

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

AUG 09 2004

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA DIVISION**

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

MICHAEL JOE JACKSON,

Defendant.

No. 1133603

DATE: August 16, 2004
TIME: 10:00 a.m.
DEPT: TBA (Mcville)

UNDER SEAL

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S
MOTION TO TRAVERSE AFFIDAVITS, TO QUASH
WARRANTS AND TO SUPPRESS EVIDENCE**

(Pen. Code, § 1538.5)

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UNDER SEAL

18
19
20 **A. Introduction:**

21 This is Plaintiff's Opposition to Defendant's "Motion To Traverse Affidavits, To
22 Quash Warrants And To Suppress Evidence Under Penal Code Section 1538.5" ("Motion").
23 and a response to his tardily-filed "Supplemental Brief" in support of that motion ("Supp.
24 Br.").

25 Defendant's arguments in his Motion are many, wide-ranging and eclectic. After
26 addressing Defendant's tardy demand for a certified copy of the relevant warrants, Plaintiff
27 will set out what we understand to be the lawful boundaries of a motion to traverse a search
28 warrant. Plaintiff will then discuss the limitations on Defendant's "standing" to challenge

1 many of the warrants issued in this case. Finally, Plaintiff will address the merits of each of
2 Defendant's several arguments made in his Motion and in his Supplemental Brief.

3 B. Defendant's Demand For Certified Copies
4 Of The Relevant Warrants Is Untimely

5 In his Motion, Defendant noted, "In the ordinary course of preparing motions to
6 suppress and investigating the lawfulness of searches and seizures, counsel for the defense will
7 rely upon the original documents filed with the court by the District Attorney and law
8 enforcement. That cannot be done in this case and counsel must rely upon the District
9 Attorney's office to provide copies through discovery. Therefore, Mr. Jackson asks the Court
10 to take judicial notice of the original search warrants, affidavits and inventories (returns) filed
11 with the Superior Court." (Motion 9:17-22.)

12 Defendant has changed his mind about proceeding in that fashion. In his
13 Supplemental Brief, dated August 6th (the date of the parties' telephonic conference), Mr.
14 Sanger declares, "As of this writing, Mr. Jackson has not been provided with a complete and
15 proper set of search warrants, affidavits and returns by the prosecutor." and "Unless the
16 prosecutor provides for this Court and for Mr. Jackson and his counsel, certified copies of
17 search warrants, affidavits and returns, Mr. Jackson will assert that the prosecutor has not
18 established that a warrant was in effect for any or all of the searches herein and will ask the
19 Court to treat all such searches as warrantless." (Supp. Br. 2:9-14.)

20 Defendant doesn't explain why he cannot "rely upon the original documents filed
21 with the court by the District Attorney and law enforcement" in this case, like others. But his
22 request that the Court take judicial notice of those originals was a good idea when he filed his
23 Motion, and it's a good idea now.

24 The People respectfully request, pursuant to Evidence Code section 452,
25 subdivision (d), that the Court take judicial notice of the search warrants, supporting affidavits
26 and returns in its own records, particularly the warrants issued on November 17, 2003 for the
27 search of Neverland Ranch in Los Olivos (Santa Barbara County) and Bradley Miller's office
28 in Beverly Hills (Los Angeles County) and collectively assigned No. SW 884686.

Pursuant to Evidence Code section 453,

The trial court shall take judicial notice of any matter specified in Section 452 if a party requests it and:

(a) Gives each adverse party sufficient notice of the request, through the pleadings or otherwise, to enable such adverse party to prepare to meet the request, and

(b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.

In the course of a motion to suppress, the trial court is the trier of fact. If the search in question was purportedly undertaken on the authority of a warrant, and the defendant demands that the People prove there was such a warrant, that proof must be made to the satisfaction of the court. If the court takes judicial notice of the fact of the search warrant and related documents, that fact is proven for purposes of the suppression motion and the defendant must shoulder his burden to show that the search and seizure made in obedience to the warrant was, nevertheless, unlawful.

As a practical matter, a certified copy of a court document may be necessary (or at least advisable) if the trier of fact does not have the original document at its elbow. Where the document in question is immediately available to the court, it is both time-consuming and unnecessary to oblige a party to have the court certify a copy of the document so that the copy may be then be handed back to that very court at the hearing as "proof" of what the court already knows.

Defendant has already appended copies of the search warrants in question to his motion. His lately-asserted demand for certified copies is a pointless and tiresome exercise.

C. The Fourth Amendment Limitations On A Motion To Traverse A Search Warrant

Franks v. Delaware (1978) 438 U.S. 154 [98 S.Ct. 2674, 57 L.Ed.2d 667] set out the substantive and procedural rules for a "subfacial" challenge under the Fourth Amendment to the veracity of the factual statements in search warrant affidavits.

1 [1] "To mandate an evidentiary hearing, the challenger's attack must be more than
2 conclusory and must be supported by more than a mere desire to cross-examine. There
3 must be allegations of deliberate falsehood or of reckless disregard for the truth, and
4 those allegations must be accompanied by an offer of proof."

5 [2] "[The movant's allegations] should point out specifically the portion of the
6 warrant affidavit that is claimed to be false; and they should be accompanied by a
7 statement of supporting reasons. Affidavits or sworn or otherwise reliable statements of
8 witnesses should be furnished, or their absence satisfactorily explained."

9 [3] "Allegations of negligence or innocent mistake are insufficient."

10 [4] "The deliberate falsity or reckless disregard whose impeachment is permitted
11 today is only that of the affiant, not of any nongovernmental informant."

12 [5] "Finally, if these requirements are met, and if, when material that is the subject
13 of the alleged falsity or reckless disregard is set to one side, there remains sufficient
14 content in the warrant affidavit to support a finding of probable cause, **no hearing is**
15 **required**. On the other hand, if the remaining content is insufficient, the defendant is
16 entitled, under the Fourth and Fourteenth Amendments, to his hearing."

17 (438 U.S. at 171-172; Plaintiff's organization and numbering; emphasis added.)

18 The procedure dictated by the *Franks* decision must be followed by the courts of
19 this state in adjudicating challenges to warranted searches undertaken after the adoption of
20 Proposition 8 on June 9, 1983. (See, e.g., *People v. Glance* (1989) 209 Cal.App.3d 836, 846;
21 *People v. Duval* (1990) 221 Cal.App.3d 1105, 1112 [the death of the affiant does not "relieve a
22 defendant of the preliminary showing required under *Franks v. Delaware*, *supra*, 438 U.S. 154
23 before he or she is permitted to go forward to hearing, on a motion to quash or traverse the
24 warrant"].)

25
26 D. The "Add-Negligently-Omitted-Information-And-Retest" Rule

27 Suppose certain information known to the applicant for a search warrant is
28 negligently omitted by him in his affidavit, but comes to light in a challenge to the integrity of

1 the supporting affidavit. What must the court do?

2 The negligently omitted information must be added to the affidavit and the
3 sufficiency of the application for a search warrant must then be retested to determine whether
4 probable cause for the resulting search is shown.

5 See *People v. Costello* (1988) 204 Cal.App.3d 431, 443:

6 Federal and state courts recognize that two types of correction are
7 envisioned in *Franks*: (1) material misstatements are stricken and (2)
8 material omissions are added. The aim in either case is not punitive but
9 remedial – to make the affidavit read as it should have so that the
10 reviewing court can then retest for probable cause support. [Citations.]
11 To that end, correction of the affidavit should not take one form
12 (striking or adding) to the exclusion of the other. Where, as in this case,
13 the defendant makes out a case for striking a misstatement, the proper
14 remedy is to add back the true facts known to the affiant on that precise
15 point, if revealed at the hearing, rather than strike and jettison the
16 passage altogether.

17 E. If A Fact Is Recklessly Omitted, Or Omitted With An Intent
18 To Mislead, The Warrant Should Be Quashed Only If The
19 Omitted Fact Was “Material”; I.e., Only If Its Inclusion
20 In The Affidavit Would Have Defeated Probable Cause

21 Pre-Proposition 8, the rule was this: “If a fact is recklessly omitted or omitted with
22 an intent to mislead, the warrant should be quashed, regardless of whether the omission is
23 ultimately deemed material.” (*People v. Carpenter* (1997) 15 Cal.4th 312, 363, quoting *People*
24 *v. Aston* (1985) 39 Cal.3d 481, 497–498, which in turn quoted *People v. Kurland* (1980) 28
25 Cal.3d 376, 390). *Carpenter*, *Aston*, and *Kurland* all involved pre-Proposition 8 searches.

26 In searches made after adoption of Proposition 8, even a recklessly omitted fact is
27 added back and the sufficiency of the affidavit to demonstrate probable cause for a search is
28 retested. If probable cause remains, the complained-of statement is not material, because its
inclusion does not tend to defeat the showing of probable cause.

See *People v. Lopez* (1985) 173 Cal.App.3d 125, 135. And see *United States v.*
Colkley (4th Cir. 1990) 899 F.2d 297, in which the court observed “this case presents a

1 question of omission rather than commission on the part of the agent." The court noted "While
2 omissions may not be *per se* immune from inquiry [citations], the affirmative inclusion of false
3 information in an affidavit is more likely to present a question of impermissible official
4 conduct than a failure to include a matter that might be construed as exculpatory" (*id.* at p.
5 301). The court then held:

6 The district court misstated the type of materiality that *Franks*
7 requires. It believed that the affiant's omission was material because it
8 "may have affected the outcome" of the probable cause determination.
9 However, to be material under *Franks*, an omission must do more than
10 potentially affect the probable cause determination: it must be
11 "necessary to the finding of probable cause." *Franks*, 438 U.S. at 156.
12 For an omission to serve as the basis for a hearing under *Franks*, it must
13 be such that its inclusion in the affidavit would defeat probable cause
14 for arrest. See [*United States v.*] *Reivich* [8th Cir. 1986] 793 F.2d [957]
15 at 961. Omitted information that is potentially relevant but not
16 dispositive is not enough to warrant a *Franks* hearing. *Id.* at p. 962.

17 In determining whether the affidavit with the omitted information
18 would be supported by probable cause, we must apply the "totality of
19 the circumstances" test of *Illinois v. Gates*, 462 U.S. 213, 103 S. Ct.
20 2317, 76 L.Ed.2d 527 (1983). This test requires "a practical,
21 commonsense decision whether, given all the circumstances set forth in
22 the affidavit," *id.* at 238, there is probable cause to believe the suspect
23 committed an offense. [Citation.] (*Id.* at pp. 301-302.)

24 California's decisional law is in accord: "A defendant who challenges a search
25 warrant based upon an affidavit containing omissions bears the burden of showing that the
26 omissions were material to the determination of probable cause. (See *People v. Luttenberger*
27 (1990) 50 Cal.3d 1, 14-15 & fn. 4.) 'Pursuant to [California Constitution, article I,] section
28 28[, subdivision] (d), materiality is evaluated by the test of *Illinois v. Gates* (1983) 462 U.S.
29 213. . . , which looks to the totality of the circumstances in determining whether a warrant
30 affidavit establishes good cause for a search. [Citation.]" (*People v. Luttenberger, supra*, 50
31 Cal.3d 1, 23.)" (*People v. Bradford* (1997) 15 Cal.4th 1229, 1297.)

1 F. A Showing That An Affiant's Averment Was Made With
2 "A Conscious Indifference To The Truth" And So Is "Deemed
3 The Equivalent Of An Allegation Actually Known To Be
4 Untrue" Is Insufficient As A Ground For A *Franks* Hearing,
5 Unless Excision Of That Statement Defeats The Magistrate's
6 Finding Of Probable Cause

7 Defendant cites *People v. Cook* (1978) 22 Cal.3d 67, 89 for its holding that "a
8 sworn misstatement made with conscious indifference to whether it is true or false is deemed
9 the equivalent to an allegation actually known to be untrue." (Motion 12:13-27.)

10 That is true, as far as it goes. It remains to be seen whether any allegations in the
11 original affidavit were "known to be untrue" by Detective Zelis, let alone whether those
12 statements were "material" to the magistrate's finding of probable cause for the search (i.e.,
13 whether excision of those statements would "defeat probable cause").

14 *Cook*, a pre-Proposition 8 decision, had noted:

15 [I]n two significant respects the [*Franks*] decision would afford our
16 citizens less protection than is guaranteed to them under California law:
17 It forbids such a challenge when the misstatements are negligent rather
18 than intentional, contrary to our decision in *Theodore* [*v. Superior Court*
19 (1972) 8 Cal.3d 77]; and even when deliberate lies are proved it requires
20 only that they be excised and the remainder of the affidavit be tested for
21 probable cause, contrary to our holding in the case at bar under article I,
22 section 13, of the California Constitution. In these cases, it is settled
23 doctrine . . . that *Franks* is not to be followed in California and that all
24 challenges to the veracity of search warrant affidavit in our courts are to
25 be governed by *Theodore* and article I, section 13, of the California
26 Constitution as explicated herein." (22 Cal.3d 67, 88.)

27 *People v. Cook*, then, is largely irrelevant to this Court's determination whether
28 defendant has demonstrated the need for an evidentiary hearing pursuant to *Franks v.*
Delaware, *supra*, 438 U.S. 154 on the facts of this case.

To the merits of Defendant's challenge to the integrity of Detective Zelis' affidavit,
Plaintiff will identify each of Defendant's substantive arguments by quoting his

1 bold-cap summary of a given argument as numbered by him before undertaking a response to
2 that argument.

3 1

4 DEFENDANT MAY CONTEST ONLY THE SEARCH OF
5 PROPERTY IN WHICH HE HAS SHOWN A LEGITIMATE
6 EXPECTATION OF PRIVACY

7 A. Introduction:

8 Defendant argues, "III. Mr. Jackson has A Legitimate Expectation Of Privacy With
9 Regard To The Searches Executed By Law Enforcement." (Motion, pp. 10-11.)

10 Given that Defendant challenges the search not only of his residence at Neverland
11 Ranch but also of Hamid Moslehi's residence and Bradley Miller's office, and the seizure of
12 records from various banks, credit-card providers, credit reporting companies and providers of
13 telephone service (see Motion, *ibid.*), that assertion surely is overbroad.

14 It should be unnecessary to rehearse the governing principle: "The proponent of a
15 motion to suppress has the burden of establishing that his own Fourth Amendment rights were
16 violated by the challenged search or seizure." (*Rakas v. Illinois* (1978) 439 U.S. 128, 131, fn.
17 1 [99 S.Ct. 1035, 58 L.Ed.2d 387, 393]; see *People v. Ooley* (1985) 169 Cal.App.3d 197, 202.)
18 If Defendant unwisely left documents or property belonging to him in the care of one or
19 another of his associates, he has no "standing" to contest the constitutionality of the search of
20 the premises that revealed the property.

21 "When a defendant only has standing to object to the seizure, then 'the case is the
22 same as though the [goods] had been found in plain view in a public place and then seized,'
23 that is, the defendant may only contend that the police lacked grounds to believe that the items
24 were connected with criminal activity or some other lawful basis for seizure." (5 LaFave,
25 Search and Seizure (3d ed. 1996), Standing, § 11.3(d), p. 161 (fn. omitted), citing and quoting
26 *United States v. Lisk* (7th Cir. 1975) 522 F.2d 228, 230.)

27 ////

28 ////

1 B. Defendant Has No Legitimate Expectation Of
2 Privacy In Iiamid Moslehi's Residence

3 Beyond an unsupported assertion that "the unnumbered search warrant pertaining to
4 Iiamid Moslehi . . . contain portions which may be attorney/client privileged material relating
5 to Mr. Jackson" (Motion 11:8-10) – whatever that means – Defendant makes no showing that
6 he had a "legitimate expectation of privacy" in Mr. Moslehi's residence on November 18,
7 2003. That argument may safely be seen for what it is, a "throw-away" argument for which no
8 real factual support could be articulated by Defendant.

9
10 C. Defendant Has No Legitimate Expectation Of Privacy With
11 Respect To The Residences Searched On The Authority Of
12 Search Warrants Nos. 4913 and 4915

13 Defendant asserts, "[S]earch warrants 4913 and 4915 contain portions which may
14 be attorney-client privileged material relating to Mr. Jackson." (Motion 11:8-10.)

15 Those warrants authorized the search of the residences of individuals other than
16 defendant. That argument by Defendant is as unsupported as is his claim to an expectation of
17 privacy in Mr. Moslehi's residence.

18
19 D. The Search Of Bradley Miller's Office

20 Defendant challenges the search of Bradley Miller's office in Beverly Hills,
21 undertaken on the same day his Neverland Ranch was searched. He asserts, "Mr. Jackson has
22 a legitimate expectation of privacy in the confidentiality of the attorney/client privilege which
23 includes the right to confidential employment of investigators and experts." (Motion 10:23-
24 27.)

25 It is not clear how one can have an "expectation of privacy in [a] privilege."

26 In any event, the scope and intensity of the search of Mr. Miller's office, and
27 Defendant's standing to complain about it, were made the focus of Defendant's "1538.5 (Part
28 I)" motion. That separate motion was premised on the assumed fact that Mr. Miller, a private

1 investigator, was employed by attorney Mark Geragos on behalf of Defendant at all times
2 relevant to the showing of probable cause for the search. From that premise, defendant argued
3 Mr. Miller's office should be regarded as a campsite of "the defense" and treated as though it
4 was Mr. Geragos' office.

5 Beyond reiterating that with respect to the search of Mr. Miller's office.
6 Defendant's legitimate concern is limited to the seizure of any "client file" of his that may have
7 been found in Miller's possession. Plaintiff assumes that the Court is fully informed in the
8 premises.

9
10 E. Defendant Has No Standing To Contest The Search Of
11 Telephone Records - His, Or Anyone Else's

12 Defendant challenges the admissibility of evidence obtained by the execution of
13 "Search warrant numbers 4895, 4897, 4898, 4899, 4900, 4901, 4902, 4977, 4977A, 5020 and
14 5035 to the extent they pertain to telephone records of other private communications of Mr.
15 Jackson." (Motion 11:1-3.)

16 Defendant has no reasonable expectation of privacy in the toll records of calls on
17 his phone, let alone anyone else's.

18 On April 2 and April 21, 2004, three warrants (4976, 4977 and 4977A) issued, and
19 on May 20, 2004, 18 warrants (Nos. 5015-5032) issued, all to telephone and cell-phone service
20 providers around the country, for records of telephone and cell-phone use by defendant and
21 other individuals satisfactorily associated with him, either as his employees or as colleagues
22 who involved themselves in the commission of the crimes that were the objects of the
23 conspiracy alleged in Count One of the indictment.

24 Prior to the enactment of Proposition 8, a California defendant had a reasonable
25 expectation of privacy in the telephone company's records of his toll calls, whether from his
26 own residence or made from, e.g., a phone in his hotel room. (See *People v. McKunes* (1975)
27 51 Cal.App.3d 487 [defendant's home or office]; *People v. Blair* (1979) 25 Cal.3d 640.
28 suppressing records of Blair's calls from the Hyatt House hotel in Philadelphia.)

1 In *Blair*, our Supreme Court acknowledged that the federal rule was contrary, citing
2 *Smith v. Maryland* (1979) 442 U.S. 735 [99 S.Ct. 2577, 61 L.Ed.2d 220]. And in *People v.*
3 *Lissauer* (1985) 169 Cal.App.3d 413, the Court of Appeal noted:

4 Whether appellant's telephone number and address were listed need
5 not be determined. As a consequence of *Lance W.* [in which the
6 Supreme Court upheld Proposition 8], we conclude that the police did
7 not required a warrant to obtain appellant's name and address from the
8 telephone company. Although prior California law would have barred
9 its reception [citations to, inter alia, *Blair*], the Fourth Amendment does
not. (*Id.*, 169 Cal.App.3d at p. 419.)

10 In *United States v. Baxter* (9th Cir. 1973) 492 F.2d 150, the Ninth Circuit rejected
11 the argument that

12 the divulgence of telephone company toll and billing records prior to the
13 issuance of a subpoena violated their Fourth Amendment rights as
14 declared in *Katz v. United States*, 389 U.S. 347 Telephone
15 subscribers are fully aware that records will be made of their toll calls.
16 [Citation.] This Court has held that the expectation of privacy protected
17 by the Fourth Amendment attaches to the content of the telephone
18 conversation and not to the fact that a conversation took place.
[Citation.] The defendants have failed to show a violation of their
Fourth Amendment rights. (*Id.*, 492 F.2d, at p 167.)

19 (See also *United States v. Alameda-Avalos* (9th Cir. 1989) 875 F.2d 681, 683: subpoenaed
20 records of defendant's unlisted phone properly admitted.)

21
22 F. Defendant Has No Legitimate Expectation Of Privacy With
23 Respect To The Records Of Banks Or The Records Of Credit
24 Providers -- His Records, Or Anyone Else's

25 Defendant asserts, "Search warrant numbers 4913, 4915, 4926, 4946, 4953, 4976,
26 4998, 5005, 5006, 5007, 5008, 5047-5071 call for records which may include private records
27 pertaining to Mr. Jackson. In particular, 5005, 5047, 5053 and 5061 specifically mention
28 records pertaining to Mr. Jackson." (Motion 11:4-7.)

1 That's true. And it is irrelevant.

2 The warrants in question sought bank or credit account records of both defendant
3 and most of the other persons identified as conspiring with him to commit the "target" crimes
4 alleged in Count I. On May 14, 2004, four warrants (Nos. 5005-5008) issued for records of
5 credit-reporting agencies (Bank of America, TransUnion, Equifax and Experian) regarding
6 credit information for Defendant and other persons. On June 11, 2004, 25 warrants (Nos 5047-
7 5068 and 5070-5071) issued for evidence of the use by Defendant and relevant others of credit
8 cards over a short period in early 2003.

9 Prior to enactment of Proposition 8 in 1983, a California defendant could assert a
10 reasonable expectation of privacy in bank records, just as in telephone records, and enforce
11 that expectation as a right under California's Constitution. Post-Proposition 8, our courts are
12 governed by the binding authority of the United States Supreme Court in matters touching on
13 the Fourth Amendment.

14 With respect to bank records (and, by extension, credit-card transaction records), an
15 individual was held not to have reasonable expectation of privacy in them in *United States v.*
16 *Miller* (1976) 425 U.S. 435 [96 S.Ct. 1619, 48 L.Ed.2d 71]. *Miller* held that business records
17 held by a bank are the bank's records, not its customers' records. In *People v. Meyer* (1986)
18 183 Cal.App.3d 1150, 1163, the Court of Appeal noted, "The [*Miller*] court reasoned that the
19 bank customer has no legitimate expectation of privacy in those records since they are not
20 confidential communications but negotiable instruments to be used in commercial transactions
21 voluntarily conveyed to the banks and exposed to their employees in the ordinary course of
22 business. The court concluded that the Fourth Amendment does not prohibit the obtaining of
23 information revealed to a third party and conveyed by him by government authorities."

24 Plaintiff's research has not uncovered a decision discussing records of a defendant's
25 own use of his legitimately-obtained credit card, but it is unlikely a different rule would apply
26 to them.

27 ////

28 ////

THE PORTION OF THE AFFIDAVIT ASSERTING THAT
 DEFENDANT IS A "PEDOPHILE" IS A STATEMENT THE
 AFFIANT BELIEVED TO BE TRUE. TRUE OR NOT, THE
 STATEMENT CERTAINLY IS NOT A "WILLFULLY
 FALSE" ASSERTION

A. Detective Zelis vs. Dr. Katz:

Defendant argues, "VI. The Portion Of The Affidavit Stating That Defendant Is A
 Pedophile Was Willfully False And That Assertion Was Used To Support The Broadest
 Claims For Intrusion Into Mr. Jackson's Privacy." (Motion 13:1-5; see *id.*, pp. 13-14.)

Defendant grounds this argument of his on a portion of a telephone interview by
 Detective Zelis of Dr. Stan Katz (whose occupation as a trained forensic psychologist
 Defendant insists on bracketing with quotation marks) that Detective Zelis did not include in
 his affidavit. In that interview, Dr. Katz offered his "off-the-record" view that the then 45-
 year-old Defendant's sexual interaction with the 13-year-old boy, the seduction of whom
 Defendant had devoted considerable time and effort, might better be described as the conduct
 of a "regressed 10-year-old":

"Stan Katz: And ya know my opinion just off the record of course is that this
 is a guy, Jackson's a guy that's like a 10 year old.

"Paul Zelis: Right.

"Stan Katz: And you know, he's doin' what a 10 year old would do with his
 little buddies. Ya know, they're gonna jack off and watch movies and drink wine,
 ya know. And I'm not, . . . ya know, he doesn't even really qualify as a pedophile.
 He's really just this regressed 10 year old.

"Paul Zelis: Yeah, yeah, I agree." (Transcript 22:7-14.)

Defendant characterizes the "4 single spaced pages of the Statement of Probable
 Cause" which Detective Zelis devoted to his description of the characteristics of a pedophile as
 "the centerpiece to the affidavit," from which (Defendant argues) the affiant "attempted to

1 justify the broadest aspects of the warrant request." Defendant insists that Detective Zelis'
2 omission of Dr. Katz's off-hand comment makes his own belief that defendant is a child
3 molester -- a "pedophile" -- which he based upon his own "training and experience," a
4 "wil[ly]fully false claim."

5 Defendant makes too much of Detective Zelis's omission of Dr. Katz's offhand
6 "take" on Michael Jackson as a "regressed 10-year-old."

7 Several observations seem to be in order.

8 First of all, Dr. Katz believed the conduct attributed by the Arvizo brothers to
9 defendant warranted him in reporting that information to the authorities.

10 Secondly, Dr. Katz had not examined defendant, and did not purport to offer a
11 reliable, professional opinion about someone he had never met, let alone treated.

12 Thirdly, Detective Zelis based his own belief upon his investigation of "many
13 ... child molest" cases, and his attendance at a 40-hour "Sexual Assault Investigation" training
14 course. He defined "pedophiles" as "persons whose sexual objects are children." That
15 definition, if not right on the mark, is close enough. (The Merriam-Webster OnLine
16 Dictionary (www.m-w.com/dictionary) defines "pedophile" as "one affected with pedophilia,"
17 and defines "pedophilia" as "sexual perversion in which children are the preferred sexual
18 target." And so much of the "Encyclopedia Britannica Online" (www.britannica.com) as is
19 available to non-subscribers defines "pedophilia" as a "psychosexual disorder in which an
20 adult's arousal and sexual gratification occur primarily through sexual contact with
21 prepubescent children.")

22 Gavin may not have been "prepubescent" when defendant focused on him as a
23 sexual object, but he was under 14 years of age and so is regarded by law as particularly
24 vulnerable to sexual predators. (Sec Pen. Code, § 288, subd. (a).)

25 Detective Zelis described not only defendant's seduction of Gavin Arvizo in detail,
26 but stated that he had read and reviewed the affidavit of Deborah Linden (formerly a Santa
27 Barbara Sheriff's detective and presently the Chief of Police of the City of San Luis Obispo) in
28 support of a search warrant issued in 1994 for an examination of the body of Michael Joe

1 Jackson in connection with his alleged molestation of one Jody Chandler. Detective Linden
2 described the circumstances of defendant's seduction of young Chandler in 1993.

3 The factual parallels between Defendant's seductive conduct with Jody Chandler
4 and, nearly 10 years later, with Gavin Arvizo, are too obvious to require extended discussion.
5 And because that repetition bespeaks the habitual conduct the affiant believed to be
6 characteristic of pedophiles, Detective Zelis's belief that evidence corroborating the more
7 recent reports of defendant's sexual misconduct finds substantial support in the information
8 upon which it was based.

9 Finally, it is unlikely that defendant, if pressed on the point, would argue that his
10 conduct with Gavin was lawful (or, at least, not something the authorities should have gotten
11 excited about) because he is, after all, only a "regressed 10-year-old" rather than a 45-year-old
12 man who, from costly experience, ought to have known better.

13 Defendant has not come close to demonstrating that Detective Zelis's expression of
14 his own belief, based as it was on both his training and experience and on defendant's reported
15 history of past offenses, was "false" or that it was "impeached" by the "off-the record"
16 comment of Dr. Katz the affiant chose to omit from his affidavit. If Dr. Katz's casual opinion
17 were added back to the showing made by Detective Zelis, probable cause to search Neverland
18 would not be diminished in the least.

19
20 B. Detective Zelis Did Not Offer An "Expert Opinion"

21 In his tardily-filed "Supplemental Brief," Defendant argues, "Detective Zelis'
22 'Expert' Opinion In The Statement Of Probable Cause Lacks Foundation." (Supp. Br. 3:16-
23 17.)

24 The premise of that argument is faulty. Detective Zelis didn't purport to be an
25 "expert." He relayed to the court information he had "learned" about the "characteristics of
26 persons involved in sex crimes against children" in the course of his "training and experience."
27 Most of us acquire substantial blocks of information in just that fashion; by reading the results
28 of others' research. The magistrate who reviewed Detective Zelis's affidavit could assume he

1 was conveying information the affiant had obtained from a reliable source or sources.

2 Indeed, Defendant does not so much quarrel with the accuracy of Detective Zelis's
3 recital of the "characteristics of persons involved in sex crimes against children" as with the
4 issuing magistrate's reliance on it in making his implicit determination that certain property
5 observed by the Arvizo children eight months earlier would be found at Neverland Ranch in
6 November, 2003: Defendant argued that "The Search Warrant Is Invalid Because It Is Stale"
7 (Supp. Br. 5:15 – 6:5) and "Because It Is Overbroad" by reason of the "foundationless
8 pedophile profile in the affidavit" (*id.*, 6:6-14). Defendant's argument tacitly concedes the
9 information from the Arvizo children was *not* stale if Detective Zelis's "pedophile profile"
10 could properly have been considered by the issuing magistrate.

11 12 III

13 AFFIANT'S "OTHER WILLFULLY FALSE 14 STATEMENTS" ARE NO SUCH THING

15
16 Defendant argues, "VII The Affidavit Contained Other Willfully False
17 Statements" (Motion 15:1-2). He specifies "Exaggerations About Alcohol" (*id.*, 15:3-11) and
18 "Gavin's Urine Test" (*id.*, 15:12-22).

19 A. "Exaggerations About Alcohol"

20 Defendant notes that "Dr. Katz 'said alcohol is a very significant threat to his
21 [Gavin's] medical health.'" and that Detective Zelis included Dr. Katz's statement in his
22 affidavit. Defendant complains, "At the time this affidavit was executed and each time
23 thereafter that it was submitted for the purpose of obtaining a search warrant, law enforcement
24 was aware that Gavin Arvizo's actual treating specialist said that they were not aware that
25 alcohol would pose any particular problem for Gavin Arvizo. (Sanger Declaration at ¶ 11.)
26 Nevertheless, this information was not disclosed and the false information was not corrected in
27 the original or any of the subsequent search warrant affidavits." (Motion 15:6-11.)

28 Defendant does not indicate the significance he attaches to the omission of the

1 opinion of Gavin's treating physicians. Its importance is not readily apparent.

2 Dr. Katz did indeed state, "He [Gavin] has one kidney and that kidney is um [at?]
3 high risk. He's not supposed to have any alcohol, of course." (Ex Katz Interview, 5:28-29.)
4 "Um, so the alcohol is very significant because it becomes a very significant threat to his
5 medical . . . to Gavin's health." (*Id.*, 6:8-9.)

6 Attorney Sanger, who supplied the sole declaration supporting defendant's
7 "*Frankie*" motion, correctly averred that "At the time the [search warrant] affidavit was
8 executed and each time thereafter that it was submitted for the purpose of obtaining a search
9 warrant, law enforcement was aware that Gavin Arvizo's actual treating specialist said that
10 they [sic] were not aware that alcohol would pose any particular problem for Gavin Arvizo."
11 (Motion 6:13-16.)

12 With due respect, the conflict between what Dr. Katz said and what Gavin's treating
13 specialist said is irrelevant to the showing of probable cause for the search of Neverland Ranch
14 on November 18, 2003 and to any of the searches that followed. That is so because the only
15 relevance of the fact that defendant plied Gavin with alcohol is the seductive and anesthetic
16 effect Gavin's consumption of alcohol might have had on his inhibitions; i.e., the youngster's
17 willingness and ability to demur to Defendant's overt sexual advances. Defendant does not
18 address that issue.

19 B. Gavin's Urine Test

20 Defendant argues: "Janet Arvizo is quoted in the search warrant as part of the
21 showing of probable cause that Vinnie Amen emptied a container of urine on purpose so that
22 alcohol would not be detected by the laboratory." But, he asserts, "Contrary to Janet Arvizo's
23 assertion at that time and later at the grand jury, law enforcement was aware no later than May
24 11, 2004, that there were in fact 90 milliliters in the urine sample that was provided and that
25 amount was sufficient to test. (Sanger Declaration at ¶ 10.) Instead, the test was not
26 conducted because Gavin Arvizo had not submitted to a blood test. (A copy of the report is
27 attached hereto as Exhibit F.)"

28 What Defendant means by "*no later than May 11, 2004*" is "*on May 11, 2004*" –

1 about six months after the warrant in question issued for the search of Neverland. (Please see
2 Exh. "F.")

3 That correction is dispositive of an argument that, in any event, has no merit
4 because (a) the misinformation is attributed to Janet Arvizo rather than to Detective Zelis
5 (recall the United States Supreme Court's caution in *Franks v. v. Delaware, supra*, 438 U.S.
6 154 at p. 171: "The deliberate falsity or reckless disregard whose impeachment is permitted
7 today is only that of the affiant, not of any nongovernmental informant") and (b) it misstates
8 Ms. Arvizo's information.

9 First, Janet told investigators that the urine container was "almost empty, though it
10 had been full before they stopped at the restaurant." (Affidavit 29:6-7.) That qualified Janet's
11 further statement of her belief that Vinnie "emptied the urine from the urine on purpose so that
12 the alcohol would not be detected." (*Id.*, 29: 10-11.)

13 Secondly, "90 milliliters" is the equivalent of six tablespoons of fluid.

14 For these reasons, this argument of defendant's lacks the factual support required to
15 impeach Detective Zelis' affidavit.

16 IV

17 THE SEARCH OF BRADLEY MILLER'S 18 OFFICE WAS NOT "OVERBROAD" OR 19 A "GENERAL SEARCH"

20 Defendant asserts, "VIII The Searches Were Overbroad, General Searches."
21 (Motion 16:1-2.) "The Warrants Were Overbroad On Their Faces Because They Exceeded
22 The Probable Cause Showing" (*id.* 16:3-5), and "The Warrants Were Overbroad On Its Face
23 [sic] Because They Lacked Particularity" (*id.*, 16:15-20).

24 In the text following those headings, Defendant confines himself to the warrant for
25 the search of Bradley Miller's office. But what our Supreme Court said about search warrants
26 in complex case is worth noting: In *People v. Bradford, supra*, 15 Cal.4th 1229, the court
27 stated:

28 ////

1 "General warrants, of course, are prohibited by the Fourth Amendment.
2 "The problem (posed by the general warrant) is not that of intrusion per
3 se, but of a general, exploratory rummaging in a person's belongings
4 (The Fourth Amendment addresses the problem) by requiring a
5 "particular description" of the things to be seized." (*Coolidge v. New*
6 *Hampshire*, 403 U.S. 443, 467 . . . (1971))." (*Andresen v. Maryland*
7 (1976) 427 U.S. 463, 480 [96 S.Ct. 2737, 2748 49 L.Ed.2d 627].) The
8 high court also has recognized, however, that in a complex case resting
9 upon the piecing together of "many bits of evidence," the warrant
properly may be more generalized than would be the case in a more
simplified case resting upon more direct evidence. (*Id.* at p. 481, fn. 10
[96 S.Ct. at p. 2749].)

10 (*People v. Bradford, supra*, 15 Cal.4th at p. 1291.)

11 Defendant complains that in Mr. Miller's case, "the search warrant . . . authorized
12 the search and seizure of virtually all computers and computer related materials in his office"
13 (Motion 16:10-12) and "the warrant describes all computer systems, and all items related to
14 computer systems, without giving any specific indications of what is to be searched" (*Id.*,
15 16:18-20).

16 It must be a sufficient answer to say that the affidavit supporting the warrant for Mr.
17 Miller's office sought "notes, personal records, lists of names and telephone records, . . .
18 contracts, . . . cash receipt journals, cash disbursement journals, payroll journals, . . . reports,
19 writings, . . . correspondence . . . relating to the investigation of the false imprisonment of Janet
20 Arvizo and her family and the molestation of Gavin Arvizo." (Affid., 77:17-27.) "It is
21 reasonable to infer that some of these records may be stored either in a computer or on some
22 type of computer storage device such as floppy disks, zip drives, removable tape cartridges, or
23 CD-ROMs." The only way to whether, e.g., a given computer contains such records is to first
24 seize the hard drive and then examine it for its content.

25 ////

26 ////

27 ////

28 ////

THE SEARCHING OFFICERS DID NOT DISREGARD
THE LIMITATION IMPOSED BY THE WARRANT
FOR THE SEARCH OF NEVERLAND RANCH

Defendant argues: "IX. The Sheriff Flagrantly Disregarded The Limitations Of The Search Warrants." (Motion 16:20-22.) In support of that charge, Defendant alleges: "A. The Officers Seized Items Which Were Not Described In The Search Warrant" (*id.*, 17:15 – 18:12) and "B. The Officers Exceeded The Scope Of The Place To Be Searched In The Warrant" (*id.* 18:13-25).

A. To The Extent The Searching Officers Seized Items
That Were Not Particularly Described In The Search
Warrant, Those Items Were Seized In The Reasonable
Belief They Had Evidentiary Value In The Ongoing
Investigation

With respect to the search of Neverland Ranch, defendant complains that though the warrant authorized seizure of "photographs, films, negatives, slides, video tapes, movies, books, magazines, newspapers, flyers, and advertisements depicting, showing and representing children and/or animals engaging in sexual conduct," and "commercial magazines that depict the acts above involving minor children and/or adults," the officers also "seized materials consist[ing] of heterosexual pornography that does not involve children or animals and was clearly outside the scope of the warrant." (Motion 17:15-24.)

That is not so. The warrant also called for "commercial magazines that depict the acts described in #1 above [e.g., "exhibition of the genitals or pubic or rectal area for the purpose of sexual stimulation of the viewer"], involving minor children **and/or adults.**" (Emphasis added.)

Defendant further complains, "The police searched through and seized materials such as legal papers, a Robb Report magazine with Mohammed Al Fayed's phone number

1 written on it, correspondence with business associates, miscellaneous paperwork containing
2 phone numbers, 'several paperwork with Frank's name,' a bottle of wine, 'Frank Tyson
3 indicia,' 'Misc. Papers with Farschain's name,' a Christmas Invitation from Liza Minelli,
4 'Frank Information and number,' and other items that are described in a manner that is so
5 vague it is not possible to determine what was seized." (Motion 17:25 – 18:8.) Defendant
6 continues,

7 These are some examples of the overbroad execution of the search
8 warrant, which indicate that the search became a general exploratory
9 rummaging, and the seizures became an indiscriminate dragnet. An
10 evidentiary hearing after full discovery is necessary to establish the
11 overbroad execution of the search [warrant]. (Motion 18:9-12.)

12 In Attorney Sanger's Declaration, he referenced his attached "Exhibit D" as "the
13 inventories which have been provided through discovery and which we believe represent the
14 returns for items seized pursuant to search warrant" (Motion 6:2-4.)

15 With respect to property seized at Neverland Ranch, the Sheriff's Property Forms as
16 part of Defendant's Exhibit D reflect Items 301 through 369 (68 items). Counsel somehow
17 overlooked the property forms recording Items 501 through 518, 601 through 646, and 1001
18 through 1010 (74 items), though discovery of those additional forms (numbered for discovery
19 as 0239-240, 0567 through 0571, 0784 and 0785) was provided some time ago, and the
20 defense has examined the items themselves.

21 Plaintiff remedies that oversight by appending to this Opposition the relevant
22 property forms for Items 501 through 518, 601 through 646, and 1001 through 1010 as Exhibit
23 A. Plaintiff also appends, as Exhibit B, relevant follow-up investigative reports concerning the
24 examination of many of the items seized at Neverland Ranch, discovery of which was likewise
25 provided the defense. Plaintiff believes that additional information will assist the Court in
26 more accurately determining the nature and number of items seized and in evaluating the
27 extent to which those items pertained to the investigation, and whether the search was
28 exploratory in nature. (See *People v. Bradford*, *supra*, 15 Cal.4th 1229, 1290.)

1 With all due respect, it is not enough for defendant to offer a few "examples" of
2 seized items the defense claims "indicate that the search became a general exploratory
3 rummaging." Evidence lawfully observed by searching officers may be seized without a
4 warrant "if its incriminating character is immediately apparent." i.e., its evidentiary
5 significance is apparent "without conducting some further search of the object." (*Minnesota v.*
6 *Dickerson* (1993) 508 U.S. 366, 375 [113 S.Ct. 2130, 124 L.Ed.2d 334].) It is Defendant's
7 burden to identify those items he believes qualify neither as property specifically identified in
8 the search warrant nor as property whose relationship to the crimes under investigation would
9 not be "immediately apparent" to the searching officers.

10 In his Supplemental Brief, Defendant argues "In addition to the item being in plain
11 view, the officer must have probable cause to believe that the item is subject to seizure, rather
12 than mere suspicion. (*Arizona v. Hicks* (1987) 480 U.S. 321.)" (Supp. Br. 7:22-24.)

13 That may not be so. In *People v. Bradford*, *supra*, 15 Cal.4th 1229, our Supreme
14 Court noted,

15 The plain-view doctrine permits, in the course of a search
16 authorized by a search warrant, the seizure of an item not listed in the
17 warrant, if the police lawfully are in a position from which they view the
18 item, if its incriminating character is immediately apparent, and if the
19 officers have a lawful right of access to the object. (*Horton v.*
20 *California* (1990) 496 U.S. 128, 135-137 [110 S.Ct. 2301, 2307-2308];
21 *Texas v. Brown* (1983) 460 U.S. 730, 739 [103 S.Ct. 1535, 1541-1542,
22 75 L.Ed.2d 502] (plur. opn.); see *Minnesota v. Dickerson* (1993) 508
23 U.S. 366, 374-375 [113 S.Ct. 2130, 2136-2137, 124 L.Ed.2d 334].) In
24 such circumstances, the warrantless seizure of evidence of crime in plain
25 view is not prohibited by the Fourth Amendment, even if the discovery of
26 the evidence is *not* inadvertent. (*Horton v. California*, *supra*, 496 U.S.
27 128, 130 [110 S.Ct. 2301, 2304].) Where an officer has a valid warrant
28 to search for one item but merely a suspicion, not amounting to probable
cause, concerning a second item, that second item is not immunized
from seizure if found during a lawful search for the first item. (*Id.*, at
pp. 138-139 [110 S.Ct. at pp. 2308-2309].) This rule was stated by the
high court in *Horton* in the context of a search conducted pursuant to a

1 warrant, notwithstanding the circumstance that in other cases applying
2 the plain view doctrine in various contexts, the determination that the
3 incriminating nature of an item was "immediately apparent" was based
4 upon whether the officers had probable cause to believe that the item
5 was either evidence of a crime or contraband. (E.g., *Minnesota v.*
6 *Dickerson*, *supra*, 508 U.S. 366, 375 [113 S.Ct. 2130, 2136-2137];
Arizona v. Hicks, *supra*, 480 U.S. 321, 326-327 [107 S.Ct. 1149, 1153-
1154].)

7 In the present case, the testimony of the officers involved in the
8 search indicated their belief that they could search for items not listed in
9 the warrant. This testimony, read in context and considered in light of
10 the information in their possession concerning not only the Campbell
11 and Stewart matters but the other incidents, simply reflected their
12 entirely appropriate understanding that such items lawfully might be
13 seized if reasonably believed to be related to criminal activity.

14 (*People v. Bradford*, *supra*, 15 Cal.4th at pp. 1293-1294.)

15 B. If Properly Having No Apparent Connection To The
16 Investigation Was Seized, The Remedy Is To Suppress
17 Only The Improperly Seized Items

18 In *People v. Bradford*, *supra*, 15 Cal.4th 1229, our Supreme Court noted:

19 The high court has rejected . . . the contention that police action
20 disregarding the authorized scope of a warrant transforms the warrant
21 into an impermissible general warrant, requiring suppression of the
22 entire fruit of the search, rather than merely those items as to which
23 there was no probable cause to support seizure – where the officers have
24 not exceeded the scope of the warrant in the *places* searched, but only
25 in seizing items unconnected to the investigation or prosecution of the
26 crime. In such circumstances, when all items unlawfully seized are
27 suppressed, "there is certainly no requirement that lawfully seized
28 evidence be suppressed as well. [Citations.]" (*Waller v. Georgia* (1984)
467 U.S. 39, 43-44, fn. 3 [104 S.Ct. 2210, 2214, 81 L.Ed.2d 31]:
Andresen v. Maryland, *supra*, 427 U.S. 463, 482, fn. 11 [96 S.Ct. 2737,
2749].) In the present case, the officers searched for and seized items –

1 including some that the trial court considered unlawfully seized and
2 ordered suppressed – only from the “places” designated in the warrant.
3 (*People v. Bradford, supra*, 15 Cal.4th at p. 1296.)

4
5 C. The Searching Officers Did Not Exceed The Scope
6 Of The “Place To Be Searched” As Described In
7 The Warrant For The Search Of Neverland Ranch

8 The warrant authorizing a search of Neverland Ranch described the “place to be
9 searched” as “NEVERLAND RANCH, located at [REDACTED] Los Olivos,
10 California, further limited to the buildings described as the arcade building, the main residence
11 and the security headquarters, the locations of which are depicted on the aerial photograph
12 attached as Attachment ‘A-1’ or (in the case of the security headquarters) in the photograph
13 attached as ‘A-2.’” (See Motion, Exh. B-1.) The building identified in “A-2” as the “security
14 headquarters” is attached to the building identified in “A-1” as the “main residence” by an
15 archway structure.

16 Defendant argues, “It appeared that law enforcement agents exceeded the scope of
17 the place described in the search warrant by searching Michael Jackson’s private office and by
18 searching a video library and apartment that were not included in the description.” (Motion
19 18:17-19.)

20 Defendant’s “private office,” the “video library” and a small apartment adjoining it
21 are located above a garage, itself part of the building identified in “A-2” as the “Security
22 Headquarters” building.

23 “Buildings described as . . .” are the operative words. The “Neverland Ranch”
24 search warrant did not attempt to further define or specify rooms within the three identified
25 buildings by their supposed function. (Compare the limiting description set out in the second
26 “Neverland Ranch” warrant, obtained the evening of the execution of the first warrant and
27 authorizing the seizure of a certain mattress and mattress pad: “So much of ‘Neverland Ranch,’
28 located at [REDACTED] Los Olivos, CA as constitutes the bedroom of the

1 main residence.” Emphasis added.)

2 Greater specificity is required when a search is commanded for the living quarters
3 of an individual who, as it happens, resides in a multiple-occupancy building. (See, e.g.,
4 *People v. Estrada* (1965) 234 Cal.App.2d 136, 146, 148). This is not such a case. From what
5 was known prior to the search, and confirmed by that search, Defendant was lone resident in
6 the “main residence.” Guests (with the exceptions that concern us in this case) slept elsewhere.

7
8 D. There Was No Violation Of The “Knock-Notice”
9 Requirement In This Case

10 In his Supplemental Brief, Defendant argues, “The Search Of Mr. Jackson’s Private
11 Suite Was Invalid Because There Was No Knock And Notice.” (Supp. Br. 6:16-25.)

12 Defendant has been provided with a copy of the report that details the procedure
13 followed by the peace officers who constituted the “entry team” for the search of Neverland
14 Ranch (numbered 0584-0586 for discovery) and that the entries were videotaped, and so has
15 been informed that officers knocked on both outer and inner doors of the structures searched in
16 obedience to the warrant. He acknowledges that recent appellate decisions have held that the
17 “knock-notice” requirement of Penal Code section 1531 applies only to the outer doors of a
18 structure. (See *People v. Mays* (1998) 67 Cal.App.4th 969, 974-976, citing and relying on
19 *People v. Howard* (1993) 18 Cal.App.4th 1544; see also *United States v. Crawford* (9th Cir.
20 1981) 657 F.2d 1041.)

21
22 VI

23 THE REMEDY OF SUPPRESSION OF “ALL EVIDENCE”
24 IS NOT AVAILABLE TO DEFENDANT ON THE FACTS
25 OF THIS CASE

26 Defendant asserts, “X. All Evidence Seized, Not Just The Items Beyond The Scope,
27 Must Be Suppressed” (Motion 19:1-3) “because the officers executed the warrant in flagrant
28 disregard for its limitations. [Citations.] This remedy is required in an appropriate case where

1 the violations of the warrant's limitations are so extreme that the search essentially is
2 transformed into an impermissible general search. (*People v. Bradford* (1997) 15 Cal.4th 1229,
3 1305-1306.)" (Motion 19:4-9..)

4 In his several motions in this matter, Defendant frequently has used "flagrant" (and
5 "blatant") to add desired emphasis to his arguments. But at least since the United States
6 Supreme Court quoted petitioner's use of that phrase in *Waller v. Georgia* (1984) 467 U.S. 39,
7 43-44, fn. 3 [104 S.Ct. 2210, 2214, 81 L.Ed.2d 31], "flagrant disregard" of a warrant's
8 limitations has become a phrase of art in search-and-seizure jurisprudence.

9 In *People v. Bradford, supra*, 15 Cal.4th 1229, our Supreme Court observed that
10 subsequent to *Waller v. Georgia, supra*, a number of lower federal courts (the Fifth Circuit
11 excepted) had held that a "flagrant disregard" of a warrant's limitations in the *seizure of*
12 *property* not specified by the warrant will mandate total suppression of the evidence seized.

13 But, the *Bradford* court noted,

14 In *U.S. v. Chen, supra*, 979 F.2d 714, the United States Court of
15 Appeals for the Ninth Circuit explained that the suppression of all
16 evidence is an extraordinary remedy, used only when the violations of
17 the warrant's requirements are so extreme that the search essentially is
18 transformed into an impermissible general search. (*Id.*, at p. 717.) The
19 courts rarely have actually concluded that police conduct was so extreme
20 as to warrant total suppression. The remedy has been justified when the
21 police exceeded the "scope of the warrant in the places searched"
22 (*Waller v. Georgia, supra*, 467 U.S. 39, 44, fn. 3 [104 S.Ct. 2210,
23 2214]; *U.S. v. Decker, supra*, 956 F.2d 773, 779), the police used the
24 warrant as a pretext to search for evidence of unrelated crimes (*United*
25 *States v. Rettig, supra*, 589 F.2d 418, 423), or the police were motivated
26 "by a desire to engage in indiscriminate "fishing" rather than by
27 "considerations of practicality" (*U.S. v. Chen, supra*, 979 F.2d 714, 717;
28 *U.S. v. Medlin* (10th Cir. 1988) 842 F.2d 1194, 1199. The mere
magnitude of the seizures does not establish a violation of the federal
Constitution. (*U.S. v. Lambert, supra*, 887 F.2d 1568, 1572-1573;
United States v. Wuagnew, supra, 683 F.2d 1343, 1352.)

(*People v. Bradford, supra*, 15 Cal.4th 1229, at pp.1305-1306; fn. omitted.)

Bradford upheld the trial court's finding that the police were not in "flagrant disregard" of the warrant before the court in that case: "Although the officers seized a number of items that clearly fell outside the scope of the warrant, the record reveals that the bulk of these items might have had some bearing upon the current offenses. . . . Nor was the behavior of the officers so unconscionable as to amount to a due process violation. [Citation.] Under these circumstances, the trial court did not err in declining to order the "extraordinary remedy" of total suppression of all items seized." (15 Cal.4th, at pp. 1306-1307.)

VII

A WARRANTED SEARCH COMMENCED BEFORE
10:00 P.M. MAY CONTINUE PAST THAT HOUR
WITHOUT FURTHER JUDICIAL AUTHORIZATION

Defendant argues, "XI. The Search Of Neverland Ranch Became An Unjustified Nighttime Search When The Sheriffs Continued Searching After 10 P.M." (Motion 19:17-20:2.)

Nonsense.

Penal Code section 1533 provides, in relevant part, that "Upon a showing of good cause, the magistrate may, in his or her discretion, insert a direction in a search warrant that it may be served at any time of the day or night. In the absence of such a direction, the warrant shall be served only between the hours of 7 a.m. and 10 p.m."

There is an obvious difference between "serving" a search warrant and "executing" that warrant. The warrants for the search of Neverland Ranch and Brad Miller's office were "served" mid-morning, and their "execution" commenced immediately upon "service."

That aside, a search begun before 10 p.m. may continue as long after 10 p.m. as is reasonably required to complete the search. See *People v. Zepeda* (1980) 102 Cal.App.3d 1, 5: "We hold that a search warrant is not invalidly executed pursuant to section 1533 when its execution is part of one continuous transaction which begins before 10 p.m. and continues after that hour." (Accord, *People v. Mui* (1984) 157 Cal.App.3d 309, 321-322.)

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CONCLUSION

Defendant has "standing" to challenge only the warrant for the search of Neverland Ranch and, arguably, the seizure of some of the contents of Bradley Miller's office. He has no reasonable expectation of privacy in the homes of his friends and business associates, or in telephone records, bank records or the records of credit providers.

Defendant has not met *Franks*' requirement of a preliminary showing of either a "deliberate falsehood" or of "reckless disregard for the truth" by the affiant that, if excised, would defeat the affidavit's showing of probable cause for the search. Neither has he shown that material information was omitted from the affidavit.

The searches at issue were not "overbroad," nor did it constitute a "general search." The searching officers confined their search to the buildings identified in the warrant. The property that was seized was either specified in the warrant or its evidentiary relationship to the ongoing investigation was "immediately apparent" to them when it came to light. There was no failure to give "knock-notice," nor was there a need for judicial authorization to extend the search past 10:00 p.m.

Defendant's motion to traverse the warrant and to suppress evidence should be denied.

DATED: August 9, 2004

Respectfully submitted,

THOMAS W. SNEDDON, JR.
District Attorney

By: 
Gerald McC. Franklin, Senior Deputy

EXHIBIT "A"



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NOTE:

Exhibit "A" consists of Sheriff's Property Reports for Property Items 501 through 518 (discovery nos. 0239-0240), 601 through 646 (discovery nos. 0567 through 0571), and 1001 through 1010 (discovery nos. 0784, 0785).

Because you have disdcovery of those documents, they are not being faxed to you, though a "hard copy" of the documents will accompany the copy delivered to Mr. Sanger.



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EXHIBIT "A"

**SANTA BARBARA COUNTY
PROPERTY FORM**

288 P.C.
VIDEO/ARCADE
AREA

2. CASE NUMBER
03-5670

22. August
1949

PAGE #Prop-1 OF Prop-1

7.CON'T. TO:TYPE OF APT FORU
Offense

6. DATE/TIME OF REPORT
11-18-03 / 0930

5. REPORTING OFFICER & BODY #
Det. C. Cooley 0505

4. VICECOMPLAINANT

2 ITEM #	3 ITEM	11. SERIAL NUMBER	12. BRAND NAME	13. DESCRIBE PROPERTY	14. PROPERTY TYPE CODE	15. VALUE	16. EXPLANATION TAILING
501	Photos			2 photos located in the drawer by the snack bar	E		122980
502	Photos			Misc. photos on bond paper found in storage area	E		122980
503	Photos			Misc. photos on photo paper found in storage room	E		122980
504	Notepaper			Notepaper w/ telephone number	E		122980
	DOWNSTAIRS		CELLAR	AREA			
505	Books			3 books w/ nude photos and partially clothed photos of children	E		122980
506	Photos			2 photos found in the kitchen area of cellar	E		122980
	UPSTAIRS		LIBRARY	ROOM			
507	Notepaper			Notepaper w/ same logo as #504	E		122980
508	Book		Fourth Sex	Book depicting nude children	E		122980
509	Book		Cronds	Book depicting nude children	E		122980
510	Clothing			Two bags w/ misc. underclothes and bloody bed linen	E		122980

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PROPERTY OF THE U.S. DEPARTMENT OF JUSTICE

1. OFFENSE CLASSIFICATION 280 PC VIDEO/ARCADE AREA		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY PROPERTY FORM		2. CASE NUMBER 03-5670	2a. Attach to report N
4. VICTIM COMPLAINT		5. REPORTING OFFICER & BODY # Det. C. Cooley 0505		PAGE #Prop-2 OF Prop-2	
5. DATE OF REPORT 11-18-03 / 0930		7. CONT. TO TYPE OF RPT FORM Offense			
8. PROPERTY CODE, R REASON FOR SEIZURE, FINGERPRINTS, AND OTHER IDENTIFICATION					
9. ITEM #	10. ITEM	11. SERIAL NUMBER	12. BRAND NAME	13. DESCRIBE PROPERTY	14. PROPERTY TYPE CODE
511	Underwear		Calvin Klein	White boys underwear w/ blood stains - found in bag of #510	E 122980
512	Tissue			Bloody tissue found in a trash bag	E 122900
513	Papers			Misc. torn papers found in a trash bag	E 122980
514	Vial			Unknown type of glass medicine vial	E 122980
515	Medicine bottles			Four medicine (pill) bottles w/ different names	E 122900
516	Papers			Misc. correspondence	E 122900
517	CD			CD labeled "Michael Jackson Neverland Ranch"	E 122980
518	Paperwork			Prescription paperwork for Rivera and Tyson	E 122980

1. OFFER ASSIGMENT SW service Security Office-home		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY PROPERTY FORM			2. CASE NUMBER 03-5670	3. YES Yes
4. VICTIM/COMPLAINANT		5. REPORTING OFFICER & BODY # Moller, Steve 0361		6. DATE/TIME OF REPORT 11-18-03 @ 1214 hours	7. CONT. TO TYPE OF REPORT FORM PAGE #Prop-1 OF Prop-1	
8. ITEM #	9. ITEM	10. SERIAL NUMBER	11. BRAND/MAKE	12. DESCRIBE PROPERTY	13. EVIDENCE TYPE CODE	14. EVIDENCE TAG NO.
601	Medical log/Report		Neverland Valley Fire Medical	NVMR Log Page #M-03-01 through #M-03-29 & NVFD Medical Report #M-03-02. Both found in blue binder underneath desk in security office/home by Detective Sweeton	E	122980
602	Accident Report		Neverland Ranch	Accident/Damage Report #02-20. found in unmarked folder inside 2002 records box by Detective Sweeton -Photo attached	E	122980
603	Hard Drive	K40DDSDRA	Maxtor	9051004 model hard drive -found in desk drawer -security office. Home by Detective Sweeton	E	122980
605	CD-R			One CD/CD-R w/ 2002 Confidentiality written on label, same as 603/604	E	122980
606	Cables			Keyboard/ Mouse/ Power/ Printer Cables/ Security Office-Home	E	122980
607	Computer	0010530613	Gateway 2000	Model P55C-233 Security Office/- Home	E	122980
608	Keyboard	01360203	Gateway 2000	Model 2196003 Security Office/- Home	E	122980
609	Monitor	15009AG76099	Gateway 2000	CRT Monitor- MOD 500-009 EV - Security Office/- Home	E	122980

EVIDENCE SEARCHED BY SEARCHER/AGENT

YES

NO

ENTERED

INDEXED

FILED

NO

NO

NO

NO

NO

NO

NO

NO

NO

1. OFFEN' ASSOCIATION SW service Security Office-home		2. CASE NUMBER 03-5670		23 k Yes			
SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY PROPERTY FORM							
4. VICTIM/COMPLAINANT		5. REPORTING OFFICER & BODY # Moller, Steve 0361		6. DATE/TIME OF REPORT 11-18-03 @ 1214 hours			
7. CONT. TO TYPE OF RPT FORM		PAGE #Prop-2 OF Prop-2					
8. PROPERTY TYPE CODE: R=RECOVERED, S=STOLEN, P=PROPERTY IN LOSS, E=EVIDENCE, O=OTHER OBSERVATION							
ITEM #	10 ITEM	11. SERIAL NUMBER	12. BRAND/NAME	13. DESCR. OF PROPERTY	14. PROPERTY TYPE CODE	15. VALUE	16. EVIDENCE TAG NO.
610	Security/Guest Information	-	Neverland Valley Ranch	Security clearance/ Guest Information form for Mark Geragos dated 02-09-03- file cabinet/ -Security Office/ -home by Detective Rooney	E		122980
611	Daily Entry Log		Neverland Valley Ranch	Dated 05-07-02; 2002 record box/- Security Office /-home by Detective Rooney	E		122980
612	Daily Entry Log		Neverland Valley Ranch	Dated 05-09-02; 2002 record box/- Security Office/-home by Detective Rooney	E		122980
613	Daily Entry Log		Neverland Valley Ranch	Dated 05-13-02; 2002 record box/- Security Office/- home by Detective Rooney	E		122980
614	Daily Entry Log		Neverland Valley Ranch	Dated 06-21-02; (Vic) Detective Sutcliffe	E		122980
615	Daily Entry Log		Neverland Valley Ranch	Dated 06-22-02; (Vic) Detective Sutcliffe	E		122980
616	Daily Entry Log		Neverland Valley Ranch	Dated 06-23-02; (Vic) Detective Sutcliffe	E		122980
617	Daily Entry Log		Neverland Valley Ranch	Dated 06-24-02; (Vic) Detective Sutcliffe	E		122980
618	Daily Entry Log		Neverland Valley Ranch	Dated 06-25-03; (Vic) Detective Sutcliffe	E		122980

1. OFFER ASSOCIATION/ SW service Security Office-home		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY PROPERTY FORM		2. CASE NUMBER 03-5670	2a Yes		
4. VICTIM/COMPLAINANT		5. REPORTING OFFICER & BODY # Moller, Steve 0361	6. DATE/TIME OF REPORT 11-18-03 @ 1214 hours	PAGE #Prop-3 OF Prop-3			
7. CONT. TO: TYPE OF RPT FORM		8. (PRT) TYPE CODE: 1-PROPERTY INFORMATION, E.G. FOUR-QUARTERLY-ADJUDICATED-PROPERTY OBSERVATION					
9. ITEM #	10. ITEM	11. SERIAL NUMBER	12. BRAND/MAKE	13. DESCRIBE PROPERTY	14. PROPERTY TYPE CODE	15. VALUE	16. EVIDENCE TAG NO.
619	Daily Entry Log		Neverland Valley Ranch	Dated 06-29-02; 2002 record box-Security Office/- home by Detective Sulcliffe	E		122980
620	Daily Entry Log		Neverland Valley Ranch	Dated 06-30-02; (Vic) Detective Sulcliffe	E		122980
621	Security Guest Information		Neverland Valley Ranch	Dated 06-19-02; (Hamid) Detective Sulcliffe	E		122980
622	Security Guest Information		Neverland Valley Ranch	Dated 06-21-02; (Vic) Detective Sulcliffe	E		122980
623	Security Guest Information		Neverland Valley Ranch	Dated 06-28-02; (Vic) Detective Sulcliffe	E		122980
624	Daily Entry Log		Neverland Valley Ranch	Dated 12-02-02; (Cockren) Detective Sulcliffe	E		122980
625	Daily Entry Log		Neverland Valley Ranch	Dated 11-23-02; (Tyson) Sergeant Cleaves	E		122980
626	Daily Entry Log		Neverland Valley Ranch	Dated 11-24-02; (Tyson) 2002 Record Box-Security Office -home by Sergeant Cleaves	E		122980
627	Daily Entry Log		Neverland Valley Ranch	Dated 11-25-02 (Tyson) Sergeant Cleaves	E		122980
628	Daily Entry Log		Neverland Valley Ranch	Dated 11-27-02 (Tyson) Sergeant Cleaves	E		122980

1. OFFER ASSASSINATION SW service Security Office-home		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY PROPERTY FORM			2. CASE NUMBER 03-5670	2a. b Yes
4. VICTIM/COMPLAINANT		5. REPORTING OFFICER'S BODY # Moller, Steve 0361	6. DATE/TIME OF REPORT 11-18-03 @ 1214 hours	PAGE #Prop-4 OF Prop-4		
ENTER #	13. ITEM	11. SERIAL NUMBER	12. LOCATION	13. DESCRIPTION	14. PROPERTY TYPE CODE	15. VALUE
629	Daily Entry Log		Neverland Valley Ranch	Dated 11-27-02; (Tyson) Sergeant Cleaves	E	122980
630	Business Clearance		Neverland Valley Ranch	Dated 05-22-02; (Hamid) Detective Rooney	E	122980
631	Daily Entry Log		Neverland Valley Ranch	Dated 07-30-02; (Hamid) Detective Rooney	E	122980
632	Daily Entry Log		Neverland Valley Ranch	Dated 08-19-02; (Hamid) Detective Rooney	E	122980
633	Daily Entry Log		Neverland Valley Ranch	Dated 10-31-02; (Hamid) 2002 Record Box-Security Office -home Detective Rooney	E	122980
634	Daily Entry Log		Neverland Valley Ranch	Dated 10-31-02; (Hamid) Detective Rooney	E	122980
635	Daily Entry Log		Neverland Valley Ranch	Dated 12-12-02; (Hamid) Detective Rooney	E	122980
636	Daily Entry Log		Neverland Valley Ranch	Dated 07-01-02; (Vic) Detective Rooney	E	122980
637	Daily Entry Log		Neverland Valley Ranch	Dated 10-30-02; (Vic) Detective Rooney	E	122980
638	Daily Entry Log		Neverland Valley Ranch	Dated 09-15-02; (Vic) Sergeant Cleaves	E	122980

1. OFFER ASSIGNMENT SW service Security Office-home		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY PROPERTY FORM		2. CASE NUMBER 03-5670	22 Yes
4. VICTIM/COFFER/ANALYST		5. REPORTING OFFICER & BODY # Moller, Steve 0361	6. DATE/TIME OF REPORT 11-18-03 @ 1214 hours	7. CONT. TO: TYPE OF RPT FORM PAGE #Prop-5 OF Prop-5	
8. PROPERTY TYPE CODE (A-PRECOVERED & STOLEN; FOUND; LOST; EVIDENCE; OR UNDER OBSERVATION)					
9. ITEM #	10. SERIAL NUMBER	11. BRAND/NAME	12. DESCRIBE PROPERTY	13. PROPERTY TYPE CODE	14. EVIDENCE TAG NO.
639	Daily Entry Log	Neverland Valley Ranch	Dated 09-16-02; (Vic) Sergeant Cleaves	E	122980
640	Daily Entry Log	Neverland Valley Ranch	Dated 09-26-02; (Vic) Sergeant Cleaves	E	122980
641	Daily Entry Log	Neverland Valley Ranch	Dated 09-27-02; (Vic) Sergeant Cleaves	E	122980
642	Daily Entry Log	Neverland Valley Ranch	Dated 09-20-02; (Vic) Sergeant Cleaves	E	122980
643	Document	Video Library	Attorney / Client Document	E	122980
644	Laptop Computer	QT33506AN4 M	Powerbook G4 in black case found in suitcase with ID of Dieter Wiesner in bathroom east side of video library by Detective Moeller	E	122980
645	Laptop Computer	Unknown	Same as #644	E	122980
646	Miscellaneous papers and books		Victim's name inside blue nylon bag found inside kitchen closet of video library by Detective Sutcliffe	E	122980

1. OFFICER CLASSIFICATION 280(a) PC		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY PROPERTY FORM			2. CASE NUMBER 03-5670	3. PAGE #PROP. 1 OF PROP. 1
4. VICTIM COMPLAINT CONFIDENTIAL		5. REPORTING OFFICER'S BODY # Det. K. Shepherd/ 2025	6. DATE/TIME OF REPORT 11/18/03 1700 hours	7. COMMENT TO TYPE OF REPORT		
8. ITEM #	9. K. ITEM	10. STRIP NUMBER	11. STRIP NAME	12. SUBJECT/PROPERTY	13. TYPE CODE	14. VALUE
1001	Magazine		Husler Barely Legal	Anniversary 2002 - Found in bathroom cabinet (right side of sink) by Sgt. Abel/ 0357	E	122980
1002	Magazine		Naughty Neighbors	December 2002 - Found in bathroom cabinet (left side of sink) by Sgt. Abel/ 0357	E	122980
1003	Photograph		None	Photograph of nude male holding flannel shirt - Found in closet on shelf by Sgt. Abel/ 0357	E	122980
1004	Photographs		None	Photographs of unidentified males (8x10's and (1) Polaroid) - Found in briefcase by sofa by Det. Cooley/ 0505	E	122980
1005	Photographs		None	Photographs of (3) unidentified males (8x10's) in Kodak Box labeled "owner's office" - Found in shelf in closet by Sgt. Abel/ 0357		122980

EVIDENCE SEIZED BY SHERIFF'S DEPARTMENT

YES

NO

DATE
MO/DO/YR

1. OFFICER CLASSIFICATION IS AUTHORIZED

0784

1. OFFER CLASSIFICATION 280(a) PC		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY PROPERTY FORM			2. CASE NUMBER 03-5670	3. 4. 5.
4. VICTIM STATEMENT/STATUS CONFIDENTIAL		5. REPORTING OFFICER & BODY # Det. K. Shepherd/ 2025	6. DATE/TIME OF REPORT 11/18/03 1708 hours	PAGE #Prop-2 OF Prop-2		
7. CONT. TO: TYPE OF RPT FORM		8. FROM TYPE OF CASE: RPT. CONT. TO: TYPE OF RPT FORM				
9. ITEM #	10. SERIAL NUMBER	11. EVIDENCE NUMBER	12. DESCRIPTION OF EVIDENCE	13. TYPE OF EVIDENCE	14. VALUE	15. EVIDENCE ID #
1006	Photographs	None	Photographs of (3) semi-nudes males (8x10's) in photo box labeled "Why Photo Shoot" - Found in closet in shelf by Sgt. Abel/ 0357	E		122980
1007	Photographs	None	Photographs of (3) semi-nudes males (8x10's) in photo box labeled "Why Photo Shoot" - Found in closet in shelf by Sgt. Abel/ 0357	E		122980
1008	Photographs	None	(11x14's) and (8x10's) of (3) semi-nude males - Found underneath box on leather chair in closet by Sgt. Abel/ 0357	E		122980
1009	Black Plastic Case	Aerospace by Andiamo	Contents of inside: Phone recording equipment - Found on floor in closet by Sgt. Abel/ 0357	E		122980
1010	Envelope	None	Envelope with phone message from "Dieter" and phone numbers - Found by Det. Wolfe/ 2705 in pile of paperwork underneath table	E		122980

10-11-1000

1. Officer's Name

2888 R

SHERIFF'S DEPARTMENT
SANTA BARBARA COUNTY
PROPERTY FORM

2. Case Number

03-5670

3. Attachments

to Report
YES ☐ NO ☐

4. Verifier/Compliance
CONFIDENTIAL

5. Reporting Officer's ID only No.

K. SHEPHERD

6. Date & Time of Report

2025/11/18/03 1708

7. Configuration for Type of Report

0

8. Property Type Code

1. ALCOVERED
2. FINDER
3. FINDER
4. FINDER
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100. FINDER

9. Evidence

122980

10. Serial No.

Brand Name

11.

Brand Name

Describe Property

12. Value

13. Evidence

001 MAGAZINE

HUSTER BARBLY LEGAL

E

122980

002 MAGAZINE

NAUGHTY NEIGHBORS

E

122980

003 PHOTOGRAPH

NONE

PHOTO OF NUDE MALE HOLDING FLANNEL SHIRT

E

122980

004 PHOTOGRAPH

NONE

PHOTOGRAPHS OF UNIDENTIFIED MALES (8x10's) (1) POLAROID

E

122980

005 PHOTOGRAPH

NONE

PHOTOGRAPHS OF (5) UNIDENTIFIED MALES (8x10's) IN KODAK BOX LABELED "WINNER'S OFFICE"

E

122980

This copy is provided for the exclusive use of the reporting officer and is not to be distributed outside of the reporting officer's office. If it is distributed outside of the reporting officer's office, it is the responsibility of the reporting officer to ensure that the original is returned to the reporting officer's office.

0786

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TO:

BY: BODY NO. DATE

RECORDS/ORIGINAL

511-411-A Rev. 8/91

SHERIFF'S DEPARTMENT
SANTA BARBARA COUNTY
PROPERTY FORM

2. Case Number

03-5670

3. Absconder

to Arrest

YES ☐ NO ☐

1. Officer in Charge

288 PC

4. Victim/Complainant	5. Reported Offense & Body No.	6. Date & Time of Report	7. Circumstances in Type of Report	8. Property Description	9. Date of Report	10. Serial No.	11. Item No.	12. Description of Item	13. Date of Report	14. Date of Report	15. Date of Report	16. Date of Report
Confidential	K. Shepherd 1005	11/18/03 1708		Photographs of (3) nude males - (8x10) in photo box - labeled "rapping" Photo 1st set	11/18/03			Found in closet in stuff by 0357/Abel	11/18/03	11/18/03	11/18/03	11/18/03
007 Photographs				" - same 1 - "								
1008 Photographs				Photographs (11x14) (8x10) - same semi-E nude males - found underneath box on leather chair in closet by 0357								
1009 Black Plastic Case				Acrespace by Indium contents of inside - phone recording equipment found on floor in closet by 0357								
1010				Envelope w/ phone message FROM "DIETER" AND PHONE #15 - FOUND BY DET. WOLFE IN PILE OF PAPERWORK UNDERNEATH TABLE								

This report is furnished for the exclusive use of the Sheriff's Department and is not to be distributed outside the Department without the approval of the Sheriff. This report is property of the Sheriff's Department and will be returned to the Sheriff's Department upon demand.

EXCEPTIONAL DISTRIBUTION IS AUTHORIZED
TO: _____
BY: _____ BODY NO. _____ DATE _____
RECORDS/STORIAL

Entered _____
Indexed _____
Filing _____
Filing _____

EXHIBIT "B"



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NOTE:

Exhibit "B" consists of various Sheriff's Reports concerning seizure and/or examination of certain property at Neverland Ranch. The discovery numbers for these reports are :0447-0453, 0456-0466, 0475-0488, 0606-0630, 0900-0906, and 0991-0994.

"Hard" copies of the above-numbered documents will be attached to the copy of our Opposition to Motion to Suppress (Part II) served on Robert Sanger, Esq.



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EXHIBIT "B"

<input checked="" type="checkbox"/> RECLASSIFICATION 1. CLASSIFICATION 2. 1 PC Lewd Acts Against a Chi. Cor 14 Years of Age		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY			2. CASE NUMBER 03-5670	
3. DAY / DATE / TIME Friday, 08-13-03, 1520 hrs		4. FOLLOW UP TO: OTHER <input checked="" type="checkbox"/> OFFENSE <input checked="" type="checkbox"/> ARMED <input type="checkbox"/> INCIDENT		5. DATE / TIME OF REPORT Tuesday, 11-25-03, 1300 hrs		
6. VICTIM (LAST, FIRST, MI) --- CONFIDENTIAL (V1 and V2) ---		SEX	RAC	AGE/D.O.B.	RESIDENCE ADDRESS	
7. BUSINESS ADDRESS OR SCHOOL		BUS PHONE		WORK HOURS	HOME PHONE	
8. RPT <input type="checkbox"/> VIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input type="checkbox"/> LAST, FIRST, MIDDLE (CIRCLE INVOLVEMENT)		CM	SEX	RAC	AGE/D.O.B.	RESIDENT ADDRESS
9. RPT <input type="checkbox"/> VIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input type="checkbox"/> LAST, FIRST, MIDDLE (CIRCLE INVOLVEMENT)		CM	SEX	RAC	AGE/D.O.B.	RESIDENT ADDRESS
10. RPT <input type="checkbox"/> VIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input type="checkbox"/> LAST, FIRST, MIDDLE (CIRCLE INVOLVEMENT)		CM	SEX	RAC	AGE/D.O.B.	RESIDENT ADDRESS
11. RPT <input type="checkbox"/> VIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input type="checkbox"/> LAST, FIRST, MIDDLE (CIRCLE INVOLVEMENT)		CM	SEX	RAC	AGE/D.O.B.	RESIDENT ADDRESS
12. SUSPECT NAME (LAST, FIRST, MIDDLE) JACKSON, Michael		CM	SEX	RAC	AGE/D.O.B.	HGT
ADDRESS Noverland Ranch, [REDACTED] Los Olivos, CA 93441		PHONE	MUSTACHE <input type="checkbox"/> HAT <input type="checkbox"/> BEARD <input type="checkbox"/> MASK <input type="checkbox"/> GLASSES <input type="checkbox"/> TTYCAR <input type="checkbox"/>		CLOTHING DESCRIPTION	
13. SUSPECT NAME (LAST, FIRST, MIDDLE) [REDACTED]		CM	SEX	RAC	AGE/D.O.B.	HGT
ADDRESS [REDACTED]		PHONE	MUSTACHE <input type="checkbox"/> HAT <input type="checkbox"/> BEARD <input type="checkbox"/> MASK <input type="checkbox"/> GLASSES <input type="checkbox"/> TTYCAR <input type="checkbox"/>		CLOTHING DESCRIPTION	
14. SUSP VEH LICENSE [REDACTED]		TY	YR	MAKE	MODEL	COLOR
15. ATTACHMENTS <input type="checkbox"/> BH-451 <input type="checkbox"/> CHP 183 <input type="checkbox"/> OTHER		16. RELATED CASE NUMBERS [REDACTED]				17. PROPERTY TAG # 122980
18. REPORTING DEPUTY BODY # Del C. Bonner 2474		19. DATE / TIME RPT WRITTEN 11-25-03 @ 1700		20. ASSISTING DEPUTY BODY # Del V. Alvarez 2646		21. TOTAL HOURS WRO 5.0 hours
22. SUPERVISOR APPROVING BODY # Sgl S. [REDACTED]		23. TYPED BY DATE [REDACTED]		RECORDS USE ONLY RECEIVED 242.3 DATE 2/4/04 BCS RME		

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Copy for: () Detective () Juvenile () Patrol () Investigator () Del. Arng Ctl

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	CONTINUATION SHEET	
(A) LIST CONTINUATION. (B) DESCRIBE: PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION. (C) NARRATIVE. (D) DISPOSITION		

1 (A) LIST CONTINUATIONS:

2
3 None.

4
5
6 (B) EVIDENCE:

7
8 I took numerous photographic images of the items of evidence I
9 reviewed on Tuesday, 11-25-03. I took the photographs with a
10 Canon Powershot G2 digital camera, which was owned and maintained
11 by the Santa Barbara Sheriff's Department.

12
13 After I finished photographically documenting the evidence, I
14 provided the camera to SBSO Forensics Detective Tim Sutcliffe.
15 Detective Sutcliffe downloaded and stored the digital images. The
16 SBSO Forensics Bureau will maintain the digital image files for
17 future retrieval.

18
19
20 (C) NARRATIVE:

21
22 On Tuesday, 11-25-03, Detective Vic Alvarez and I contacted SBSO
23 Property Officer Charles Villareal and checked out numerous items
24 of evidence from the SBSO Property Room. We checked out the
25 evidence in order to conduct a detailed review of each item to
26 determine what evidentiary value the item possessed. The items of
27 evidence we checked out were: 314, 338, 329, 340, 350, 351, 352,
28 358, 361, 362, 367, and 368.

29
30 The first item of evidence I reviewed on 11-25-03 was item number
31 338. This item of evidence was a bottle of Jack Daniels Whiskey.
32 I found this item within the locked closet in Michael Jackson's
33 lower floor restroom, during the service of the search warrant on
34 11-18-03. This item is a 1.75-Liter glass bottle of whiskey. The
35 bottle was approximately two-thirds empty. The liquid within the
36 bottle was amber colored. I took the cap off the bottle and
37 smelled the contents. The contents of the bottle had a smell
38 consistent with whiskey (alcoholic beverage).

39
40 The next item of evidence reviewed was item number 339. This was a
41 bottle of red wine. I located this bottle of red wine within the
locked closet in Michael Jackson's lower-floor bathroom, during the
service of the search warrant on 11-18-03. This bottle of wine was

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	CONTINUATION SHEET		
(A) LIST CONTINUATION. (B) DESCRIBE: PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION. (C) NARRATIVE (D) DISPOSITION			

1 located next to the bottle of Jack Daniel's Whiskey (Item 338).
2 This item was further described as being an open container (glass
3 bottle) of red wine, which was approximately half-empty. A white
4 plastic (after-market) cap was located on the top of the container.
5 The wine bottle's label indicated the manufacturer was Estancia-
6 Pinnacles. The label further identified the contents as being a
7 Pinot Noir, 1997, Monterey. I took the cap off the bottle and
8 smelled the contents. The contents of the bottle had a smell
9 consistent with wine (alcoholic beverage).

11 The next item of evidence reviewed was item number 350. This item
12 was described as miscellaneous paperwork found in Prince Michael's
13 bedroom and was found by Detective Janet Williams. Upon opening
14 the evidence bag, I found it to contain an index card notepad, an
15 opened FEDEX envelope and an opened letter-sized envelope from the
16 Mandarin Oriental in Miami. The letter-sized envelope did not
17 contain anything. The letter-sized envelope was addressed to a
18 Grace Quest in Room 1614 and was dated August 4, 2003. The FEDEX
19 envelope contained only a business card for a cleaning service
21 called The Cleaning Machine and Detail Service. The FEDEX envelope
22 was addressed to a Grace Quest, at the Mandarin Oriental in Miami
23 and was from a Katie Bernard, with an address consistent with the
24 Neverland Ranch. The telephone number for Katie Bernard was [REDACTED]
25 [REDACTED] The index card notebook seemed to contain names and
26 telephone numbers. I also found what appears to be a clipping from
27 a newspaper with a job opportunity with the US Department of State.

28 The next item of evidence I reviewed was item number 351. This was
29 described as being miscellaneous paperwork. This item was located
30 within the nightstand of Prince Michael's bedroom, by Detective
31 Janet Williams. This appeared to be a bill and/ or receipt for an
32 advertisement placed for a governess/ tutor. It appeared the
33 advertisement was taken out by a Grace Smith, with an address of
34 [REDACTED] Beverly Hills, California,
35 telephone number [REDACTED]

37 The next item of evidence I reviewed was number 352. This item was
38 described as miscellaneous paperwork, which identified Miss Grace
39 Rwaramba. This item was found by Detective Dallenbach, inside a
40 suitcase, which he found within Paris Jackson's bedroom. Upon
41 opening this package of evidence, I found it to contain an unsealed
and stamped envelope, a VISA account statement, and a thirty-page
faxed document from ABC Nannies. The stamped envelope was

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(A) LIST CONTINUATION. (B) DESCRIBE PHYSICAL EVIDENCE LOCATION FOUND & DISPOSITION. (C) NARRATIVE (D) DISPOSITION.			

1 addressed to a Marlo Thomas at St. Jude Children's Research
2 Hospital in Memphis, Tennessee. The letter had return information
3 of a Miss Grace Rwaramba, [REDACTED]
4 Beverly Hills, California. The VISA credit statement was for an
5 account, which seemed to belong to a Grace Rwaramba out of Beverly
6 Hills. The account number was [REDACTED] The credit card
7 bill detailed charges at a beauty supply store in Rialto,
8 California; a cash advance at a location in Lompoc, California; a
9 cash advance at a location in Las Vegas, Nevada; and a charge at
10 the Four Seasons, Las Vegas. The faxed transmission was dated 7-
11 12-02 and was addressed to a Grace Rwaramba from an Elaine
12 Auerbach(sp? [Writing was hard to read]), this appeared to be a
13 packet of information pertaining to potential nanny candidates.
14 The list of names included Valerie Hathorne, Ragat Yehdego (Yehdego
15 had an address of [REDACTED] out of Los Angeles,
16 California, telephone number [REDACTED], Melissa Johnson
17 (possible address of [REDACTED] Los
18 Angeles, California, telephone number [REDACTED]
19 Mitzy Mitchell and a Mate Diakit(sp? [Writing was hard to read]).

21 The next item of evidence I reviewed was number 358. This was
22 described as a folder containing e-mails pertaining to (V1). These
23 documents were located in the master bedroom den area by Detective
24 Janet Williams. In reviewing the documentation, it appeared to be
25 a compilation of writings from numerous individuals and discussed
26 the television show in which the victim was filmed. The messages
27 appeared to be forwarded through a third party. The messages
28 appeared to be fan mail orientated. Based on my training, I felt
29 the messages appeared to have been posted on an internet chat site.
30 I reviewed each of the messages and did not find any that indicated
31 a person had actual physical contact with Michael Jackson, nor
32 personal knowledge pertaining to our current investigation. All of
33 the messages appeared to stem from a chat room, or website topic
34 pertaining to the Martin Bashir documentary film.

36 The next item of evidence I reviewed was item number 361. This
37 item was a handwritten letter that I found within a black catalog
38 case, which I located within Michael Jackson's bedroom on 11-18-03.
39 I photocopied this item (the photocopy is attached to this follow-
40 up report). The letter is from a subject by the name of "Renia"
41 and discussed boys sleeping with Michael Jackson. The writer
42 further indicated she was not allowed into the "Applehead Club",
because she was a girl.

(A) LIST CONTINUATION (B) DESCRIBE PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION, (C) NARRATIVE, (D) DISPOSITION.

1
2 The next item of evidence I reviewed was item number 362. This
3 item is a handwritten note Sergeant Rebel found within Michael
4 Jackson's bedroom. The note was written on a lined, yellow sheet
5 of paper. "Frank [REDACTED] was written in black ink on the
6 paper.

7
8 The last item of evidence I reviewed was item number 367. This was
9 a tape recording located by Sergeant Ross Ruth, within the safe in
10 Michael Jackson's bathroom. Upon opening this item, I found it to
11 be an audiocassette recorder, which contained an audiocassette
12 tape. I removed the cassette tape and made a working copy of the
13 cassette tape. After confirming the original tape was successfully
14 copied, I replaced the original tape in the recorder. I reviewed
15 the working copy of the audiocassette tape and found it to contain
16 recordings of telephone calls made by one, or more females. I was
17 unable to understand the majority of the conversations, as there
18 was a great deal of background noise. I heard the date 7-26-01
19 mentioned. I also heard the names Tom, Angel, Rio, Victor and
20 Nichole mentioned during the conversations. From the background
21 noise, I believe the caller was in the living room area of Michael
22 Jackson's bedroom (I could hear the alarm, which sounds when
23 someone approaches the entrance to the room). At one point, the
24 caller told the person on the other end of the line that she was at
25 Neverland. After I completed the evidence review, I provided the
26 working copy of this tape to Lieutenant Klapakis, which he secured
27 within a safe.

28
29 I replaced each item of evidence within the original packaging and
30 resealed the packaging. I returned all items of evidence to
31 Property Officer Villareal.

32
33
34 (D) CASE DISPOSITION:

35
36 Attention records, investigation continuing.



I am Stupied
and I don't think
I deserve to be
in your Applehead
club. Those are all
reasons I get this way.



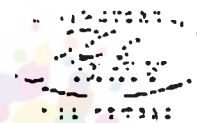
I am very sad
because I am a faget.

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I know that you
don't really like me ^{because I'm a faget}

I know that
you don't like me
because I get this
way. I get in this
for many reasons.
One reason is because
I am a girl and
I know that you
don't like girls
as boys. Baby Rubber
much.

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Maybe I should
not come on any
trips so I can make
everyone happy.
Not even my
brothers like me instead
they just talk about me
and assume that
I won't care. But I do!
I'm sensitive and I have

... to run
away
or
something

I am so ugly and nobody
likes me. Please don't
tell anyone because if
you do I will be really
upset. I do have 1 question
that I want to ask you
Q Well I hope this
tells you why I get
this way and I will
probably never
get out of it
—The stupid girl
Lena

Dem, Angel, Frank.
were all your mates
and since I am a
girl I can't be. (Q)
They get whatever
they want whenever
they want. Golf carts
Hannah they all got to
sleep with you and
I never ^{met} ~~did~~ face
it I ~~know~~ I am
not liked by you
all. (Apple Red Club)

<input checked="" type="checkbox"/> RECLASSIFICATION 1. CLASSIFICATION 2877) PC Lawd Acts Against a Ch under 14 Years of Age		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY			2. CASE NUMBER 03-5670	
3. DAY / DATE RPT / TIME Friday, 06-13-03, 1520 hrs		4. FOLLOW UP TO: <input checked="" type="checkbox"/> OFFENSE <input checked="" type="checkbox"/> ARREST <input type="checkbox"/> INCIDENT OTHER:		5. DATE THIS RPT / TIME Tuesday, 11-26-03, 1000 hrs		
6. VIOBUS (LAST, FIRST, M) *** CONFIDENTIAL (V1 and V2) ***		SEX	RAC	AGE/D.O.B.	RESIDENCE ADDRESS	
7. BUSINESS ADDRESS OR SCHOOL		BUS PHONE		WORK HOURS	HOME PHONE	
8. R/P <input type="checkbox"/> WIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input type="checkbox"/> LAST, FIRST, MIDDLE) CIRCLE INVOLVEMENT		CM	SEX	RAC	AGE/D.O.B.	RESIDENT ADDRESS
R/P <input type="checkbox"/> WIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input type="checkbox"/> LAST, FIRST, MIDDLE) CIRCLE INVOLVEMENT		CM	SEX	RAC	AGE/D.O.B.	RESIDENT ADDRESS
R/P <input type="checkbox"/> WIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input type="checkbox"/> LAST, FIRST, MIDDLE) CIRCLE INVOLVEMENT		CM	SEX	RAC	AGE/D.O.B.	RESIDENT ADDRESS
R/P <input type="checkbox"/> WIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input type="checkbox"/> LAST, FIRST, MIDDLE) CIRCLE INVOLVEMENT		CM	SEX	RAC	AGE/D.O.B.	RESIDENT ADDRESS
9. SUSPECT NAME (LAST, FIRST, MIDDLE) JACKSON Michael		CM	SEX	RAC	AGE/D.O.B.	HGT
ADDRESS Neverland Ranch, Los Olivos, CA 93441		PHONE	MUSTACHE <input type="checkbox"/>	HAIR <input type="checkbox"/>	CLOTHING DESCRIPTION	
10. SUSP VER LICENSE RT VR MAKE MODEL COLOR LOCATION/PRISON		BEARD <input type="checkbox"/>	MASK <input type="checkbox"/>	<input type="checkbox"/> STORED, RELEASED <input type="checkbox"/> IMPOUNDED		
11. COMPLAINT FILED <input type="checkbox"/> YES <input type="checkbox"/> MISDEMEANOR <input type="checkbox"/> NO <input type="checkbox"/> FELONY		12. REVIEWING DA 11-26-03 @ 1500		13. <input type="checkbox"/> CITATION ISSUE <input type="checkbox"/> WARRANT ISSUED <input type="checkbox"/> D.A. NOTICE <input type="checkbox"/> IN CUSTODY <input type="checkbox"/> REF. TO PROBATION <input type="checkbox"/> OUT ON BAIL		14. <input type="checkbox"/> CLEARED <input type="checkbox"/> CLOSED <input type="checkbox"/> INACTIVE
15. ATTACHMENTS: <input type="checkbox"/> 34431 <input type="checkbox"/> CHP 100 <input type="checkbox"/> OTHER <input checked="" type="checkbox"/> PROPERTY TAG # 122980		PAGE 1 OF 10 PAGES				
16. RELATED CASE NUMBERS		VICTIM OR BUSINESS		DATE REPORTED		CRIME TYPE
17. REPORTING DEPUTY BODY # Det. C. Bonner 2474		18. DATE/TIME RPT WRITTEN 11-26-03 @ 1500		19. EST. TOTAL VALUE		20. TOTAL HOURS WID 5.0 hours
21. ASSISTING DEPUTY BODY # Sgt. S. Roff		22. SUPERVISOR APPROVING BODY # Sgt. S. Roff		23. TYPED BY/DATE 11/22/04		RECORDS USE ONLY RECEIVED 2423 DATE 11/22/04 BCS RMS

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☐ Patrol ☐ Investigator ☐ CI

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	CONTINUATION SHEET	
(A) LIST CONTINUATION. (B) DESCRIBE PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION. (C) NARRATIVE. (D) DISPOSITION.		

A. LIST CONTINUATIONS:

None.

B. PHYSICAL EVIDENCE:

I took numerous digital images of the various items of evidence that I reviewed on Wednesday, 11-26-03. The digital images were taken using a Canon Powershot G2 digital camera, which was owned and maintained by the Santa Barbara Sheriff's Department.

After I completed reviewing and photographing the items of evidence, I provided the digital media storage card from the camera to Detective Al Lafferty of the SBSO Forensic Bureau. Detective Lafferty downloaded the digital images from the camera card. The SBSO Forensic Bureau will maintain the digital image files for future retrieval.

C. NARRATIVE:

On Wednesday, 11-26-03, I checked out numerous items of evidence from the SBSO Property Room. The items of evidence were provided to me by SBSO Property Officer Chuck Villareal. The specific items of evidence checked out were numbers 317, 321, 363, 364, 365, 501 through 503, 506, 511, 513, 516, 601, 602, 610 through 642 and 646.

The first item of evidence I reviewed was Item number 601. This item consisted of the Neverland Valley Medical Report Log for 2003 and a Neverland Valley Fire Department Emergency Medical Report. This documentation contained information pertaining to an incident that occurred at the Neverland Ranch, on 2-8-03. The documentation indicated (V2) was injured while riding a scooter on the Neverland Ranch property. (V2) was attended to by ranch employee by the name of C. Kirchoff.

Item number 602 was an Accident Damage Report, which documented an incident, which occurred at the Neverland Ranch property, on 6-21-02. The documentation indicated (V1) damaged a golf cart while driving on the Neverland property.

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(A) LIST CONTINUATION. (B) DESCRIBE: PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION. (C) NARRATIVE. (D) DISPOSITION.			

1 The next item of evidence I reviewed was Item number 610. This was
2 a Neverland Valley Ranch Security Clearance and Guest Information
3 sheet. This documentation detailed that Mark Geragos and Matt
4 Dalton visited the Neverland Ranch property on 2-9-03.
5
6 Item number 611 was a Daily Log sheet pertaining to persons who
7 entered the Neverland Ranch on 5-7-02. The only name I recognized
8 on this documentation was Hamid Moslehi.
9
10 Item number 612 was a Daily Security Log sheet for 5-9-02. The
11 only name of interest I found on the log was "Hamid".
12
13 Item number 613 was a Daily Security Log for 5-13-02. The only
14 name of interest was "Hamid".
15
16 Item number 614 was a Daily Security Log for 6-21-02. There were
17 several names of note on this daily log, including M. Bashir, Chris
18 Tucker, (V1) and (V2).
19
20 Item number 615 was a Daily Security Log for 6-22-02. There were
21 several names of note on this log. The names included Chris
22 Tucker, (V1) and (V2).
23
24 Item number 616 was a Daily Security Log for 6-23-02. Of note,
25 this log contained the names of Chris Tucker, (V1) and (V2).
26
27 Item number 617 was a Daily Security Log for 6-24-02. Of note,
28 this log had the names of Chris Tucker, (V1) and (V2) written on
29 it.
30
31 Item number 618 was a Daily Security Log for 6-25-02. Of note,
32 this log contained the names of Chris Tucker, (V1) and (V2).
33
34 Item number 619 was a Daily Security Log for 6-29-02. Of note,
35 this log had (V1), (V2) and Davellin Arvizo written on it.
36
37 Item number 620 was a Daily Security Log for 6-30-02. Of note,
38 this log had the names of (V1), (V2) and Davellin Arvizo written on
39 it.
40
41 Item number 621 was a Neverland Valley Ranch Security Clearance &
42 Guest Information for Hamid Moslehi. This paperwork was dated 6-
19-02.

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(A) LIST CONTINUATION (B) DESCRIBE, PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION (C) NARRATIVE (D) DISPOSITION			

Item number 622 was a Neverland Valley Ranch Security Clearance & Guest Information Sheet for Chris Tucker, (V1) and (V2). This paperwork is dated 6-21-02.

Item number 623 was a Neverland Valley Ranch Security Clearance & Guest Information sheet. This paperwork is dated 6-28 (unknown year) and contained the name of (V1), as well as "brother and sister".

Item number 642 was a Daily Security Log dated 6-28-02. Of note, this log contained the names of (V1) and (V2). There was also a note that (V1) fell and hurt his elbow on this date.

Item number 641 was a Daily Security Log dated 9-27-02. Of note, this log contained the names of (V1), (V2) and Mike Brando. I also noted a handwritten entry indicating on 9-29-02 "Transportation for (V1) [Name omitted due to confidentiality] and family to leave will arrive at 1 o'clock. They are to leave immediately."

Item number 640 was a Daily Security Log dated 9-26-02. Of note, the names of (V1), (V2) and Martin Bashir were written on the log.

Item number 639 was a Daily Security Log dated 9-16-02. Of note, the names of Chris Tucker, (V1), (V2) and Davellin Arviso were written on the log.

Item number 638 was a Daily Security Log dated 9-15-02. Of note, the names of Chris Tucker, (V1), (V2) and Davellin Arviso were written on the log.

Item number 637 was a Daily Security Log dated 10-30-02. Of note, "Dieter" and "Roland" were written on the log.

Item number 636 was a Daily Security Log. Of note, (V1), (V2) and Davellin Arviso's names are written on this log.

Item number 635 was a Daily Security Log dated 12-12-02. Of note, this log contained the names of Ronnie Konitzer and "Dieter".

Item number 634 was a Daily Security Log dated 10-31-02. Of note, Hamid Moslehi's name is written on this log.

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(A) LIST CONTINUATION (B) DESCRIBE: PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION (C) NARRATIVE (D) DISPOSITION			

Item number 633 was a Neverland Valley Ranch Security Clearance and Guest Information sheet. This information sheet pertained to Hamid Moslehi being at the ranch property on 10-31-02.

Item number 632 was a Daily Security Log dated 8-19-02. Of note, the name "Hamid" is written on this log.

Item number 631 was a Daily Security Log dated 7-30-02. Of note, Hamid Moslehi's and Martin Bashir's names are written on the log.

Item number 630 was a Neverland Valley Ranch Business Clearance form dated 5-22-02 and has the name "Hamid" written on it. The form indicated the destination and purpose of the visit was delivering a package to Manuel.

Item number 629 was a Daily Security Log dated 11-27-02. Of note, this documentation has Frank Tyson's name written on it.

Item number 628 was a Daily Security Log dated 11-26-02. Of note, Frank Tyson's name is written on the log.

Item number 627 was a Daily Security Log dated 11-25-02. Of note, Frank Tyson's name is written on the log.

Item number 626 was a Daily Security Log dated 11-24-02. Of note, Frank Tyson's name is written on the log.

Item number 625 was a Daily Security Log dated 11-23-02. Of note, Frank Tyson's name is written on the log.

Item number 624 was a Daily Security Log dated 12-2-02. Of note, the names of Dieter (spelled "Docter") and "Deck Farshan" were written on the log.

Item number 616 was a navy blue and yellow nylon sleeping bag, stuff sack, which I found to contain books and magazines. One of the books was The Inter Active Reader, The Language of Literature. This appeared to be a textbook. Upon opening the cover, I noted it is a Los Angeles Unified School District high school textbook issued to (V2) on 12-4-02. The textbook had handwritten notes within it; however, these notes appeared to be consistent with the study activities required by the textbook. There was also a

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	CONTINUATION SHEET		
(A) LIST CONTINUATION (B) DESCRIBE: PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION (C) NARRATIVE (D) DISPOSITION			

periodical titled "Great African Americans of the Twentieth Century", "Famous African American Writers" and "African American Inventors and Scientists". I reviewed all three periodicals and did not find any handwritten notes within them. I also located a letter-sized vanilla folder, which had a yellow post-it style note attached to it. The post-it note had the names of (V1) and (V2) written on it. Within this folder, I found "Request for Homework Assignment" forms pertaining to (V1). The requests were dated February 3 through 14 (unknown year). I also located a U.S. Navy Training Manual titled "Airman" within the sleeping bag stuff sack. I reviewed the naval training manual and did not locate any personal written notes, or other materials (not part of the manual) within it. The final item I found within the stuff sack was a workbook titled "Focus on Life Science, Guided Reading and Study Workbook". I found handwritten information within this workbook; however, the handwritten material appeared consistent with the information requested by the workbook. The materials within the stuff sack appeared to have been degraded by a combination of time and improper storage (exposure to humidity), which caused discoloration and mold.

Item number 502 appeared to be photocopied pictures of teenage boys. There are several boys pictured throughout the series of photographs. Of note, I observed one of the boys pictured drinking from a soda can. The pictures appeared to have been commercially produced, as The Portrait Studio logo was located in the corner of each photo as is a name and date.

Item number 501 consisted of two Polaroid-type photographs of teenage children. I did not recognize either individual as being part of this investigation.

Item number 503 appeared to be photographic proof sheets with multiple photographs in them. One of the photographs depicted three, young adult women.

Item number 506 was a photocopy of a picture, which contained Prince and Paris Jackson in the company of an unidentified white female adult. The picture was dated 12-23-01 and had the portrait studio logo in one of the corners. Also contained within this bag of evidence was a Polaroid-style photograph of what appeared to be a white male juvenile with his shirt open, exposing his chest and abdomen. The juvenile appeared to be in his early to mid teens.

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[A] LIST CONTINUATION. [B] DESCRIBE: PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION. [C] NARRATIVE [D] DISPOSITION.			

1 This picture had a similar background to the Polaroid photographs
2 found in Item number 501.

3
4 Item number 511 was a pair of Calvin Klein men's cotton briefs,
5 size 30. The cotton briefs were discolored and there were stains
6 that appeared to be caused by blood, present on both the left and
7 right rear sides of the briefs.

8
9 Item number 513 was described as "Miscellaneous Torn Papers". I
10 attempted to piece these papers together. The papers were
11 stationery from various hotels, including the Hotel Bel Air,
12 located at 701 Stone Canyon Road in Los Angeles, the Garden City
13 Hotel in Long Island, and several non-hotel related items. What I
14 was able to piece together contained the names of Dieter, Mohamad
15 el Fayed, Evvy, Bret Paul and John Branca. The note with Dieter's
16 name on it appeared to pertain to closing a business deal.

17
18 Item number 516 was described as "Miscellaneous Paperwork". Upon
19 opening this, I found it contained both handwritten and
commercially oriented paperwork. Of note, there was a handwritten
letter addressed to "Mr. Jackson" from Jessica Martinez. Within
this letter, Martinez seemed to indicate that she cared for Prince,
Paris and "baby". There was also a receipt for Zanax in the name
of "Manuel Rivera". There was Beverly Hills Hotel stationery,
which had handwritten information about Buprenex, which is a pain
killer. There were also Christmas cards from various people,
including Paul Rubens (aka Pee Wee Herman). There was also an
envelope with a handwritten note on it that contained photographs
of four children. The names of the children were Michael, Melissa,
Christa and Matthew. There are no last names associated with these
children; however, there was a possible associated address of [REDACTED]
[REDACTED]

33
34 Item number 317 was a black, plastic Samsonite briefcase, which was
35 found in Michael Jackson's bedroom. The briefcase was sealed with
36 yellow evidence tape. I broke the seal in order to open the case
37 and review the contents. I took photographs documenting the seals
38 in place prior to opening the briefcase. Upon opening the
39 briefcase, I found it contained numerous periodicals of a
40 pornographic nature.

41
42 I began by checking the pockets located on the top portion of the
briefcase. One of these pockets contained several images of a

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1 pornographic nature, which appeared to have been printed with a
2 computer printer. There were not any handwritten notes and/ or
3 other information on these printed images. The second pocket
4 contained commercially produced pornography periodicals and a
5 letter-size manila envelope with "personal & confidential from
6 Hooks (sp[unable to clearly read spelling])". The manila envelope
7 did not contain anything. The pornography periodicals included the
8 December 2000 issue of "Finally Legal", the February 1993 issue of
9 "Playboy", Volume 22 of "Just Legal", a periodical titled "A Stiff
10 Dick for Lynn" and several ripped out pages from what appeared to
11 be commercially produced pornography magazines. I reviewed each
12 page of the above-listed magazines and periodicals and did not find
13 any handwritten notes and/ or pictures inserted within the
14 magazine. I did notice that some of the pages appeared to have
15 fallen out and/ or been ripped out of the periodicals. None of the
16 material within the above-listed periodicals appeared to depict
17 illegal activities, including child porn. Based on my training,
18 this type of material can be used as part of a "grooming" process
19 by which people (those seeking to molest children) are able to
lower the inhibitions of their intended victims and facilitate the
molestation of said victims.

22
23 The main compartment of the briefcase contained numerous
24 pornographic periodicals as well as ripped out pages and file
25 folders. The file folders did not appear to contain any material.
26 There were handwritten notes on the folders. The only note that
27 appeared of interest was a name, possibly Brenden, with a number of
28 471-1492. The loose pages appeared to have been ripped out of
29 various porn related periodicals. Much of the material torn out of
30 the periodicals consisted of centerfold layouts from Playboy and
31 Hustler magazines. Included within the periodicals was a
32 photocopied and stapled, 27-page article, titled "The Second Female
33 G-spot and Other Advanced Sex Techniques". The periodicals
34 included the May 1994 issue of "Playboy", the December 1994 issue
35 of "Playboy", Volume 26 of "Celebrity Skin", a "Penthouse" magazine
36 of unknown date (possibly February 1991). Volume number 2 of
37 "Barely Legal Hard Core", the August 2003 issue of "Barely Legal",
38 a periodical titled "Sam & Jose's Black Starlet", another
39 periodical called "A Hard Rock Affair", a third periodical called
40 "Double Dicking Caroline", and a fourth periodical titled "Big Tits
41 and Hard Stud". I reviewed each page of the above-listed
42 periodicals and did not locate any handwritten notations, or
pictures inserted within the periodicals. I did not locate any

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1 material within the black plastic briefcase that appeared to be
2 illegal in nature. There was no child related pornography found
3 within the briefcase. Based on my training, this type of material
4 can be used as part of a "grooming" process by which people (those
5 seeking to molest children) are able to lower the inhibitions of
6 their intended victims and facilitate the molestation of said
7 victims.

8
9 Item number 321 was listed as "magazines found within Michael
10 Jackson's bedroom". I found this packaged item of evidence to
11 contain seven pornographic periodicals. The first was the August
12 2003 issue of "Live Young Girls", the second was Issue number 321
13 of "Parade" magazine, the third was titled "Girls of Barely Legal",
14 the fourth was titled "Girl Friends", the fifth was the February
15 2003 issue of "Finally Legal", the sixth was a second issue of
16 "Girl Friends" and the eighth was the February 2003 issue of
17 "Hawk". I reviewed each page of the above-listed magazines and
18 periodicals and did not find any handwritten notes and/ or pictures
19 inserted within the magazine. None of the material within the
20 above-listed periodicals appeared to depict illegal activities,
21 including child porn. Based on my training, this type of material
22 can be used as part of a "grooming" process by which people (those
23 seeking to molest children) are able to lower the inhibitions of
24 their intended victims and facilitate the molestation of said
25 victims.

26
27 Item number 363 was listed as "pornographic magazines located
28 within Michael Jackson's bedroom" by Detective Sergeant Rebel.
29 Upon opening this sealed bag of evidence, I found it contained
30 numerous pornographic magazines, as well as several loose sheets of
31 magazine pages. Of note, one of the loose magazine pages was from
32 the 9-11-00 issue of "People" magazine and had a handwritten note
33 stating "Mary at Neverland", this was written on a picture of
34 Michael Douglas and Catherine Zeta Jones.

35
36 The following is a list of the periodicals found within this item
37 of evidence. The August 2002 issue of "Finally Legal", Volume 4 of
38 "Just 18", the July 2003 issue of "Finally Legal", the January 2003
39 issue of "Hawk", the June 2003 issue of "Live Young Girls", the
40 September 2003 issue of "Live Young Girls", the November 2002 issue
41 of "Hawk", the October 2002 issue of "Purely 18", the April 1995
42 issue of "X-rated Close Up", the June 1996 issue of "Juggs", the
March 1998 issue of "OUI", the November 2002 issue of "Tight", the

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1 December 2000 issue of "Purely 18", the March 1998 issue of "Club
2 International", the Volume 5 number 9 April 1998 issue of
3 "Hustler", the August 1992 issue of Hustler, the March 1992 issue
4 of "Penthouse", the June 1996 issue of "44-Plus" and the May 1996
5 issue of "Plumpers". There was also a hardback book titled "The
6 Glory of BeDienes Women". I reviewed each of the above-noted
7 periodicals and/ or books and did not locate any foreign pictures
8 and/ or writings inserted within the pages. None of the material
9 within the above-listed periodicals and books appeared to depict
10 illegal activities, including child porn. Based on my training,
11 this type of material can be used as part of a "grooming" process
12 by which people (those seeking to molest children) are able to
13 lower the inhibitions of their intended victims and facilitate the
14 molestation of said victims.

15
16 Item number 364 was described as being a book found within Michael
17 Jackson's bedroom by Detective Sergeant Robel. The book was titled
18 "The Chop Suey Club" by Bruce Weber. Upon opening the book, I
19 found it had a written price of \$325.00 on it. The book appeared
20 to be a compilation of photographs of an older juvenile, or younger
21 adult male of Caucasian decent. This male was pictured both fully
22 clothed and completely naked. I did not find any photographs and/
23 or handwritten information that did not appear to be part of the
24 book. According to the book, the photographs are of a subject by
25 the name of "Peter Johnson". The book indicates that Johnson was
26 15 years of age. The photographs do not in and of themselves
27 appear to be of a pornographic nature. Based on my training, this
28 type of material can be used as part of a "grooming" process by
29 which people (those seeking to molest children) are able to lower
30 the inhibitions of their intended victims and facilitate the
31 molestation of said victims.

32
33 The last item of evidence reviewed on this date was number 365,
34 which was indicated as being two books, which were seized by
35 Detective Zelis from within Michael Jackson's bedroom. The first
36 book was titled the Christy Report: Exploring the Outer Edges of
37 the Sexual Experience by Taschen. The second book was titled
38 Robert Maxwell Photographs. The Christy Report appeared to be a
39 compilation of photographs and writings regarding pornography. I
40 did not locate any pictures and/ or writings that did not appear to
41 be part of the book. The book titled "Robert Maxwell
42 Photographs" appeared to be a compilation of photographs of still
objects and naked women and men. The book also contained

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1 photographs of partially and fully naked children. None of the
2 pictured subjects appeared to be engaged in sexually explicit
3 activities. I did not locate any pictures and/ or writings within
4 this book that did not appear to be an original part of the book.
5 Based on my training, this type of material can be used as part of
6 a "grooming" process by which people (those seeking to molest
7 children) are able to lower the inhibitions of their intended
8 victims and facilitate the molestation of said victims.

9
10 This concluded my review of evidence on Wednesday, 11-26-03.
11
12

13 **D. CASE DISPOSITION:**

14 Attn: Records. Investigation continuing.
15

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<input checked="" type="checkbox"/> REC ASSOCIATION		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY			2. CASE NUMBER 03-5670		
1. CLASSIFICATION 2. PC Lewd Acts Against a Child Under 14 Years of Age		<input checked="" type="checkbox"/> FOLLOWUP		<input type="checkbox"/> CLEARANCE		<input type="checkbox"/> COMPLAINT	
3. DAY / DATE RPT / TIME Friday, 08-13-03, 1520 hrs		4. FOLLOW UP TO: <input checked="" type="checkbox"/> OFFENSE <input checked="" type="checkbox"/> ARREST <input type="checkbox"/> INCIDENT			5. DATE/TIME THIS RPT TIME Tuesday, 12-02-03, 0930 hrs		
6. VIO/DUG (LAST, FIRST, MI) *** CONFIDENTIAL (V1 and V2) ***		SEX	RAC	AGE/D.O.B.	RESIDENCE ADDRESS		
7. BUSINESS ADDRESS OR SCHOOL		BUS PHONE		WORK HOURS		HOME PHONE	
8. R/P <input type="checkbox"/> WIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input type="checkbox"/> LAST, FIRST, MIDDLE CIRCLE INVOLVEMENT		CM	SEX	RAC	AGE/D.O.B.	RESIDENT ADDRESS	
						TELEPHONE	
						BUS RES	
						BUS RES	
						BUS RES	
						BUS RES	
9. SUSPECT NAME (LAST, FIRST, MIDDLE) JACKSON Michael		CM	SEX	RAC	AGE/D.O.B.	HGT	WGT
ADDRESS Neverland Ranch, [REDACTED] Los Olivos, CA 93441		PHONE	MUSTACHE	HAT	CLOTHING DESCRIPTION		
			BEARD	MASK			
			GLASSES	TT/SCAN			
10. SUSP VEH LICENSE		ST	YR	MAKE	MODEL	COLOR	LOCATION/PERSON
11. COMPLAINT FILED <input type="checkbox"/> YES <input type="checkbox"/> MISDEMEANOR <input type="checkbox"/> NO <input type="checkbox"/> FELONY		12. REVIEWING DA		13. <input type="checkbox"/> CITATION ISSUED <input type="checkbox"/> WARRANT ISSUED <input type="checkbox"/> D.A. NOTICE <input type="checkbox"/> IN CUSTODY <input type="checkbox"/> REF TO PROBATION <input type="checkbox"/> OUT ON BAIL		14. <input type="checkbox"/> CLEARED <input type="checkbox"/> CLOSED <input type="checkbox"/> INACTIVE	
15. ATTACHMENTS: <input checked="" type="checkbox"/> SH-41 <input type="checkbox"/> CHP 183 <input type="checkbox"/> OTHER		<input checked="" type="checkbox"/> PROPERTY TAG # 122880		PAGE 1 OF 12 PAGES			
16. RELATED CASE NUMBERS		VICTIM OR BUSINESS		DATE REPORTED		CRIME TYPE	
17. REPORTING DEPUTY BODY # Det. C. Bonner 2474		18. DATE/TIME RPT WRITTEN 12-11-03 @ 1500		19. EST. TOTAL VALUE		20. TOTAL HOURS WIC	
						10.0 hours	
21. ASSISTING DEPUTY BODY #		22. SUPERVISOR APPROVING BODY # Sgt. S. [Signature]		23. TYPED BY/DATE		RECORDS USE ONLY	
						RECEIVED 2423 DATE 2/4/04	
						PCS	
						RMS	

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1 (A) LIST CONTINUATIONS:

2
3 None

4
5
6 (B) PHYSICAL EVIDENCE:

7
8 I took numerous photographic images of the items of evidence I
9 reviewed on Tuesday, 12-3-03. I took the photographs with a Canon
10 Powershot G2 digital camera, which was owned and maintained by the
11 Santa Barbara Sheriff's Department.

12
13 After I finished photographically documenting the evidence, I
14 provided the camera to SBSO Forensics personnel. SBSO Forensics
15 personnel downloaded and stored the digital images. The SBSO
16 Forensics Bureau will maintain the digital image files for future
17 retrieval.

18
19
20
21 (C) NARRATIVE:

22 On Tuesday, 12-2-03, I contacted SBSO Property Officer Chuck
23 Villarreal for the purpose of checking out various items of
24 evidence booked under SBSO Evidence Tag Number 122980, Case Number
25 03-5670. The purpose of checking out the items of evidence was to
26 conduct a detailed review of each item and determine its
27 evidentiary value. Specifically, I checked out Item Numbers 501,
28 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 513, 516, and
29 517.

30
31 I did not open Items Number 501, 502, 503, 511, 513 and 516, as I
32 previously reviewed these items on 11-26-03.

33
34 The first item of evidence I reviewed was Item Number 504, which
35 was described as being a piece of notepaper with a telephone
36 number, which was found in the video/arcade area of Michael
37 Jackson's Neverland Ranch residence. Upon opening this item, I
38 found it to contain an off-white colored piece of paper with a
39 drawing of a boy sitting within a circle. "Dr Kline [REDACTED]
40 was written in pencil underneath the picture. On the reverse side
41 of the paper, the initials "RC" were written in black marker.

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