."

28 And it was seized from that same location on the 6876

1 shelf above the television.

2 Q. Item 829, please tell us what that is.

3 A. This is a mini video cassette tape. It's

4 marked "Arvizo Move." It's my Evidence Item 819.

5 And it was seized, as well, from the shelf in the

6 television cabinet, the same location.

7 Q. Now, as the person who we've described

8 previously was the scribe, what was your obligation

9 with regards to those items?

10 A. My obligation was to collect them from

11 Detective Forney, to note the location that he

12 seized the items from, to number the items, and to

13 log the items in on an evidence sheet and to place

14 them in those respective bags and seal them.

15 Q. And did you do that as to each one of those

16 items?

17 A. I did.

18 Q. The three photographs that I've handed you,

19 tell us again the court exhibit number of those.

20 A. 831 is a photograph depicting the cabinet

21 and the television, the VCR and the tapes on the top

22 shelf.

23 Exhibit No. 832 is a blow-up or an

24 enhancement of the audio cassette tapes.

25 And Court Exhibit 833 is a blow-up or

26 enhancement of the video, VHS tapes.

27 Q. The content of those three photographs, are

28 they accurately depicted in those photographs? 6877

1 A. Yes.

2 MR. ZONEN: I would move to introduce into
3 evidence 831, 832 and 833.

4 MR. SANGER: No objection.

5 THE COURT: They're admitted.

6 MR. ZONEN: I have no further questions.

7

8 CROSS-EXAMINATION

9 BY MR. SANGER:

10 Q. Sergeant Caldwell.

11 A. Mr. Sanger.

12 Q. How are you?

13 A. Very well, sir. Thank you.

14 Q. Good. You've been a detective for how many
15 years total?

16 A. 16 or 17 years.

17 Q. So 27 years in the sheriff's department,
18 correct?

19 A. Yes.

20 Q. 16 or 17 of those as a detective, correct?

21 A. Yes.

22 Q. Four years as the detective sergeant in
23 charge of the Carpinteria substation or what's now
24 called the Coastal Station, correct?

25 A. Yes, sir.

26 Q. And Vic -- Victor Alvarez is a detective who
27 works under your supervision; is that correct?

28 A. Yes, sir. 6878

1 Q. And your assignment in this case came from
2 whom?

3 A. Well, initially from Lieutenant Kitzmann and
4 Lieutenant Klapakis.

5 Q. All right. So the two lieutenants, Kitzmann
6 and Klapakis, assigned you, in essence, to be a
7 scribe on the search of Brad Miller's office; is
8 that correct?

9 A. Well, they didn't make that individual
10 assignment. I made that assignment to myself.

11 Q. All right. Let's put it this way: They
12 assigned you to go do the Brad Miller search in this
13 case; is that correct?

14 A. Yes, sir.

15 Q. Did they assign you, with your background
16 and experience, to do anything else in this case
17 other than the Brad Miller search?

18 A. Yes.

19 Q. What else?

20 A. A search of a storage locker in West Los
21 Angeles.

22 Q. All right. That was related to the Brad
23 Miller search; is that correct?

24 A. Yes, sir.

25 Q. All right. So other than the Brad Miller
26 search and that spin-off, you were not assigned to
27 do anything else in this investigation relating to

28 Mr. Jackson; is that correct? 6879

1 A. Yes.

2 Q. Now, with regard to the location that you
3 searched, you understood that to be the office of a
4 private investigator; is that correct?

5 A. Yes.

6 Q. And you knew, before you went in, that
7 Bradley Miller was the owner of the premises or was
8 the person whose offices you were searching,
9 correct?

10 A. Yes.

11 Q. And you knew Bradley Miller was, in fact, a
12 licensed private investigator, correct?

13 A. I was told that, yes.

14 Q. And had somebody else done some background
15 work on that and presented you with it?

16 A. I believe that information was contained in
17 the search warrant affidavit, yes.

18 Q. All right. And at the time you searched,
19 did you know who Bradley Miller was working for?
20 Of your knowledge, did you know who he was working
21 for?

22 A. I -- at one point I was told that he worked
23 for Mr. Jackson.

24 Q. Okay. And later you found out he worked for
25 Mr. Geragos, correct?

26 A. Yes.

27 Q. All right. Now, Mr. Geragos, at the time

28 and currently, was a prominent lawyer in Beverly 6880

1 Hills; is that correct?

2 A. Yes.

3 Q. All right. And Bradley Miller had an office
4 in Beverly Hills, correct?

5 A. Yes.

6 Q. During the course of the search, you
7 determined that there was a connection between Mr.
8 Geragos and Bradley Miller, correct?

9 A. When you say "connection" I'm not clear on
10 the question, sir.

11 Q. Well, let's put it this way: In all your
12 experience in law enforcement, you're aware that
13 private investigators often work for lawyers,
14 correct?

15 A. Yes.

16 Q. All right. And in the course of your doing
17 your search, you ran across correspondence
18 indicating that there was a connection between Mark
19 Geragos and Bradley Miller, correct?

20 A. Yes.

21 Q. All right. Now, you mentioned that on one
22 of the tapes there, there was a reference -- maybe
23 more than one, but at least one of the tapes there's
24 a reference to, quote, "Michael Jackson" --

25 A. Yes.

26 Q. -- correct?

27 You're familiar with the manner in which

28 private investigators work, to a certain extent, 6881

1 correct?

2 A. To a certain extent, yes.

3 Q. You've never been one?

4 A. No, sir.

5 Q. All right. But you have certainly dealt
6 with a lot of private investigators during your
7 career, correct?

8 A. Yes.

9 Q. And a lot of your colleagues in years gone
10 by, who retired from law enforcement, have become
11 private investigators, correct?

12 A. Yes.

13 Q. All right. And private investigators, when
14 they're working for a lawyer, are usually assigned
15 to work on a particular case; is that correct?

16 A. Yes.

17 Q. And often they will give the name of
18 their -- the client of the lawyer -- let me withdraw
19 that.

20 Often the name of the lawyer's client will
21 be the designation that they will place on their
22 materials; is that correct?

23 A. My answer would be a guess. I don't know
24 one way or the other.

25 Q. It's not unusual for people on either side
26 of the -- of the matter, either a private
27 investigator working for a defense lawyer or law

28 enforcement, to refer to, for instance, "the Smith 6882

1 case," am I right?

2 A. That's correct.

3 Q. So you'd refer to matters pertaining to an
4 investigation relating to Mr. Smith as being "the
5 Smith matter," right?

6 A. Yes.

7 Q. Okay. That does not, in and of itself,
8 imply that Mr. Smith had any particular control or
9 direction over anything that --

10 MR. ZONEN: I would object to this as
11 speculative and beyond the scope of this witness's
12 expertise.

13 MR. SANGER: I didn't finish the question,
14 but the Court got the gist of it, I suppose.

15 THE COURT: Go ahead and finish.

16 MR. SANGER: All right. Let me try to start
17 it over.

18 Q. The fact that, for instance, hypothetically,
19 based on your training and experience, the name
20 "Smith" appeared on a file or a videotape, or
21 something of that sort, would not necessarily mean
22 that Mr. Smith had any control or direction with
23 regard to what the private investigator is doing; is
24 that correct?

25 THE COURT: I'll sustain the objection.

26 MR. SANGER: All right. Very well. No
27 further questions.

1 REDIRECT EXAMINATION

2 BY MR. ZONEN:

3 Q. You mentioned the presence of an affidavit.

4 Was that an affidavit to a search warrant?

5 A. Yes.

6 Q. And did you have that search warrant with

7 you?

8 A. I had the search warrant with me, yes, sir.

9 Q. And had you reviewed the affidavit prior to

10 the execution of the search?

11 A. I did.

12 Q. That was a search warrant authorized by a

13 judge in Santa Barbara County; is that correct?

14 A. Correct.

15 MR. ZONEN: No further questions.

16 MR. SANGER: I'm going to move to strike the

17 last question and answer, Your Honor, as beyond the

18 scope of direct and irrelevant.

19 THE COURT: It is beyond the scope, but I'll

20 allow the question.

21 Do you want any examination on the issue?

22 MR. SANGER: No, Your Honor. That's fine.

23 THE COURT: All right. Thank you. You may

24 step down.

25 MR. ZONEN: We'll call Detective Rod Forney

26 to the stand.

27 THE COURT: You know, we're just going to

28 start -- in a couple minutes we're going to start 6884

1 the in-camera hearing, so have the next witness
2 available at quarter to 12:00.

3 MR. ZONEN: Thank you.

4 THE COURT: We'll excuse you a little early
5 for lunch; be in a few minutes.

6 The nature of the hearing that we're going
7 to have is going to be in camera, in chambers, and
8 I'll have the court reporter and an attorney from
9 each side come back. And Mr. Jackson may attend or
10 may not attend, as you deem -- whatever you request,
11 Mr. Mesereau.

12 MR. MESEREAU: Okay.

13

14 (Whereupon, proceedings were held in
15 chambers and, having been ordered sealed by the
16 Court, are omitted herefrom.)

17

18 (The following proceedings were held in
19 open court outside the presence and hearing of the
20 jury:)

21

22 THE COURT: Mr. Sneddon, you had indicated
23 you had a scheduling issue you wanted to raise
24 outside the presence of the jury?

25 MR. SNEDDON: I do.

26 THE COURT: Go ahead.

27 MR. SNEDDON: Your Honor, there are several

28 issues I want to address the Court on, and some of 6885

1 it is going to be some good news for the Court and
2 some of it is going to be bad news for the Court, or
3 end up being bad news for me, one or the other. But
4 in any case, I wanted to alert the Court to several
5 issues.

6 The first one that I want to alert the Court
7 to is, for scheduling purposes, that we believe,
8 under our estimation, that we will probably be
9 completing our evidence by the end of next week, so
10 that the defense is prepared to know that that's --
11 we estimate we will be done by the end of next week.

12 The second issue involves -- I wanted to
13 alert the Court, because I had a conversation with
14 the attorney from Las Vegas last night, that one of
15 the witnesses who you signed an order of
16 transportation on, Mr. Carter, who is scheduled to
17 be here either Thursday or Friday, that the lawyer
18 indicated to me that he was going to invoke his
19 Fifth Amendment rights with regard to the charges
20 which are currently pending against him in Nevada.
21 And that raises several issues to the Court, and to
22 us personally, with regard to his testimony.

23 And I thoroughly intended to have for the
24 Court this morning a memorandum of the issues
25 involved. And the reason I don't is because Mr.
26 Franklin's computer blew up, and playing around with
27 it trying to get the two documents that I had

28 prepared and should have been here this morning and 6886

1 filed by 8:30 didn't -- aren't done yet. And my
2 last estimate is they're working on the computer to
3 free up the stuff that's in there. I don't
4 understand it, but a 15-year-old teenager probably
5 does.

6 So in any case, those were issues I wanted
7 to bring to the Court's attention that are issues
8 before Mr. Carter testifies. And that's why I had
9 the order changed from Thursday to Friday.

10 In addition to that, there are several
11 outstanding issues that we're going to ask -- one of
12 the other things that we were going to file at 8:30
13 this morning was to calendar with the clerk a
14 hearing, like we did on the 1108, that it's now
15 time, since Mrs. Arvizo has testified, to revisit
16 the issues the Court postponed on the testimony of
17 the domestic violence expert that we filed briefs on
18 and counsel for the defendant filed briefs on.

19 And so before we can go forward on that
20 front, we need to get some rulings from the Court on
21 that, as well as, the Court knows, the issue that I
22 filed and you asked that counsel for the defense did
23 a brief yesterday on Mr. Abdool.

24 So that's a long way of saying that the good
25 news is, I believe that we're about to the point
26 where we can close off our case next week.

27 The bad news, which I was saving for last,

28 is I don't think we have enough witnesses to 6887

1 complete this week. And I'm very concerned about
2 our ability to bring anybody in on Friday
3 particularly. And the reason for that is that a lot
4 of the witnesses that are on for next week are
5 people who are coming from -- involve telephone
6 records and things of that nature, which we had to
7 give advance warning and are not local people. And
8 we had to line it up in terms of their
9 transportation and in terms of their ability to stay
10 in order to try not to spend extra money having
11 people fly and cancel trips and pay penalties on
12 flights and stuff like that.

13 And we believe that we can put all of those
14 people on on Tuesday. We'll have witnesses on
15 Monday. But I believe that -- that also, like I
16 said, we can't go forward on some of these until we
17 get some rulings.

18 And the last thing is that we want to look
19 at those disks, because that could impact what we do
20 in the future. And not having had an opportunity to
21 look at those and it's not simply something that we
22 can simply turn over to investigators and say, "Look
23 at these things," I think we, as the lawyers
24 involved in the case, are going to need an
25 opportunity to do that.

26 So I guess what I'm telling the Court is
27 that -- that we will be able to go forward as the

28 Court has asked us to in the past, and that's 6888

1 consecutively with witnesses, but I believe on
2 Friday that we will have a very difficult time
3 rustling up anybody for that date. We did not
4 anticipate certain things that have happened in this
5 courtroom today or yesterday, and so that's where we
6 are. And that's the status on everything.

7 And as you know, we've only -- one time
8 since we started our case did we finish early. So I
9 think we've followed the spirit, if not the letter,
10 of the Court's rulings. And I think we just have
11 reached a point where trying to get the caboose in
12 line for the finish has been a little more difficult
13 than keeping the train on track to this point.

14 THE COURT: Do you have enough witnesses for
15 tomorrow morning?

16 MR. SNEDDON: At this particular point in
17 time, we believe we do. It will be close, but I
18 think, you know, the Court wanted us to get that
19 three hours in, so -- but it's a local witness. So
20 if you were contemplating something else, I could
21 push that witness off to the next day or something.

22 THE COURT: Well, I think the jurors would be
23 happier with a three-day weekend than with an
24 interruption in the middle of the week. I don't
25 know that, but I think so.

26 MR. SNEDDON: I agree with you.

27 THE COURT: So then the -- so, Mr. Mesereau,

28 before I start saying anything, do you want to be 6889

1 heard?

2 MR. MESEREAU: Your Honor, we plan to call a
3 lot of witnesses and we could run into some
4 scheduling problems and we may be asking for some
5 consideration, so I think the least we could do is
6 be considerate in this regard. Because I think
7 anytime you're putting on a lengthy case, you can
8 run into scheduling difficulties. So --

9 THE COURT: Are you saying that you
10 sympathize with Mr. Sneddon?

11 (Laughter.)

12 MR. MESEREAU: I believe -- I think we
13 should take Friday off, Your Honor.

14 THE COURT: How about the motions?
15 I think the domestic violence one, we have
16 all the material. I just needed to know where we
17 were. You may want to make some additional points
18 on that, each side, before I rule. But as far as
19 the written work done, it's done, I think.

20 MR. MESEREAU: And there are some other
21 issues, Your Honor, I think, like the motion Miss Yu
22 filed, which is important to our case.

23 THE CLERK: Can't hear, Judge.

24 THE COURT: They can't hear you in the back.

25 MR. MESEREAU: The motion that Miss Yu filed
26 dealing with examination on sexual conduct --

27 THE COURT: Oh, yeah.

28 MR. MESEREAU: -- is an important one to us. 6890

1 MR. SNEDDON: Judge, could I give you two
2 other things to factor into your contemplation?

3 THE COURT: Yes.

4 MR. SNEDDON: We anticipate filing, no later
5 than tomorrow morning, two other motions for
6 reconsideration on issues that the Court's
7 addressed. They're short, brief motions, but we've
8 almost got them finished.

9 THE COURT: All right. Well, I think the
10 way that I would like to handle it, then, would be
11 that we take whatever evidence you have -- today,
12 how much evidence do you have for today?

13 MR. SNEDDON: How much we have today, Your
14 Honor? I think -- I think we'll probably finish the
15 day out.

16 THE COURT: Okay.

17 MR. SNEDDON: I wasn't short today. I mean,
18 we could get ten minutes short or something, but I
19 think we'll be here the rest of the day.

20 THE COURT: Let's finish the day out with
21 evidence. And then what I would do is, if we finish
22 early with evidence on Thursday, we'll start the
23 motions. I think we could all do with Friday off,
24 so if we can hear -- if we can get to the end of the
25 evidence and still have the motions before Friday,
26 that would be a good thing, so let's make that our
27 goal.

28 MR. SNEDDON: I can arrange that, Judge. 6891

1 I can drop one witness off the bottom.

2 THE COURT: You can do that?

3 MR. SNEDDON: I can do that, Your Honor.

4 THE COURT: Okay. So let's do that. Let's

5 figure that we'll use today, tomorrow, and -- half

6 of tomorrow and Thursday, and we'll go dark Friday,

7 but we'll have the motions done before we leave.

8 That's a condition.

9 MR. SNEDDON: Okay.

10 THE COURT: We will hear the motions before

11 Friday.

12 MR. MESEREAU: Thank you, Your Honor.

13 MR. SNEDDON: All right.

14

15 (The following proceedings were held in

16 open court in the presence and hearing of the

17 jury:)

18

19 MR. ZONEN: We'll call Rod Forney to the

20 stand, please.

21 THE COURT: Please raise your right hand and

22 be sworn.

23

24 ROD FORNEY

25 Having been sworn, testified as follows:

26

27 THE WITNESS: Yes, I do.

28 THE CLERK: Please be seated. State and 6892

1 spell your name for the record.

2 THE WITNESS: Rod, R-o-d, Forney,

3 F-o-r-n-e-y.

4 THE CLERK: Thank you.

5

6 DIRECT EXAMINATION

7 BY MR. ZONEN:

8 Q. Sir, what is your current occupation?

9 A. I'm a detective for the Santa Barbara County
10 Sheriff's Office.

11 Q. You've been so employed for what period of
12 time?

13 A. For the sheriff's department, approximately
14 11 years.

15 Q. And as a detective?

16 A. As a detective for approximately five years.

17 Q. And your current assignment is what?

18 A. As a detective in the Coastal Operations
19 Bureau, which is in Carpinteria.

20 Q. Were you called to assist on the execution
21 of a search warrant back on the 18th of November,
22 2003, at an office in Beverly Hills?

23 A. Yes, I was.

24 Q. Do you happen to remember the address?

25 A. It was 211 South Beverly Drive, and it was
26 Suite -- or Room No. 108.

27 Q. Do you recall whose office it was?

28 A. Yes, sir, I do. 6893

1 Q. And whose office was it?

2 A. Bradley Miller's.

3 Q. And your responsibilities that day were

4 what?

5 A. To seize evidence.

6 Q. All right. And did you, in fact, seize

7 evidence at that time?

8 A. Yes, I did.

9 Q. Now, there's three photographs in front of

10 you. Go ahead and grab those and take a look at

11 those photographs.

12 Are those, in fact, Exhibit Nos. 831, 832

13 and 833?

14 A. Yes, they are.

15 Q. And can you tell us what those are, 831, 832

16 and 833?

17 A. They're photographs of items I had seized

18 from Mr. Miller's office.

19 Q. All right. And in front of you are a series

20 of objects.

21 May I approach the witness, Your Honor?

22 THE COURT: Yes.

23 Q. BY MR. ZONEN: I'd like to show you each of

24 these items, please, consecutively by number, and

25 tell me if you recognize these items. Starting with

26 Court Exhibit 823.

27 A. Yes, I recognize that.

28 Q. Is that an item that you seized? 6894

1 A. Yes, it is.

2 Q. And turned over to Sergeant Caldwell?

3 A. Yes, I did.

4 Q. And does that have a sheriff's number
5 associated with it?

6 A. Yes, it does.

7 Q. And what is that number?

8 A. Which -- there's numerous numbers that are
9 associated with it. This is Item No. 811 and it's
10 Tag No. 122980.

11 Q. Okay. Let's -- we'll do the item numbers on
12 this case.

13 That was Item No. 811; is that right?

14 A. Yes, it is.

15 Q. In this case, the court number is 824. And
16 tell us what it is, please.

17 A. It's Item No. 812, another videotape.

18 Q. It's a videotape. And you seized that item
19 as well?

20 A. Yes, I did.

21 Q. And Item No. 825, and this is Court Exhibit
22 825, what is that?

23 A. This is actually Item No. 815, and it's a
24 videotape.

25 Q. When you say "815," do you mean Sheriff's
26 No. 815?

27 A. That's correct.

28 Q. And it's a videotape as well? 6895

1 A. Yes.

2 Q. And the next one is Court Exhibit 826. Tell
3 us what this is.

4 A. It's Sheriff's Item No. 816. And it's also
5 a videotape that I seized.

6 Q. All right. And the next one would be Court
7 Exhibit No. 827. What is that?

8 A. Okay. This is an audiotape that I seized.

9 It is item -- Sheriff's Item No. 817.

10 Q. And then the next one? Quick, before it
11 falls out of the bag.

12 Court Exhibit No. 828?

13 A. This is Sheriff's Item No. 818. And it's
14 another audiotape that I seized.

15 Q. All right. And then Court Exhibit No. 829,
16 what is this?

17 A. It's item -- Sheriff's Item No. 819. And it
18 is a small videotape, digital videotape.

19 Q. And each of these items that you seized and
20 turned over to Sergeant Caldwell, from where did you
21 retrieve those items?

22 A. I retrieved them from like an entertainment
23 unit in the conference room of Bradley Miller's
24 office.

25 MR. ZONEN: Your Honor, the three
26 photographs are currently in evidence. May I
27 publish them at this time?

28 THE COURT: Yes. 6896

1 MR. ZONEN: We have to switch over to

2 "Input" -- is it "4"?

3 THE BAILIFF: I'll get it.

4 Q. BY MR. ZONEN: The exhibit is 831 that we're
5 looking at at this time. Tell us, please, in which
6 room in Mr. Miller's office is this?

7 A. It would be what I would refer to as the
8 conference room.

9 Q. All right. And can you tell us what we're
10 looking at in this photograph?

11 A. We're looking at the videotapes and
12 audiotapes that I had seized.

13 Q. This is Item No. 833 currently on the board.
14 Can you tell us what this is?

15 A. Those are some of the tapes that I had
16 seized that were in the same location.

17 Q. And then finally 832?

18 A. Those are also tapes that I had seized from
19 the same location.

20 MR. ZONEN: Thank you. I have no further
21 questions.

22

23 CROSS-EXAMINATION

24 BY MR. SANGER:

25 Q. Detective Forney.

26 A. Yes.

27 Q. How are you?

28 A. Fine, thank you. 6897

1 Q. Good. How long have you been a detective?

2 A. Approximately five years.

3 Q. And how long have you been a deputy sheriff?

4 A. A deputy sheriff for 11 years total.

5 Q. Eleven total including the five as a
6 detective?

7 A. Yes, and then another 14 as a police
8 officer.

9 Q. And with what department?

10 A. Bakersfield Police Department.

11 Q. Okay. Did you have assignments there other
12 than patrol?

13 A. Yes, I did.

14 Q. Were you assigned to detectives at any time?

15 A. I was sort of a street-level vice/narcotics
16 unit and also traffic as a motor officer.

17 Q. Okay. So would you just tell us -- that's
18 20-some years anyway?

19 A. 25 years.

20 Q. All right. And you were assigned to work on
21 the case regarding Mr. Jackson; is that correct?

22 A. Yes, I was.

23 Q. And your assignment was to go to the
24 premises of Bradley Miller in Beverly Hills and
25 execute a search warrant; is that right?

26 A. That's correct.

27 Q. Were you assigned to do anything other than

28 that? 6898

1 A. No.

2 Q. All right. You're familiar -- based on your
3 training, you've had training through a POST
4 academy, I take it, right?

5 A. That's correct.

6 Q. And then you've had inservice training at
7 two different departments you work at, right?

8 A. Yes.

9 Q. And you would agree that chain of custody is
10 a pretty important aspect of handling evidence; is
11 that correct?

12 A. That's correct.

13 Q. And that's what we have all these bags for
14 with tape on them and initials and dates and all
15 that; is that correct?

16 A. That's correct.

17 Q. Okay. Mr. Zonen made a remark about
18 something falling out of a bag. You want the
19 evidence to be in the bag that it was put in so that
20 you can show that there is a chain of custody,
21 correct?

22 A. That's correct.

23 Q. And so you wouldn't want to, for instance,
24 find a random piece of evidence at the bottom of a
25 box that fell out of its bag, would you?

26 A. No.

27 Q. All right. All right. Now, let me just ask

28 you a question or two about the pictures that were 6899

1 up on the board, and I won't put them back up.

2 But basically, when you did this search, you
3 realized you were searching a private investigator's
4 office; is that correct?

5 A. That's correct.

6 Q. In the course of searching that office, you
7 found things that seemed to be consistent with this
8 being an office of a private investigator; is that
9 correct?

10 A. That's correct.

11 Q. There were -- there was office equipment and
12 computers, correct?

13 A. Yes.

14 Q. And there were -- there were videotapes --

15 A. Yes.

16 Q. -- is that correct?

17 There were audiotapes?

18 A. Yes.

19 Q. There were tapes other than the tapes that
20 you seized in this particular investigation; is that
21 correct?

22 A. That's correct.

23 Q. And you would agree there's nothing unusual
24 about investigators having surveillance tapes; is
25 that correct?

26 A. That's correct. Yes.

27 MR. SANGER: All right. Okay. Thank you.

28 No further questions. 6900

1 MR. ZONEN: Oh, I have no further questions.

2 THE COURT: Thank you. You may step down.

3 MR. SNEDDON: Michael Davy. He should be
4 outside.

5 THE COURT: For the jury, during our last
6 hearing you weren't present for, we decided to not
7 have court on Friday. So we've worked long and
8 hard, a lot of days in a row, and the District
9 Attorney has told us that he expects to end his case
10 probably by the end of next week.

11 So, considering some issues that we have to
12 decide in your absence, we're all going to take
13 Friday off, not just you. So, remember, there won't
14 be court tomorrow afternoon, and there won't be
15 court Friday now.

16 Come forward.

17 MR. ZONEN: Mr. Davy, go right up to the
18 front, please.

19 BAILIFF CORTEZ: Remain standing. Face the
20 clerk. Raise your right hand.

21

22 MICHAEL DAVY

23 Having been sworn, testified as follows:

24

25 THE WITNESS: Yes.

26 THE CLERK: Please be seated. State and
27 spell your name for the record.

28 THE WITNESS: My name is Michael Davy. Last 6901

1 name is D-a-v-y.

2 THE CLERK: Thank you.

3

4 DIRECT EXAMINATION

5 BY MR. SNEDDON:

6 Q. Mr. Davy, we're going to need you to scoot
7 up closer to that microphone, if you can. It's been
8 a constant problem. But you have to lean into it so
9 everybody can hear what you have to say, okay?

10 A. Okay.

11 Q. You're retired, are you not?

12 A. Yes.

13 Q. And what did you do before you were lucky
14 enough to retire?

15 A. I worked for the Los Angeles City School
16 District as a teacher, a counselor and an
17 administrator.

18 Q. For how long were you employed by the school
19 district?

20 A. 32 years.

21 Q. During the time that you worked for the
22 school district, were you at some point in time
23 assigned to John Burroughs?

24 A. Yes.

25 Q. And what grades does John Burroughs cover?

26 A. Sixth, seventh and eighth.

27 Q. So it's three years, then?

28 A. Right. 6902

1 Q. And what is the size of the school,

2 approximately, when you were there?

3 A. When I was there it was about 2400.

4 Q. Now, during the year 2002 - okay? - the

5 school year 2002-2003 - all right? - what were your

6 assignments at John Burroughs?

7 A. I was a grade-level counselor.

8 Q. And for how long did you -- were you

9 assigned that responsibility?

10 A. I worked there about -- I worked there five

11 years, and I was in that assignment for about three

12 and a half years.

13 Q. At some point during the school year of

14 2002-2003, were you reassigned some other

15 responsibilities within John Burroughs?

16 A. Yes.

17 Q. And what were your -- what was your new

18 assignment?

19 A. I became an administrator in charge of

20 attendance.

21 Q. All right. Now, let's go back to the first

22 one. You were a counselor?

23 A. Right.

24 Q. Did you also have teaching responsibilities?

25 A. No.

26 Q. Full-time counselor?

27 A. Yes.

28 Q. And how many other counselors were there in 6903

1 the school; do you recall?

2 A. Yes. There's one for each grade level, and
3 there was a special needs counselor, so there was
4 three -- a total of four counselors.

5 Q. During the time that you were a counselor
6 and working at John Burroughs, did you meet two
7 students by the name of Gavin Arvizo and Star
8 Arvizo?

9 A. Yes.

10 Q. And did you meet their mother?

11 A. Yes.

12 Q. Do you recall her name?

13 A. Yes.

14 Q. What was that?

15 A. Janet Ventura.

16 Q. So she was known to you as "Janet Ventura"?

17 A. Right.

18 Q. And were the boys known to you as "Ventura"
19 or "Arvizo"?

20 A. Arvizo.

21 Q. Now, at some point in time you were assigned
22 as an administrator, correct?

23 A. Correct.

24 Q. What are the responsibilities or what were
25 those new responsibilities to you as administrator?

26 A. It was to process students during the
27 enrollment process, and to process them if they were

28 leaving the campus, leaving the school, transferring 6904

1 to another school or school district. And it was
2 also to make monthly reports to the district on our
3 status, our attendance status. And to find out
4 where kids were that were not coming to school.

5 Q. At some point during the school year of 2002
6 and 2003, you transitioned from counselor to
7 administrator, correct?

8 A. Correct.

9 Q. Can you tell us approximately when that
10 transition occurred?

11 A. Well, the person that I replaced went out on
12 leave, so I was just temporarily filling that
13 person's job in the early parts of January,
14 February, and March. And at some point, that person
15 retired and I took the job permanently.

16 Q. So the earliest point would have been
17 January, February, March of 2003?

18 A. Right.

19 Q. Okay. Let me show you a photograph, if I
20 might. Just take a look at it for a second.
21 I've handed you a photograph that I believe
22 has the number "338" on the tag; is that correct?

23 A. Yes.

24 Q. All right. And in that photograph, do you
25 recognize anybody in the photograph?

26 A. I recognize Star and Gavin, and I assume the
27 third person is their sister, but I never met her.

28 Q. Okay. But the two males in the photograph 6905

1 are Star and Gavin?

2 A. Right.

3 Q. Okay. Now I'm going to ask you a few

4 questions about Star and Gavin, okay?

5 A. Okay.

6 Q. To your knowledge, were they attending John

7 Burroughs during some portion of the school year

8 during 2002-2003?

9 A. Yes.

10 Q. And during the time that they were at the

11 school, were you a counselor to them?

12 A. Yes.

13 Q. Or let's take them one at a time. Were you

14 a counselor to Gavin?

15 A. Yes.

16 Q. Were you a counselor to Star?

17 A. Yes.

18 Q. So that would have been what grade?

19 A. Seventh. Seventh grade.

20 Q. Seventh. Now, later, when you were in

21 charge of attendance, did it come to your attention

22 that Star and Gavin were not attending school?

23 A. Yes.

24 Q. And as a result of that information, what

25 did you do? What course of action did you take?

26 A. I notified our pupil services counselor that

27 I was unable to reach the house by phone, and I

28 asked him to go out there and make a home visit. 6906

1 Q. Does this gentleman -- is this a male or a
2 female?

3 A. It's a male.

4 Q. And what's his name?

5 A. Stephen Coffman.

6 Q. Okay. And did you ever hear back from Mr.
7 Coffman as to whether or not he was able to make
8 contact with the family?

9 A. Yes, he reported back the same day that he
10 was unable to make contact, and that he had left his
11 card there, and that he had talked to neighbors, but
12 was unable to find out where they were.

13 Q. At some point after this conversation that
14 you had with Mr. Coffman, did you receive a
15 telephone call from Janet Arvizo?

16 A. I did.

17 Q. Now, let's go back just in point in time.
18 Prior to this telephone call - okay? --

19 A. Yes.

20 Q. -- had you met Mrs. Arvizo personally?

21 A. Yes.

22 Q. Mrs. Ventura, I guess, as she was known to
23 you.

24 A. Yes.

25 Q. And on how many occasions did you meet Mrs.
26 Ventura?

27 A. Numerous. She came up to school regularly.

28 Q. And how would you describe her in terms of 6907

1 her cooperation with you and the school?

2 A. She was very supportive of our efforts.

3 Q. Now, at the time that you received a

4 telephone call from her after Mr. Coffman had gone

5 out to her house and been unable to locate her -

6 okay? --

7 A. Yes.

8 Q. -- with regard to that telephone

9 conversation, did you find anything unusual or

10 different about that telephone call with Mrs.

11 Ventura than your previous contacts with her?

12 MR. MESEREAU: Objection. Vague and

13 leading.

14 THE COURT: Sustained. Sustained.

15 MR. SNEDDON: On which ground, Your Honor?

16 Just so I know.

17 THE COURT: Vague.

18 Q. BY MR. SNEDDON: During the course of your

19 conversation with Mrs. Ventura after Mr. Coffman

20 went out to the house, how would you describe her

21 demeanor?

22 A. It wasn't forthcoming.

23 Q. Was that unusual, in your opinion?

24 A. Yes.

25 Q. And when the subject -- would you tell us

26 what the subject matter of the conversation was?

27 A. Right, I --

28 MR. MESEREAU: Objection; hearsay. 6908

1 THE COURT: Sustained.

2 Q. BY MR. SNEDDON: With regard to the
3 conversation that you had with Mrs. Ventura -
4 okay? - did it involve the attendance of the kids at
5 school?

6 MR. MESEREAU: Objection; leading.

7 THE COURT: Overruled.

8 THE WITNESS: Yes.

9 Q. BY MR. SNEDDON: And as a result of the
10 conversation with Mrs. Ventura, did you give her
11 some information that was necessary with regard to
12 the kids' future attendance at school?

13 A. Yes.

14 Q. All right. What did you tell her?

15 A. I -- they had been gone more than ten days,
16 and I said that I needed her to bring them back to
17 school or check them out. And she said to me
18 that --

19 MR. MESEREAU: Objection; hearsay.

20 MR. SNEDDON: Your Honor, it's offered as
21 circumstantial evidence with regard to her state of
22 mind at this particular point in time.

23 THE COURT: The objection is sustained.

24 Q. BY MR. SNEDDON: Okay. So without telling
25 us what she said, would you tell us what you said to
26 her, what instructions you gave her?

27 A. Right. I told her that I needed the

28 students to either return to school or to check out. 6909

1 And she said it was not --

2 Q. You can't tell us what she said.

3 MR. MESEREAU: Objection; hearsay.

4 Q. BY MR. SNEDDON: She said something in
5 response to that, correct?

6 A. Yes.

7 Q. And then did you say anything back to her?

8 A. I told her we cannot keep the kids in -- on
9 our books as students at the school for any longer
10 than we already had. And that if it was going to be
11 an extended stay, they were going to be gone for a
12 while, they needed to be checked out. And when they
13 were available to come back to school, we would
14 check them back in.

15 Q. All right. And did you give Mrs. Ventura
16 some directions as to what was necessary to check
17 the children out of school?

18 A. Right.

19 Q. Tell us what you told her.

20 A. I asked her to come in and check the
21 students out. She said that wasn't --

22 MR. MESEREAU: Objection; hearsay.

23 THE COURT: Sustained.

24 Q. BY MR. SNEDDON: Okay. So you asked her to
25 personally come in and do it?

26 A. Yes.

27 Q. Okay. And she said something back to you?

28 A. Right. 6910

1 Q. And as a result of that, did you give her
2 further direction as to what procedurally would have
3 to be followed to get those children out of school?

4 A. Right.

5 Q. Tell us what you told her.

6 A. I indicated that if she was unable to come,
7 that we needed someone with a note from her, and her
8 driver's license, and that person needed to be able
9 to have an I.D. also. And that we needed the
10 textbooks returned, and to do it quickly, to do it
11 soon.

12 Q. All right. At that point in time, did you
13 become aware of the fact that somebody came to check
14 the children out of school?

15 A. Yes. She said that somebody would come in a
16 day or two.

17 Q. And did you write a note to somebody to
18 expect this to happen?

19 A. I wrote a note to my secretary that a person
20 would be coming with her I.D. and his I.D. and pay
21 for the books, and to direct that person to the book
22 room to pay for any textbooks that weren't there.

23 Q. Now, did you at some point actually meet
24 somebody who came to check the boys out of school?

25 A. I did.

26 Q. And do you remember the name of that person?

27 A. Yes. It was Mr. Amen. Vincent Amen.

28 Q. All right. And did you personally deal with 6911

1 him on the check-out procedure?

2 A. The secretary gave him the paperwork and
3 made copies of his I.D. and Miss Ventura's driver's
4 license, and she kept the note that was sent along
5 with him.

6 And, you know, I spoke to him briefly, but I
7 didn't handle the nuts and bolts of it. The
8 secretary did.

9 Q. And were some books paid for on that
10 particular occasion?

11 A. Books were paid for, yes.

12 Q. By whom?

13 A. By Vincent Amen.

14 Q. All right. I'm going to show you some
15 exhibits.

16 Counsel, it will be 271 and 272.

17 I want you to take a look at the exhibit
18 that's been marked as 271-A and ask if you recognize
19 that.

20 A. Yes.

21 Q. That exhibit is actually in evidence.

22 And how do you recognize it?

23 A. It's my note to the secretary.

24 Q. That's in your handwriting, correct?

25 A. Yes.

26 Q. What's the date of that note?

27 A. February 5th. I'm sorry, I don't have my

28 glasses on. March 5th. 6912

1 Q. I'm sorry, I couldn't hear you.

2 A. March 5th.

3 Q. All right. Was that note prepared at the
4 time of -- that date?

5 A. I think it -- I prepared it the day that I
6 had the phone call.

7 Q. Okay.

8 A. I had the conversation.

9 Q. All right. Turn the next page to page B, if
10 you would. Do you recognize page B?

11 A. Yes.

12 Q. And with regard to page B, what is that?

13 A. That's a school form that we use when
14 students check out.

15 Q. And for what student is that?

16 A. This is for Gavin Arvizo.

17 Q. And does it indicate the destination?

18 A. It does.

19 Q. As what?

20 A. Phoenix, Arizona.

21 Q. All right. Let's go to C, if we can. And
22 this is 271-C. What is that document?

23 A. It is a note from Miss Arvizo.

24 Q. That's a document that you indicated she
25 needed as part of the process if she was going to
26 have somebody else check them out?

27 A. Yes.

28 Q. Okay. And lastly, 271-D, what's that? 6913

1 A. These are copies of Miss Arvizo's -- or Miss
2 Ventura's I.D., driver's license, and Mr. Amen's
3 driver's license.

4 Q. Okay. Now, let's move to 272, if we can.

5 All we need you to do is just flip this over. Thank
6 you.

7 And 272-A, which is in evidence, what is
8 that?

9 A. It's the check-out sheet for Star Arvizo.

10 Q. And is the destination indicated on that
11 also?

12 A. Yes. Phoenix, Arizona.

13 Q. And the next page, which would be 272-B?

14 A. It's a note from Miss Ventura to check out
15 Star.

16 Q. Okay. And on the last page, on the back
17 side of that is what?

18 A. That's the school form where the teachers
19 sign the student's check-out form and put a grade
20 there.

21 Q. And does that indicate that books were paid
22 for on that form?

23 A. It does.

24 Q. All right. I'll take that. Thank you.

25 During the time that -- I want to make it
26 more particular, but -- well, during the year -- the
27 school year 2002 and 2003 - okay? - at John

28 Burroughs, was there an instructor there by the name 6914

1 of Mr. Geraldtd?

2 A. Yes. Mr. Geraldtd, yes.

3 Q. Geraldtd. And how long have you known Mr.

4 Geraldtd?

5 A. Five years.

6 Q. And had you worked at the same school with

7 him --

8 A. Yes.

9 Q. -- during that five-year period?

10 A. Right.

11 Q. And what was Mr. Geraldtd's position with the

12 school?

13 A. He was a classroom teacher, and he also

14 handled the detention room. And in the mornings, he

15 didn't have a home room. He processed students that

16 were late to school.

17 Q. Did the manner in which Mr. Geraldtd

18 interacted with some of the students and parents at

19 the school cause problems?

20 A. Yes.

21 Q. In what respect?

22 A. He had a kind of paramilitary demeanor about

23 him. He was kind of a drill instructor, in your

24 face, you know. Kind of shouty, loud, and, you

25 know, "You need to do this" and -- just aggressive.

26 Q. And did that cause problems with some of the

27 students?

28 A. It did. 6915

1 Q. Did it cause problems with some of the
2 parents?

3 A. It did.

4 Q. And did the school have to take actions
5 towards him to try to calm down his behavior?

6 A. Yes.

7 Q. Now, at some point -- I didn't ask you this,
8 but I should have. The documents that -- 71 (sic)
9 and 72 (sic) that show that Gavin and Star were
10 checked out of the school, those were completed on
11 the day that the children were checked out?

12 A. Yes.

13 Q. That's correct?

14 A. Yes.

15 Q. That would have been in March of 2003?

16 A. Right.

17 Q. Now, did Gavin and Star come back to John
18 Burroughs later?

19 A. Yes.

20 Q. Do you remember approximately when it was?

21 A. About three weeks later.

22 Q. Now, do you recall an incident in which a
23 person by the name of Major Jay Jackson came to
24 contact you?

25 MR. MESEREAU: Objection; leading.

26 THE COURT: Overruled.

27 You may answer.

28 THE WITNESS: Yes. 6916

1 Q. BY MR. SNEDDON: And do you know who Major
2 Jay Jackson is?

3 A. I do.

4 Q. Where did you first meet Mr. Jay Jackson,
5 Major Jay Jackson?

6 A. I met him in my office when I was having a
7 conference with Gavin's mother, and he attended with
8 her.

9 Q. Now, on the particular day when Major
10 Jackson approached you, do you remember
11 approximately when that was in relationship to the
12 kids coming back to school, Gavin and Star?

13 A. Yes.

14 Q. All right. Tell the jury --

15 A. It was -- it was shortly thereafter. Within
16 a few days or a week.

17 Q. And where were you when Major Jackson
18 approached you?

19 A. I was in front of the school.

20 Q. I'm sorry?

21 A. In front of John Burroughs.

22 Q. And could you describe his demeanor at the
23 time that he approached you?

24 A. All right. He was agitated. He said that
25 there was a --

26 MR. MESEREAU: Objection; hearsay.

27 MR. SNEDDON: It's offered to explain the

28 conduct of this witness in response to the 6917

1 information that was provided.

2 THE COURT: I'll sustain the hearsay

3 objection.

4 Q. BY MR. SNEDDON: All right. I don't know if

5 we got an answer to the first part, so I'll just

6 start over again. And don't tell us what Major

7 Jackson told you, okay?

8 A. Okay.

9 Q. Would you describe his demeanor when he

10 first approached you?

11 A. He was agitated.

12 Q. All right. And without telling us what he

13 said, did he say something to you --

14 A. Yes.

15 Q. -- that caused you to do something?

16 A. Yes.

17 Q. All right. As a result of the information

18 that you received from Major Jackson, what did you

19 do?

20 A. I went down to the street and approached a

21 car that had a gentleman in it that was videotaping

22 students.

23 Q. Did you actually see the camera?

24 A. Yes.

25 Q. And where was the camera at the first point

26 that you saw it?

27 A. In the driver's hand.

28 Q. And in what direction was it pointed? 6918

1 A. Out the windshield.

2 Q. Now, let's pause for just a second, if we
3 can, and go back.

4 At what point in the school day was it that
5 Major Jackson approached you?

6 A. It was dismissal time.

7 Q. Can you describe to the jury what it's like
8 at John Burroughs at dismissal time in terms of the
9 traffic flow?

10 A. John Burroughs is situated in a residential
11 area between two major streets. And at dismissal
12 time, the only way out of the school is through the
13 front or the north and south end of the school. You
14 can't exit the back of the school because there's
15 houses back there. So the vast majority of these
16 2400 kids leave out the front or the side, but they
17 end up in front of school.

18 And there's school buses out there, and
19 there are parents, a lot of parents there to pick up
20 their students. So you have a traffic jam for about
21 15 or 20 minutes where the traffic flow is very,
22 very slow. Only about five or six cars can go
23 through the light at a time, because the students
24 crossing the street hold up traffic. So it would
25 take you -- it will take you 15 minutes to go from
26 one end of the block to the other at dismissal time.

27 Q. Now, at the time that you approached this

28 car, do you remember what kind of a car it was? 6919

1 A. Generally, yes.

2 Q. Tell us.

3 A. It was a Nissan sports car.

4 Q. And where was this car in terms of the
5 relationship with this traffic flow at the point?

6 A. It was in gridlock. It was in front of
7 school in the gridlock.

8 Q. Were you actually able to go up to the
9 driver of the car?

10 A. Yes. Yeah, that's --

11 Q. Did you have a conversation with the driver
12 of the car?

13 A. I walked up to the driver and I told him
14 that he couldn't videotape students. And he -- I
15 said, "I need you to stop videotaping students."
16 And he said, "Okay," and set the camera down on the
17 seat or the floor of the car.

18 Q. Did you write down the license number of the
19 car?

20 A. I did not.

21 Q. Was there any school security available to
22 you on this particular day?

23 A. On that particular day, the school police
24 officer was not present. And I gave him a note the
25 next day describing the car and telling him the
26 situation.

27 MR. SNEDDON: No further questions.

1 CROSS-EXAMINATION

2 BY MR. MESEREAU:

3 Q. Good afternoon, Mr. Davy.

4 A. Good afternoon.

5 Q. My name is Thomas Mesereau. I speak for Mr.

6 Jackson.

7 When did you first meet the Arvizo family?

8 A. Fall of 2002.

9 Q. Okay. And was that when Gavin and Star

10 entered your school?

11 A. Yes.

12 Q. And Gavin and Star entered your school

13 approximately November of 2002, right?

14 A. Yes.

15 Q. What grades were they in?

16 A. Seventh.

17 Q. Okay. They both were in seventh?

18 A. Yes.

19 Q. Okay.

20 A. I think Gavin had lost a year. He's older,

21 but he had lost a year from his health problems.

22 Q. Okay. And had you known them before they

23 entered your school in November of 2002?

24 A. No.

25 Q. Had you known anyone else in the family

26 before they entered your school in 2002?

27 A. No.

28 Q. Gavin was consistently a disciplinary 6921

1 problem, correct?

2 A. Correct.

3 Q. His behavior was disruptive and challenging,

4 in your own words, correct?

5 A. Correct.

6 Q. Gavin would routinely act up in class,

7 right?

8 A. Correct.

9 Q. He would display poor cooperation with

10 students and teachers, right?

11 A. Right.

12 Q. He would create situations in which he had

13 an audience to view his poor behavior, right?

14 A. Yes.

15 Q. His grades were low throughout his

16 education, right?

17 A. They were at John Burroughs.

18 Q. Yes. Pardon me.

19 A. Yes.

20 Q. His grades at John Burroughs were

21 consistently low, correct?

22 A. Yes. Yes.

23 Q. And you felt he didn't apply himself in a

24 constructive manner in school, right?

25 A. Yes.

26 Q. You had a number of parent meetings with

27 Gavin, Janet and Jay in which Gavin's poor behavior

28 was discussed at length, correct? 6922

1 A. Correct.

2 Q. And you felt that Gavin was the kind of
3 young man who could handle himself with adults,
4 right?

5 A. He thought he was the kind of person.

6 Q. You felt he could handle himself with adults
7 also, didn't you?

8 A. He was -- he was pretty glib, yes.

9 Q. You did actually write a report -- excuse
10 me, not "write a report." You gave an interview
11 where you actually made that statement, did you not,
12 about Gavin; that he can handle himself with adults?

13 A. Yes.

14 Q. Okay. You looked at his school records at
15 one point, correct?

16 A. You know, I don't recall that.

17 Q. Do you recall concluding that Gavin's grades
18 at your school were very similar to his grades at
19 other schools he had attended?

20 MR. SNEDDON: Your Honor, I'm going to
21 object. It calls for hearsay.

22 THE COURT: Sustained.

23 Q. BY MR. MESEREAU: Did you yourself ever look
24 at Gavin's grades from other schools and compare
25 them to the grades he got at your school?

26 A. You know, I don't recall that.

27 Q. Do you remember being interviewed by a

28 Sergeant Steve Robel of the Santa Barbara Sheriff's 6923

1 Office?

2 A. Yes.

3 Q. Do you remember telling Sheriff Robel that
4 you saw a consistent pattern of poor grades from
5 school to school with Gavin?

6 MR. SNEDDON: Your Honor, I'm going to
7 object. It's hearsay. It calls for reliance on
8 hearsay records.

9 THE COURT: Overruled.

10 THE WITNESS: You know, I honestly don't
11 recall it.

12 Q. BY MR. MESEREAU: Might it refresh your
13 recollection to look at a police report about your
14 interview?

15 A. Okay.

16 MR. MESEREAU: May I approach, Your Honor?

17 THE COURT: Yes.

18 Q. BY MR. MESEREAU: Mr. Davy, have you had a
19 chance to look at that report? Does it refresh your
20 recollection about what you told Sheriff Robel about
21 that issue?

22 A. Yes.

23 Q. And what did you tell him?

24 A. That he had consistently underperformed in
25 his academic pursuits.

26 Q. Do you recall that you were asked if you had
27 seen any change in Gavin's demeanor, attitude or

28 academic performance from the period prior to 6924

1 February 2003 to the time Gavin returned to school
2 on March 17th, 2003?

3 A. Yes.

4 Q. Do you recall your saying you had seen no
5 definitive change in Gavin's demeanor, attitude or
6 academic performance during that period?

7 A. Yes.

8 Q. Now, Gavin had a truancy counselor, correct?

9 A. Well, are you talking about Mr. Coffman?

10 Q. Yes.

11 A. Well, Mr. Coffman was an itinerant. He came
12 to school two or three days a week and dealt with --
13 he would get computer readouts of people who had
14 long-term absences.

15 Q. Okay. Is the appropriate label for him
16 truancy counselor?

17 A. No, it's pupil service and attendance
18 counselor.

19 Q. Okay. And you said he would come three days
20 a week?

21 A. Yeah. Oftentimes schools have to buy that
22 time. So sometimes the school would buy two days
23 and another school would buy three days, so he would
24 split the assignment.

25 Q. Okay. And did you discuss issues involving
26 Gavin with Mr. Coffman?

27 A. I don't know about issues. I asked him to

28 go to Gavin's house. 6925

1 Q. Okay. And the purpose was to talk to the
2 family about why Gavin wasn't going to school?

3 A. Right. At that point in time.

4 Q. Okay. Now, you indicated to the prosecutor
5 that at some point someone named Vinnie Amen came to
6 the school to check Gavin and Star out; is that
7 correct?

8 A. Correct.

9 Q. And Mr. Amen provided the school with a copy
10 of his identification, correct?

11 A. Correct.

12 Q. And he gave the school a copy of his New
13 Jersey driver's license for the school files, right?

14 A. Right.

15 Q. And to your knowledge, did he sign anything
16 when he was checking these two students out; do you
17 know?

18 A. I don't know.

19 Q. But your understanding was that Janet had
20 given him permission to check out Gavin and Star,
21 right?

22 A. Right.

23 MR. SNEDDON: I object, Your Honor. It
24 calls for a conclusion.

25 THE COURT: Sustained.

26 Q. BY MR. MESEREAU: In your response to the
27 prosecutor's questions, correct me if I'm wrong, did

28 you say something to the effect that the school had 6926

1 permission from Janet to allow Mr. Amen to check out
2 these two students?

3 MR. SNEDDON: Your Honor, I'm going to
4 object. Calls for hearsay.

5 MR. MESEREAU: His state of mind, Your
6 Honor. I believe he testified to it on direct.

7 THE COURT: The objection is sustained.

8 I believe you objected to the same testimony.

9 MR. MESEREAU: Okay.

10 Q. At some point, was it your understanding
11 that Mr. Amen did, in fact, check out the two
12 students?

13 A. Yes.

14 Q. Okay. And what would the normal procedure
15 be for allowing someone not in the family to check
16 out a student?

17 A. A permission slip written by the parent.

18 Q. Okay. And did you follow the normal
19 procedure when Mr. Amen was checking out Gavin and
20 Star?

21 A. Yes.

22 Q. Do you know how many meetings you had with
23 Ms. Arvizo about Gavin's poor behavior?

24 A. Not an exact number, no.

25 Q. And when Gavin was checked out of the
26 school, how long had he been attending that school,
27 if you remember?

28 A. Well, just months, since November. So 6927

1 November to late February.

2 Q. And would it be accurate to say that even
3 though he was only there a few months, it became
4 readily apparent that he was a disciplinary problem,
5 right?

6 A. Yes.

7 Q. The disciplinary problems began -- excuse
8 me. The disciplinary problems with Gavin began in
9 November of 2002, right?

10 A. I don't recollect the first time.

11 Q. But certainly around that time, correct?

12 A. Probably.

13 Q. Now, what typically is the procedure you
14 follow at this school if somebody has a disciplinary
15 problem?

16 MR. SNEDDON: Object as immaterial, Your
17 Honor.

18 THE COURT: Sustained.

19 Q. BY MR. MESEREAU: Do you recall Gavin being
20 late to class?

21 A. Not specifically, but I'm guessing that he
22 was.

23 MR. SNEDDON: Object. Move to strike.

24 Speculation. That part beyond the --

25 THE COURT: It's stricken.

26 Q. BY MR. MESEREAU: Would it refresh your
27 recollection to look at some school records in that

28 regard? 6928

1 A. Sure.

2 MR. MESEREAU: May I approach, Your Honor?

3 THE COURT: Yes.

4 Q. BY MR. MESEREAU: Mr. Davy, have you had a
5 chance to look at those records?

6 A. Yes.

7 Q. Do they refresh your recollection about
8 disciplinary problems you had at your school with
9 Gavin Arvizo?

10 A. Yes.

11 MR. SNEDDON: Excuse me, Your Honor. I'm
12 going to object to the question. That wasn't the
13 question that he was refreshing. I won't talk any
14 more, but I don't believe that's the question.

15 THE COURT: That's correct. It's not.

16 MR. MESEREAU: Let me rephrase my question,
17 Your Honor. I'll withdraw that one.

18 Q. Mr. Davy, does the document you just looked
19 at refresh your recollection about Gavin being late
20 to class?

21 A. Yes.

22 Q. And was that a problem with him while he
23 attended your school?

24 A. On occasion, yes.

25 Q. Do you recall a problem with Gavin banging
26 on doors at your school?

27 A. Yes.

28 Q. Do you recall Gavin being consistently 6929

1 warned about his bad behavior?

2 A. Yes.

3 Q. Do you recall problems with Gavin arguing
4 with teachers?

5 A. Yes.

6 Q. Do you recall problems with Gavin arguing
7 with students?

8 A. No, I don't.

9 Q. Would it refresh your recollection just to
10 look at those records again?

11 A. Sure.

12 MR. MESEREAU: May I approach, Your Honor?

13 THE COURT: Yes.

14 Q. BY MR. MESEREAU: Have you had a chance to
15 look at that record?

16 A. Yes.

17 MR. SNEDDON: Your Honor, before counsel
18 asks his next question, I want to interpose an
19 objection to lack of foundation as to whether he's
20 aware of those records. Has he ever seen them?

21 MR. MESEREAU: Just refreshing recollection,
22 Your Honor.

23 THE COURT: All right. The objection as to
24 lack of foundation is overruled.

25 Q. BY MR. MESEREAU: Do you recall, Mr. Davy,
26 problems with Gavin arguing with another student?

27 A. From those records, yes.

28 Q. Do you recall a problem with Gavin having a 6930

1 negative impact on his class?

2 A. Yes.

3 Q. Do you recall problems with him jumping

4 around, quote, "like retarded people"?

5 A. Yes.

6 Q. Do you recall problems with Gavin mumbling

7 in class?

8 A. Yes.

9 Q. Do you recall your having to detain Gavin

10 for disciplinary problems?

11 A. Yes.

12 Q. And what is the detention procedure that you

13 would have used with him?

14 A. Well, basically you have to stay after

15 school for an hour.

16 Q. Okay. And do you recall a problem with him

17 that required lunch detention?

18 A. Well, a number of people can assign

19 detention, so I don't recall that. But I'm guessing

20 that he served lunch detention.

21 Q. Would it refresh your recollection if I just

22 show you the records?

23 A. If it's there, it happened.

24 MR. MESEREAU: May I approach, Your Honor?

25 THE COURT: I think the problem that we have

26 is that I overruled an objection by Mr. Sneddon

27 about foundation, but the -- when counsel asks you

28 if it refreshes your recollection, that doesn't mean 6931

1 that you then testify about what's in the record.

2 It means do you independently -- now do you

3 independently remember this?

4 For example, "Do you know if he was late for

5 school?" And you say, "I don't remember." Then he

6 says, "Well, will this refresh your recollection?"

7 And you look at it. And that's asking you, "Do

8 you" -- "Now do you remember seeing him be late for

9 school," not "What does the record say?"

10 THE WITNESS: Okay, I misunderstood that.

11 THE COURT: Okay. So --

12 THE WITNESS: The fact --

13 THE COURT: You don't need to come back to

14 it. But the point we're at is, you want to ask him

15 if he can refresh his recollection about -- what was

16 it?

17 MR. MESEREAU: About Gavin having been

18 detained at lunch.

19 THE COURT: Okay. Would looking at these

20 records help you refresh your recollection about

21 being detained at lunch?

22 THE WITNESS: No, simply because oftentimes

23 those are reflections of dean's entries or another

24 counselor's entries.

25 MR. SNEDDON: Judge, could I --

26 Excuse me, Counsel.

27 THE COURT: Yeah.

28 MR. SNEDDON: I don't want to be burdensome, 6932

1 but I think that I would move to strike --

2 BAILIFF CORTEZ: Microphone.

3 MR. SNEDDON: I don't want to be burdensome,
4 but I move to strike all of the questions that he's
5 used to refresh recollection until the proper
6 foundation can be established that this witness
7 actually remembered that, as opposed to some record.

8 MR. MESEREAU: I believe, Your Honor, the
9 witness has said he remembers it and spoke to a
10 sheriff in an interview and made those conclusions.

11 THE COURT: Well, the problem that's come up
12 is whether or not he was refreshing his memory to
13 things he actually can remember, or if he was just
14 telling you what you showed him in the record.
15 So what I'll do is go back and sustain the
16 foundation objection that he made before you asked
17 him these series of questions relating to Gavin's
18 behavior and strike those answers. And then you can
19 proceed again to see --

20 MR. MESEREAU: Okay.

21 THE COURT: -- what he remembers and what was
22 just in the record.

23 Q. BY MR. MESEREAU: Mr. Davy, I want to go
24 back over some questions I asked you earlier.

25 Now, you were interviewed by Sheriff Steve
26 Robel of the Santa Barbara Sheriff's Office
27 approximately December 4th, 2003. Do you remember

28 that? 6933

1 A. Yes.

2 Q. And that was at your school in Hollywood,
3 right?

4 A. In Hancock Park, yeah.

5 Q. And for the purpose of that interview, you
6 obtained Gavin's cumulative school files and his
7 disciplinary file, correct?

8 A. I did. But one of the things that you need
9 to understand is that there was another office that
10 also handled discipline, other than the counseling
11 office. And so some of the records that I think
12 you're referring to came out of that office.

13 Q. Okay. But you did tell Sergeant Robel that
14 you had obtained Gavin's cumulative school files and
15 his discipline file from Bonnie Murrow, right?

16 A. She took my place when I transferred, so she
17 wasn't there at that time.

18 Q. Do you recall telling Sergeant Robel that
19 you had obtained Gavin's cumulative school files and
20 his discipline file from Bonnie Murrow?

21 A. I believe that was after I left the school.

22 Q. Okay. But you did obtain those files,
23 correct?

24 A. I went to obtain them. I think they were
25 under subpoena.

26 Q. Do you recall meeting with Sergeant Steve
27 Robel in a principal's office to review and discuss

28 the files' contents? 6934

1 A. Yes.

2 Q. And you did, in fact, discuss those contents
3 with Sergeant Robel, right?

4 A. Yes.

5 Q. You gave Sergeant Robel a brief history of
6 the schools Gavin had recently attended, true?

7 A. True.

8 Q. They were LeConte Middle School for sixth
9 grade, right?

10 MR. SNEDDON: Your Honor, I'm going to
11 object as hearsay.

12 THE COURT: Sustained.

13 Q. BY MR. MESEREAU: Had you counseled Gavin in
14 your position at Burroughs?

15 A. Yes.

16 Q. And what had you counseled Gavin about?

17 A. Disruptive behavior in the classroom.

18 Q. Why did you counsel Gavin about his
19 disruptive behavior in the classroom?

20 MR. SNEDDON: Your Honor, this has been
21 asked and answered.

22 MR. MESEREAU: If it's in the record, Your
23 Honor, I don't have a problem. But I wasn't sure
24 if -- you'd asked me to go over this again.

25 MR. SNEDDON: Not this. Sorry, I apologize.

26 THE COURT: The objection is overruled.

27 Q. BY MR. MESEREAU: Why did you counsel Gavin?

28 A. I was receiving referrals from his classroom 6935

1 teachers.

2 Q. Were they negative referrals?

3 A. Yes.

4 Q. Were they consistently negative referrals?

5 A. Yes.

6 Q. Was it normal procedure when you received
7 consistently negative referrals about a student that
8 you try to counsel that student?

9 A. Yes.

10 Q. Did you have many counseling sessions with
11 Gavin about his poor behavior?

12 A. Yes.

13 Q. And do you know approximately how many you
14 had?

15 A. Probably a half a dozen.

16 Q. Did you counsel him individually or with
17 others present, if you know?

18 A. Individually.

19 Q. Is that the normal procedure for that type
20 of counseling?

21 A. Yes. Oftentimes with a parent, too,
22 present.

23 Q. Did you also counsel Gavin with any parent
24 present?

25 A. Yes.

26 Q. And what parent was typically present for
27 those meetings?

28 A. Miss Ventura. And sometimes Miss Ventura 6936

1 and Mr. Jackson.

2 Q. Okay. Did you tell Ms. Ventura that Gavin's
3 behavior was disruptive and challenging?

4 A. Yes.

5 Q. Did you tell Ms. Ventura that Gavin would
6 routinely act up in class?

7 A. Yes.

8 Q. Did you tell Ms. Ventura that he displayed
9 poor cooperation with students and teachers?

10 A. Yes.

11 Q. Did you tell Ms. Ventura that Gavin would
12 create situations in which he had an audience to
13 view his poor behavior?

14 A. Yes.

15 Q. And did you tell Ms. Ventura that his grades
16 were consistently low throughout his schooling?

17 A. I think she knew that.

18 Q. Okay. Do you recall meeting with Jay
19 Jackson to talk about Gavin's poor behavior?

20 A. With -- with Miss Ventura present.

21 Q. Yes. But you did meet with Miss Ventura and
22 Jay Jackson to talk about Gavin's consistently
23 disruptive behavior, right?

24 A. Yes. Yes.

25 Q. And Gavin was present at those meetings,
26 correct?

27 A. Correct.

28 Q. And you told Ms. Ventura that you had seen 6937

1 no definitive change in Gavin's demeanor or attitude
2 or academic performance from the period prior to
3 February 2003 to the time following his return to
4 school on March 17th, 2003, right?

5 A. Right.

6 Q. Now, you indicated that at some point,
7 Mr. Coffman went to Gavin's home; is that correct?

8 A. That's correct.

9 Q. Do you know where that was?

10 A. Not offhand. I mean, we use school records
11 for that. I don't have access to that right now.

12 Q. To your knowledge, did Mr. Coffman find
13 anyone home?

14 A. No.

15 Q. Did you meet with Mr. Coffman to talk about
16 that issue?

17 A. Yes.

18 Q. Was it Mr. Coffman's responsibility to try
19 and locate Ms. Arvizo?

20 A. Yes.

21 Q. And at some point, to your knowledge, he did
22 locate her, correct?

23 A. Well, what they typically do is talk to
24 neighbors and leave business cards with people. And
25 at some point she contacted me.

26 Q. She contacted you and gave her permission to
27 have Mr. Amen check out her sons, correct?

28 A. Correct. 6938

1 MR. SNEDDON: Object. Calls for a
2 conclusion. It's the same question that was asked
3 before.

4 THE COURT: Sustained.

5 Q. BY MR. MESEREAU: Do you recall a problem
6 with Gavin Arvizo singing in the classroom?

7 A. No.

8 Q. Would it refresh your recollection to look
9 at these school records?

10 A. Like I said, those records may have been
11 written by someone else.

12 Q. Okay. Well, the question would be if you
13 remember.

14 A. No, I do not.

15 Q. Is it possible they would refresh your
16 recollection about that, since you counseled him on
17 those issues?

18 A. I didn't -- I wasn't the only person that
19 counseled him.

20 Q. Well, let me ask you this: You don't
21 remember an issue of him singing in class, right?

22 A. Right.

23 Q. If you look at some records, might they
24 refresh your recollection about that problem?

25 A. Well, it will refresh my memory that it
26 happened, but that I may not have handled it. I
27 don't know who wrote those records.

28 Q. I'm only asking you about your memory about 6939

1 whether it happened, okay?

2 A. I don't have a recollection.

3 Q. Might it refresh your recollection to look

4 at the records?

5 MR. SNEDDON: I'm going to object to the

6 question. He says -- it's asked and answered.

7 THE COURT: All right. The witness is just

8 trying to follow my instructions. Go ahead and show

9 him the record.

10 MR. MESEREAU: Thank you, Your Honor.

11 Q. Have you had a chance to look at that school

12 record?

13 A. I have.

14 Q. Does it refresh your recollection about any

15 problem in that regard?

16 A. No.

17 Q. Okay. Do you recall problems with Gavin

18 disrupting test-taking?

19 A. No.

20 Q. Is that something you recall counseling him

21 about?

22 A. My general recollections of counseling him

23 were disruptive behavior. Specifically whether it

24 was testing or singing, whatever, it doesn't -- I

25 can't speak to that.

26 Q. Okay. Did you talk to various teachers at

27 the school about Gavin's consistently disruptive

28 behavior? 6940

1 A. Yes.

2 Q. How many teachers did you talk to about his
3 disruptive behavior, if you remember?

4 A. Well, I'm sure I spoke to the ones that were
5 writing referrals.

6 Q. Were a lot of his teachers writing
7 referrals?

8 A. The students at that grade level were in a
9 group of teachers that had the same students all
10 day. So generally if one teacher had a problem in
11 that group, they all had a problem.

12 Q. Now, the prosecutor asked you questions
13 about a teacher named Gerald; is that correct?

14 A. Gerald.

15 Q. And I believe you said words to the effect
16 you thought he was somewhat -- acted in -- somewhat
17 in a paramilitary kind of way?

18 A. Yes.

19 Q. What did you mean by that?

20 A. Well, he had a kind of drill instructor
21 demeanor, I mean, when he was dealing with students
22 that were late to class or misbehaving.

23 Q. But Gavin had many other teachers besides
24 Mr. Gerald complaining about him, didn't he?

25 A. In fact, I don't think he had Mr. Gerald as
26 a classroom teacher. I think he probably had him
27 for his ROTC, his extracurricular --

28 Q. So the disruptive behavior that you've been 6941

1 talking about was disruptive behavior in the
2 classroom, correct?

3 A. Correct.

4 Q. And those were classroom teachers that were
5 referring these problems to you, right?

6 A. Correct.

7 Q. Now, you said Mr. Geraldts taught a -- was it
8 an after-school type of program?

9 A. Well, he was an eighth grade science
10 teacher, but he also had an ROTC class that
11 sometimes met after school and on Saturdays. And he
12 also ran the detention room after school.

13 Q. And did you think he was too strict in the
14 ROTC program?

15 A. I don't know if he was too strict in his
16 ROTC program.

17 Q. Okay. But you mentioned his paramilitary
18 behavior. Was that in the ROTC program?

19 A. No, that was in his dealing with students on
20 the yard or in the morning when they were coming in
21 late.

22 Q. Okay. Okay. Do you recall him interacting
23 with Gavin at all?

24 A. I do not recall that.

25 Q. If he had, would it be because Gavin was
26 late?

27 MR. SNEDDON: Object; calls for speculation.

28 THE COURT: Sustained. 6942

1 Q. BY MR. MESEREAU: Was one of Mr. Geraldts
2 functions to deal with late students?

3 A. Yes.

4 Q. And how would that work? I mean, if someone
5 was late, how would they get to Mr. Geraldts?

6 A. Well, he did not have a home room which met
7 first thing in the morning, so Mr. Geraldts was
8 assigned to process students at the front door that
9 were late coming in.

10 Q. So he would simply wait at the front door?

11 A. Yeah. Everybody had to pass through the
12 front door. People with passes or notes from home
13 would proceed on. People that didn't would be
14 processed by him.

15 Q. And the procedure -- excuse me. The
16 procedure he followed if he met someone at the front
17 door who was late was what? What would he do?

18 A. Well, he would write them a detention slip.

19 Q. Okay. And would that detention slip be
20 handed to the student?

21 A. Yes.

22 Q. And was there a procedure dictating what the
23 student should do with that detention slip?

24 A. Yes.

25 Q. And what were they supposed to do with the
26 detention slip?

27 A. One, they were supposed to get it signed by

28 their parent and do their detention. It was an NCR 6943

1 paper, so we kept the copy.

2 Q. Would the detention typically be done that
3 day?

4 A. No.

5 Q. When would it typically be done?

6 A. The next day after the parents were
7 notified.

8 Q. And was the proof that parents were notified
9 their signature on the slip?

10 A. Yes.

11 Q. Would someone actually talk to the parent
12 directly?

13 A. Somebody from school?

14 Q. Yes.

15 A. Not unless they didn't do the detention.

16 Q. Okay. Now, you do recall problems with
17 Gavin being late, correct?

18 A. My recollection is more clear on the
19 discipline inside the classroom, the disruption in
20 the classroom.

21 Q. Okay. Now, when did you -- excuse me.

22 Have you spoken to any prosecutor about your
23 testimony today?

24 A. Yes.

25 Q. And when was that?

26 A. Last night.

27 Q. Okay. Who did you speak to?

28 A. Mr. Sneddon. 6944

1 Q. Okay. Did he call you?

2 A. Yes.

3 Q. And you spoke to him about what you were
4 going to be asked today?

5 A. We -- he just looked at my grand jury
6 testimony and had questions about that.

7 Q. Okay. And did he ask you questions about
8 what you would be saying today?

9 A. No, he was just clearing up what I had said,
10 making him understand what I said during the grand
11 jury testimony.

12 Q. Have you reviewed your grand jury
13 transcript?

14 A. I have.

15 Q. And how did you get it?

16 A. I got it online.

17 Q. Okay. And so you and Mr. Sneddon discussed
18 what you said before the grand jury last night,
19 right?

20 A. Yes.

21 Q. Okay. How long a discussion was that?

22 A. Twenty minutes.

23 Q. Okay. Did you and Mr. Sneddon discuss
24 Gavin's poor record for discipline in that call?

25 A. Briefly.

26 Q. Excuse me?

27 A. Briefly.

28 Q. Okay. Did you and Mr. Sneddon discuss your 6945

1 interview with Sheriff Robel?

2 A. No.

3 Q. You did discuss Mr. Geraldts, correct?

4 A. Correct.

5 Q. Did Mr. Sneddon bring up the name "Geraldts"
6 in that conversation?

7 A. Yes.

8 Q. Did he tell you he would ask you questions
9 about Mr. Geraldts today?

10 A. I don't think so. He just wanted me to tell
11 him about it.

12 Q. In that conversation, did you inform Mr.
13 Sneddon that Mr. Geraldts had not actually been a
14 classroom teacher for Gavin?

15 A. I don't think so.

16 Q. Okay. Did you talk about Mr. Geraldts's
17 responsibilities at the door of the school?

18 A. Yes.

19 Q. Did you talk about his responsibilities in
20 the ROTC program?

21 A. Briefly.

22 Q. Okay.

23 THE COURT: Counsel?

24 MR. MESEREAU: Yes, Your Honor.

25 THE COURT: We'll take our break.

26 MR. MESEREAU: Yes.

27 (Recess taken.)

1 MR. MESEREAU: Thank you, Your Honor.

2 Q. Mr. Davy, you met the gentleman who
3 identified himself as Vinnie Amen, didn't you?

4 A. Yes.

5 Q. And you expressed surprise at how young he
6 seemed to be, right?

7 A. I believe so.

8 Q. And you described him as business-like, real
9 cooperative and wearing dressy casual clothes,
10 right?

11 A. Right.

12 MR. MESEREAU: I have no further questions,
13 Your Honor.

14 THE COURT: Counsel?

15 MR. SNEDDON: No questions.

16 THE COURT: All right. Thank you. You may
17 step down.

18 Call your next witness.

19 MR. SNEDDON: Janet Williams.

20 THE COURT: Come to the front of the
21 courtroom, please.

22 When you get to the witness stand, please
23 remain standing. Face the clerk and raise your
24 right hand.

25

26 JANET WILLIAMS

27 Having been sworn, testified as follows:

1 THE WITNESS: I do.

2 THE CLERK: Please be seated. State and
3 spell your name for the record.

4 THE WITNESS: Janet Williams. J-a-n-e-t,
5 W-i-l-l-i-a-m-s.

6 THE CLERK: Thank you.

7

8 DIRECT EXAMINATION

9 BY MR. SNEDDON:

10 Q. Ms. Williams, you're now retired; is that
11 correct?

12 A. I am.

13 Q. And before your retirement where did you
14 work?

15 A. I worked for Santa Barbara County Sheriff.

16 Q. And how long had you worked for them?

17 A. A little over 29 years.

18 Q. I think the bailiff's about to tell you to
19 scoot into that microphone.

20 In case we missed it, how many years?

21 A. 29 years.

22 Q. And at the time of your retirement, what was
23 your assignment?

24 A. I was working investigations at Coastal
25 Station, which is located in Carpinteria.

26 Q. And how long had you been at that particular
27 assignment?

28 A. Ten years. 6948

1 Q. And prior to that, where were you assigned?

2 A. I was assigned to the main station in
3 Goleta.

4 Q. In what capacity was that?

5 A. Jail, patrol, investigations, variety of
6 assignments.

7 Q. All right. Now, prior to the time that you
8 retired in November, the 18th of 2003, were you
9 assigned to participate in the execution of a search
10 warrant at Neverland Valley Ranch?

11 A. Yes.

12 Q. And during the course of your
13 responsibilities on that particular day, did you --
14 were you responsible for seizing certain items of
15 evidence?

16 A. Yes.

17 Q. And in particular, were you at one point in
18 time assigned to search the downstairs area of Mr.
19 Jackson's bedroom suite?

20 A. Yes.

21 Q. And in that area, did you find some items
22 that you seized?

23 A. Yes.

24 Q. And could you just generally describe the
25 area that you took these items from?

26 A. The area appeared to be similar to a sitting
27 room. It had a piano, large screen televisions and

28 chairs, and some books. Fireplace. That kind of 6949

1 area.

2 Q. All right. I'm going to show you a

3 photograph.

4 Counsel, it's 90 and it's in evidence.

5 MR. SANGER: What number?

6 MR. SNEDDON: Nine -- 9-0.

7 MR. SANGER: That's fine. Thank you.

8 Q. BY MR. SNEDDON: Now, with regard to the

9 exhibit that I placed in front of you, which is a

10 photograph, which is People's 90 which is in

11 evidence, do you recognize the area that's depicted

12 in that photograph?

13 A. Yes, I do.

14 Q. When and where was the first time that you

15 saw -- or were in that particular location?

16 A. It would have been the day of the search.

17 Q. And do you see depicted in the photograph,

18 People's 90, the area from which you obtained some

19 items that you seized and then had booked into

20 evidence?

21 A. Yes.

22 Q. And I gave you a red pen. Would you put an

23 arrow to the area where you obtained the items from?

24 A. An arrow on the photograph?

25 Q. Yes. Yes, mark on the photograph.

26 Now, in that photograph -- let me get the

27 photograph for just a second. I was looking for the

28 laser. 6950

1 MR. ZONEN: Oh, here's the laser.

2 Gordon?

3 Your Honor, could we have the input, I think

4 four?

5 MR. AUCHINCLOSS: "Input 4."

6 Q. BY MR. SNEDDON: All right. Ms. Williams,

7 with regard to the photograph that we have on the

8 board, which is People's 90 in evidence, can you

9 point out to the ladies and gentlemen of the jury

10 the arrow that you placed on that exhibit. Use the

11 laser, if you would.

12 I think you might be pointing it the wrong

13 way.

14 A. Could be. Oh. Found the right button,

15 sorry.

16 Q. All right. So it's the one that comes down

17 on the right-hand side of the photograph. And below

18 that, directly below that are a number of boxes and

19 books; is that correct?

20 A. Yes.

21 Q. Is that the area from which you seized

22 certain items?

23 A. Yes.

24 Q. Okay. In this particular room -- well,

25 that's okay. I'll do it another way.

26 I think we can have the lights for right

27 now, Your Honor.

28 (Off-the-record discussion held at counsel 6951

1 table.)

2 MR. SANGER: All right. Go ahead.

3 Q. BY MR. SNEDDON: All right. I'm handing you
4 a bag, a plastic bag that has the number "590" on
5 it, 590 marked for identification purposes. And
6 inside the bag are four books that have been marked
7 59-A (sic), B, C and D. So I'm going to ask you
8 some questions about these, okay?

9 A. Yes.

10 Q. Now, with regard to 590-A, do you recognize
11 that book?

12 A. Yes.

13 Q. And where was the book the first time that
14 you saw it?

15 A. The book was inside one of the boxes that
16 was -- that I depicted by the arrow.

17 Q. Now, there are a number of boxes there.

18 Do you recall which one of the boxes that 59-A (sic)
19 came out of?

20 A. I do not.

21 Q. But it was from one of those boxes?

22 A. Yes.

23 Q. Okay. Now, is that book in the same
24 condition as when you seized it on that particular
25 day?

26 A. It appears to be.

27 Q. All right. Now, let's go to 59-B -- 590-B.

28 Okay. Do you recognize that exhibit? 6952

1 A. Yes.

2 Q. And when and where was that the first time
3 you saw it?

4 A. Inside one of the boxes from the same area.

5 Q. And do you remember what specific box it was
6 in?

7 A. I do not.

8 Q. Do you recall whether it was with the
9 Exhibit 59 -- 590-A?

10 A. I do not.

11 Q. All right. Let's go to the next one then,
12 590-C. Do you recognize that?

13 A. Yes.

14 Q. And where was that book the first time you
15 saw it?

16 A. In one of the boxes from the same area.

17 Q. Is that the same condition as when you first
18 saw it?

19 A. It appears to be.

20 Q. All right. And then let's go to 590-D, like
21 in "David." All right. Do you recognize that book?

22 A. Yes.

23 Q. Is that one of the books you seized?

24 A. Yes.

25 Q. From the same area?

26 A. Same area, yes.

27 Q. And do you recall whether it was with the

28 other -- any of the other books, A, B or C? 6953

1 A. I don't remember.

2 Q. With regard to that book, does it appear to
3 be in the same condition as when you first saw it?

4 A. Yes.

5 MR. SNEDDON: All right. Your Honor, I move
6 that 590-A through D be admitted into evidence.

7 MR. SANGER: Submit it.

8 THE COURT: They're admitted.

9 MR. SNEDDON: I'm going to display these,
10 Your Honor.

11 Q. 590-A, now, this particular book is titled,
12 "Bob and Rob." After you took it out of one of
13 those boxes that are depicted in the photograph,
14 People's 90, what did you do with this particular
15 book?

16 A. I took it to the area where Detective
17 Padilla was preparing the documents showing the
18 items that were being seized.

19 Q. He was designated as what we call "the
20 scribe"?

21 A. Yes.

22 Q. What you call "the scribe"?

23 A. Yes.

24 Q. Okay. All right. Let's put up 590-B.
25 With regard to this particular exhibit,
26 "Before the Hand of Man," what did you do with that
27 after you seized it?

28 A. The same procedure, I took it over to 6954

1 Detective Padilla for scribing in.

2 Q. Okay. 590-C. This is a book called "Room
3 to Play." And you obtained that from the same
4 areas, correct?

5 A. Yes.

6 Q. And what did you do with it after you
7 obtained it?

8 A. I took it to Detective Padilla.

9 Q. All right. And lastly, 590-D. That was
10 also found in those boxes?

11 A. Yes.

12 Q. And you also took that to the detective?

13 A. Yes, I did.

14 MR. SNEDDON: All right. Thank you. Lights
15 are fine.

16 (Off-the-record discussion held at counsel
17 table.)

18 MR. SNEDDON: Your Honor, I've handed
19 counsel for his examination a clear plastic bag
20 which has inside of it a white binder. This exhibit
21 has been marked as 591 for identification purposes.

22 Q. I'm going to ask you to look at 591.

23 Now, yesterday, I asked you to take a look
24 at that exhibit, correct?

25 A. Yes.

26 Q. And you did take a look at that exhibit,
27 correct?

28 A. Yes. 6955

1 Q. And inside of the Exhibit 591, which has the
2 white binder, there are two items, two magazines,
3 correct?

4 A. Yes.

5 Q. Are those magazines that you seized on
6 November 18th?

7 A. Yes.

8 Q. From where?

9 A. From the same area as the books that we've
10 previously discussed.

11 Q. The books in 590?

12 A. Yes.

13 Q. And with regard to the two exhibits that --
14 the two magazines that are inside the Exhibit 591,
15 are they in the same condition now as when you first
16 viewed them?

17 A. No.

18 Q. In what respect are they different?

19 A. They've been disassembled. They were intact
20 at the time that I seized them.

21 Q. But they are the same two magazines that you
22 took?

23 A. Yes.

24 MR. SNEDDON: All right. Move that 591 be
25 admitted into evidence, Your Honor.

26 MR. SANGER: I will submit it, Your Honor.

27 THE COURT: It's admitted.

28 (Off-the-record discussion held at counsel 6956

1 table.)

2 MR. SNEDDON: Your Honor, I have a clear
3 plastic bag which has on the outside of it "Exhibit
4 No. 834." That's on the outside of the bag. And
5 from inside the bag there are four magazines that
6 have been marked consecutively as 592, 593, 594 and
7 595. And I've shown them to counsel for his
8 examination. And I'm going to approach the witness.

9 THE COURT: Yes.

10 Q. BY MR. SNEDDON: First of all, there's the
11 bag that's marked as 834, and the four magazines,
12 592 through 595. Do you recognize those?

13 A. Yes.

14 Q. And those were also exhibits that I had you
15 look at yesterday; is that correct?

16 A. Yes.

17 Q. And you've had a chance to go through them;
18 is that correct?

19 A. Yes.

20 Q. And with regard -- let's take them one at a
21 time. 592, where was it the first time that you saw
22 it?

23 A. It was inside one of the boxes that I
24 labeled on the photograph.

25 Q. Now, the title of these magazines -- or this
26 magazine is?

27 A. This is "The Nudist."

28 Q. All right. And they must be from a long 6957

1 time ago because they're 15 cents.

2 A. It says "March 1935."

3 Q. All right. Now, do you remember where in
4 those boxes that you found the Exhibit 592?

5 A. No.

6 Q. Which one of the boxes?

7 A. No, I do not.

8 Q. Let's go to 593. Do you recognize that?

9 A. Yes.

10 Q. Is that another one of the magazines that
11 you took out of those boxes?

12 A. Yes.

13 Q. And are 592 and 593 in the same condition as
14 when you first saw them?

15 A. Seems to be, yes.

16 Q. And this one's called "Sunbather"; is that
17 correct?

18 A. Correct.

19 Q. Let's go to 594. That's also a nudist --
20 the title is "The Nudist," correct?

21 A. Yes, it is.

22 Q. Where did you find that particular item?

23 A. In one of the boxes.

24 Q. All right. And then let's -- I mean, is it
25 in the same condition as when you found it?

26 A. Yes.

27 Q. And 595? It's another of "The Nudist,"

28 correct? 6958

1 A. Yes, it is.

2 Q. Is that in the same condition as when you
3 saw it?

4 A. Yes.

5 Q. And where did you see it first?

6 A. One of the boxes.

7 Q. Now, with regards to the Exhibit 592, 593,
8 594 and 595 - okay? - can you tell us whether those
9 exhibits were all together in the same box or in
10 different boxes? Do you have a recollection about
11 that?

12 A. I don't remember.

13 Q. Now, with regard to those exhibits, 592, 3,
14 4 and 5, what did you do with them after you seized
15 them from the box or boxes that you found them?

16 A. I took them to Detective Padilla for
17 scribing and booking.

18 MR. SNEDDON: Your Honor, I'd move that 592
19 through 595 be admitted into evidence, as well as
20 the bag that contains it, which is 834.

21 MR. SANGER: I'll submit it.

22 THE COURT: They're admitted.

23 Q. BY MR. SNEDDON: Miss Williams, I'm now
24 asking you to look at three books, and the first one
25 is numbered 596, 597, and I believe 599. Would you
26 take a look at those for me, if you would.
27 Do you recognize those exhibits?

28 A. Yes, I do. 6959

1 MR. SANGER: Counsel, you didn't show me
2 those, I don't think.

3 MR. SNEDDON: I apologize. I was trying to
4 be too efficient.

5 Q. All right. Let's start with 596, "Man, A
6 Sexual Study of Man." Where was that the first time
7 you saw it?

8 A. This was inside one of the boxes.

9 Q. And the same location as the other item?

10 A. Yes.

11 Q. All right. And is it in the same condition
12 as when you first saw it?

13 A. Yes.

14 Q. All right. And the next one, 597, "The
15 Golden Age of Neglect." Do you recognize that?

16 A. I do.

17 Q. Is that one of the items that you seized?

18 A. Yes.

19 Q. Where was it when you saw it the first time?

20 A. This was also inside one of the boxes.

21 Q. And do you recall whether it was in the same
22 box as any of the other items that you previously
23 identified?

24 A. I don't remember.

25 Q. Okay. And with regard to 599, do you
26 recognize that?

27 A. Yes.

28 Q. And where was that the first time you saw 6960

1 it?

2 A. Inside one of the boxes.

3 Q. And the same area?

4 A. Yes.

5 Q. The boxes that you've previously talked
6 about?

7 A. Yes.

8 Q. Is that in the same condition as when you
9 first saw it?

10 A. Yes.

11 MR. SANGER: All right. Your Honor, I move
12 that 596, 97 and 99 be admitted into evidence.

13 MR. SANGER: Submit it, Your Honor.

14 THE COURT: They're admitted. All three.

15 MR. SNEDDON: All right. We need the lights
16 out again and "Input 4" again.

17 Q. 596 is the book, "Man, A Sexual Study of
18 Man."

19 Now, with regard to that particular book,
20 after you seized it, what did you do with it?

21 A. I took it over to Detective Padilla to have
22 it scribed and booked into evidence.

23 Q. All right. And 597, do you recognize that?

24 A. Yes.

25 Q. Okay. And with regard to that particular
26 item, what did you do with it after you seized it?

27 A. I took it to Detective Padilla for scribing

28 and booking into evidence. 6961

1 Q. All right. And the last item, which is 599,
2 did you follow the same procedure with regard to
3 that particular book?

4 A. Yes, I did.

5 MR. SNEDDON: All right. Thank you. You
6 can turn the lights on. Thank you.

7 (Off-the-record discussion held at counsel
8 table.)

9 MR. SNEDDON: Your Honor, I have a bag
10 that's been marked as People's 835 for
11 identification purposes. And inside of the bag are
12 Exhibits 598 and then Exhibit 600 consecutively
13 through 613. So it's 598 and then 600 through 613.
14 And I've shown them to counsel.

15 And may I approach the witness, Your Honor?

16 THE COURT: Yes.

17 Q. BY MR. SNEDDON: All right. Ms. Williams,
18 I'm showing you the exhibit that's been marked.
19 It's a plastic bag, 835. You see that?

20 A. Yes.

21 Q. And then I took out -- from 835, I took 598
22 and then 600 through 613.

23 Now, did I ask you yesterday to look at all
24 of those magazines contained in there?

25 A. Yes, you did.

26 Q. And do you recognize those magazines? Let's
27 just do 598 first. Do you recognize 598?

28 A. Yes. 6962

1 Q. Where was 598 the first time that you saw
2 it?

3 A. It was in one of the boxes that I mentioned
4 earlier.

5 Q. And the title of the magazine?

6 A. "The Nudist."

7 Q. All right. So why don't we take 5 -- is it
8 in the same condition as when you first saw it?

9 A. Yes.

10 Q. Let's put that one aside.

11 Now, with regard to 600 through 613, were
12 you asked to look through those magazines?

13 A. Yes, I was.

14 Q. And those magazines are basically the same
15 magazines, "The Nudist," and then there's a few
16 other different ones in there?

17 A. Yes.

18 Q. And were those all magazines that you found
19 in the downstairs area of Mr. Jackson's bedroom?

20 A. Yes.

21 Q. And where in that area?

22 A. Within the boxes earlier mentioned.

23 Q. Okay. And were those also items that you
24 gave to Detective Padilla to be scribed and booked
25 into evidence?

26 A. Yes.

27 Q. And are the ones that you looked at and the

28 ones I'm talking about now, 600 through 613, are 6963

1 they in the same condition as when you first saw
2 them on the 18th of November, 2003?

3 A. Yes.

4 Q. All right. Let's put those back in here.

5 And I move that 598 and 600 through 613 be
6 admitted into evidence, Your Honor.

7 MR. SANGER: I will submit it.

8 THE COURT: They're admitted.

9 (Off-the-record discussion held at counsel
10 table.)

11 MR. SNEDDON: Your Honor, I have a brown
12 paper bag with a sheriff's evidence booking tag on
13 the front of it, and I've had affixed to it the
14 Exhibit No. 836 to the brown bag.

15 And contained inside of the brown bag are
16 Exhibits 614, 615, 616, 617, 618 and 619 for
17 identification purposes. And I've shown them to
18 counsel and he's examined them, Your Honor. And I'd
19 like to approach again.

20 THE COURT: All right.

21 Q. BY MR. SNEDDON: These exhibits I've handed
22 you came from the bag marked Exhibit 836, okay? And
23 again, yesterday, I had you examine the items that
24 came out of that bag, Item 836, correct?

25 A. Yes.

26 Q. And those bags -- actually, those items have
27 been chemically treated, correct?

28 A. Yes. 6964

1 Q. With regard to the first exhibit, 614, it's
2 a binder. And did you have an opportunity to
3 examine that item yesterday?

4 A. Yes.

5 Q. And inside of that binder, 614, did you
6 recognize the item inside?

7 A. Yes.

8 Q. And what was that?

9 A. It was a magazine.

10 Q. And was it the same type of variety of the
11 others that you've identified?

12 A. Yes.

13 Q. At the time that you saw it yesterday, was
14 it in a different format as when you first saw it?

15 A. Yes.

16 Q. How is it different now than when you first
17 saw it?

18 A. It is -- has now been disassembled and
19 chemically treated.

20 Q. Other than that, are the contents of the
21 binder, the white binder that's been marked as 614,
22 the same as the magazine that you picked up on
23 November 18?

24 A. It appears to be, yes.

25 Q. Put that aside, and let's just go to 615,
26 if we could. And 615, inside the plastic bag, do
27 you -- I had you examine that item yesterday, too,

28 correct? 6965

1 A. Yes.

2 Q. And what is the title of that document?

3 Here, let me. I got my hands dirty. I'll do it.

4 A. It is "The Nudist."

5 Q. So these are the like kind of magazine that
6 we've previously -- you've previously identified?

7 A. Yes.

8 Q. And other than having been chemically
9 treated and disassembled, is the Exhibit 615 the
10 same exhibit that you seized from Mr. Jackson's
11 bedroom?

12 A. Yes.

13 Q. All right. Let's go to 616. Do you
14 recognize that? You were asked to look at it
15 yesterday, correct?

16 A. Yes.

17 Q. And it's the same type of magazine,
18 "Sunshine and Health, The Nudist," as 615 is,
19 correct?

20 A. Yes, it is.

21 Q. Other than being chemically treated and
22 disassembled, is it in the same condition as when
23 you first saw it in Mr. Jackson's bedroom?

24 A. Yes.

25 Q. Now, these items, 614, 615 and 616, where
26 were they found?

27 A. They were found in the boxes that I've

28 mentioned earlier. 6966

1 Q. Okay. Do you remember whether they were
2 found in the same boxes with the other items or in
3 different boxes?

4 A. I don't remember.

5 Q. Okay. Go ahead and put that up there.

6 And let's go to 617. Do you recognize that?

7 A. Yes, I do.

8 Q. And that's another magazine of the same
9 brand, correct?

10 A. Yes, it is.

11 Q. Same title?

12 A. Yes.

13 Q. And it has also been chemically treated,
14 correct?

15 A. Yes.

16 Q. And disassembled?

17 A. Yes.

18 Q. Have you had the opportunity to examine the
19 contents of that yesterday?

20 A. Yes.

21 Q. And is that also a magazine that you
22 obtained from Mr. Jackson's bedroom?

23 A. Yes.

24 Q. And from the same area that you previously
25 told the jury?

26 A. Yes.

27 Q. Put that up there.

28 Is it in the same condition, other than the 6967

1 chemical treatment and it's disassembled, as when
2 you first saw it?

3 A. Yes.

4 Q. All right. The next item is 618. Do you
5 recognize that?

6 A. Yes.

7 Q. And where was that the first time you saw
8 it?

9 A. Within one of the boxes from the same area.

10 Q. And with regard to that exhibit, what's
11 different about it now than when you first saw it?

12 And by "that exhibit," I mean 618.

13 A. This one has also been chemically treated
14 and disassembled.

15 Q. Other than that, it's the same?

16 A. Yes.

17 Q. All right. Would you put that up on top.

18 And let's go to 619.

19 Do you recognize 619 for identification
20 purposes?

21 A. Yes.

22 Q. And where was that the first time that you
23 saw it?

24 A. From within one of those boxes.

25 Q. And that one has also been chemically
26 treated and disassembled, correct?

27 A. Yes, it has.

28 Q. Other than that, is it in the same condition 6968

1 as when you first saw it?

2 A. Yes.

3 Q. All right. And with regard to these items
4 that we've had marked for identification purposes
5 614 through 619, were these also given to Detective
6 Padilla, the scribe?

7 A. Yes, they were.

8 MR. SNEDDON: Your Honor, I move that 614
9 through 619 be admitted into evidence, as well as
10 the bag which contains these exhibits, which is 836.

11 MR. SANGER: Submitted.

12 THE COURT: They're admitted.

13 MR. SNEDDON: We're almost there.

14 (Off-the-record discussion held at counsel
15 table.)

16 MR. SNEDDON: All right, Your Honor. At
17 this time I've had marked for identification
18 purposes a bag, a brown bag, with, again, a
19 sheriff's evidence tag with the number "#366" at the
20 top. And the number here is 837.

21 And from inside of that bag I've withdrawn
22 two exhibits. One is a magazine. And its
23 identification is 620 for identification. The title
24 is "Eden," E-d-e-n, and the exhibit number 621 is
25 "The Nudist" I've had marked for identification
26 purposes.

27 And then lastly -- and I've shown those to

28 counsel for his examination. 6969

1 And lastly, I have a brown bag, again with a
2 sheriff's evidence tag on it, with the number "359"
3 in black in the upper right-hand corner. Inside the
4 bag I've withdrawn the contents and shown to counsel
5 a book called "Poo-Chi,"
6 P-o-o-C-h-i. I'm sure I'm not pronouncing it
7 correctly. But that's as good as it gets.

8 And may I approach again, with your
9 permission?

10 THE COURT: Yes.

11 Q. BY MR. SNEDDON: Okay. Now, with regard to
12 the Exhibit 837, that's the brown bag, okay? We
13 have 620 and 621. So let me ask you the questions.
14 620, where did you find it?

15 A. I found this within one of the boxes.

16 Q. And is it in the same condition today as
17 when you first found it?

18 A. Yes.

19 Q. This one hasn't been treated or
20 disassembled, correct?

21 A. Correct.

22 Q. All right. And then 621, where did you find
23 that?

24 A. Within one of the boxes.

25 Q. And with regard to 621, is it in the same
26 condition as when you first saw it?

27 A. Yes.

28 Q. Now, with regard to 620 and 621, did you 6970

1 give those also to Detective Padilla?

2 A. Yes, I did.

3 Q. All right. If I can have those back.

4 And these are in the same condition as when
5 you first seized them?

6 A. Yes.

7 Q. If I didn't ask you, where did you seize
8 these two items, 620 and 621, from?

9 A. They were from within one of the boxes.

10 Q. And lastly, 538 (sic). I'm taking out of
11 the bag a book and handing it to you, the contents
12 of 538 (sic). Do you recognize that book?

13 A. May I look at that?

14 Q. Absolutely.

15 A. Yes, I do.

16 Q. Do you recall where that item was the first
17 time you saw it?

18 A. Yes, I do.

19 Q. Where?

20 A. This was located in a bookcase that is on
21 the far wall of the den area.

22 Q. Okay. I'm going to come back up and show
23 you Exhibit 90.

24 Do you recognize the area where you found
25 Exhibit 838?

26 A. Yes.

27 Q. All right. Would you put an arrow to it?

28 And would you just write "838" up there? 6971

1 THE COURT: I think you'd earlier called that
2 538. Am I correct?

3 MR. SNEDDON: The book, Your Honor? It's 838.

4 THE CLERK: He misspoke.

5 MR. SNEDDON: I misspoke?

6 THE COURT: I'm sorry, I just want the record
7 to reflect that when you said 538, you meant 838.

8 MR. SNEDDON: I did, Your Honor. Thank you.

9 Q. All right. For the record, on Exhibit 90
10 you put a red arrow and an "838" to the right of the
11 red arrow; is that correct?

12 A. I did.

13 Q. And that is the location where you found
14 Exhibit 838?

15 A. Yes.

16 Q. And is that exhibit in the same condition as
17 to when you found it --

18 A. Yes.

19 Q. -- on November 18th?

20 A. Yes, it is.

21 Q. Did you also give that to Detective Padilla?

22 A. Yes, I did.

23 MR. SNEDDON: Okay. Thank you.

24 Move that Item 837 and the contents, which
25 are 620 and 621, and 838 and the contents, be
26 admitted into evidence, Your Honor.

27 MR. SANGER: Submitted, Your Honor.

28 THE COURT: They're admitted. 6972

1 MR. SNEDDON: I believe that's it. No
2 further questions.

3 THE COURT: Mr. Sanger?

4 MR. SANGER: Thank you, Your Honor.

5

6 CROSS-EXAMINATION

7 BY MR. SANGER:

8 Q. Detective Williams, how are you?

9 A. Fine, thank you.

10 Q. You -- and you're retired, correct?

11 A. Yes.

12 Q. May I still call you "detective"? Is that
13 okay?

14 A. I'm happy with it.

15 Q. When did you retire exactly? You said that,
16 and I missed it.

17 A. February of last year.

18 Q. February of --

19 A. 2004.

20 Q. 2004, okay.

21 You were active duty and still working
22 actively for the sheriff's department in November of
23 2003; is that correct?

24 A. Yes.

25 Q. All right. Now, Detective Williams, I think
26 you said you've been a sheriff's officer for 29
27 years; is that right?

28 A. Yes. 6973

1 Q. Okay. And in fact, if I'm not mistaken, you
2 were one of the first two female officers in the
3 Santa Barbara Sheriff's Department; is that correct?

4 A. No.

5 Q. Okay. Close to it, in any event?

6 A. Close.

7 Q. There's a story behind there that I haven't
8 got quite right. But in any event, you have a long
9 career with the sheriff's department; is that right?

10 A. Yes.

11 Q. And you have been a detective for how long?

12 A. I was a detective two different periods.

13 The last time in Coastal Station, which was ten
14 years. And then prior to that, it was at the main
15 station, which was for nine years.

16 Q. Okay. And part of what you did as a
17 detective was specialize in sex crimes; is that
18 right?

19 A. Yes.

20 Q. All right. So you have a great deal of
21 experience being the lead detective in sex offenses;
22 is that right?

23 A. I have some experience, yes.

24 Q. Well, when you say "some," are you being
25 modest? You've had quite a number of cases where
26 you've been the lead officer --

27 A. Yes.

28 Q. -- in sex cases, correct? 6974

1 A. Yes.

2 Q. All right. And in this particular case,
3 your assignment was to assist on one of the searches
4 that was occurring on November 18th, 2003; is that
5 correct?

6 A. Yes.

7 Q. And you were then -- you were then not asked
8 to do anything else. You were given no other
9 assignments in this case; is that correct?

10 A. That's correct.

11 Q. Now, if I understand what you did, you
12 focused your attention on that first floor.

13 And could I have the exhibits? I'd like
14 590, if you have it there.

15 MR. SNEDDON: It's up there.

16 MR. SANGER: Oh, it's up there?

17 May I approach to retrieve it?

18 THE COURT: Yes.

19 MR. SANGER: May I put this back up on the
20 screen, Your Honor?

21 Q. Now, you've already told us that this is the
22 first floor. But just so we're oriented, for people
23 who are not oriented already, the boxes of books
24 that you referred to under the arrow are to the
25 right of a television, large screen T.V. console; is
26 that correct?

27 A. Yes, it is.

28 Q. All right. And there's additional -- an 6975

1 additional part of the room to the left on this
2 picture that you can't see in the picture; is that
3 correct?

4 A. Yes.

5 Q. And did you search that entire area?

6 A. Yes.

7 Q. Behind the piano -- in fact, do you have the
8 pointer there still?

9 Okay. Would you be kind enough to point to
10 the piano?

11 Okay. By the way, on the piano, was there a
12 letter from Steven Spielberg sitting there?

13 MR. SNEDDON: Object as immaterial, Your
14 Honor.

15 THE COURT: Overruled.

16 You may answer.

17 THE WITNESS: I don't remember.

18 Q. BY MR. SANGER: All right. Behind the piano
19 that you just pointed to is an alcove area; is that
20 correct?

21 A. Yes.

22 Q. Can you point to that?

23 And there are quite a number of books in
24 that area as well, correct?

25 A. Yes.

26 Q. And that's where you found 838; is that
27 right?

28 A. Yes. 6976

1 Q. Most of the books in that area are art
2 books; is that correct? Or art and entertainment
3 kind of books?

4 A. I believe so. I don't remember exactly, but
5 I believe there were quite a number of those.

6 Q. All right. And then on the -- where you've
7 drawn the other arrow to the boxes, and you
8 indicated you found the other exhibits that you've
9 talked about today, there are -- there were a number
10 of boxes there; is that correct?

11 A. Yes.

12 Q. You don't know whether those boxes were
13 coming or going or had been sitting there, do you?

14 A. Correct.

15 Q. You don't know whether or not Mr. Jackson
16 had even looked inside those boxes, do you?

17 A. Correct.

18 Q. All right. Now, Mr. Jackson is an artist;
19 is that correct? A performer?

20 A. He's a performer, yes.

21 Q. And he's an artist. He writes and composes
22 music and choreographs dance, that sort of thing; is
23 that correct?

24 MR. SNEDDON: I'm going to object as
25 immaterial; lack of foundation.

26 THE COURT: Overruled.

27 You may answer.

28 Q. BY MR. SANGER: Is that correct? 6977

1 A. Yes.

2 Q. And you saw a tremendous number of books
3 that pertained to that sort of thing, art and dance
4 and entertainment, music, correct?

5 A. I remember seeing books of that nature, yes.

6 Q. Do you know if people send books to Mr.
7 Jackson?

8 MR. SNEDDON: Object; calls for speculation.

9 MR. SANGER: It's a "yes" or "no," Your
10 Honor.

11 THE COURT: Yes, you may answer "yes" or
12 "no."

13 THE WITNESS: I don't know if people send him
14 books.

15 Q. BY MR. SANGER: All right. Now, of all of
16 the books that you have identified -- and I'm not
17 going to go through by number here. But out of all
18 of the books that you've identified, there are no
19 books in that group that are unlawful for an adult
20 to purchase; is that correct?

21 A. I don't think there are.

22 Q. All right. And none of those books are
23 unlawful for an adult to possess in his home; is
24 that correct?

25 A. I believe you're correct.

26 Q. You mentioned that -- let's put it this way:
27 You saw a number of these books. Let me see if I

28 can take them out, here. 6978

1 THE COURT: Are you through with the picture
2 up there?

3 MR. SANGER: Yes, Your Honor. And then
4 I'll -- thank you.

5 Q. I'll just refer you for the moment to
6 Exhibit -- the bag is 835 and the contents are 598
7 and following. Do you remember those magazines?
8 Would you like me to bring them to you?

9 A. I remember them basically, yes.

10 Q. Okay. These magazines are, I think you
11 said, from 1931; is that correct?

12 A. They're from different years; 1935, '37,
13 that era.

14 Q. That's true, actually. These are from 1935.
15 And the title of the publication is "The
16 Nudist"; is that correct?

17 A. Yes.

18 Q. These appear to be collector's items, do
19 they not?

20 A. They could be.

21 Q. All right. And you have no information as
22 to whether or not Mr. Jackson even knew that they
23 were in the box; is that correct?

24 MR. SNEDDON: Object. It calls for
25 speculation.

26 THE COURT: I was going to say she could
27 answer "yes" or "no," but anybody I've ever said

28 that to has never answered "yes" or "no." 6979

1 (To the witness) Don't answer that "yes" or

2 "no."

3 (Laughter.)

4 THE WITNESS: But I should answer?

5 THE COURT: Yes.

6 THE WITNESS: So, may I ask what the question

7 was again, please?

8 Q. BY MR. SANGER: I think His Honor is kidding

9 with you. You can answer "yes" or "no."

10 Do you have any information as to whether or

11 not Mr. Jackson ever saw these nudist magazines?

12 A. I don't have any information that he did or

13 did not see them.

14 (Laughter.)

15 MR. SANGER: There you go.

16 THE COURT: Someone following my

17 instructions.

18 Q. BY MR. SANGER: Now, in the part of Mr.

19 Jackson's house that you searched, do you know how

20 many books were there total?

21 A. No, I do not.

22 Q. Were there thousands?

23 A. There were many books.

24 Q. Okay. At least hundreds?

25 A. Yes.

26 Q. All right. And you went to some other

27 places in the residence other than that particular

28 room, did you not? 6980

1 A. Yes.

2 Q. What other places did you go to?

3 A. The second story, a pantry-like room, a
4 large room with multiple games and toys, and two
5 bedrooms.

6 Q. All right. And you saw books elsewhere in
7 the house besides where you were searching here in
8 this room; is that correct?

9 A. Some books.

10 Q. Did you -- in order get to that room, you
11 had to walk down a hallway, right?

12 A. To the den area. Is that what you're
13 talking about?

14 Q. Yes.

15 A. Yes.

16 Q. And that hallway was lined, floor to
17 ceiling, with bookshelves filled with books; is that
18 correct?

19 A. I don't remember.

20 Q. Okay. That's fair enough.

21 And there was a library just off of that
22 hallway as well. Did you take a look in that
23 library?

24 A. No.

25 Q. Okay. Now, you said you did go upstairs,
26 because you went into Mr. Jackson's son's room; is
27 that right?

28 A. Yes. 6981

1 Q. And right up there by his son's room is an
2 alcove that is filled with children's books; is that
3 correct?

4 A. Yes.

5 Q. All right. And again, there are hundreds of
6 books up there; is that right?

7 A. Yes.

8 Q. Did you have occasion to go to the arcade
9 where there is a room that is basically filled with
10 books?

11 A. Are you talking the same room that's the
12 second story of the main residence?

13 Q. No, it's a different building. The arcade
14 building.

15 A. I did not go there.

16 Q. All right. Of all the books that you saw,
17 you seized the ones that you felt might be of some
18 evidentiary value based on what you understood this
19 case to be about; is that correct?

20 A. Yes.

21 Q. All right. I'm going to ask you to take a
22 look at 599, and see if we can....

23 May I approach, Your Honor?

24 THE COURT: Yes.

25 Q. BY MR. SANGER: I'm going to show you 599.

26 That appears to be a book of photographs that were
27 taken some time ago; is that correct?

28 A. May I look through it? 6982

1 Q. Yes, please.

2 They appear to be old photographs?

3 A. They look like they could be old
4 photographs. They have the sepia tone into them.

5 Q. All right. And you said that as far as you
6 know, there's nothing illegal about an adult
7 possessing that book in the United States, or in
8 California, let's say?

9 A. Yes.

10 Q. The United States in general, okay.

11 Were you aware that that particular author,
12 that photographer, was prosecuted and acquitted
13 during the Nazi regime prior to World War II for
14 those very photographs?

15 MR. SNEDDON: Your Honor, I'm going to
16 object as immaterial.

17 THE COURT: Sustained.

18 Q. BY MR. SANGER: Let's put it this way: As
19 you look at that, that appears to be a historic
20 book, a book of recording historic photographs; is
21 that correct?

22 A. I don't know what you mean by that.

23 Q. All right. Did you do any research as to
24 any of the authors of any of these books?

25 A. No.

26 Q. All right. So in other words, that day you
27 were there, your job was to look at things and see

28 if they appeared to be within the search warrant and 6983

1 you seized them?

2 A. Yes.

3 Q. All right. All right. Let me show you --

4 let me ask you, before I show you something else,

5 you seized some other things that have not been

6 introduced into evidence here; is that correct?

7 A. Yes.

8 Q. All right. You seized some paperwork from

9 Mr. Jackson's son's room; is that right?

10 A. I believe so.

11 Q. Okay. And you seized some other things.

12 You seized a Christmas invitation from Liza

13 Minnelli; is that correct?

14 A. Yes.

15 Q. All right. Now, I'm also going to show you

16 Exhibit 838.

17 May I approach, Your Honor?

18 THE COURT: Yes.

19 MR. SANGER: And I'll take this back, if I

20 may.

21 Q. That's 838. Before I ask you about it, your

22 procedure in searching through all these books and

23 boxes and things was to -- was to find books that,

24 by their cover, looked like they would warrant some

25 further interest on your part, right?

26 A. Usually I would open up the books to try to

27 see what was inside also.

28 Q. Okay. But you didn't flip through every 6984

1 single book in that room?

2 A. No.

3 Q. All right. So first of all, you'd look at
4 something that looked like it might be a book that
5 had something to do with sex. Is that pretty much
6 what you were looking for?

7 A. Yes.

8 Q. All right. And then once you found that
9 book, you would look through it and see if you felt
10 that it was the type of book that you thought should
11 be seized in this case, correct?

12 A. Yes.

13 Q. All right. And you've indicated you seized
14 some other items besides that, but when it came to
15 these books that related to some sexual topic, you
16 would actually look in them and make a determination
17 that you should take it, correct?

18 A. Yes.

19 Q. All right. Now, on No. 837 -- I'm sorry,
20 what is that? 838, the bag 838, and inside the bag
21 is the book, right?

22 A. Yes.

23 Q. And you seized -- have you looked inside the
24 book?

25 A. Yes.

26 Q. Okay. Now, again, you're an experienced sex
27 crimes detective, correct?

28 A. Yes. 6985

1 Q. So you're not shocked by seeing pictures of
2 the human body; is that right?

3 A. I can still be shocked.

4 Q. Okay. Were you shocked by that book that's
5 called Poo-Chi, P-o-o-C-h-i?

6 A. Yes.

7 Q. And you described it as -- if I get your
8 exact -- do you recall how you described it?

9 A. How I described it?

10 Q. Yes. Did you describe it as a book
11 containing photographs of the female groin area?

12 A. I may have. I'm not sure if I did or if
13 that's the way Detective Padilla understood what I
14 said.

15 Q. All right. Well, did you say something like
16 that to him?

17 A. Probably.

18 Q. And does that appear to be what you
19 described to him?

20 A. Well, some of it looks like it, yes.

21 Q. Okay. So the question is, is that pretty
22 much what you told Detective Padilla, that you have
23 a book that appears to be photographs of the female
24 groin area?

25 A. Probably.

26 Q. All right. And, Detective, as you look at
27 that a little more carefully, those are pictures of

28 armpits and other bodily folds, that are not from 6986

1 genital areas, that are made to look like that as a
2 spoof of some sort; is that correct?

3 A. Some of them could be. And some of them I
4 don't know.

5 Q. All right. And once again, there's nothing
6 illegal about owning that book, is there?

7 A. Not that I'm aware.

8 Q. And you don't know if Mr. Jackson even ever
9 saw that before, do you?

10 A. I do not know.

11 MR. SANGER: Okay. Thank you. I have no
12 further questions.

13 MR. SNEDDON: No questions.

14 THE COURT: All right. Thank you. You're
15 excused.

16 THE WITNESS: Thank you.

17 THE COURT: We'll take our recess.

18 Remember, tomorrow's a half day. See you
19 tomorrow at 8:30.

20 (The proceedings adjourned at 2:30 p.m.)

21 --o0o--

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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 6835 through 6987

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 April 19, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 April 19, 2005.

24

25

26

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

