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

10 -vs-) No. 1133603
11 MICHAEL JOE JACKSON,)
12 Defendant.)

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17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18
19 FRIDAY, MARCH 25, 2005

20
21 8:30 A.M.

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23 (PAGES 3537 THROUGH 3594)

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27 REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
28 BY: Official Court Reporter 3537

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1 I N D E X

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

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

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

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

7 Mr. Nicola is listed as "N" on index.

8

9 PLAINTIFF'S WITNESSES DIRECT CROSS REDIRECT RECROSS

10 SUTCLIFFE, Timothy 3541-SA 3548-A 3557-SA

11 (Cont'd)

12 3561-A 3564-SA (Further) (Further)

13

14 ROMERO, Alicia 3567-N 3582- SA 3586-N 3588-SA

15 TORRES, Nancy Diana 3590-N

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1 E X H I B I T S

2 FOR IN

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

4 769 Notebook containing 19 pages 3552

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6 770 Disk of exhibits released per court order 3581

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1 Santa Maria, California

2 Friday, March 25, 2005

3 8:30 a.m.

4

5 THE COURT: Good morning.

6 THE JURY: (In unison) Good morning.

7 COUNSEL AT COUNSEL TABLE: (In unison)

8 Good morning, Your Honor.

9 THE COURT: You may proceed, Counsel.

10 MR. SANGER: Thank you, Your Honor.

11

12 TIMOTHY SUTCLIFFE

13 Having been previously sworn, resumed the

14 stand and testified further as follows:

15 mjfacts.com

16 CROSS-EXAMINATION (Continued)

17 BY MR. SANGER:

18 Q. Okay. Good morning.

19 A. Good morning.

20 Q. How are you doing?

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mjfacts.com

21 A. Good.

22 Q. I just have a few more questions for you.

23 At the end of the day yesterday you
24 testified, and there was a slide presentation
25 wherein 19 prints were shown, latent prints; is that
26 correct?

27 A. Correct.

28 Q. Just to remind the jury, you had the big 3541

♀
1 charts on poster board, and then a Power Point
2 presentation was presented to the jury on the
3 screen, correct?

4 A. That's correct.

5 Q. Those were 19 --

6 MR. AUCHINCLOSS: I'll just object as
7 misstates the evidence; that this witness was shown
8 only 16 cards, exhibits.

9 MR. SANGER: Okay.

10 Q. All right. You're aware that there were 19
11 prints, you looked at some of them and you did not
12 identify them; is that correct?

13 A. That's correct. Those were processed by
14 another investigator.

15 Q. You had a total of 19 prints up there, and
16 you were able to identify 16 as something you
17 processed?

18 A. I had a hand in processing 16 of them, yes.

19 Q. There you go. Of the 16 you processed, and
20 the other three that you're aware of, totaling 19,
21 those are from a collection of how many usable
22 latent prints?

23 A. From what I understand, there was --

24 MR. AUCHINCLOSS: I'll object as lacks
25 foundation.

26 THE COURT: Sustained.

27 Q. BY MR. SANGER: All right. Your unit was
28 responsible for processing the prints; is that 3542

1 correct?

2 A. That's correct.

3 Q. And by that we mean trying to locate all of
4 the usable prints, the prints that looked like they
5 might have enough detail to use them for comparison
6 purposes, correct?

7 A. Correct.

8 Q. And who is in charge of your unit? Who was
9 in charge of this process?

10 A. As far as looking at the --

11 Q. As far as developing the prints so that you
12 get to the point where you have visible prints.

13 A. Well, I.D. Technician Torres and I were
14 involved in the process in Santa Maria. And
15 Detective Wittenbrock and I.D. Tech Shelly were
16 involved in the process in Santa Barbara.

17 Q. All right. And did you confer with
18 Detective Wittenbrock and I.D. Tech Shelly to
19 determine the status of their work?

20 A. Yes.

21 Q. And did you look at the materials that they
22 had accumulated?

23 A. No.

24 Q. You haven't looked at them at all?

25 A. I have seen some of the prints that were
26 displayed, but not all of the prints that they
27 submitted as useable.

28 Q. Okay. And so the team was -- the team was 3543

1 comprised of the four of you, two in Santa Maria,
2 two in Santa Barbara?

3 A. Correct.

4 Q. And did you ever have a final -- well, let's
5 not put it that way. Did you ever have any kind of
6 a meeting where you sat down and you said "Okay,
7 this is the body of material that we have, we're
8 going to turn it over to the latent print examiners
9 to take a look at it"?

10 A. No.

11 Q. How many prints did you come up with in your
12 operation in Santa Maria, that being the operation
13 between you and I.D. Tech Torres? How many prints?

14 A. We submitted, I believe, a total of about
15 600, approximately. I think there was 600 that we
16 submitted.

17 Q. And so I guess what you're saying is, you
18 have no idea how many were submitted by Detective
19 Wittenbrock and I.D. Tech Shelly in Santa Barbara?

20 A. I'm not sure of the exact amount. I know
21 there was, I think in the neighborhood of a total of
22 700, but I'm not sure of the exact figure.

23 Q. Total of 700 from them, or 700 --

24 A. 700 total.

25 Q. Okay. So you submitted the bulk of them.

26 They came up with a smaller number?

27 A. Correct. We had the bulk of the items.

28 Q. So out of the 600 prints or so that you 3544

♀
1 developed, the 600 or so usable prints that you
2 developed, there were 16 that you have shown us
3 yesterday; is that correct?

4 A. Correct.

5 Q. And out of the approximate other hundred,
6 apparently the other three were the result of that;
7 is that correct?

8 A. That's my understanding.

9 Q. Now, of all those usable prints, most of

10 them were negative for the -- is that your
11 understanding?

12 A. Yes.

13 Q. All right. Okay.

14 MR. AUCHINCLOSS: I'll object and move to
15 strike as ambiguous vague, "negative."

16 THE COURT: Sustained, stricken.

17 Q. BY MR. SANGER: The process that you used
18 involved a Scenescape.

19 A. Correct.

20 Q. And reminding everybody - they've probably
21 got that by now - you talked about the ALS also in
22 your testimony yesterday, and I want to clarify
23 this. ALS is different than Scenescape when you're
24 using those terms; is that correct?

25 A. That is correct.

26 Q. And you mentioned that there had been an ALS
27 evaluation of the materials in Item 317 that
28 occurred before you had begun to look at them for 3545

♀
1 prints; is that correct?

2 A. That's my understanding. I don't believe I
3 did Item 317 ALS, but I know I did ALS on certain
4 items, and I'm assuming that was done on others.

5 Q. You understand that somebody else did that?

6 A. That's my understanding, but I don't believe
7 I said specifically I did that one.

8 Q. And that ALS -- whatever ALS process was
9 done either by you or anybody else, did that do
10 anything to affect the ability to obtain prints?

11 A. No, it did not.

12 Q. Now, you indicated that in your process, you
13 did the super glue fuming first, then you did the
14 Scenescape, then you did the ninhydrin process; is
15 that correct?

16 A. That's correct.

17 Q. So therefore, you did not use the Scenescape
18 before doing the super glue fuming; is that correct?

19 A. Not in our process, no.

20 Q. Now, you're familiar with the Scenescape
21 technology, I take it, correct?

22 A. Yes.

23 Q. And you're aware that you can use the
24 Scenescape before you do any chemical alterations to
25 the paper; is that correct?

26 A. That's correct. We had not used in our
27 process protocol, but we had used the Scenescape to
28 look at pages prior to doing our protocol to see if 3546

♀
1 we could observe any images. And we did not have
2 what I would consider sufficient results that way,
3 so we went to doing the super glue technique.

4 Q. So how -- in other words, before you tamper
5 with it, and I don't mean that in a bad way, but
6 before you chemically alter with super glue, it is
7 possible to use a Scenescape and try to find prints
8 in their more or less natural state, correct?

9 A. That's correct.

10 Q. And you're saying you tried that on a few
11 pages first?

12 A. We did some test pages.

13 Q. About how many test pages did you do?

14 A. Just a few. I don't know exactly how many.

15 Q. And how many pages did you have overall?

16 A. Of --

17 Q. That you ultimately examined?

18 A. Over, I don't know, a thousand.

19 Q. All right. So it was -- it was your
20 determination not to do a thorough Scenescape
21 examination of the thousands of pages before doing

22 the super glue fuming as a result of that test; is
23 that correct?

24 A. That's correct. And one of the things
25 that's mentioned in the Scenescape literature, and
26 also in talking to their specialist, is that if you
27 cannot visualize prints your best method is to then
28 move to the super glue, because it will have the 3547

♀
1 best results especially with the Scenescape. Best
2 results are with super glue process.

3 MR. SANGER: I'm going to move to strike
4 that as hearsay and nonresponsive after, "Yes, I

5 think it was" -- or after, "That's correct "

6 THE COURT: Stricken after, "That's correct "

7 I wonder if you could try to speak a little
8 louder or lean a little closer I can hear you but
9 it's -- go ahead.

10 MR. SANGER: And I have no further questions
11 at this time.

12 (Laughter.)

13

14 REDIRECT EXAMINATION

15 BY MR. AUCHINCLOSS:

16 Q. Good morning, Detective Sutcliffe.

17 A. Good morning.

18 Q. I believe Mr. Sanger used the word
19 "chemically alter." Is that an accurate description
20 of what happens when you fume a page with the super
21 glue?

22 A. The super glue fumes are adhering to the
23 residues that are left on the page, so --

24 Q. Okay. Does the fingerprint itself get
25 altered?

26 A. No --

27 MR. SANGER: Objection. That's leading.

28 MR. AUCHINCLOSS: This is an expert witness. 3548

1 THE COURT: The answer was, "No." Next
2 question.

3 Q. BY MR. AUCHINCLOSS: Now, in your experience
4 as a forensics detective, how many times, if you can
5 estimate, have you been asked to look for
6 fingerprints on a given item?

7 A. Daily.

8 Q. Okay. Hundreds of times?

9 A. Thousands of times.

10 Q. Thousands of times, in hundreds of cases or
11 more?

12 A. Yes.

13 Q. When you look for a fingerprint on an item,
14 do you always find it?

15 A. No.

16 Q. Do you always find some fingerprints on an
17 item you're looking for fingerprints on?

18 A. No, we do not.

19 Q. If you were asked to characterize the
20 percentage of items that you looked for fingerprints
21 on and you actually find a usable fingerprint on,
22 what percentage would you say?

23 MR. SANGER: Objection. Relevance; improper
24 foundation.

25 THE COURT: Sustained; relevance.

26 MR. AUCHINCLOSS: This is offered not only
27 for the magazines, but for other evidence in this
28 case. 3549

1 THE COURT: You may proceed.

2 MR. AUCHINCLOSS: Not relevant?

3 All right.

4 Q. Mr. Sanger asked you some questions

5 yesterday about the use of digital cameras with the
6 Scenescape.

7 A. Correct.

8 Q. And have you had a chance to do some
9 research on that topic as to whether or not a
10 digital camera is sufficient or adequate to use with
11 a Scenescape in capturing fingerprint images?

12 A. Yes, I have.

13 Q. What did you do?

14 A. I contacted the Spex Corporation this
15 morning and talked with a representative there.

16 Q. Have you -- did you find out whether or not
17 Spex Corporation actually offers their Scenescape
18 with a digital camera, as you mentioned you believe
19 it did yesterday?

20 A. Yes, they do.

21 MR. SANGER: Objection. Asked and answered;
22 and also for hearsay, for that matter.

23 MR. AUCHINCLOSS: It goes to -- it's expert
24 testimony, Your Honor

25 THE COURT: Hearsay; sustained.

26 Q. BY MR. AUCHINCLOSS: Do you know, based upon
27 your training, education, and experience, including
28 any training you've received from the Scenescape 3550

♀
1 Corporation, as to whether or not a digital camera
2 is sufficient to capture fingerprint images using a
3 Scenescape?

4 MR. SANGER: Objection. That calls for
5 hearsay; and it's also vague.

6 THE COURT: Overruled.

7 You may answer that question.

8 THE WITNESS: Yes, I do.

9 Q. BY MR. AUCHINCLOSS: And do you know if a
10 four-megapixel camera is sufficient, pursuant to

11 Scenescape recommendations, to capture such images?

12 A. Yes. And actually, they had offered

13 originally a three-megapixel --

14 MR. SANGER: Move to strike after the

15 answer, "Yes."

16 THE COURT: Stricken.

17 Q. BY MR. AUCHINCLOSS: Do you know if

18 Scenescape has even recommended a lesser resolution

19 camera, such as a three-megapixel camera, to capture

20 fingerprint images?

21 A. Yes, they do.

22 MR. SANGER: Objection; calls for hearsay.

23 MR. AUCHINCLOSS: It's his training.

24 THE COURT: Sustained.

25 Q. BY MR. AUCHINCLOSS: When you use the

26 digital camera, what -- does the camera itself have

27 different levels of resolution that you can set the

28 camera to? 3551

♀
1 A. Yes.

2 Q. And what level of resolution do you use on

3 this four-megapixel camera?

4 A. We use JPEG, the highest resolution, lowest

5 compression.

6 Q. Okay. And does that capture the clearest

7 images?

8 A. Yes, in JPEG format.

9 MR. AUCHINCLOSS: One last bit of

10 housekeeping, Your Honor. I provided counsel with a

11 copy of what I have marked as People's Exhibit 769.

12 These are the images that I have provided, showed on

13 the Power Point, but I didn't introduce yesterday.

14 And I'd like to just ask the witness a couple of

15 foundational questions concerning this exhibit.

16 THE COURT: All right.

17 MR. SANGER: Well, I'm going to object.

18 It's beyond the scope of direct. Beyond the scope
19 of cross.

20 MR. AUCHINCLOSS: I believe there was some
21 questions about the testimony yesterday concerning
22 given images. And if there is a problem, I would
23 ask to reopen for that limited purpose.

24 MR. SANGER: Does Your Honor know what
25 pictures he's talking about? They're the ones
26 subject to the 352.

27 THE COURT: No, I don't.

28 MR. AUCHINCLOSS: I've got a copy. 3552

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1 THE COURT: These are the pictures he showed
2 yesterday.

3 MR. AUCHINCLOSS: That's correct.

4 THE COURT: I've already ruled on the 352.

5 MR. SANGER: Well, my objection is that this
6 is beyond the scope of cross. I didn't ask about
7 these pictures. I was just referring to the 352 so
8 Your Honor would know what we were talking about.

9 THE COURT: All right. Thank you.

10 The questions that you wanted to ask him are
11 foundational questions that you omitted to ask on
12 direct?

13 MR. AUCHINCLOSS: Well, just concerning this
14 particular exhibit. I just want to tie this
15 particular exhibit up with the presentation that we
16 gave yesterday.

17 THE COURT: All right. I'll allow that.

18 MR. AUCHINCLOSS: All right.

19 THE COURT: Whose is this?

20 Q. BY MR. AUCHINCLOSS: Detective, I show you
21 Exhibit 769. It is a notebook which appears to have
22 19 pages in it, and I want you to look particularly

23 to page number two. I'm going to -- I'm going to
24 name some different page numbers.

25 Let's do it this way. I'll provide with you
26 page numbers, and I'll ask you if these page numbers
27 correspond -- if the fingerprint on these particular
28 pages correspond with the 16 print cards that you 3553

♀
1 identified yesterday as being prints that you
2 located.

3 A. Okay.

4 Q. All right. And I'll do it serially. Well,
5 we can do it one at a time.

6 Does page number two correspond to the print
7 card noted as Exhibit No. 725, 02?

8 A. Yes, it does.

9 Q. Does page number three correspond with the
10 Exhibit No. 726, Print Card 03?

11 A. Yes, it does.

12 Q. And those were prints that you found,
13 correct?

14 A. That's correct.

15 Q. And these are identical photos as to what
16 was shown yesterday as to where these prints were
17 located on these particular pages?

18 A. That's correct.

19 Q. All right. Does page number five, the
20 ninhydrin print, correspond to the fingerprint
21 that's noted on Exhibit 728, 05?

22 A. Yes, it does.

23 Q. Does page number six of this exhibit
24 correspond with the fingerprint that is shown on
25 Exhibit 729, 06?

26 A. Yes, it does.

27 Q. Does page number seven of Exhibit 769
28 correspond -- have a fingerprint on it that 3554

♀

1 corresponds with the fingerprint on Exhibit 730,
2 identified as Card 07?

3 A. Yes, it does.

4 Q. Does page number eight, the fingerprint
5 thereon, correspond with the fingerprint that's
6 located on Card No. -- Exhibit No. 731, Card No. 08?

7 A. Yes, it does.

8 Q. Showing you page number nine of that
9 exhibit, does the fingerprint on that page
10 correspond with the fingerprint on Card No. 9,
11 Exhibit No. 732?

12 A. Yes, it does.

13 Q. Skipping ahead to page number 12 does that
14 fingerprint on Exhibit 769 correspond -- on page 12,
15 correspond to the fingerprint on Exhibit No. 735,
16 Card 12?

17 A. Yes, it does.

18 Q. Skipping one page. Page 14, does the
19 fingerprint on that card correspond with the
20 fingerprint on the card noted as Exhibit 737,
21 No. 14?

22 A. Yes, it does.

23 Q. Looking at page 15, does the fingerprint on
24 that page correspond with the fingerprint on Exhibit
25 No. 738, noted as Card 15?

26 A. Yes, it does.

27 Q. Going ahead to 16, page 16, does the
28 fingerprint on that card correspond to the 3555

♀

1 fingerprint on Exhibit 739, noted as Card 16?

2 A. Yes, it does.

3 Q. And lastly, showing you page 17 -- that's
4 not yours, sorry.

5 I'm going to show you Card 18. Does Card 18

6 correspond with the fingerprint that is noted on
7 page 18 -- does this correspond with Exhibit No.
8 741, Card 18?

9 A. Yes, it does.

10 Q. All right. And you located each of those
11 fingerprints?

12 A. That's correct.

13 Q. And this exhibit contains the fingerprint
14 that you've noted with the exact page that it was
15 located on and the location of the fingerprint on
16 that page?

17 A. That's correct.

18 Q. Thank you.

19 Move to admit Exhibit 769 into evidence at
20 this time.

21 MR. SANGER: I'm not sure that 769 have the
22 other pages in it that haven't been identified yet.

23 MR. AUCHINCLOSS: That's fair. That's fair.

24 Actually, I will reserve that. I'll hold off on
25 moving to admit that into evidence. There's
26 additional foundation that I need to add.

27 THE COURT: All right.

28 MR. AUCHINCLOSS: All right. Thank you. 3556

♀
1 No further questions.

2

3 RE-CROSS-EXAMINATION

4 BY MR. SANGER:

5 Q. Do you have 741 in front of you, Exhibit
6 741?

7 A. Is that --

8 MR. SANGER: May I approach, Your Honor?

9 THE COURT: Yes.

10 MR. SANGER: If I can assist.

11 Q. That is 741.

12 A. Thank you.

13 Q. Exhibit 741 you have now identified as

14 relating to a particular page in the book that was

15 just marked for identification, correct?

16 A. Correct.

17 Q. Now, that was originally attributed to a

18 totally different magazine, a different exhibit, was

19 it not?

20 A. Correct. That placard number belonged to

21 321-D, which was a "Hawk" magazine.

22 Q. Okay. And did you confer with Detective

23 Spinner about the misidentification of that

24 particular -- the location of that particular print?

25 A. I conferred with him about the misleading of

26 the binders, yes.

27 Q. So there was a misattribution in your

28 opinion at this time, of that print to, in essence, 3557

♀

1 the wrong magazine?

2 MR. AUCHINCLOSS: I'll object as vague as to

3 "misattribution."

4 THE COURT: Overruled.

5 THE WITNESS: I don't know what that means.

6 Q. BY MR. SANGER: Okay. That's a good point.

7 When your team -- when the fingerprint team

8 was working on this, that particular print was

9 originally identified to -- I want to get the right

10 number here -- 321-D, correct?

11 A. That's correct.

12 Q. And 321-D -- I'm sorry?

13 A. I was going to say that was based on us

14 receiving the binder with the label, and when we

15 opened the binder, we went to work on that

16 particular magazine which was "Finally Legal."

17 Q. Okay. The binder was labeled as 321-D?

18 A. Mislabel ed.

19 Q. All right. We'll get to misattribution

20 anytime now

21 All right. The binder was mislabel ed as

22 321-D, correct?

23 A. And that was the only identifier on the

24 binder.

25 Q. Okay. So there was no other way to

26 establish, as you look at it, as to what exhibit

27 that actually was?

28 A. Correct. 3558

♀

1 Q. And you would agree, based on your training

2 and experience, that it's important to try to label

3 all these things carefully so that ultimately, if

4 you're called to testify in court, you can get it

5 right?

6 A. Absolutely.

7 Q. Okay. And eventually it was determined, you

8 believe at this time that that print really came

9 off a different magazine?

10 A. Oh, I know it did.

11 Q. Okay. That's your testimony at this point.

12 A. Correct.

13 Q. All right. And by the way, the fingerprints

14 that you lifted, do you have any way to determine

15 the age of the fingerprints?

16 A. No.

17 Q. So you can't tell if one was laid down

18 before another, correct?

19 A. Correct.

20 Q. And you can't tell, just even in general,

21 other than, for instance, looking at the date of a

22 magazine or something like that, you can't tell

23 scientifically when a particular print was placed

24 there?

25 A. Correct.

26 Q. Okay. Now, Mr. Auchincloss led off with a
27 question about "chemically altered." The fact is
28 that super glue fuming does chemically alter the 3559

♀
1 exhibit, does it not, sir?

2 A. It adheres to the prints that are on -- or
3 whatever residue is left on there. I don't believe
4 it chemically alters the prints, the chemical the
5 process, the super glue itself.

6 Q. All right. In talking about the word
7 "alter," then, if you -- if you put super glue on
8 something, super glue is a chemical, right?

9 A. Correct.

10 Q. And you're not altering the exhibit by
11 putting super glue on something; is that your
12 definition?

13 A. My understanding yes.

14 Q. Okay. Now, aside from that, you do agree
15 with me that when you put super glue, the super glue
16 fuming causes the super glue to adhere to the page?

17 A. That's correct.

18 Q. Okay. And to one extent, it may help to
19 enhance a fingerprint, right?

20 A. Definitely.

21 Q. Because it will tend to adhere to the
22 portions of the fingerprint that correspond to the
23 ridges on the finger that left the print, correct?

24 A. Correct.

25 Q. If you overfume, if you fume too long or too
26 thoroughly on a piece of paper, you can actually
27 obscure portions of the fingerprint, correct?

28 A. That would be true. 3560

♀

1 Q. All right. And that's not chemically
2 altering, as far as you're concerned?

3 A. Correct.

4 MR. SANGER: Okay. Thank you. No further
5 questions.

6 MR. AUCHINCLOSS: Could I have just a
7 moment, Your Honor? I'm trying to call up an image
8 on my computer that I'd like to show the detective.

9 THE COURT: Yes.

10 THE CLERK: Do you have an exhibit number?

11 MR. AUCHINCLOSS: It is -- no, that's not
12 it. It's --

13 (Discussion off the record.)

14 MR. AUCHINCLOSS: I'll do it without the
15 exhibit.

16 Your Honor, could you project "Input 1,"
17 please?

18

19 FURTHER REDIRECT EXAMINATION

20 BY MR. AUCHINCLOSS:

21 Q. Detective, is this the fingerprint that
22 counsel just questioned you about?

23 A. Yes, it is.

24 Q. And I believe I questioned you about it,
25 that there was an error on that fingerprint because
26 it said 3 -- it says "321-D"?

27 A. That's correct.

28 Q. And you said that's incorrect? 3561

♀
1 A. That is.

2 MR. SANGER: Objection. Leading; calling
3 for recitation of prior testimony.

4 THE COURT: Overruled.

5 Q. BY MR. AUCHINCLOSS: And in fact, that is
6 321-F?

7 A. That's correct.

8 MR. SANGER: That's leading, Your Honor.

9 MR. AUCHINCLOSS: It's restating his

10 testimony, it's not --

11 MR. SANGER: Object to speaking --

12 THE COURT: It is leading. I'll sustain the

13 objection.

14 MR. AUCHINCLOSS: Okay.

15 Q. What is the accurate letter for that

16 particular item number?

17 A. The item number is 321-F.

18 Q. And you said you were certain that that item

19 number is 321-F?

20 A. That is correct.

21 MR. SANGER: Objection; leading.

22 THE COURT: Sustained.

23 Q. BY MR. AUCHINCLOSS: Are you certain that

24 that is Item 321-F?

25 A. Yes, I am.

26 Q. Why?

27 A. A couple of things. One, when we received

28 the magazine, and when we were doing our report at 3562

♀

1 the time we were processing the magazine, we were

2 processing "Finally Legal." That was the magazine.

3 Subsequently, when we noticed that the tags had been

4 switched, we noticed that 321-D was actually

5 associated with the "Hawk" magazine.

6 Q. Does the circle that you identified that

7 particular fingerprint with have any similarities to

8 the circle to the right that appears in the image?

9 A. Yes, it does.

10 Q. How so?

11 A. You can see that the -- at the edge of the

12 ruler up in the upper right-hand corner of the

13 photograph is the number "1," and that is also
14 illustrated on the actual photograph of the page.

15 Q. All right. So -- Detective, I show you
16 Exhibit No. 559. It appears to be Item 321-F. Is
17 that the magazine that that fingerprint came from?

18 A. Yes, it is.

19 Q. And is there any indication or mark on this
20 magazine that tells you that this magazine is, in
21 fact, 321-F?

22 A. On the back page of the magazine there
23 should be a number in the bottom right-hand corner,
24 and it was identified as 321-F, and that was placed
25 there when they were first being separated.

26 Q. All right. Thank you, Detective. I have no
27 further questions.

28 // 3563

♀
1 FURTHER RECROSS-EXAMINATION

2 BY MR. SANGER:

3 Q. Never trust a lawyer who says there's only a
4 few questions. That's why we started 35 minutes
5 ago.

6 You are in the Santa Barbara County
7 Sheriff's Department, and you are a deputy sheriff;
8 is that correct?

9 A. That's correct.

10 Q. And you worked as a deputy sheriff before
11 moving into the Forensics Bureau, correct?

12 A. That's correct.

13 Q. And you went to the academy?

14 A. Correct.

15 Q. Which academy?

16 A. Ventura Academy.

17 Q. And that's a POST, P-O-S-T, certified
18 academy, correct?

19 A. That's correct.

20 Q. And in the academy, you studied the need to
21 be very accurate in recording material in police
22 reports and elsewhere for the purpose of
23 investigations, correct?

24 A. Absolutely.

25 Q. And the purpose of recording material
26 accurately is so that later, when speaking to other
27 officers or to counsel, or testifying in court, you
28 can present accurate testimony in a case; is that 3564

♀
1 correct?

2 A. That's correct.

3 Q. You then moved to the Forensics Bureau of
4 the sheriff's department; is that right?

5 A. Correct.

6 Q. And the Forensics Bureau is, in essence, a
7 part of the sheriff's department that deals
8 specifically with evidence, sometimes the scientific
9 processing of evidence, is that correct?

10 A. That's correct.

11 Q. And in the course of your training to become
12 a member of the Forensics Bureau, was it emphasized
13 that it is extremely important to make sure that all
14 of the evidence tags and paperwork and everything
15 else is extremely accurate?

16 A. Absolutely.

17 Q. All right. So based on your training and
18 experience, this was not correct police procedure to
19 have this exhibit mislabeled in this case, is that
20 correct?

21 A. It should not have been mislabeled, that's
22 correct.

23 Q. And tags should not be switched; is that
24 correct? I think those are your words, "the tags

25 were switched”?

26 A. Yes, meaning not purposely, but accidentally

27 switched.

28 Q. Well, tags should not be switched, correct? 3565

♀

1 A. Correct.

2 Q. All right. And you caught this particular

3 one, right?

4 A. That was the only one

5 Q. That’s the only one you caught?

6 A. We checked them all.

7 MR. AUCHINCLOSS: Objection; argumentative.

8 Q. BY MR. SANGER: You went back and you

9 checked them all?

10 MR. AUCHINCLOSS: There’s an objection.

11 THE COURT: Just a moment.

12 It’s overruled. The answer was, “We checked

13 them all.” Next question.

14 Q. BY MR. SANGER: “Checked them all” meaning

15 all the fingerprints?

16 A. Checked every magazine to make sure it was

17 properly labeled.

18 Q. I’m sorry, I meant all the materials that

19 you had for the fingerprints.

20 A. Correct.

21 Q. Were you aware of any other tags falling off

22 in this particular investigation?

23 A. Not to my knowledge.

24 MR. SANGER: Okay. Thank you. No further

25 questions.

26 MR. AUCHINCLOSS: No further questions.

27 THE COURT: Thank you. You may step down.

28 Call your next witness. 3566

♀

1 MR. NICOLA: Alicia Romero, Your Honor.

2 THE COURT: Come forward, please. You were
3 sworn yesterday. You're still under oath. You may
4 be seated.

5 THE WITNESS: Okay. Thank you.

6 MR. NICOLA: Good morning.

7 THE WITNESS: Hi, good morning.

8 MR. NICOLA: Would you take a look at these
9 while I'm getting ready.

10

11 ALICIA ROMERO

12 Having been previously sworn, resumed the
13 stand and testified further as follows:

14

15 DIRECT EXAMINATION

16 BY MR. NICOLA:

17 Q. Good morning, Miss Romero.

18 A. Good morning.

19 Q. As soon as you sat down, I handed you two
20 envelopes, and asked you to take a peek through
21 those.

22 A. Okay.

23 MR. SANGER: Your Honor, I'm going to ask
24 for the opportunity to see what she's taking a peek
25 at.

26 THE COURT: Go ahead.

27 MR. NICOLA: Go ahead.

28 THE COURT: The audience couldn't hear you, 3567

♀
1 though, when you said that.

2 MR. SANGER: Can I restate it, or just --

3 THE COURT: Yes, go ahead.

4 MR. SANGER: I asked if I could have the
5 opportunity to take a peek at what she's taking a
6 peek at.

7 MR. AUCHINCLOSS: Your Honor, could we go to

8 "Input 1," please, and go back to the black screen?

9 Thank you.

10 MR. SANGER: That's fine. Let me just take

11 a look at the envelope here.

12 THE WITNESS: These came from this envelope

13 here.

14 MR. SANGER: All right. Okay. That's fine.

15 Thank you.

16 Thank you, Your Honor.

17 THE COURT: All right. Go ahead, Counsel.

18 Q. BY MR. NICOLA: Do you recognize the

19 documents contained in both of those envelopes that

20 you looked at?

21 A. Yes, I do.

22 Q. Okay.

23 A. Are you referring to these?

24 Q. Yes.

25 A. Yes.

26 THE BAILIFF: She's got to scoot up and

27 speak into the microphone.

28 THE WITNESS: Oh, yes. 3568

♀

1 MR. NICOLA: Did you hear that?

2 Q. Now, before we start talking about the

3 contents of either of those envelopes, would you

4 please let the jury know who you are and where

5 you're employed.

6 A. Okay. My name's Alicia Romero and I work at

7 the Santa Barbara Superior Court.

8 BAILIFF CORIEZ: Closer to the mike please

9 THE WITNESS: My name is Alicia Romero, and I

10 work at the Santa Barbara Superior Court. I

11 supervise the courtroom clerks, both criminal and

12 civil, and I also am the supervisor of the exhibit

13 clerk, and I also handle the exhibits also.

14 Q. BY MR. NICOLA: With respect to your duties
15 as handling exhibits for the Superior Court, were
16 you involved in handling the exhibits lodged in the
17 grand jury proceeding in the case of People vs.
18 Michael Jackson?

19 A. After the grand jury they were delivered to
20 me, and I've had them in my possession in a vault
21 all this time.

22 Q. Okay.

23 A. Except for certain orders to release.

24 Q. Okay. That's where we're going next.

25 When the grand jury exhibits came to you,

26 what did you first do with them?

27 A. Since it was after hours, we received them,
28 and I locked them right away in the exhibit room, 3569

♀
1 which has a vault that -- it's real thick, with a
2 combination lock, until the next morning.

3 Q. Okay. Did you conduct an inventory on the
4 exhibits after that?

5 A. First thing the next morning.

6 Q. Okay. And you made sure that all the
7 exhibits that had been entered into the grand jury
8 were accounted for in your vault, correct?

9 A. Correct.

10 Q. Okay. And is that part of your official
11 function?

12 A. On grand jury exhibits, there's times where
13 I would get orders from Gary Blair to handle them
14 myself.

15 Q. Okay. And in this particular case you were
16 ordered by Gary Blair?

17 A. Correct.

18 Q. Did anybody have access to the grand jury
19 exhibits that were lodged with you?

20 A. The only other person would have been my
21 exhibit clerk at the time, but she was also informed
22 that anything to do with this grand jury exhibits,
23 that she was to contact me and I would handle it.
24 And I also had the -- my other supervisor, Flota
25 Pritchard, in my absence, if it was an emergency
26 need, that she could have access to it also. Other
27 than that, it was just her and I that were to handle
28 them. 3570

♀
1 Q. Do you know whether any emergencies came up
2 where somebody other than you had to get in there?

3 A. I believe --

4 MR. SANGER: Calls for hearsay, Your Honor.

5 THE COURT: Sustained.

6 Q. BY MR. NICOLA: Did you keep records of
7 every time that the grand jury exhibits were
8 accessed?

9 A. Yes, I did.

10 Q. And were those records kept within the scope
11 of your employment as a public employee?

12 A. Yes.

13 Q. And were you under a duty to record whenever
14 the grand jury exhibits were opened?

15 A. Yes.

16 Q. And if another clerk, another public
17 employee working for you, had access or needed
18 access to the grand jury exhibits, it was part of
19 your duty to record who entered the grand jury
20 exhibits?

21 A. Yes.

22 Q. And when?

23 A. Yes.

24 Q. And get some kind of identification from who
25 had access to the grand jury evidence?

26 A. Yes. Unless we knew who that person was.

27 Uh-huh.

28 Q. Okay. Do you have a record sitting in front 3571

♀
1 of you who had access to the grand jury exhibits?

2 A. Yes, I do.

3 Q. In your review of those documents, can you
4 please tell the jury the first time that the grand
5 jury exhibits were accessed and viewed by people
6 other than the Superior Court clerks?

7 A. Stephen Dunkle and Amy Cassel.

8 Q. Did you take some form of identification
9 from Mr. Dunkle?

10 A. Yes. Yes.

11 Q. Okay. Is that noted on your log?

12 A. I have their business cards attached to
13 this.

14 Q. Okay. And Stephen Dunkle works for Sanger &
15 Swysen?

16 A. Correct.

17 Q. Attorneys at Law?

18 A. Correct.

19 Q. And Amy Cassel works for Mason Investigative
20 Group?

21 A. Yes.

22 Q. An investigator?

23 A. Correct.

24 Q. Okay. And what date did they come look at
25 the exhibits?

26 A. June 9th 2004.

27 Q. Okay. And how long -- what time did they
28 come in and what time did they leave, if that is 3572

♀
1 noted on your log?

2 A. Yes, it is. They came in at 2:53, and they

3 I left at 3:45.

4 Q. Okay. And which grand jury exhibits did

5 they look at?

6 A. This one I just put that they had viewed

7 most of them. I didn't specify particularly which

8 ones they viewed.

9 Q. Okay. Just most of them?

10 A. Uh-huh. Correct.

11 Q. And do you have an indication there that

12 they used gloves?

13 A. On this particular one, yes.

14 Q. Okay. Now, prior to anybody coming to view

15 the grand jury exhibits, was a court order required?

16 A. Yes.

17 Q. Okay. When is the next time somebody came

18 to view the grand jury exhibits, please?

19 A. July 20th, 2004.

20 Q. And that was Detective Craig Bonner?

21 A. Correct.

22 Q. Okay. And that was pursuant to a court

23 order as well, correct?

24 A. Correct.

25 Q. Now, was his role that day to take pictures

26 of certain items?

27 A. Yes.

28 Q. And that's what the court order spelled out, 3573

♀
1 correct?

2 A. Yes.

3 Q. And one of those items was Grand Jury

4 Exhibit No. 53?

5 A. Yes.

6 MR. NICOLA: May I approach the witness,

7 Your Honor?

8 THE COURT: Yes.

9 Q. BY MR. NICOLA: I've placed before you

10 Exhibit No. 470.

11 A. No. 470?

12 Q. When we do the trial, we renumber all the

13 exhibits.

14 A. Oh, okay.

15 Q. You're looking at a grand jury exhibit

16 sticker on the back of that briefcase, are you not?

17 A. Yes, I am.

18 Q. Is that exhibit -- Grand Jury Exhibit No.

19 53?

20 A. Yes, it is.

21 Q. Okay. Is that the exhibit that Detective

22 Bonner opened in your presence and took photographs

23 of everything that was in there?

24 A. Yes.

25 Q. Okay. And were you present with him at the

26 time that he did that?

27 A. Yes, the entire time.

28 Q. Did you ever leave grand jury evidence -- 3574

♀

1 for example, on the June 9th date, did you leave the

2 grand jury evidence unattended?

3 A. No.

4 Q. Okay. So you observed everything that would

5 happen with the exhibits?

6 A. Yes.

7 Q. And that's how you were assured there would

8 be no tampering, correct?

9 A. Yes.

10 Q. Did you watch Detective Bonner remove the

11 contents of the briefcase and begin photographing

12 page for page?

13 A. Yes.

14 Q. And Detective Bonner was wearing gloves on

15 that occasion as well, correct?

16 A. Yes.

17 Q. When he was finished photodocumenting all

18 the contents of Grand Jury Exhibit 53, also known as

19 People's Exhibit 470, did he replace all the items

20 in the same order that he removed them and close the

21 briefcase again?

22 MR. SANGER: Objection. Compound; and

23 leading.

24 MR. NICOLA: Should I rephrase?

25 THE COURT: Sustained.

26 Q. BY MR. NICOLA: Okay. When he finished

27 taking the pictures, he put it all back together

28 again? 3575

♀

1 A. He placed them back in the suitcase.

2 Whether they were in the same order that they were

3 taken out, I do not know.

4 Q. So he may have shuffled them, as far as you

5 know?

6 A. Correct.

7 Q. Did he close the briefcase and hand it back

8 to you?

9 A. Yes.

10 Q. Did he examine other exhibits on that same

11 day?

12 A. Yes, he did.

13 Q. Okay. And did he, in your presence, take

14 care to handle only one exhibit at a time?

15 A. Yes.

16 Q. You made sure of that, I take it?

17 A. Yes.

18 Q. Okay. When Detective Bonner left, left from

19 taking pictures of the exhibits, where did Exhibit

20 No. 53, also known as Exhibit 470, the black

21 briefcase, where did that stay?

22 A. Once he left? It was given back to me and I
23 put it back in the vault.

24 Q. Okay. Did you have occasion to pull Exhibit
25 No. 470, the black briefcase, marked Grand Jury
26 Exhibit 53, out from the evidence vault again?

27 A. Do you mean at a later time? Or the same
28 day? 3576

♀

1 Q. Later time.

2 A. Yes.

3 Q. Would you turn to your log of exhibits and
4 confirm for us whether somebody entered to view
5 exhibits on July 21st?

6 A. Yes.

7 Q. Who was there on July 21st?

8 A. Mr. Sanger and Stephen Dunkle.

9 Q. Stephen Dunkle would be the attorney who
10 first came to view?

11 A. Yes.

12 Q. And "Mr. Sanger" being Mr. Sanger seated to
13 my right?

14 A. Yes. Robert Sanger.

15 Q. And did they examine Exhibit No. 53 as well?

16 A. Yes.

17 Q. Did they do that in your presence?

18 A. Yes.

19 Q. Did they open it?

20 A. Yes.

21 Q. And do you recall whether they looked
22 through all the contents?

23 A. I do not recall if they looked through all
24 of it. I -- I seem vaguely to remember that they
25 viewed some of it and just saw that they were
26 magazines.

27 Q. Okay. When they were finished with Exhibit
28 No. 53, also known as People's 470, the black 3577

1 briefcase --

2 A. Uh-huh.

3 Q. -- what did you do with it?

4 A. After they finished viewing all the
5 exhibits, I put everything back in the vault.

6 Q. Okay. Do your records show whether Exhibit
7 No. 53, People's 470, was viewed again prior to its
8 release?

9 A. Yes.

10 Q. When was it next looked at?

11 A. July 27th, 2004.

12 Q. And by whom?

13 A. Stephen Dunkle and Susan Watts

14 Q. That's a third trip by Attorney Dunkle?

15 A. Correct.

16 Q. And Susan Watts, did she leave you some kind
17 of identifying business card?

18 A. No, she did not.

19 Q. Did Mr. Dunkle just vouch for her?

20 A. Yes.

21 Q. Which exhibits did they look at?

22 A. Looking at this list, it looks like all of
23 them. I could read out each number, if you like,
24 but I have a whole list of numbers.

25 Q. Most, if not all the exhibits?

26 A. Correct.

27 Q. Okay. Was Exhibit 53 viewed by Mr. Dunkle
28 and Ms. Watts? 3578

1 A. Yes.

2 Q. Do you recall if they were wearing gloves
3 when they went through the exhibits?

4 A. The procedure was to wear gloves.

5 Q. Okay. Was there --

6 A. I'm sorry

7 Q. Let me back up to the date that Mr. Sanger

8 and Mr. Dunkle reviewed the exhibits on July 21st.

9 Were they wearing gloves?

10 A. Mr. Dunkle was. I believe Mr. Sanger was

11 letting Mr. Dunkle handle them on that date, from

12 what I recall.

13 Q. And how long were Mr. Dunkle and Miss Watts

14 viewing the evidence on July 27th of 2004?

15 A. About one hour and ten minutes. They came

16 in at 1:10 p.m. and left about 2:40 p.m.

17 Q. Okay. Do your records show anyone else

18 coming to look at Grand Jury Exhibit No. 53, also

19 known as People's 470, prior to the date of its

20 release?

21 A. No.

22 Q. Okay. What is the procedure for releasing a

23 grand jury exhibit prior to trial?

24 A. I'm sorry, what was that question again?

25 Q. Let me rephrase it. What is the procedure

26 to release a grand jury exhibit to one of the

27 parties prior or before the trial starts?

28 A. The parties would have to get a stipulated 3579

♀
1 order signed by the Judge.

2 Q. Okay. And what would you require from the

3 person who would come to pick the item from you?

4 A. Identification, and I would have the

5 original -- a copy of the order from the clerk.

6 Q. Okay. Would you take any precautions in

7 preserving either digitally or on some kind of copy

8 the contents of the exhibit that were removed by one

9 of the parties?

10 A. Yes.

11 Q. Okay, you would. And in the case of Exhibit

12 No. 53, also known as 470, the black briefcase, was

13 that exhibit removed by Detective Craig Bonner

14 pursuant to a Judge's order?

15 A. Yes, it was.

16 Q. Okay. And on what date was that exhibit

17 removed from your custody?

18 A. On October 1st, 2004.

19 Q. Did you make Mr. Bonner, excuse me,

20 Detective Bonner, leave you a record of the items

21 that he removed?

22 A. Yes.

23 Q. And how did he leave that with you?

24 A. He left me a disk.

25 Q. Is that in one of your envelopes there?

26 A. Yes, it is.

27 Q. Okay. I'd like to put an exhibit sticker on

28 that, please. 3580

♀

1 That would be Item 770, next in order.

2 Could you please describe the Item 770 that

3 I just marked the sticker on? Show the jury what is

4 on the front and on the back; tell them.

5 A. This is a disk. These are a disk of the

6 exhibits that were released per court order. I also

7 made a notation, by a post-it, of the date that the

8 court order was ordered and the date of the receipt.

9 Q. Is there a list of exhibit items that are

10 contained on that CD?

11 A. Yes, there is.

12 Q. And what does that list say?

13 A. They have Exhibits 33, 34, 52, 53, 73-A,

14 73-B, 73-C, 80, 82, and 91. These are all grand

15 jury numbers.

16 MR. NICOLA: Okay. I'd like to admit 770

17 into evidence, Your Honor.

18 MR. SANGER: Objection, Your Honor it's not

19 relevant. There may be a part of it that's relevant

20 to what just happened. But there's a great deal of

21 irrelevant material on it.

22 THE COURT: At this time I'll sustain the

23 objection. I'll take it up later, if necessary.

24 MR. NICOLA: I have no further questions.

25 THE COURT: Cross-examine?

26 //

27 //

28 // 3581

♀

1 CROSS-EXAMINATION

2 BY MR. SANGER:

3 Q. Miss Romero, how are you?

4 A. I'm fine.

5 Q. Okay. We let you talk today.

6 First of all, is there anything unusual

7 about a defense lawyer coming to -- or a defense

8 lawyer and investigator coming to look at grand jury

9 exhibits?

10 A. No.

11 Q. And at the time that Mr. Dunkle from my

12 office came, and the one time that I came to look at

13 the grand jury exhibits, was the grand jury process

14 completed?

15 A. Yes.

16 Q. In other words, the grand jury had already

17 looked at everything, they'd returned their

18 indictment, and you were now safekeeping the

19 exhibits?

20 A. Correct.

21 Q. All right. And in particular, we, that is,

22 the defense, who's representing Mr. Jackson, had to
23 have a court order in order to look at the exhibits;
24 is that correct?

25 A. Right.

26 Q. When Mr. Dunkle and Ms. Cassel came -- Miss
27 Cassel being an investigator and Mr. Dunkle being a
28 lawyer in my office. When they came, did they ask 3582

♀
1 you if they could take photographs of the exhibits?

2 A. Yes, they did.

3 Q. And you told them that they could not; is
4 that correct?

5 A. Correct.

6 Q. So it was necessary for us to go back and
7 get a further court order in order to be allowed to
8 take photographs; is that correct?

9 A. Right.

10 Q. Now, you remember that Miss Watts came with
11 Mr. Dunkle on the third occasion, correct?

12 A. Correct.

13 Q. And at that time had they received the
14 court order to allow photographs to be taken?

15 A. I have to check my notes here.

16 Q. Sure, take your time.

17 A. This was with Miss Watts, right? And --

18 Q. Yes. I'll let you take a look. If it's too
19 much trouble, I can ask you another question, which
20 is, did Miss Watts take photographs? Let me try
21 that.

22 A. Yes.

23 Q. All right. So I would assume that you would
24 not have allowed her to take the photographs unless
25 you had an order permitting that; is that correct?

26 A. Correct.

27 Q. And do you recall Miss Watts being an

28 investigator for our law firm? 3583

♀
1 A. Yes.

2 Q. Okay. Now, in between Mr. Dunkle and I came
3 in and looked at the exhibits. At that time we were
4 still not allowed to take photographs; is that
5 correct?

6 A. Correct. I don't seem to have an order
7 allowing you to take photos yet at that time.

8 Q. At that time?

9 A. When you came, uh-huh.

10 Q. All right. Now, just to do the whole thing
11 at once so we can break it down, during the time
12 that Mr. Dunkle was there from my office, the one
13 that I was there and the two investigators, in other
14 words, those three times, did all of the personnel
15 from my office, including myself, follow all of your
16 directions with regard to preserving and avoiding
17 any contamination of the evidence?

18 A. As I recall, yes

19 Q. And you were sitting there at the table each
20 time taking the evidence out and allowing whoever it
21 was, whether it was me or any of the others, to look
22 at it, correct?

23 A. Correct.

24 Q. And none of us touched the evidence in any
25 way that you did not want us to do; is that correct?

26 A. Correct.

27 Q. All right. And by the time that we did
28 that, by the time these inspections by the defense 3584

♀
1 occurred, were you told to wear gloves and to
2 preserve the evidence?

3 A. Yes, we were. From the very first visit,
4 Mr. Dunkle, and I think it was Cassel, were told to

5 wear gloves at all times.

6 Q. And we all complied with that, right?

7 A. Correct.

8 Q. All right. Now, prior to that, on the day

9 that you got the materials from the grand jury, my

10 understanding is all you did was take them in a box

11 or so?

12 A. Yes. Gary Blair and Christie Russell, that

13 was the courtroom clerk, brought them about almost

14 six o'clock that evening. And Christie and I, we

15 put it in the vault immediately.

16 Q. All right. Were anybody -- was anybody

17 wearing gloves?

18 A. No.

19 Q. Okay. And after you put them in the vault,

20 you locked it up, and then you came back the next

21 day, correct?

22 A. First thing the next morning, yes.

23 Q. And who assisted you in inventorying the

24 material?

25 A. The courtroom clerk that took the

26 Indictment.

27 Q. And the courtroom clerk was?

28 A. Christie Russell. 3585

♀

1 Q. So you and Miss Russell then took the boxes

2 out, and you went through each exhibit to catalog

3 and make sure it was all there; is that right?

4 A. Correct.

5 Q. And did you -- did each of you wear gloves?

6 A. No, we did not.

7 Q. And you were not instructed by law

8 enforcement or other court personnel or anybody else

9 that you should wear gloves; is that correct?

10 A. Correct.

11 Q. Okay. Okay. Thank you. I have no further
12 questions.

13 MR. NICOLA: Just a few, please.

14

15 REDIRECT EXAMINATION

16 BY MR. NICOLA:

17 Q. Go ahead.

18 A. I'm doing my work. Okay.

19 Q. Essentially there was nothing improper in
20 the way that the exhibits were handled by other
21 parties in this case, correct?

22 A. Correct.

23 Q. Okay.

24 A. Correct.

25 Q. When you did your inventory of the exhibits
26 for the first time, did you open up item -- Exhibit
27 No. 470, which is the black briefcase that you know
28 as Exhibit 53? 3586

♀
1 A. Yes.

2 Q. Okay. And did you look at every single page
3 that was in there?

4 A. No, we did not.

5 Q. How did you handle that? Could you explain
6 that for the jury, please?

7 A. Okay. When we were inventorying, we had
8 this black suitcase. We have to account for every
9 exhibit, so when we got to the black suitcase, our
10 procedure is, "Is there anything in there that was
11 overlooked that we should make a note on the exhibit
12 card?"

13 So we looked in it, and all we saw was
14 magazines, and we just sort of like -- I think it
15 was myself rather than Christie, we just sort of
16 moved it, just magazines, and then we just closed

17 it, but we didn't touch all the exhibits.

18 Q. You don't work for law enforcement, do you?

19 A. No, I don't.

20 Q. And law enforcement doesn't get to tell

21 court clerks what to do, right?

22 MR. SANGER: Objection, calls for

23 speculation.

24 THE COURT: Sustained.

25 MR. NICOLA: It's rebuttal to his question.

26 I'll rephrase it, Your Honor.

27 Q. When Mr. Sanger asked you whether you were

28 told what to do with the exhibits by law 3587

♀
1 enforcement, is that a common procedure for you?

2 A. It wasn't necessarily by law enforcement.

3 It was from Gary Blair.

4 Q. Okay. So my question is, does law

5 enforcement generally direct you how to handle

6 exhibits once they're lodged with the Court?

7 A. No, they do not

8 Q. They become court property at that point,

9 correct?

10 A. Correct.

11 MR. NICOLA: Okay. I have nothing further.

12

13 RE-CROSS-EXAMINATION

14 BY MR. SANGER:

15 Q. Okay. But law enforcement did tell you

16 that -- after you had inventoried everything, at

17 some point before my office came to look at the

18 materials, somebody told you that everybody should

19 wear gloves when dealing with this material,

20 correct?

21 A. It was Gary Blair. And I believe Detective

22 Bonner at one time did mention, "You clerks" -- I

23 mean, "You should really wear gloves when you're
24 handling it." It wasn't an order. It was more like
25 a request.

26 Q. All right.

27 A. But I took my instructions from Gary Blair.

28 Q. Gary Blair is the court administrator? 3588

♀
1 A. Yes, he is.

2 Q. So he would be your boss as it were?

3 A. Correct.

4 Q. When you say you don't take direction from

5 law enforcement on handling exhibits -- well, I

6 don't know what you said, but let me -- I don't want
7 to put words in your mouth.

8 Let's put it this way: The fact is that

9 you've been a courtroom clerk in the past, correct?

10 A. Correct.

11 Q. And the fact is, if law enforcement is

12 handling something with gloves and they indicate

13 there may be some reason to check something for

14 fingerprints, you would act accordingly, correct?

15 A. Correct.

16 Q. Okay. So if law enforcement were to tell

17 you -- if they had told you before you took

18 possession of these items that you shouldn't go

19 through them because they may be checking them for

20 fingerprints, you would have honored that request,
21 right?

22 A. Yes, I would have.

23 Q. Okay. And that has happened before, has it
24 not?

25 A. Correct.

26 MR. SANGER: Okay. All right. Thank you.

27 No further questions.

28 MR. NICOLA: No redirect, Your Honor. 3589

♀

1 THE COURT: All right. Thank you. You may
2 step down.

3 THE WITNESS: Thank you.

4 MR. AUCHINCLOSS: We'll call Nancy Torres as
5 our next witness.

6 THE COURT: All right.

7 Come forward, please. When you get to the
8 witness stand, please remain standing.
9 Face the clerk over here. And raise your
10 right hand.

11

12 NANCY DIANA TORRES

13 Having been sworn, testified as follows:

14

15 THE WITNESS: I do.

16 THE CLERK: Please be seated. State and
17 spell your name for the record.

18 THE WITNESS: Nancy Diana Torres;
19 T-o-r-r-e-s.

20 THE CLERK: Thank you.

21

22 DIRECT EXAMINATION

23 BY MR. AUCHINCLOSS:

24 Q. Good morning, Miss Torres.

25 A. Good morning.

26 Q. Who do you work for, please?

27 A. I work for the Santa Barbara Sheriff's
28 Department, Forensics Unit. 3590

♀

1 Q. And what do you do for the Santa Barbara
2 Sheriff's Forensic Unit?

3 A. I'm an identification technician in the
4 Forensics Unit.

5 Q. What is an identification technician?

6 A. We basically do the same thing as a
7 forensics detective. We go out to a crime scene and
8 process it. We also do fingerprint work.

9 Q. How long have you been an identification
10 technician?

11 A. I have been employed as an I.D. technician
12 for five years.

13 Q. Have you received any training that
14 qualifies you for that position?

15 A. Yes, I have gone to basic fingerprint
16 pattern-type recognition courses, latent print
17 comparison and techniques courses, as well as basic
18 forensic ridgeology courses. And I have a
19 bachelor's of science degree in chemistry.

20 Q. Have you had some experience in the field
21 that has helped you learn your craft in fingerprint
22 identification procedures?

23 A. Yes. Every day we do fingerprint
24 comparisons.

25 Q. And what techniques are you familiar with in
26 terms of finding fingerprints?

27 A. Well, we use a lot of various chemical
28 techniques, and -- as well as visual techniques that 3591

♀
1 we use.

2 Q. Did you participate in the location of
3 fingerprints on a series of magazines for the case
4 of People v. Michael Jackson?

5 A. Yes, I did.

6 Q. I'd like to show you some exhibits at this
7 time, and begin by asking you, did you participate
8 in the procedure of attempting to locate prints on
9 these items with another I.D. technician?

10 A. Yes, I did.

11 Q. And who was that?

12 A. It was -- my partner was Detective
13 Sutcliffe.

14 Q. Okay. And was he present with you during
15 the entire time that you did the examination of
16 these magazines?

17 A. Yes, he was.

18 Q. All right. Showing you People's 725, Card
19 02, did you help in the processing of this
20 particular magazine?

21 A. Yes, I did.

22 Q. What was your duty on this magazine?

23 A. I helped with the ninhydrin processing
24 portion of it.

25 Q. Okay. Exhibit 726, 03, did you help process
26 this particular magazine?

27 A. Yes, I did.

28 Q. What was your duty or what did you do on 3592

♀
1 this particular magazine?

2 A. I helped with the ninhydrin processing of
3 them.

4 Q. Exhibit 728, Card 05, same question, did you
5 help in processing this?

6 A. Yes.

7 Q. What did you do?

8 A. A ninhydrin processing as well.

9 Q. Same question for 729, Card 06?

10 A. Yes. With the ninhydrin processing.

11 Q. Exhibit 730, Card 07, same question?

12 A. Yes. And the ninhydrin processing as well.

13 Q. 731, Card No. 8?

14 A. Yes. With the ninhydrin processing as well.

15 Q. All right. 732, Card 09?

16 A. Yes. Ninhydrin process.

17 Q. All right. Now, calling your attention to

18 Exhibit 733, Card 10, what did you do in processing
19 this particular latent?

20 A. I photographed the latent with a Scenescope
21 and I also helped with the ninhydrin processing.

22 Q. Okay. Were you the finder of this
23 particular print?

24 A. Yes, I was.

25 THE COURT: All right. We'll take our break.

26 (Recess taken)

27 --oOo--

28 3593

♀

1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE)

5 OF CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR,

13 CSR #3304, Official Court Reporter, do hereby

14 certify:

15 that the foregoing pages 3541 through 3593

16 contain a true and correct transcript of the

17 proceedings had in the within and above-entitled

18 matter as by me taken down in shorthand writing at

19 said proceedings on March 25, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 25, 2005.

24

25

26

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

28 3594

♀

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SANTA BARBARA

3 SANTA MARIA BRANCH COOK STREET DIVISION

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

5

6

7 THE PEOPLE OF THE STATE OF)

8 CALIFORNIA,)

9 Plaintiff,)

10 -vs-) No. 1133603

11 MICHAEL JOE JACKSON,)

12 Defendant.)

13

14

15

16

17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18

19 FRIDAY, MARCH 25, 2005

20

21 8:30 A.M.

22

23 (PAGES 3595 THROUGH 3725)

24

25

26

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

28 BY: Official Court Reporter 3595

♀

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27

28 3596

♀

1 INDEX

2

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

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

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

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

7 Mr. Nicola is listed as "N" on index

8

9 PLAINTIFF'S WITNESSES DIRECT CROSS REDIRECT RECROSS

10

11 TORRES, 3611-SA Nancy Diana

12

13 SHELLEY, Michelle 3617-A 3623-SA 3528-A

14 WITTENBROCK, James 3629-A 3637-SA 3642-A

15 SPINNER, Robert 3644-N

16

17

18

19

20

21

22

23

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28 3597

♀

1 E X H I B I T S

2 FOR IN

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

4 471 Photo of female image 3711

5 472 Photo of female image 3711

6 473 Photo of female image 3711

7 474 Photo of female image 3711

8 475 Photo of female image 3711

9 476 Hustler centerfold,

10 August 1992 3711

11 477 Playboy centerfold, Miss October 3711

12 478 Registration card for

13 briefcase 3711

14 479 Playboy centerfold, Miss November 3711

15 480 Playboy centerfold,

16 Miss March 3711

17 481 Hustler centerfold, June 1993 3711

18 482 Page 28 from "G-Spot"

19 article 3711

20 483 Playboy centerfold, unknown date 3711

21 484 Penthouse Page No. 153-154 3711

22 485 Centerfold, Miss May 3711

23 486 Penthouse, Page 8 3711

24 487 Penthouse centerfold 3711

25 488 Playboy centerfold 3711

26 489 Penthouse centerfold 3711

27 490 Penthouse, August 1991 3711

28 491 Penthouse centerfold 3711

♀

1 E X H I B I T S

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

3

4 492 Club International centerfold 3711

5 493 Penthouse, double page 6/211 3711

6 494 Penthouse centerfold 3711

7 495 Penthouse, May 1992 3711

8 496 Hustler, Centerfold Special Holiday Honey 1991 3711

9 497 Penthouse centerfold 3711

10 498 Penthouse centerfold 3711

11 499 Penthouse, November 1991,

12 page 159/160 3711

13 500 Playboy centerfold, Miss July 3711

14 501 Playboy centerfold,

15 Miss November 3711

16 502 Playboy centerfold, Miss February 3711

17 503 Playboy centerfold,

18 Miss December 3711

19 504 Al Goldstein's 100 Best Adult Videos advertisement 3711

20 505 Playboy centerfold 3711

21 506 Hustler cover, May 1992 3711

22 507 Page from unknown magazine 3711

23 508 Playboy centerfold, Miss May 3711

24 509 Brown paper envelope 3713

25 510 Stiff Dick for Lynn

26 in binder 3713

27 511 Barely Legal 3713

28 512 Just Legal (Premier Issue) 3714 in binder

♀

1 E X H I B I T S

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

3

4 513 Finally Legal in binder 3714

5 514 Playboy, February 1993 in binder 3714

6 515 Hustler, Barely Legal

7 in binder 3714

8 516 Playboy, December 1994 in binder 3715

9 517 Playboy, May 1994 in binder 3715

10 518 Hustler, Barely Legal

11 in binder 3715

12 519 Penthouse in binder 3715

13 520 Visions of Fantasy; A Hard Rock Affair in binder 3712

14 521 Visions of Fantasy, Sam Jose's

15 Black Starlett in binder 3716

16 522 Double Dicking Caroline in binder 3716

17 523 Big Tits and a Hard Stud

18 in binder 3716

19 524 Hustler 3716

20 525 "The Second Female G-Spot" article in binder 3717

21 526 File folder title PRN 3717

22 527 File folder titled "Thank

23 You" 3717

24 528 Celebrity Skin in binder 3717

25 529 Original evidence bag which contained all of 317 3712

26 530 People Magazine page,

27 9-11-00 3701

28 3600

♀

1 E X H I B I T S

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

3

4 531 Oui , March 1998 in binder 3701

5 532 Over 50, Volume 5, #9, 1996 in binder 3700

6 533 XX rated, April 1995; XX

7 Close Up, April 1995 in binder 3701

8 534 Just 18, Volume 4,

9 Issue No. 10 3700

10 535 Plumpers centerfold 3700

11 536 Hustler, August 1992 in binder 3700

12 537 Hustler, April 1998

13 (No cover) in binder 3699

14 538 Penthouse, March 1992 in binder 3699

15 539 Juggs, June 1996

16 in binder 3699

17 540 44 Plus June 1996 in binder 3699

18 541 Plumpers, May 1996

19 in binder 3698

20 542 Club International , March 1998 in binder 3698

21

543 Live Young Girls, September

22 2003 in binder 3701

23 544 Finally Legal , July 2003 in notebook 3702

24 545 Finally Legal Freshman Class

25 Orgy, August 2002 in binder 3702

26 546 Purely 18, October 2002 3703 in binder

27 547 Purely 18, December 2002

28 in binder 3703

♀

1 E X H I B I T S

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

3 548 Tight, November 2002

4 in binder 3703

5 549 Hawk, November 2002 in binder 3704

6 550 Hawk, January 2003

7 in binder 3704

8 551 Live Young Girls, June 2003 in binder 3704

9 554 Girlfriends in binder 3709

10 555 Live Young Girls in binder 3709

11 556 Parade 3709

12 557 Finally Legal, February 2003

13 in binder 3710

14 558 Girls of Barely Legal in binder 3710

15 559 Hawk, February 2003 in binder 3710

16 560 Girlfriends, Special Editions

17 in binder 3711

18 563 White binder containing The Girls of Penthouse, August

19 2003 in binder 3708

20 564 White binder containing Barely Legal, July 2003

21 in binder 3708

22 566 White binder containing Gallery 9/2002 3708

23 567 White binder containing

24 Gallery 5/2002 3708

25 580 Binder containing Playboy

26 Couples Volume 2, Issue 2 3707

27 584 Original evidence bag 3707

28 3602

♀

1 E X H I B I T S

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

3

4 585 White binder containing Barely Legal, Anniversary

5 2002 3707

6 586 Original evidence bag 3705

7 587 White binder containing Naughty Neighbors, December
 8 2002 3705
 9 714 Brown evidence bag containing Exhibits #584 and #585 3707
 10 716 Brown evidence bag containing
 11 Exhibits #586 and 587 3643
 12 724 Photo of fingerprint, Item 304-D, Barely Legal, July
 13 2003, Page 52, Quadrant 12, 3621 3643 Latent 1
 14 727 Photo of fingerprint, Item
 15 317-0, Hustler Barely Legal 3621 3643
 16 742 Photo of fingerprint, Item 363-M, Club International 3622 3643
 17 743 Expanded M. J. fingerprint 3650 3651
 18 744 Blow-Up of Star Arvizo
 19 fingerprint 3651 3651
 20 745 Blow-Up of Gavin Arvizo fingerprint 3651 3652
 21 746 Fingerprint comparison,
 22 Item 304-D, Michael Jackson's left little finger 3680 3680
 23 747 Fingerprint comparison,
 24 Item 317-L, Star Arvizo's left middle finger 3680 3680
 25 748 Fingerprint comparison, Item
 26 317-L, Star Arvizo, right index finger 3670 3676
 27 749 Fingerprint comparison,
 28 Item 317-0, Michael Jackson's left thumb print 3679 3680
 3603

♀ 1 E X H I B I T S

2 FOR IN PLAINTIFF'S NO. DESCRIPTION I.D. EVID.
 3
 4 750 Fingerprint comparison, Item 317-R, Michael Jackson's
 5 left thumbprint 3680 3681
 6 751 Fingerprint comparison, Item 317-R, Gavin Arvizo's
 7 left little finger 3681 3682
 8 752 Fingerprint comparison, Item 317-R, Gavin Arvizo's
 9 left ring finger 3681 3682
 10 753 Fingerprint comparison, Item 317-R, Gavin Arvizo's
 11 left index finger 3681

12 754 Fingerprint comparison, Item 317-S, Michael Jackson's
13 right thumb print 3682 3682
14 755 Fingerprint comparison, Item 317-S, Michael Jackson's
15 left ring finger 3682 3683
16 756 Fingerprint comparison, Item 317-T, Michael Jackson's
17 left thumb print 3682 3683
18 757 Fingerprint comparison, Item 317-U, Gavin Arvizo's
19 right middle finger 3666 3670
20 758 Fingerprint comparison, Item 317-YY, Gavin Arvizo's
21 left index finger 3683 3683
22 759 Fingerprint comparison, Item 321-A, Michael Jackson's
23 right thumb print 3683 3684
24 760 Fingerprint comparison, Item 321-A, Michael Jackson's
25 right thumb print 3684 3684
26 761 Fingerprint comparison, Item 321-E, Michael Jackson's
27 left thumb print 3684 3684
28 3604

♀
1 E X H I B I T S

2 FOR IN

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

3
4 762 Fingerprint comparison, Item 321-E, Michael Jackson's
5 right thumb print 3684 3685
6 763 Fingerprint comparison, Item 321-F, Michael Jackson's
7 right thumb print 3685 3685
8 764 Fingerprint comparison, Item 363-M Michael Jackson's
9 right thumb print 3685 3685
10 772 Power Point, Item 317-U 3667 3712
11 773 Power Point, Item 317-L 3671 3712
12 774 Power Point, Item 317-O 3578 3712
13 775 Chart showing basic fingerprint patterns 3717 3718
14
15
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28 3605

♀

1 THE COURT: Counsel?

2 MR. AUCHINCLOSS: Thank you, Your Honor.

3 Q. All right. Miss Torres, where I left off,

4 we were at Item No. 10, and I believe 733, and you

5 said you identified that particular fingerprint with

6 the Scenescape?

7 A. Yes, I did.

8 Q. Have you had training with the Scenescape?

9 A. Yes, we had training with the Scenescape.

10 Q. And have you used it, had some experience

11 using it before this case?

12 A. Before this case, we only had the training

13 that we received, and that was basically it.

14 Q. You say "we," or "you"?

15 A. We as a unit --

16 MR. SANGER: I can't hear the answer.

17 THE COURT: I didn't either.

18 THE WITNESS: We as a unit received training

19 using the Scenescape.

20 Q. BY MR. AUCHINCLOSS Okay. And who did you

21 receive that training from?

22 A. Spex.

23 Q. Okay. The manufacturer came out and trained

24 you?

25 A. Yes.

26 Q. All right. Now, moving on to Exhibit 734,

27 Card No. 11, how did you help in the processing of

28 this fingerprint? 3606

♀

1 A. I photographed the latent print with a

2 Scenescope and I helped with the ninhydrin

3 processing.

4 Q. Okay. Now, when you say you helped with the

5 ninhydrin processing of these items, this would be

6 not for this particular print that is green. Is it

7 fair to say that a green print indicates it's a

8 Scenescope print?

9 A. Correct.

10 MR. SANGER: I'm sorry. Objection; leading.

11 MR. AUCHINCLOSS: It's expert testimony.

12 THE COURT: Sustained.

13 Q. BY MR. AUCHINCLOSS: All right. What does

14 the green indicate?

15 A. It indicates that the latent was

16 photographed using a Scenescope.

17 Q. All right. Thank you.

18 Moving on to Exhibit 735, Card No. 12.

19 A. I helped with the ninhydrin processing.

20 Q. On that particular latent?

21 A. Yes.

22 Q. Did you assist in processing Exhibit No.

23 736, Card 13?

24 A. Yes, I photographed using the Scenescope and

25 helped with the ninhydrin processing.

26 Q. All right. Looking at Exhibit 737, Card 14,

27 did you assist in processing this print?

28 A. Yes, with the ninhydrin process. 3607

♀

1 Q. So that would be just on this page? This
2 print wasn't a ninhydrin print, was it?

3 A. No, it was photographed using the

4 Scenescope.

5 Q. All right. As far as the particular exhibit
6 on 738, Card No. 15?

7 A. I assisted with the ninhydrin processing.

8 Q. Of this page?

9 A. Of that page.

10 Q. Exhibit 739, Card No. 16?

11 A. I assisted with the ninhydrin processing on
12 that page.

13 Q. Exhibit No. 740, Card No. 18?

14 A. I photographed the latent print using the
15 Scenescope, and assisted with the ninhydrin
16 processing.

17 Q. And Card 741 -- or I'm sorry, Exhibit 741,
18 Card 18.

19 A. I assisted with the ninhydrin processing.

20 Q. Thank you.

21 Your Honor, if we could have "Input No. 1"
22 at this time?

23 All right. Miss Torres, calling your
24 attention to only those prints in which you said you
25 were the identification technician who found the
26 prints, I'm now asking you -- I'm showing you Card
27 No. 10, which is Exhibit 733. Were you the finder
28 of this particular fingerprint? 3608

♀

1 A. Yes, I was.

2 Q. And where did you find that print?

3 A. On Item 317, Sam, a "Penthouse" magazine,
4 page 87, Quadrant 7 and labeled as Latent 1.

5 Q. And that "Latent 1," what does that

6 indicate?

7 A. That that was the first latent that we
8 located using the Scenescop.

9 Q. All right. Calling your attention now to
10 Card No. 11, which is Exhibit 734, did you locate
11 that print?

12 A. Yes, I did.

13 Q. And where did you locate it?

14 A. On Item 317, Tom T, "Visions of Fantasy,
15 A Hard-Rock Affair", September 1993, page three,
16 Quadrant 4 and 5, and labeled as Latent 1.

17 Q. All right. Moving on to Card No. 13,
18 Exhibit No. 736, did you find that fingerprint?

19 A. Yes, I did.

20 Q. And where did you find it?

21 A. On Item 317-YY, "Al Golstein's 100 Best
22 Adult Videos," page A, Quadrant 15, and labeled as
23 Latent 1.

24 Q. And lastly, Exhibit No. 740, Card No. 17,
25 did you find that fingerprint?

26 A. Yes, I did.

27 Q. And where did you find that?

28 A. On Item 321-E, "Girls of Barely Legal," page 3609

♀
1 seven, Quadrant 15, and labeled as Latent 1.

2 MR. AUCHINCLOSS: Could we have the lights,
3 please?

4 Q. All right. Taking those four fingerprints
5 in order, I now show you Exhibit 769, page ten.
6 Does that show the fingerprint and the location on
7 the page where you found that fingerprint, Item
8 317-S, "Penthouse", page 87, Quadrant 7, Latent 1?

9 A. Yes.

10 Q. Showing you now Page no. 11 of this exhibit,
11 does that show the fingerprint that you found on

12 that page and its location on Item 317-T, "Visions
13 of Fantasy, A Hard-Rock Affair," September 1993,
14 page three, Quadrant 4 and 5, Latent No. 1?

15 A. Yes.

16 Q. Calling your attention now to page 13, does
17 that page show the latent fingerprint that you
18 located on Item No. 317-YY, "Al Golstein's 100 Best
19 Adult Videos," page A, Quadrant 15, Latent 1?

20 A. Yes.

21 Q. And lastly, page 17. Does page 17 show a
22 fingerprint and its location on a page of Item
23 321-E, "Girls of Barely Legal," page seven,
24 Quadrant 15, Latent 1?

25 A. Yes.

26 MR. AUCHINCLOSS: If I could have "Input 1"
27 again, Your Honor. I'm going to bring those images
28 up on the screen right now. 3610

♀
1 MR. SANGER: I'm going to object, Your
2 Honor. This is cumulative and 352.

3 MR. AUCHINCLOSS: We haven't shown these
4 images yet.

5 THE COURT: Overruled.

6 Q. BY MR. AUCHINCLOSS: All right. Is this the
7 fingerprint that you located on Exhibit No. 733,
8 Card No. 10?

9 A. Yes.

10 Q. Next, does that picture, fingerprint,
11 indicate the location of the fingerprint that you
12 found on Exhibit No. 734, Item No. -- Card No. 11?

13 A. Yes.

14 Q. The next slide, does that slide show the
15 location of the fingerprint that you found on
16 Exhibit No. 736 Card No. 13?

17 A. Yes.

18 Q. And lastly, does that fingerprint indicate
19 the location on the page where you found the
20 fingerprint on Exhibit 740, Card No. 17?

21 A. Yes.

22 MR. AUCHINCLOSS: Thank you. No further
23 questions.

24 THE COURT: Cross-examine?
25

26 CROSS-EXAMINATION

27 BY MR. SANGER:

28 Q. Miss Torres, how are you? 3611

♀
1 A. Good, thank you.

2 Q. How long have you been -- I think you said
3 you were with forensics for five years with the
4 sheriff's department; is that correct?

5 A. Correct.

6 Q. Do you have any prior law enforcement
7 training?

8 A. No, I don't.

9 Q. And you're not a deputy sheriff or a sworn
10 peace officer; is that correct?

11 A. Correct.

12 Q. And in your five years, have you worked
13 exclusively on fingerprints?

14 A. I've worked on fingerprints and crime scene
15 investigations.

16 Q. Okay. So the answer would be no, you have
17 not worked exclusively on fingerprints, correct?

18 A. Correct.

19 Q. You've done a number of other tasks with
20 regard to crime scene investigations?

21 A. Correct.

22 Q. And you're familiar with the need to
23 properly label and preserve evidence; is that

24 correct?

25 A. Yes.

26 Q. All right. Now, are you a latent print

27 examiner?

28 A. I am a latent print examiner in training. 3612

♀

1 Q. Okay. A trainee. How long have you been in

2 that capacity?

3 A. I would say for the last four years.

4 Q. Okay. And are you certified by any

5 organization?

6 A. No.

7 Q. So you're gaining your experience as a --

8 let me withdraw that.

9 You're gaining your training to be a latent

10 print examiner from your work at the sheriff's

11 department?

12 A. From work and through training courses.

13 Q. You're also taking some courses?

14 A. Exactly.

15 Q. All right. In this particular case, you did

16 not do any comparison of the fingerprints; is that

17 correct?

18 A. Correct.

19 Q. And your job was to pretty much bring the

20 prints up, best you can, and preserve them so that

21 they can be looked at by other people. correct?

22 A. Correct.

23 Q. All right. Now, you indicated that you used

24 the Scenescop, which we've heard about before in

25 this case, all right?

26 And how long -- let me withdraw that.

27 You're here in Santa Maria; is that correct?

28 A. Correct. 3613

♀

1 Q. How long has the Santa Maria office of the
2 sheriff's department had a Scenescope?

3 A. We had had it only for a couple of months
4 prior to us receiving this case.

5 Q. Okay. When did you receive this case?

6 A. We were assigned to process the items on, I
7 believe -- if I may refer to my reports.

8 Q. Okay. If you can't recall, you may do that.

9 A. The first item that we processed was -- we
10 began processing on September 16th of 2004.

11 Q. Okay. So when you say, "When we received
12 this case," you mean when your forensics unit
13 received an assignment in this case correct?

14 A. Yes.

15 Q. All right. And you recall having the
16 Scenescope for about two months before September
17 16th?

18 A. Several months.

19 Q. Okay. About when did you receive it?

20 A. I would say about five months prior.

21 Q. Five months prior. Okay. Had you ever used
22 the Scenescope before you received it?

23 A. We had had one training day on it, but our
24 Scenescope had a malfunction, so it had to be sent
25 back.

26 Q. When was that training day?

27 A. That was -- I don't recall.

28 Q. Now, the Santa Barbara office of the 3614

♀

1 sheriff's department also had a Scenescope; is that
2 correct?

3 A. Correct.

4 Q. Did they get theirs at the same time?

5 A. Yes.

6 Q. And did you have training together?

7 A. On the same day.

8 Q. On the same day. And you're saying --

9 forgive me for asking again, but you're saying you

10 don't recall the training day?

11 A. I don't recall the exact date of the

12 training day.

13 Q. Roughly when was it?

14 A. I don't recall the exact month, if that's

15 what you're asking for.

16 Q. So you got the machine about five months

17 before September. So April?

18 A. About that time.

19 Q. Okay. Could have been May?

20 A. It could have been.

21 Q. All right. And did you have your training

22 day about the time you received the machine?

23 A. No, we had the training day before we

24 received our machine.

25 Q. Okay. And then at some point, the machine

26 didn't work, you sent it back, got another machine.

27 When did you get the machine that worked?

28 A. When did we get the machine to work? I 3615

♀

1 believe about a month or two before we began to

2 process the items.

3 Q. Okay. So July or so of 2004?

4 A. I would say.

5 Q. Okay. And did you process any prints in any

6 case for the purpose of testimony in court -- I mean

7 a real case. Did you process any prints in a real

8 case, before you started working on this case, using

9 the Scenescop?

10 A. No.

11 MR. SANGER: All right. I have no further

12 questions.

13 MR. AUCHINCLOSS: No further questions.

14 THE COURT: Thank you. You may step down.

15 THE WITNESS: Thank you.

16 MR. AUCHINCLOSS: My mistake, I should have

17 let the bailiff know to have our witness already

18 here.

19 THE COURT: Okay.

20 MR. AUCHINCLOSS: Our next witness we will

21 be calling is Michelle Shelley. And she's on her

22 way down.

23 And if I could get a "Black Screen" again,

24 Your Honor, please.

25 Thank you.

26 THE COURT: Come to the front of the

27 courtroom, please. Remain standing when you get to

28 the witness stand. 3616

♀
1 Face the clerk here and raise your right
2 hand.

3

4 MICHELLE SHELLEY

5 Having been sworn, testified as follows:

6

7 THE WITNESS: I do.

8 THE CLERK: Please be seated. State and

9 spell your name for the record.

10 THE WITNESS: My name is Michelle Shelley;

11 M-i-c-h-e-l-l-e, S-h-e-l-l-e-y.

12 THE CLERK: Thank you.

13

14 DIRECT EXAMINATION

15 BY MR. AUCHINCLOSS:

16 Q. Good morning, Miss Shelley.

17 A. Good morning

18 Q. In 2004 --

19 BAILIFF CORTEZ: Get the mike closer.

20 MR. AUCHINCLOSS: Thank you.

21 Q. In 2004, who were you employed by?

22 A. Santa Barbara County Sheriffs.

23 Q. And what did you do for the sheriff's

24 department?

25 A. I was an I.D. technician. I worked for

26 Criminal Records, and then I was brought over to

27 work for the Forensics Division, this particular

28 case, due to my background. 3617

♀
1 Q. And was this case the People v. Jackson
2 case?

3 A. Yes, it was.

4 Q. Tell me about your training to become an

5 I.D. technician.

6 A. I went to Western Mellon College majoring in

7 criminal history, concentrated in forensics, and I

8 worked for the Delaware State Police for two years.

9 Moved out here to California, and became employed by

10 Santa Barbara Sheriffs. I also have a diploma from

11 the American Institute of Applied Science in

12 forensics.

13 Q. And have you had any specialized training in

14 the location of latent fingerprints?

15 A. No, sir.

16 Q. All right. Have you had any on-the-job

17 training in the location of latent fingerprints?

18 A. Yes, sir.

19 Q. Could you describe that for me, please.

20 A. Just general working practice with a latent

21 examiner I worked with in Delaware, as well as here

22 with Santa Barbara Sheriff.

23 Q. Okay. Did part of your forensics training

24 include locating latent fingerprints and different

25 processes -- well, let me break that question up,

26 it's compound -- locating latent fingerprints?

27 A. Yes.

28 Q. And did some of your general training in 3618

♀

1 forensic science include processing various items to

2 make visible latent fingerprints?

3 A. Yes, it did.

4 Q. All right. Have you had experience with

5 cyanoacrylate ester fuming?

6 A. Yes, I have.

7 Q. Or super glue fuming?

8 A. Uh-huh.

9 Q. Prior to this case?

10 A. Yes.

11 Q. On how many occasions?

12 A. Specific numbers, I can't remember. Quite a

13 few times.

14 Q. Quite a few times?

15 A. Uh-huh.

16 Q. All right. Can you tell me, what were you

17 called in to do? What were your duties with regard

18 to the case of People v. Michael Jackson?

19 A. I was brought in for extra help. I was

20 assisting Detective Spinner and Detective

21 Wittenbrock on processing some of the evidence,

22 splitting it up, putting it in plastic sleeves,

23 super gluing it, and then hydrating it.

24 Q. Who was it that was in charge of splitting

25 up the magazines initially and placing them in

26 sleeves?

27 A. Detective Spinner.

28 Q. Did you assist Detective Spinner in that 3619

♀

1 task?

2 A. Yes.

3 Q. And who was also charged with the initial
4 fuming -- super glue fuming of all the magazines?

5 A. Detective Spinner.

6 Q. And did you assist Detective Spinner in that
7 task?

8 A. Yes.

9 Q. At some point did you team up with I.D. Tech
10 Wittenbrock to assist him in his look -- in his
11 analysis and checking for latents on some of these
12 exhibits?

13 A. Yes.

14 Q. And what was your assignment with Detective
15 Wittenbrock?

16 A. I was assisting him in pulling out the
17 pieces of magazine. Basically to speed up the
18 process, because we had such a vast volume, I would
19 pull them out, pass them over to him. He would then
20 scan them. I would assist in writing labels if we
21 found a print. I would also directly type in our
22 findings into our computer for our reports.

23 Q. All right. And did you assist him or
24 anybody else in the ninhydrin processing of some of
25 these magazines?

26 A. Yes, I did.

27 Q. Have you had previous training in using
28 ninhydrin? 3620

♀

1 A. Yes, I have.

2 Q. And previous experience in using ninhydrin?

3 A. Yes.

4 Q. On how many occasions have you used it, if
5 you can recall, approximately?

6 A. Again, the super glue, numerous occasions.

7 I can't exactly recall.

8 Q. All right. All right. I'm going to ask you
9 some specific questions about -- there I've done it.
10 About specific exhibits. And we'll go
11 through these fairly rapidly, but I'm going to show
12 you each exhibit, and I want you to tell me if you
13 assisted in the processing of this particular
14 fingerprint or assisted in the processing of the
15 page that this fingerprint came from.

16 A. Okay.

17 Q. As in a ninhydrin that had previously been
18 found to be --

19 THE BAILIFF: Can't hear you back there.

20 THE WITNESS: Oh, sorry.

21 Q. BY MR. AUCHINCLOSS: All right. So, let's
22 look first at Exhibit 1 -- I'm sorry, Card 1,
23 Exhibit 724. Did you have any part in the
24 processing of this particular page or fingerprint?

25 A. Yes, sir, I did the ninhydrin on that print.

26 Q. Okay. Looking now at Card 727 -- I should
27 say Card 4, Exhibit 727.

28 A. I did the ninhydrin on that as well. 3621

♀
1 Q. Okay. And I should mention that neither of
2 these prints is a ninhydrin print; is that correct?

3 A. Correct.

4 Q. Moving on to -- moving on to Card 737, also
5 is Card 14.

6 A. I assisted with the fuming on that
7 particular card.

8 Q. Okay. Assisting Detective Spinner?

9 A. Yes, sir.

10 Q. Moving on to Card 15, Exhibit 738.

11 A. That is the same. I assisted Detective
12 Spinner in the fuming or -- yes, the fuming of that
13 card.

14 Q. All right. Exhibit 739, Card 16?

15 A. As well, I assisted Detective Spinner on the
16 fuming of that card.

17 Q. Exhibit 740, Card 17?

18 A. I assisted on the fuming, Detective Spinner,
19 of that card.

20 Q. Exhibit 741, Card 18?

21 A. I assisted on the fuming with Detective
22 Spinner on that card.

23 Q. And Exhibit 742, Card 19?

24 A. I worked on the fuming, with Detective
25 Spinner, on that card. I also did the ninhydrin
26 with Detective Wittenbrock on that card.

27 Q. But this is a fuming and Scenescape

28 identification on this? 3622

♀
1 A. Yes, sir, it is.

2 MR. AUCHINCLOSS: Thank you. I have no
3 further questions.

4 THE COURT: Cross?

5

6 CROSS-EXAMINATION

7 BY MR. SANGER:

8 Q. Hi.

9 A. Hi.

10 Q. You are not employed by the sheriff anymore?

11 A. No, sir, I'm not.

12 Q. How are you employed now, just in general?

13 A. I'm currently in the process of returning to
14 my previous job with the Delaware State Police.

15 Q. Okay. And what was your previous job?

16 A. I was an I.D. technician for them.

17 Q. All right. So you went to college and
18 studied criminal justice?

19 A. Uh-huh.

20 Q. Criminal history, I think you said?

21 A. Criminal justice.

22 Q. Criminal justice, okay.

23 Did you, while you were in college, do any

24 actual fingerprint work?

25 A. Yes, sir, I did.

26 Q. And were you employed by the State of

27 Delaware while you were in college?

28 A. No, sir. I was employed with them after 3623

♀

1 graduation.

2 Q. Oh. So while you were in college, did you

3 do work on actual cases, or did you do work in a

4 class?

5 A. I did work in a class, but it was on case

6 studies.

7 Q. Case studies. So it was part of classwork?

8 A. Yes, sir.

9 Q. So you were with the Delaware State Police

10 for two years?

11 A. Yes.

12 Q. And were your duties to do things other than

13 fingerprints?

14 A. No, sir. I specifically concentrated on

15 fingerprints.

16 Q. Just did fingerprints, okay. And you came

17 to Santa Barbara, and you worked in records for the

18 sheriff's department; is that correct?

19 A. Yes, sir, I did.

20 Q. And records has nothing to do with

21 chemically enhancing fingerprints or that sort of

22 thing; is that correct?

23 A. No, sir, it was to get my foot into the

24 door, hopefully to transfer back into my field.

25 Q. Okay. I'm not trying to be rude to you.

26 A. No, not at all.

27 Q. But in other words, the work that you were
28 doing at Santa Barbara Sheriffs had nothing to do 3624

♀
1 with what you wanted to do, which was be an I.D.
2 tech?

3 A. It was a means to an end, yes.

4 Q. And you applied for a position as an I.D.
5 tech in Santa Barbara?

6 A. Yes, I did.

7 Q. And other than working on this case as extra
8 help, you did not get that position; is that
9 correct?

10 A. No, I have since then moved back to
11 Delaware.

12 Q. But in any event, the answer to the question
13 is, you did not get the position in Santa Barbara,
14 other than working as extra help on Mr. Jackson's
15 case?

16 A. Correct.

17 MR. AUCHINCLOSS: I'll object as assuming
18 that she applied for a position.

19 THE COURT: Sustained.

20 Q. BY MR. SANGER: Did you apply for a position
21 as an I.D. tech in Santa Barbara?

22 A. After the Michael Jackson case was over, I
23 applied, and in the process moved to Delaware.

24 Q. Okay. Now, having said all of that, have
25 you used the Scenescape before you used it here on
26 the Michael Jackson case?

27 MR. AUCHINCLOSS: Objection, assumes facts
28 not in evidence, that she used the Scenescape. 3625

♀
1 THE COURT: Overruled.

2 You may answer.

3 THE WITNESS: I've had some experience with

4 it. It's not my specialty.

5 Q. BY MR. SANGER: Okay. What experience have

6 you had?

7 A. I have worked getting general education from

8 a previous latent examiner that I worked with in

9 Delaware.

10 Q. Are you a latent print examiner yourself?

11 A. No, I'm not.

12 Q. And you mentioned somebody in Delaware?

13 A. Yes, sir.

14 Q. Did that person have a Scenescape?

15 A. Yes, sir.

16 Q. And how many times did you actually use the

17 Scenescape in a criminal case?

18 A. Not personally on a criminal case. I would

19 look at it, getting general education.

20 Q. All right. So the first time you ever used

21 the Scenescape in a criminal case was in the Michael

22 Jackson case?

23 A. Correct.

24 Q. And were you making decisions as to how the

25 various items of evidence should be processed?

26 A. No, sir.

27 Q. You were pretty much helping and doing as

28 directed? 3626

♀
1 A. Correct.

2 Q. And the people directing you were?

3 A. Detective Spinner and Detective Wittenbrock.

4 Q. All right. Is there anybody else on your

5 forensic unit, in your forensic unit, in Santa

6 Barbara doing this?

7 A. We have -- are generally headed by Sergeant

8 Julio Santana, who would give general direction, but

9 he's the head of our department.

10 Q. Okay. Was he giving general -- I guess my
11 point is, was he working on this case?

12 A. He was heading the case.

13 Q. All right. Did he do any actual physical
14 work on this case?

15 A. Not to my knowledge.

16 Q. Okay. And the direct -- the directions that
17 you received came directly from either Detective
18 Wittenbrock or Detective Spinner; is that right?

19 A. Yes.

20 Q. All right. Did you receive training on the
21 Scenescape from the Spex company?

22 A. No, sir.

23 Q. Were you aware that there was a training day
24 held on the -- with regard to this instrument for
25 the Santa Barbara Sheriff's personnel?

26 A. No, sir.

27 MR. SANGER: All right. No further
28 questions. 3627

♀
1 MR. AUCHINCLOSS: Just one question.

2 THE WITNESS: Sure.

3

4 REDIRECT EXAMINATION

5 BY MR. AUCHINCLOSS:

6 Q. Miss Shelley, were you the finder
7 photographer, for any fingerprint of these 19 prints
8 that we've talked about or that have been presented
9 in this case?

10 A. No.

11 MR. AUCHINCLOSS: Thank you. No further
12 questions.

13 MR. SANGER: No further questions.

14 THE COURT: All right. Thank you. You may

15 step down.

16 MR. AUCHINCLOSS: Call Detective Jim

17 Wittenbrock.

18 THE COURT: When you get to the witness

19 stand here, please remain standing.

20 Face the clerk and raise your right hand.

21

22 JAMES WITTENBROCK

23 Having been sworn testified as follows:

24

25 THE WITNESS: Yes, I do.

26 THE CLERK: Please be seated. State and

27 spell your name for the record.

28 THE WITNESS: My name is James Wittenbrock; 3628

9
1 W-i-t-t-e-n-b-r-o-c-k.

2 THE CLERK: Thank you.

3

4 DIRECT EXAMINATION

5 BY MR. AUCHINCLOSS

6 Q. Good morning, Detective Wittenbrock.

7 A. Good morning.

8 Q. Who are you employed by?

9 A. I'm retired now.

10 Q. All right. And who were you previously

11 employed by?

12 A. Santa Barbara Sheriff's Department

13 Q. And what did you do for the sheriff's

14 department when you worked for them?

15 A. 28 years total. Out of -- the last four

16 years I was assigned as a detective in the Criminal

17 Investigations Division, Forensics Unit.

18 Q. All right. Have you had any training that

19 qualifies you for such a position?

20 A. Yes, sir.

21 Q. And can you describe that for us?

22 A. May I refer to a list?

23 Q. Sure, if it would help refresh your

24 recollection.

25 A. Limiting to more or less the fingerprints

26 and that part of the forensics detail, I had 40

27 hours of basic crime scene investigation in 2001.

28 24-hour fingerprint pattern recognition class put on 3629

♀
1 by the Department of Justice. Another eight hours

2 in basic crime scene investigation. In 2002, 40

3 hours DOJ class on latent techniques. And again in

4 2000 at the DOJ, a latent print comparison class.

5 Q. And have you had some experience, actual

6 hands-on experience in this area?

7 A. Yes, sir. Even in patrol, we frequently

8 searched for prints and collect prints. Daily

9 duties while I was with the forensics detail, we'd

10 be searching, documenting, recording and looking at

11 prints on a very regular basis.

12 Q. Have you had training in the use of super

13 glue fuming techniques to enhance fingerprints?

14 A. Yes, sir.

15 Q. Have you had training in the use of

16 ninhydrin as a chemical process to reveal

17 fingerprints?

18 A. Yes.

19 Q. Have you had training in the use of the

20 Scenescope in using it to attempt to view latent

21 fingerprints?

22 A. I had some training when I was brought back

23 to assist. I went to the Santa Maria Lab and spent

24 a day up there with the technicians and went through

25 the process, information on the Scenescope. I also

26 referred to the manual.

27 Q. All right. Is the Scenescop e difficult to
28 use? 3630

♀

1 A. No.

2 Q. Why do you say that?

3 A. It's -- it's a lens. You turn the switch on
4 and you focus it and you search. In this case, it
5 was searching a page, and it's quite simple.

6 Q. So the Scenescop e has how many parts to it?

7 A. It's got the front filter and lens assembly.

8 It has an intensifier tube that attaches to that.

9 And in our case, we attached the digital camera
10 above that tube.

11 Q. So you've got a camera, the Scenescop e and
12 something else. What did you call it?

13 A. The Scenescop e is in two parts.

14 Q. Okay.

15 A. There's -- the first part is similar to a
16 lens with a filter. The second part's an electronic
17 intensifier, amplifier-type apparatus, and above
18 that we had the digital camera attached.

19 Q. All right. Is it any more complicated than
20 moving the different pieces around and focusing it
21 to get a clear image?

22 MR. SANGER: Objection. Vague; compound;

23 calls for speculation.

24 THE COURT: Overruled.

25 You may answer. Do you want the question
26 read back?

27 THE WITNESS: Yeah, please. Please.

28 MR. AUCHINCLOSS: Okay. 3631

♀

1 THE WITNESS: I'm sorry, a little hard of
2 hearing.

3 (Record read.)

4 THE WITNESS: No. It's -- the focusing would

5 take a few seconds, a few moments, but it wasn't
6 difficult.

7 Q. BY MR. AUCHINCLOSS: All right. Did you

8 participate in a search for latent fingerprints on a
9 number of magazines in the case of People v. Michael
10 Jackson?

11 A. Yes, sir.

12 Q. And what was your assignment?

13 A. My assignment was to use the Scenescape and
14 search, in my case, several magazines for latents or
15 developing prints on the magazines. And after that,
16 they were processed with the ninhydrin, and then
17 another search of all those magazines I did all
18 myself.

19 Q. Had the magazines that you searched with the
20 Scenescape been previously processed in any fashion?

21 A. Yes, they had.

22 Q. In what fashion?

23 A. They'd received a cyanoacrylate fuming
24 process, which is commonly referred to as super glue
25 fuming.

26 MR. AUCHINCLOSS: All right. If I may
27 approach, Your Honor.

28 Q. I'll show you a few exhibits. Three, to be 3632

♀

1 specific. I show you Exhibit No. 724 Card No. 1.

2 Can you identify that for me, please?

3 A. Yes, I can.

4 Q. What is it?

5 A. That's an image from the Scenescape I
6 photographed on Item 304-D.

7 Q. Using the Scenescape?

8 A. Yes.

9 Q. And can you tell me -- well, I'll get to

10 that in a moment.

11 Showing you now Exhibit No. 727, Card 04,
12 can you identify that for me, please?

13 A. Yes, it was Item 317-00. It was a latent
14 from using the Scenescop e from page two.

15 Q. And did you locate that latent fingerprint?

16 A. Yes, I did.

17 Q. Finally, Exhibit No. 742, Card 19, can you
18 identify this for me, please?

19 A. Yes. This was Evidence Item 363-M, and this
20 latent I photographed off of page 57.

21 Q. All right. Also a Scenescop e photograph?

22 A. Yes.

23 Q. While I am here, I will show you page one of
24 Exhibit No. 769. Can you identify that for me,
25 please?

26 A. Yes. That, again, shows the Scenescop e
27 photo from Item 304-D, page 52, and it indicates
28 where it was photographed on the actual page, where 3633

♀
1 I circled it.

2 Q. And that's where you located that particular
3 print, where the green arrow points?

4 A. Yes, sir.

5 Q. Showing you Page No. 4 of Exhibit 769, can
6 you identify that?

7 A. If you could turn it so I could read the tag
8 there.

9 Yes, that's Item 317, page two.

10 Q. Is that a latent fingerprint that you
11 located on that particular page where the green
12 arrow points?

13 A. Yes, it is, and where I circled it.

14 Q. And showing you Page No. 19, please identify
15 that for me.

16 A. Okay. That's Item 363-M, page 57, and it's
17 circled where I photographed it with the Scenescope
18 on that page, circled.

19 Q. And that shows the location with a green
20 line where you found that particular print?

21 A. Yes, it does.

22 Q. All right. Detective I'm going to ask the
23 Court at this time to go to Input...

24 Well, if you could just give me a moment,
25 Your Honor, to download the proper Power Point.

26 All right. Could we go to "Input 1,"
27 please, Your Honor?

28 THE BAILLIFF: Hit the "PC" button. 3634

♀
1 Q. BY MR. AUCHINCLOSS: All right. Detective,
2 is that Card 724 -- Exhibit 724, Card No. 1, that I
3 just showed you?

4 A. I believe so. I --

5 Q. Okay. I'll leave them up here with you.

6 A. Okay.

7 Q. So you can refer to them, if you please.

8 And is that the fingerprint that you found
9 on Item 304-D, "Barely Legal," July 2003, page 52,
10 Quadrant 12, Latent 1?

11 A. Yes, it is.

12 Q. Showing you Card No. 4, Exhibit 727, is that
13 the fingerprint that you located on Item 317-0,
14 Hustler, "Barely Legal," August 2003, page two,
15 Quadrant 11, Latent 1?

16 A. Yes, sir.

17 Q. Showing you Exhibit No. 742, Card 19. Is
18 that the latent that you found on Item 363-N, "Club
19 International," March 1998, page 57, Quadrant 15,
20 Latent 2?

21 A. Yes, it is.

22 Q. Going back to the first latent again, does
23 this page -- does this exhibit -- this is page one
24 of -- I believe 769 is the exhibit. Is this where
25 you located the latent identified on Card No. 1,
26 Exhibit 724?
27 A. I believe this is page 52?
28 Q. Yes, page 52. 3635

♀
1 A. That's correct.
2 Q. All right. And does this exhibit -- that is
3 identical to page four of Exhibit 769. Does this
4 show where you found the latent identified on Card
5 No. 4, Exhibit 727?
6 A. Yes. This is page two, yes.
7 Q. Yeah, well, it's -- it's -- it's known as --
8 it's on page four of that particular notebook that I
9 showed you out of, but it's on page two of Item
10 317-0; is that correct?
11 A. Correct.
12 MR. SANGER: I'm going to object to counsel
13 testifying. It's not a question.
14 THE COURT: Sustained.
15 MR. AUCHINCLOSS: All right.
16 Q. And finally, showing you page 19 of the
17 notebook exhibit that I showed you, does this
18 fingerprint show the location of the fingerprint
19 that is on Card 19, Exhibit 742?
20 A. Yes, that's correct.
21 Q. That's the location on the exact page that
22 you found that print?
23 A. Yes, on page 57 of that item.
24 MR. AUCHINCLOSS: Thank you.
25 No further questions.
26 THE COURT: Counsel?
27 //

1 CROSS-EXAMINATION

2 BY MR. SANGER:

3 Q. Detective, how are you?

4 A. Good morning, sir.

5 Q. I guess now you're Mister; is that right,
6 retired?

7 A. Trying to.

8 Q. Trying to. Okay. Can I still call you

9 Detective; is that okay?

10 A. Certainly.

11 Q. Having done that for some time.

12 You were 24 years in the sheriff's

13 department before you went into the Forensics

14 Bureau; is that correct?

15 A. Approximately.

16 Q. And then you spent the last four years doing
17 forensics?

18 A. Yes.

19 Q. All right. And you told us about your
20 training. Did you have any training on a Scenescape
21 other than what you received from the I.D. tech in
22 this case?

23 A. No, sir. I was retired during that time. I
24 believe it was a four-hour demo they had.

25 Q. Okay. They had a demo from the
26 manufacturers?

27 A. Yes.

28 Q. And you missed that one? 3637

1 A. Yes.

2 Q. And then you went up to Santa Maria, if I
3 understand this?

4 A. That's correct.

5 Q. And you met with who?

6 A. Detective Sutcliffe and Detective -- Tech
7 Torres.

8 Q. I.D. Tech Torres, Miss Torres?

9 A. Yes.

10 Q. And they told you how to work the
11 Scenescape?

12 A. Correct.

13 Q. All right. Now you told the District
14 Attorney that it wasn't particularly hard to do, I
15 think.

16 A. I don't think it is.

17 Q. Were you familiar with the issues regarding
18 there should be a film camera used or a digital
19 camera used?

20 A. Actually, I -- I actually called the factory
21 and inquired into some of the different cameras.
22 They sell it with digital cameras, and you can use a
23 film camera.

24 Q. When did you call?

25 A. This was back when I was doing this
26 processing, right at the very first or second day.

27 Q. Were you aware that they recommend that a
28 film camera be used? 3638

♀

1 A. They sell this camera with low-resolution
2 digital cameras. I'm not aware that they recommend
3 the 35-millimeter or any film camera.

4 Q. That was my question. Are you aware that
5 they recommend a 35-millimeter film camera?

6 A. No.

7 Q. Are you aware that the reason for using a
8 film camera is that there is a better resolution, a
9 better result in the actual photograph?

10 MR. AUCHINCLOSS: Assumes facts not in

11 evidence, that they recommend a different camera.

12 MR. SANGER: That's in evidence.

13 THE COURT: The objection is overruled.

14 Do you want the question read back?

15 THE WITNESS: Try the question one more

16 time, please.

17 THE COURT: Read it back

18 (Record read.)

19 THE WITNESS: I'm not aware of that. I would

20 not agree with that.

21 Q. BY MR. SANGER: Okay. Do you know whether

22 or not a digital camera is likely to wash out some

23 of the detail in a print that would otherwise be

24 captured on 35-millimeter film?

25 A. Could you qualify the digital camera a

26 little bit? It's a very -- covers a lot of digital

27 cameras.

28 Q. Okay. Well, without talking about 3639

♀
1 particular digital cameras, have you heard of this

2 being a problem in developing latent prints?

3 A. No.

4 Q. Did you have any training with regard to the

5 interrelation between the process of super glue

6 fuming and the use of the Scenescop?

7 A. I had some -- I'm sorry, I don't quite --

8 Q. That's fine. Let me ask you this: Were you

9 aware that with the Scenescop, if you overfumed the

10 super glue, you could lose detail?

11 A. You could overfume separate from using the

12 Scenescop. You can overfume that process to where

13 you lose detail on the print.

14 Q. You can over -- if you really overfume, you

15 can pretty much just obliterate the print, blot it

16 out; is that correct?

17 A. Absolutely, and it would be useless.

18 Q. Were you aware that with a Scenescape, you
19 can decrease the amount of fuming and enhance the
20 print more efficiently with less fuming?

21 A. I think that's a fair statement, yes.

22 Q. Did you know that at the time you were doing
23 this?

24 A. Yes. Yes.

25 Q. Did you have any input to Detective
26 Spinner -- let me withdraw that. Detective Spinner
27 is the one that did the fuming?

28 A. He did some of the fuming. 3640

♀
1 Q. Did you do any of the fuming?

2 A. No.

3 Q. Did you have any input into the fuming
4 process to whoever was doing the fuming?

5 A. Yes.

6 Q. Did you explain to them that they should
7 use -- they should decrease the amount of fuming
8 because you were using a Scenescape?

9 A. Yes.

10 Q. And who did you tell that to?

11 A. That was both Detective Spinner and Michelle
12 Shelley. Michelle Shelley.

13 Q. Okay. And what you want to do -- now are
14 you a latent print examiner?

15 A. I examine latent prints. I am not -- I was
16 not trained for the comparison part, but as an
17 examiner I do examine prints.

18 Q. So you don't do comparisons?

19 A. Training -- I did a lot of comparisons, but
20 I was not at the level, the top level to actually do
21 the -- I was training in comparisons.

22 Q. All right. So you were a latent print

23 trainee?

24 A. Comparison trainee, yes.

25 MR. SANGER: All right. Thank you. No

26 further questions.

27 //

28 // 3641

♀

1 REDI RECT EXAMI NATION

2 BY MR. AUCHI NCLOSS

3 Q. Detective, if you overfume a print, what is

4 the result?

5 A. It's a degradation of the clarity of the

6 print, as has been said. It fills in between the

7 ridges.

8 Q. Is it visible?

9 A. Yes.

10 Q. Have you had an opportunity to look at all

11 the prints, these 19 prints on these cards that we

12 have presented here?

13 A. I've had the opportunity. I haven't really

14 looked at them in detail.

15 Q. Okay. But you have looked in detail with

16 the three that you testified about?

17 A. Yes.

18 Q. Any of them overfumed?

19 A. No.

20 MR. AUCHI NCLOSS: Thank you. No further

21 questions.

22 MR. SANGER: No further questions.

23 THE COURT: All right. Thank you. You may

24 step down.

25 THE WITNESS: Thank you.

26 THE COURT: Call your next witness.

27 MR. NICOLA: Sergeant Bob Spinner.

28 MR. AUCHI NCLOSS: Your Honor, at this time I 3642

♀

1 I would like to admit into evidence People's Exhibit
2 769 and People's Exhibit 724, 727 and 742.

3 MR. SANGER: 742 is the book?

4 MR. AUCHINCLOSS: 769 is the book.

5 MR. SANGER: I'd object to 769 on two

6 grounds. One -- well, three. One, it's cumulative;

7 two, 352; three, at least one of the pages has not

8 been properly identified

9 THE COURT: Which page?

10 MR. SANGER: There was an objection

11 sustained, and there was no testimony regarding that

12 page.

13 MR. AUCHINCLOSS: I'm unfamiliar with that.

14 THE COURT: Other than for -- I'll withhold

15 ruling based on that one objection. The other two

16 objections are overruled, and the 352 specifically

17 is overruled.

18 I'll ask you to consult with each other so

19 you can -- you know you're talking about the same

20 page, so that you're on the same page.

21 MR. SANGER: There you go.

22 THE COURT: Can we do that at the break?

23 THE CLERK: Are the other exhibits received?

24 THE COURT: The other exhibits are received.

25 Would you raise your right hand?

26

27 ROBERT SPINNER

28 Having been sworn, testified as follows: 3643

♀

1 THE WITNESS: I do.

2 THE CLERK: Please be seated. State and

3 spell your name for the record.

4 THE WITNESS: Robert Spinner; S-p-i-n-n-e-r.

5 THE CLERK: Thank you.

6 MR. NICOLA: Just a moment while we put

7 something in the computer.

8

9 DIRECT EXAMINATION

10 BY MR. NICOLA:

11 Q. While I'm fiddling, why don't you tell the

12 jury what you do for a living.

13 A. At the present time, I am working as a

14 part-time employee of the Santa Barbara County

15 Sheriff's Department in the Forensics Unit. I

16 retired from the sheriff's department in July of

17 2000 -- or August of 2003 after a term of service of

18 32 years.

19 During that time, I spent from 1986 to my

20 retirement date working in the Forensics Unit at the

21 sheriff's department.

22 Q. Is it true that nobody ever really retires

23 from the sheriff's department?

24 A. Obviously, that's very true.

25 (Laughter.)

26 Q. BY MR. NICOLA: How long did you work in the

27 Forensics Bureau with the sheriff's department?

28 A. From about the middle of 1986 to my 3644

♀

1 retirement date in 2003. It would be approximately

2 13 years, I believe.

3 Q. Okay. During that period of time, did you

4 receive any training or education in the field of

5 forensic investigation?

6 A. Yes, I did.

7 Q. Why don't you walk the jury through that,

8 please?

9 A. I started my training in basic fingerprints

10 in 1987 when I attended two classes put on by the

11 California Department of Justice, which were Latent

12 pattern techniques, and latent fingerprint
13 techniques, or latent pattern recognition and latent
14 fingerprint techniques.
15 I then attended a three- or four-day school,
16 I don't remember the exact time, down at Cal-State
17 Long Beach on an advanced evidence technician
18 course.
19 I had previous experience in crime scene
20 investigation from my time on patrol and did not go
21 to the basic crime scene investigation course when I
22 came into the unit.
23 I then attended the palm print
24 identification class put on by Mr. Ron Smith.
25 Subsequent to that, I attended a basic fingerprint
26 class put on by the Federal Bureau of Investigation.
27 And back to back with that I attended an advanced
28 fingerprint class put on by the Federal Bureau of 3645

♀
1 Investigation, both went a week long, which were
2 conducted at Rio Hondo College in Los Angeles.
3 Subsequent to that I attended an advanced
4 latent fingerprint comparison class taught by Mr.
5 Pat Wardheim. I've taken a fingerprint seminar,
6 fingerprint development and comparison seminar, at
7 Orange County Sheriff's.
8 I became a member of the Southern California
9 Association of Fingerprint Officers in 1995, and I
10 have attended their two-day training seminar, which
11 is held every October, since then, except for the
12 seminar which was held in 2001 due to the 9/11
13 incident.
14 I have attended and monitored one of Mr.
15 Wardheim's classes that we had at the sheriff's
16 department, kind of in and out of that one, so I
17 didn't really list it, but it was on problem latent

18 print identification.

19 I attended the three-week advanced -- the
20 advanced latent fingerprint school held at the FBI
21 Academy in Quantico, Virginia, in the year 2000.
22 And I recently attended, in January of this
23 year, a basic forensics ridgeology class put on by
24 Mr. David Ashbaugh.

25 I've also attended another seminar conducted
26 by Mr. Ashbaugh. I believe it was 1997.

27 Q. Do you have any other education?

28 A. I have attained initially an associates of 3646

♀
1 arts degree in business, I have an associates of
2 science degree in police science, and I have a
3 bachelor's degree in administration.

4 Q. At the time that you retired, what was your
5 position with the Forensics Bureau of the Santa
6 Barbara Sheriff's Office?

7 A. When I retired I was the sergeant and
8 supervisor in the unit.

9 Q. Does that unit encompass both North and
10 South County offices?

11 A. Yes, it does, sir.

12 Q. And you were in charge of all the forensics
13 people?

14 A. Yes, I was.

15 Q. Do you have any professional affiliations
16 you have not mentioned?

17 A. Encompassing along with the Southern
18 California Association of Fingerprint Officers,
19 which has the acronym SCAFO, I'm also a member of
20 the International Association of Identification,
21 California State Division.

22 Q. Over the years how many fingerprint
23 comparisons would you estimate that you have done?

24 A. I would say approximately in the vicinity of
25 80,000.

26 Q. Okay. Approximately how many came just from
27 the Michael Jackson case?

28 A. I believe it was close to 21,000 3647

♀
1 comparisons.

2 Q. Have you ever testified in court as an
3 expert witness regarding fingerprint identification?

4 A. Yes, I have, sir.

5 Q. On approximately how many occasions?

6 A. It was approximately -- approximately 10 to
7 15 times. I'm not really sure of the exact number,
8 both in Santa Barbara and in Santa Maria court
9 systems.

10 Q. Does that mean that you've only done
11 comparisons in approximately 10 or 15 cases?

12 A. No, sir. We're very rarely called to
13 testify in fingerprint cases, and it's -- when we do
14 get to testify, it is a rarity.

15 Q. Okay. Is there a requirement by the
16 sheriff's office that you be certified in order to
17 hold your position?

18 A. No, there is not.

19 Q. So you're not a certified fingerprint
20 examiner?

21 A. No, sir, I'm not.

22 Q. Do you know other fingerprint examiners in
23 other jurisdictions working with other law
24 enforcement agencies?

25 A. Yes, I do.

26 Q. Is it uncommon for some of them or many of
27 them to be noncertified?

28 MR. SANGER: Objection Your Honor. 3648

♀

1 Relevance and foundation.

2 THE COURT: Foundation; sustained.

3 Q. BY MR. NICOLA: Is it uncommon in the State

4 of California for -- let me phrase it another way so

5 it's not leading.

6 Do you know whether law enforcement

7 agencies, as a rule, require certified fingerprint

8 examiners to be employed?

9 MR. SANGER: Objection; foundation.

10 THE COURT: Sustained.

11 MR. NICOLA: Okay.

12 Q. Can you explain for the jury, please, what

13 a latent fingerprint is?

14 A. A latent fingerprint is a fingerprint which

15 is created when your friction ridge skin comes in

16 contact with an object and there's a transfer of the

17 contaminants, sweat and sebaceous oils which are on

18 the top surface of those friction ridges, to the

19 object which is touched. That print may be

20 invisible until it is mechanically or chemically

21 enhanced or processed.

22 Q. And what is a known fingerprint?

23 A. A known fingerprint is an intentional

24 recording of an individual's fingerprints, not only

25 on a marked fingerprint card, which would have ten

26 squares across the top and four squares on the

27 bottom. One -- the bottoms would have the flat

28 prints and thumbs; the tops would have the complete 3649

♀

1 left finger recordings and the complete right finger

2 recordings. It's only done in ink. However, now,

3 with the advent of better digital electronics, it's

4 done with what we call the Livescan method, which is

5 basically an electronic recording of the

6 fingerprints.

7 Q. I'd like to approach and show you Exhibit

8 767. Do you recognize that exhibit?

9 A. Yes, I do.

10 Q. And what is that?

11 A. It is the ten-print fingerprint card for Mr.

12 Jackson which was created on 11-20-03.

13 Q. Is that an example of the Livescan image

14 that you just explained to the jury?

15 A. Yes, it is.

16 Q. Okay. I'd like to show you Exhibit No. 743.

17 Do you recognize that?

18 A. Yes, sir. This is an expanded version of

19 the original item, which is the fingerprint card.

20 Q. Okay.

21 MR. NICOLA: I'd like to move 743 into

22 evidence at this time, Your Honor.

23 MR. SANGER: Actually, I don't think I've

24 been shown this. I understand I've seen the

25 original, but if I could just see the --

26 MR. NICOLA: They're on your Power Point,

27 I'm sorry.

28 MR. SANGER: Let me just see the boards, if 3650

♀

1 I could, quickly.

2 MR. NICOLA: Yes.

3 MR. SANGER: Thank you.

4 MR. NICOLA: Once again, Your Honor, I would

5 like to move Exhibit 743 into evidence.

6 MR. SANGER: I have no objection.

7 THE COURT: It's admitted.

8 Q. BY MR. NICOLA: I have placed in front of

9 you also Exhibit 744 and 745. Do you recognize 744,

10 sir?

11 A. Yes, Item 744 is a blown up copy of the

12 ten-print fingerprint cards for Star Arvizio.

13 Q. Do you have a hard time with the name

14 "Arvi zo"?

15 A. Arvi zo, yes.

16 Q. Okay.

17 A. Short on letters.

18 MR. NICOLA: Can we move Exhibit 744 in

19 evidence, Your Honor?

20 MR. SANGER: No objection.

21 THE COURT: It's admitted.

22 Q. BY MR. NICOLA: And 745, is that one of the
23 fingerprint cards from Gavin Arvi zo?

24 A. Yes, sir. This is the -- one of the
25 ten-print cards for Gavin Arvi zo.

26 MR. NICOLA: We'd like to move Item 745 into
27 evidence at this time.

28 MR. SANGER: No objection. 3651

♀
1 THE COURT: It's admitted.

2 MR. NICOLA: I'm going to leave these right
3 here.

4 Q. Detective Spinner, Sergeant Spinner, can you
5 explain for the jury please, what the basic premise
6 of the use of fingerprints for making
7 identifications is?

8 A. Yes. Fingerprints are formed during the
9 first and second trimesters prior to birth, during
10 gestation. They are permanent. In other words,
11 they will last from when they're formed, prior to
12 birth, to well after death; and three, that they are
13 unique, that no two persons have never been found to
14 have the same exact fingerprint formations.

15 Q. Okay. What sort of protocol do you use when
16 you're conducting a fingerprint comparison?

17 A. We, the sheriff's office, conduct a
18 fingerprint comparison. We use the accepted

19 methodology known as ACE-V, which is an accepted

20 method in the fingerprint community.

21 Q. That's A-C-E?

22 A. A-C-E, dash, V. It's an acronym. It means

23 analyze, compare, evaluate and verify.

24 Q. What are the initial steps of the analysis

25 process?

26 A. Okay. During the analysis process, after

27 the ACE-V methodology we examine -- or the latent

28 fingerprint is examined and -- for quality, clarity, 3652

♀

1 and determine what information is available within

2 that particular latent fingerprint; can the class

3 type be determined; how much level -- how much

4 detail is available; how clear is it; is it smudged

5 or smeared; can it even be used for a latent

6 fingerprint comparison. Sometimes this can be done

7 fairly rapidly, and sometimes it takes some time.

8 Q. When can it be done fairly rapidly?

9 A. When it is -- when they're clear and when

10 there is -- the apparent detail is clear and very

11 highly visible. Some latent prints are very badly

12 smeared sometimes and it takes a while to work

13 through them to determine whether they can even be

14 used for a latent fingerprint comparison or not.

15 Q. Is there a level called Level I class

16 characteristics?

17 A. Yes, sir, the Level I class characteristic

18 would be the type of fingerprint pattern it is, be

19 it a whorl pattern, an arch pattern, or the ridge

20 pattern.

21 Q. Did you bring a small diagram with you?

22 A. No.

23 Q. You left it upstairs?

24 A. Yes, sir, I did.

25 Q. Okay. And that's just a piece of paper with

26 the different kinds of patterns on it?

27 A. Yes, sir. It had what's known as -- two

28 loop patterns. Loops are broken down into two 3653

♀
1 particular styles of patterns. It used to be called

2 the ulnar loop and the radial loop. In other words,

3 the loop on the ulnar loops would open towards the

4 little finger, and the radial loop would open

5 towards the radial bone or the thumb.

6 Q. Is there anything about a fingerprint that

7 can tell you whether a person is left-handed or

8 right-handed?

9 A. No, sir.

10 Q. And anything about them that can tell you

11 age?

12 A. No, sir. Well --

13 Q. Except for little tiny babies, right?

14 A. Except for little tiny babies. Or when

15 people get aged, when they get quite old, sometimes

16 they lose the fat pad under the print, and the ridge

17 structure gets very worn and very hard to see.

18 Q. Okay. And a fingerprint will never tell you

19 when it was left?

20 A. No, sir, you cannot tell when a fingerprint

21 was left.

22 Q. Okay. Is there a higher level of

23 individualization within a fingerprint that you look

24 for as a fingerprint examiner?

25 A. Yes, sir. There's Level II detail and then

26 Level III detail.

27 Q. Beginning with Level II detail, can you

28 please tell the jury what it is that makes a 3654

♀
1 fingerprint unique, Level II?

2 A. Okay. Well, basically fingerprints are

3 unique, starting with Level I. They're either
4 arches, loops or whorls.

5 Then breaking down into Level II, we have

6 three basic Level II types of details. We have the
7 bifurcation, which happens when two running ridges
8 either split and form -- or one running ridge either
9 splits and forms two running ridges, or vice versa
10 happens, when two running ridges come together to
11 form one ridge.

12 And you have what we call an ending ridge,
13 where a ridge stops, and the ridges on both sides of
14 it continue on.

15 Then there is a dot, which a dot is one
16 ridge unit which should be about as wide as it is
17 long and has one pore structure in it.

18 Q. Is there something you look for in a
19 fingerprint at the Level II stage that helps you on
20 your way to determining whether you can make a match
21 or exclude a fingerprint as being made by a
22 particular individual?

23 A. Well, you look for -- in Level II detail
24 only, after you confirm the Level I, you look for
25 sufficient Level II details in sequence, the same
26 spatial relationships and friction ridges in
27 sequence to allow an identification to be effective.

28 Q. Okay. So you look at the detail and the 3655

♀
1 sequence that it is on the ridge?

2 A. Yes, sir. You have to take everything into
3 consideration.

4 Q. What if you were comparing two fingerprints
5 and you come across a detail that exists in one on a
6 ridge that doesn't exist on the other on the same
7 ridge?

8 A. If one positive Level II detail is found
9 within a latent print and it is not reproduced in
10 the known print, or vice versa, and it cannot be
11 explained by distortion, then it would automatically
12 take the fingerprint out of contention as being an
13 identification.

14 Q. That would be the one-dissimilarity rule?

15 A. Yes, sir.

16 Q. With respect to the fingerprints collected
17 in this case and the ones that you analyzed, can you
18 please explain to the jury where you became involved
19 in the process that we've heard much about so far?

20 A. When I was called back into the Forensics
21 Unit for part-time assistance due to personnel
22 staffing levels, I believe it was the last part of
23 July in 2003, I was asked if I would assist with the
24 evidence processing in this case.

25 Q. Okay. Were you involved in setting up the
26 protocol for how the large volumes of magazines and
27 other items of paper would be processed?

28 A. No, I was not. 3656

♀
1 Q. Okay. Did you have a clear understanding of
2 what that protocol would be?

3 A. It was shown to me and I read through it,
4 yes. I understood what they were -- what was being
5 required and requested.

6 Q. Was it an acceptable process from your point
7 of view?

8 A. Yes, sir.

9 Q. Okay. What was your role in the handling of
10 the magazines and other items of evidence that were
11 processed for fingerprints?

12 A. My role started when I obtained the magazine
13 item numbers from the property room. I returned

14 them to the Forensics Unit, where the evidence bags
15 were then opened.

16 And then what I did was, I first initially
17 took each individual magazine and photodocumented
18 that magazine page per page. I then took the
19 magazine and cut the magazine or separated the
20 magazine down the spine or the middle to separate
21 each page into its own individual page.

22 Then the magazine was recorrelated to
23 maintain the page order. The magazine was then
24 subjected to cyanoacrylate ester fuming, which is
25 known as super glue fuming, in an effort to develop
26 and stabilize any latent fingerprints which may or
27 may not be on each individual page.

28 After this was done, the pages were then 3657

♀
1 either recorrelated or immediately placed into
2 plastic sleeves, which were then placed into
3 binders, and then the binders became the magazine,
4 or book, or pamphlet

5 Q. So, were you the individual responsible for
6 slicing the magazines up and subjecting them to the
7 fumes from super glue?

8 A. I cut and processed the grand majority of
9 the magazines. Michelle Shelley processed a few of
10 them at my direction toward the end when we got very
11 busy.

12 Q. Were you working under some kind of time
13 crunch?

14 A. Yes. We were told we had to have this
15 project completed by December 17th of 2003.

16 Q. Once the items had been subjected to the
17 super glue fuming did you repackage them?

18 A. They were -- after the super glue fuming was
19 completed, each individual page was placed into a

20 plastic page protector, which was then placed into a
21 three-ring binder.

22 Q. Okay. And then those binders would go
23 where; do you know?

24 A. The binders were either kept in the Santa
25 Barbara lab for processing there, or they were sent
26 to the Santa Maria lab for processing there, due to
27 the length of time it was going to take to do the
28 additional processing for latent fingerprints. 3658

♀
1 Q. Okay. The deadline you had was in December
2 of 2004, correct?

3 A. I'm sorry, 2004. That is correct.

4 Q. My astute colleagues here.

5 The teams that were responsible for further
6 developing or examining the magazines and their
7 contents for latent fingerprints in the North County
8 would have been who; do you know?

9 A. They would have been Detective Sutcliffe and
10 I.D. Technician Torres.

11 Q. And in the South County, who did you use?

12 A. Detective Wittenbrock and Michelle Shelley.

13 Q. And what was the procedure from that point
14 forward, if you know?

15 A. Once I was through assembling the magazines
16 back into the binder, in the individual page
17 protectors, they were either sent to Santa Maria or
18 they were kept in-house and then processed for
19 latent fingerprints using what's known as a RUVIS
20 Scenoscope to look for, develop and stabilize super
21 glue prints on the pages. The pages were then
22 subjected to a ninhydrin process to attempt to
23 further develop any fingerprints.

24 When these two processes were completed, the
25 magazine pages were then reinserted into the plastic

26 sleeves, placed back into the binders, and the
27 binders were then correlated by myself, accounted
28 for, and then booked back into the evidence room. 3659

♀

1 Q. Okay. If a latent fingerprint was
2 identified by one of the teams, meaning Detective
3 Sutcliffe's team or Detective Wittenbrock's team,
4 what would they do with that image?

5 A. Okay. All images which they found, either
6 using the Scenescope or the ninhydrin process, were
7 photodocumented. Those photographs were then either
8 placed on a CD disk in Santa Maria and sent down to
9 Santa Barbara for evaluation, or if Detective
10 Wittenbrock photographed the images, he would take
11 the photo card out of the digital camera, go to the
12 Santa Barbara computer, download images in the Santa
13 Barbara computer system.

14 Q. Were those images saved by file number?

15 A. Yes, they were. Each individual item
16 number, or each individual magazine, pamphlet, page,
17 whatever, each had an individual item number.

18 The fingerprints which were -- photographs
19 on those were marked. And when the photographs were
20 taken, and they were saved under a particular --
21 under the file number for that particular item of
22 evidence.

23 Q. How many total images of latent prints did
24 the teams of Sutcliffe -- Detective Sutcliffe and
25 Detective Wittenbrock provide you for a comparison?

26 A. Approximately 706.

27 Q. And out of those 706 potential latent
28 prints, how many did you find were usable to make 3660

♀

1 fingerprint comparisons?

2 A. 178 were found to be usable for latent

3 comparison purposes. However, some of those were

4 latent palm prints, not fingerprints.

5 Q. Okay. Of the latent fingerprints --

6 generally, could you explain for the jury what it is

7 that, in your opinion, makes a latent fingerprint

8 usable for a comparison?

9 A. A latent fingerprint needs to have

10 sufficient quality and clarity to locate and

11 identify a sufficient amount of Level II detail, and

12 it also has, in my estimation, and what I would like

13 to see is sufficient detail to at least show basic

14 Level I details so the pattern type can be

15 determined.

16 Q. Turning your attention back to Exhibit 743,

17 744 and 745, did you use the fingerprints cards from

18 the individuals listed, Michael Jackson, Gavin

19 Arvizo and Star Arvizo, to compare against the 178

20 fingerprints that were recovered that you felt were

21 usable?

22 A. Yes, we did.

23 Q. Okay. And out of the 178 usable prints, did

24 you find matches on a number of latent prints?

25 A. We were able to identify 19 of the 178.

26 Q. And you categorized those as positive

27 identifications?

28 A. Yes, sir. 3661

♀
1 Q. Okay. Were there a number of fingerprints

2 that you did not come to a conclusion about?

3 A. Yes, there were.

4 Q. And approximately how many, please?

5 A. I believe there were seven.

6 Q. When you initially began your comparison

7 process, could you describe for the jury the

8 different steps that you took?

9 A. When --

10 Q. Let me rephrase that. That will take you
11 somewhere else.

12 When you initially began comparing a latent
13 print to some of these known prints from the three
14 individuals we named, did you look at them with the
15 intention of going back through the material over
16 and over again?

17 A. When we first did the -- when we first went
18 through the first ones, what we did was we went
19 through an initial evaluation and located prints
20 which we felt could be an identification, and we
21 marked those.

22 And when we finished going through all the
23 prints that came down on an individual CD disk for
24 that day or the two days, then we would go back to
25 the ones that we were interested in and re-review
26 those fingerprints.

27 Q. Okay. So they would get a first look, and
28 then a more thorough look at a later time? 3662

♀
1 A. Yes, sir, they would.

2 Q. You keep saying "we."

3 A. Myself and Identification Technician Lisa
4 Hemman.

5 Q. When you finally sat down to compare a
6 fingerprint to -- a known fingerprint to a latent
7 fingerprint that you were examining, how did you and
8 Lisa Hemman coordinate that?

9 A. Well, initially, during the initial
10 evaluation, we were both watching or both looking at
11 a computer screen where the disk -- the images were
12 being brought up one at a time. And we each had
13 individual copies of the ten-prints -- ten-prints
14 for the three individuals involved in this case,

15 meaning Gavin Arvizo, Star Arvizo and Mr. Jackson.

16 As we went through the latent fingerprints,
17 again, as I said before, we identified some which

18 could be identifiable to one of the three people.

19 We would note that, and then -- for a later

20 evaluation.

21 What would happen during the later

22 evaluation process, I.D. Technician Hemman would

23 take the latent fingerprint which we felt was a

24 usable and comparable latent to a particular inked

25 fingerprint or known fingerprint, and make a

26 side-by-side comparison set up on a computer screen.

27 We would then go through that side-by-side

28 comparison independently, looking for Level II 3663

9
1 details and marking that detail with one of us being

2 outside of the room when the other was doing it.

3 After we were both finished, we would then

4 compare our results and see if there was a problem

5 or whether the identification was valid or whether

6 it was not valid.

7 Q. Is that the "V" part of the ACE-V process?

8 A. It would be -- yes, it would be the "V"

9 process, the verify. What we did initially when we

10 looked at the fingerprints on the computer screen,

11 we were just looking for latents alone with the

12 ten-print fingerprint cards.

13 Q. How is it that Senior I.D. Technician Hemman

14 could mark on the computer where she thought points

15 of comparison were and you would come in later and

16 not see those marks?

17 A. We were using a program called Adobe

18 Photoshop, and in that particular program you can

19 create what they call layers. She would make two

20 layers. One layer would be her layer, one layer

21 would be my layer. And she would turn her layer on
22 and put the marks down on where she thought the
23 appropriate Level II detail was located to make an
24 identification, or nonidentification as the case may
25 be, for this particular fingerprint. She would then
26 turn that layer off, turn my layer on.
27 I would go in, I could not see her marks. I
28 would then put my marks down. When I was finished, 3664

♀
1 I would advise her of what we did -- that I was
2 finished, rather, and we would both get together.
3 She would turn both layers on and we would see if we
4 were in agreement.

5 Q. Is that a fairly standard way of doing
6 things these days in the field of fingerprint
7 comparison is using the computer?

8 A. Yes, sir. We used to use what they call a
9 fingerprint comparator. It's a visual
10 projection-type device where you would do basically
11 the same thing, but it was more mechanical. You'd
12 work on a plastic screen with a water-soluble pen.
13 Here we just basically use a computer and a
14 dedicated program, like Adobe Photoshop, to do the
15 same thing.

16 Q. I'm going to approach you with an exhibit.

17 THE COURT: Let's take our morning break.
18 (Recess taken)

19 THE COURT: All right. Counsel, go ahead.

20 MR. NICOLA: Thank you, Your Honor.

21 Q. Detective Spinner -- Detective Spinner, I've
22 put a number of boards up here. Can you reach the
23 ones closest to your right, and on that first board,
24 can you read the exhibit number, please?

25 A. 735.

26 Q. Do you recognize the latent image in that

27 picture?

28 A. There's an item listed as being taken on 3665

♀

1 Item 317-U, union, Latent No. 1.

2 Q. Did you make a comparison of that print in

3 this case?

4 A. Yes, we did.

5 Q. Did you come to any conclusions when you

6 made your comparison of that fingerprint?

7 A. Yes, we did.

8 Q. Can you turn to the next exhibit, please.

9 Are you looking at Exhibit 757?

10 A. Yes, I am.

11 Q. And what is depicted in that exhibit?

12 A. It is a charted latent fingerprint

13 comparison between the photograph from Item 317-U,

14 union, page ten, Quadrant 16, Latent 1, against a

15 known fingerprint of Gavin Arvizo's right middle

16 finger.

17 Q. So you were able to identify Gavin Arvizo's

18 right middle finger on Exhibit -- a magazine labeled

19 317-U?

20 A. Yes, sir, we were.

21 Q. Okay. Coming to your opinion that that is

22 his fingerprint, did you present our office with a

23 Power Point presentation to help explain that to the

24 jury?

25 A. Yes, we did.

26 MR. NICOLA: Your Honor, if I may have

27 "Input 1," please. I'd like to show it to the jury,

28 please. 3666

♀

1 Q. Take a look up at the screen.

2 THE COURT: What's the exhibit number on the

3 presentation?

4 THE WITNESS: 757, Your Honor.

5 MR. NICOLA: Did you -- I left them with the
6 court reporter for some strange reason, Judge.

7 It's going to be next in order, Exhibit No.

8 772.

9 Q. I'm going to go right to -- thank you --

10 this image.

11 That was the latent fingerprint that you

12 compared.

13 A. That's affirmative, sir, yes.

14 Q. Okay. And I want you to guide me through

15 this. What is this?

16 A. That is the known inked impression from the

17 right middle finger of Gavin Arvizo.

18 Q. And what does this image depict?

19 A. Okay. This is where -- an identification of

20 12 charted points of identification which we found

21 within this particular fingerprint which we compared

22 to the latent fingerprint.

23 Q. Is that what's shown on the screen?

24 A. Yes, sir. That -- No. 1 is an upward moving

25 ending ridge.

26 Q. Okay. Did you compare an entire finger pad

27 against an entire finger pad when you made your

28 comparison? 3667

♀

1 A. No, sir. In this case, we had the right --

2 or the left side of the completely rolled finger,

3 which included from a little bit inside the delta

4 area, which is the area I just pointed to, to this

5 area, up into the top and down below the delta area.

6 Q. Okay. Can you explain what's on this next

7 slide, please?

8 A. That is where the second characteristic is

9 located and charted, and that is also an ending

10 ridge, and it's a downward thrusting ending ridge.

11 Q. And this image?

12 A. No. 3 is also a charted ending ridge. It

13 would be an upward thrusting ending ridge.

14 Q. No. 4?

15 A. Four is another ending ridge, again in the

16 same spatial relationship to the other three, and

17 it's also an upward thrusting ending ridge.

18 Q. No. 5, please?

19 A. Five is another ending ridge, again in the

20 same spatial and ridge count relationship with No.

21 4, 3, 2 and 1, and it's also a downward thrusting

22 ending ridge.

23 Q. No. 6?

24 A. Six is also an ending ridge, downward

25 thrusting, in the same spatial relationship as the

26 first five.

27 Q. No. 7?

28 A. Seven is a bifurcation, which again is two 3668

♀
1 ridges flowing into one. It's an upward moving

2 bifurcation, in other words, opens downward, and

3 it's in the same spatial relationship as the first

4 six items.

5 Q. Okay. And eight?

6 A. Eight is an ending ridge. It's an upward

7 thrusting ridge, again in the same spatial

8 relationship to 1 through 7.

9 Q. Nine?

10 A. Nine is a bifurcation. It's a downward

11 opening, upward moving bifurcation, again in the

12 same spatial relationship with the previous items.

13 Q. Ten?

14 A. Ten is another bifurcation, opening

15 downward, in the same spatial relationship as 1

16 through 9.

17 Q. 11?

18 A. 11 is an ending ridge, coming up just inside
19 of the delta area. It's an upward flowing ending
20 ridge and having the same spatial relationship as
21 the previous mentioned items.

22 Q. No. 12?

23 A. 12 is a bifurcation. It's just above the
24 delta area, and again with the same spatial
25 relationship, having -- with the other items.

26 1 through 12 all have the same spatial and ridge
27 count relationships.

28 Q. Okay. Is that essentially the procedure you 3669

♀
1 went through to create Chart 757?

2 A. Yes, sir, it is.

3 MR. NICOLA: Your Honor, I'd like to move
4 757 into evidence.

5 THE COURT: It's admitted

6 Q. BY MR. NICOLA: The next two exhibits I'd
7 like to show you are 726 and 748. Do you recognize
8 726?

9 A. Yes, sir, I do.

10 Q. And what is that, please? Explain to the
11 jury.

12 A. It's a latent fingerprint that was
13 photodocumented from Item 317-L, page 126, marked as
14 Latent No. 1.

15 Q. Okay. What's the next board? 748?

16 A. 748, yes, sir.

17 Q. And is that your comparison between the
18 image in 723 (sic) and somebody's fingerprint?

19 A. Yes, it is.

20 Q. Tell the jury what that comparison is of,
21 please.

22 A. This is a latent fingerprint comparison
23 between the latent fingerprint photodocumented on
24 Item 317-L, page 126, marked Latent No. 1, and the
25 right index finger of Star Arvi zo.

26 Q. Okay. Did you prepare a Power Point
27 presentation as an example of that one as well?

28 A. Yes, sir, one was prepared. 3670

♀
1 MR. NICOLA: Okay The Star Arvi zo Power
2 Point, Your Honor, is Exhibit 773.

3 While that is loading -- there it is. Yes,
4 it's taking its time.

5 Q. This was the latent fingerprint of Star
6 Arvi zo found on Item 317-L, the magazine "Finally
7 Legal"?

8 A. Correct.

9 Q. And is that --

10 A. That is the latent fingerprint from Item
11 726, which is the latent fingerprint we photographed
12 on page 317-L, page 126, marked as Latent No. 1.

13 Q. Okay. And this is?

14 A. That is the right index fingerprint, as
15 photographed, of Mr. Star Arvi zo.

16 Q. And is it where your comparison began?

17 A. That's where we started making the chart,
18 yes, sir.

19 Q. Okay. I'd like you to explain whether these
20 images are to scale relative to the normal human
21 being and relative to each other.

22 A. No, these are cropped and expanded. And the
23 scaling between the fingerprint or the known print
24 on the left and the latent print on the right is --
25 the one on the right is slightly smaller.

26 Q. Okay. Is that the same for the previous
27 presentation? The scaling is different between the

28 two? 3671

1 A. It could be, yes, sir.

2 Q. The board is right there if you want to look
3 at it.

4 A. The scaling on this one would be just
5 slightly reversed. The latent is a little larger
6 than the known inked print.

7 MR. SANGER: When you say "this one" --
8 Your Honor, could we have a clarification as to what
9 exhibit the witness is looking at?

10 THE WITNESS: The 757.

11 MR. SANGER: Thank you.

12 Q. BY MR. NICOLA: Could you describe what
13 Point No. 1 is, please?

14 A. Point No. 1 is an upward thrusting ending
15 ridge.

16 Q. Okay. You mentioned earlier something about
17 a feature being in sequence, ridge sequence?

18 A. Ridges in sequence. That would be the
19 number of ridges basically between the two details,
20 such as we have an ending ridge at that location and
21 an ending ridge at that location, or bifurcation.

22 You follow this one down, the ridge line down, and
23 then you go over one to that, and here, starting at
24 "1" again, work your way up, and you have two ending
25 ridges flowing in the opposite direction.

26 Q. Okay.

27 A. So --

28 Q. Go ahead, you were going to finish. 3672

1 A. I was going to say, so you have to find the
2 same relationships in both the known print and the
3 latent fingerprint

4 Q. Okay. Point No. 2?

5 A. Point No. -- Point No. 2 is a downward

6 flowing ending ridge three ridges up and over from

7 Point No. 1.

8 Q. Okay. And that's the same on both images?

9 A. Yes, it is.

10 Q. And a third area of similarity?

11 A. That is also an ending ridge, which is two

12 ridges above Point No. 2.

13 Q. Okay. Area No. 4?

14 A. Four is another charted ending ridge, which

15 is at the other end of the short ridge starting at

16 Point No. 3.

17 Q. And as you're examining these points you're

18 looking for the feature, the ridge sequence and the

19 spatial relationship between the two?

20 A. That's correct.

21 Q. Okay. No. 5?

22 A. No. 5 is a bifurcation. This ridge actually

23 has a slight space here but actually bifurcates

24 into this one, and then it comes out in this

25 direction. So 5 is the location of the bifurcation

26 of the two ridges actually split off from each

27 other.

28 Q. Okay. No. 6? 3673

♀

1 A. Six is the ending ridge created by the short

2 ridge, which flows off the bifurcation underneath

3 the main ridge.

4 Q. And No. 7?

5 A. Seven is another ending ridge flowing across

6 the top from left to right, one ridge above the

7 previous ending ridge of six.

8 Q. And No. 8, please?

9 A. Eight is another ending ridge following the

10 furrow, or the white area, downward from 7 to 8.

11 And then it shows up there.

12 Q. The lines on the latent fingerprint, the
13 image on the right, the white areas correspond to
14 the dark areas on the image on the left?

15 A. Yes, sir. That's what happens when you
16 develop a latent fingerprint using cyanoacrylate, or
17 super glue. The super glue polymerizes with the
18 latent fingerprint moistures and turns the print
19 ridges actually white and the furrows are actually
20 a darker color.

21 Q. Okay.

22 A. Just reversed from your normal fingerprint.

23 Q. So a light area on the image on the left
24 would be a dark area on the image on the right?

25 A. That's correct.

26 Q. No. 9, please?

27 A. No. 9 is an ending ridge at this location
28 four ridges down from No. 6. 3674

♀

1 Q. No. 10, please?

2 A. Ten is a bifurcation where two ridges fuse
3 together to form one six ridges down from No. 9.
4 And the same spacing as this one.

5 Q. How about No. 11?

6 A. 11 is another bifurcation. It's a downward
7 opening bifurcation on the second ridge down, just
8 above the re-curve forming the core.

9 Q. And No. 12?

10 A. 12 is an upward thrusting ending ridge and
11 the furrow just to the right of Item No. 11.

12 Q. Is it common nomenclature to call these
13 "points of comparison," or is there some other term
14 you refer to them refer to them to?

15 A. I refer to them as "identifiable
16 characteristics." Some people refer to them as

17 "Galton details." Some people refer to them as

18 "unique details." They're all synonymous.

19 Q. With this particular fingerprint match, did

20 you find only 12 -- what did you call them?

21 A. Characteristics.

22 Q. -- characteristics of individualization?

23 A. Yes. There were additional characteristics

24 located.

25 Q. Approximately how many?

26 A. 25.

27 Q. There were 25 points that matched?

28 A. Yes, sir. 3675

♀
1 Q. I'm going to end this one and start loading

2 the other, so....

3 Do you have a fingerprint comparison up

4 there where you found a match on one of Michael

5 Jackson's prints?

6 A. Yes.

7 Q. Would you please state for the record what

8 the latent print exhibit number is?

9 A. It's Item 727.

10 Q. And the print comparison chart corresponding

11 to that item is?

12 A. 749.

13 MR. NICOLA: Your Honor, I request Item 748,

14 the charts depicting the match of Star Arvizo, be

15 admitted into evidence.

16 THE COURT: It's admitted.

17 Q. BY MR. NICOLA: Item No. 727, where was that

18 latent taken from?

19 A. This item was from Item 317-0, ocean, page

20 two, Latent No. 1

21 Q. And did you prepare a Power Point

22 presentation for that as well?

23 A. Yes, sir, one was prepared.

24 THE COURT: Is it ready?

25 MR. NICOLA: It is. Thank you, Your Honor.

26 Q. And is that the latent fingerprint image

27 that you used for your comparison?

28 A. Yes, sir, it is. And that is Mr. Jackson's 3676

♀
1 known left thumbprint.

2 Q. And this is a side-by-side comparison?

3 A. Yes, it is.

4 Q. Again, issues of scale remain the same?

5 A. The scaling is not totally accurate as far

6 as the -- totally the same exact size.

7 Q. Okay. And what is this identifying

8 characteristic?

9 A. That identifying characteristic is a ridge

10 ending which is one ridge above the re-curve forming

11 the core area of the fingerprint or the thumbprint.

12 Q. No. 2?

13 A. No. 2 is a bifurcation. If you follow No. 1

14 upward and to the left, you see where it fuses and

15 joins into the above ridge, forming the bifurcation

16 which opens from left to right.

17 Q. No. 3, please?

18 A. No. 3 is a ridge ending. Seven ridge counts

19 over from No. 2 that the Ridge No. 2 actually ends

20 on.

21 Q. No. 4, please?

22 A. Four is a bifurcation located above the

23 bifurcation for No. 2.

24 Q. No. 5, please?

25 A. Five is a ridge ending located in the upper

26 part of the print eight ridges above the ridge that

27 No. 3 is located on.

28 Q. No. 6? 3677

♀

1 A. Six is another ridge ending located one
2 ridge above No. 5 and forward.

3 Q. No. 7?

4 A. Seven is a bifurcation which opens to the
5 right four ridges below No. 5.

6 MR. NICOLA: This is Exhibit 774, Your
7 Honor, the Power Point.

8 Q. Eight?

9 A. No. 8 is an ending ridge which is the lower
10 fork of the bifurcation marked at No. 7.

11 Q. No. 9?

12 A. Nine is a bifurcation which, if you count
13 down four ridges and go slightly forward, it fuses
14 into the ridge one ridge below.

15 Q. And No. 10?

16 A. Ten is a bifurcation. Count down one ridge
17 and then go to the right, and you find where two
18 ridges fuse together forming a bifurcation that
19 opens to the left

20 Q. No. 11?

21 A. 11 is an ending ridge which is just below
22 the bifurcation at 10.

23 Q. And No. 12, please?

24 A. 12 is an ending ridge, which is the other
25 end of the short ridge from 11 to 12.

26 Q. Okay. And on this particular positive
27 identification, did you find more than 12?

28 A. We found a total of 17 total points. 3678

♀

1 Q. Okay. And are those the red dots that you
2 put on the exhibit?

3 A. Yes, sir, they are.

4 Q. They're very difficult to see in here. Are
5 they on your chart?

6 A. Yes, they are. And I can point them out

7 with a laser pointer, if you'd like, sir.

8 Q. Go ahead, please.

9 A. We have two ending ridges at this location.

10 An ending ridge at this location. Bi furcation at

11 this location. Another bi furcation at this

12 location.

13 Q. Is there a reason why not to chart more than

14 12 individualizing characteristics?

15 A. When I'm building a chart, and we don't

16 build that many of them, I don't like to put too

17 many lines in to mark every point because of the

18 probability of confusing people and have too many

19 lines running back and forth through the chart and

20 possibly crossing lines to get to all the points,

21 which then makes it very difficult to follow

22 backwards. So it was done for clarity.

23 MR. NICOLA: Okay. I think we're done with

24 our slide show, Your Honor.

25 Q. Exhibit 749 is the exhibit that contains the

26 Power Point we just saw --

27 A. Yes, it is, sir.

28 Q. -- in chart format? 3679

♀

1 I move 749 into evidence, Your Honor.

2 THE COURT: It's admitted.

3 Q. BY MR. NICOLA: Do you recognize Exhibit

4 746, Detective Spinner?

5 A. Yes, I do.

6 Q. And what is depicted in Exhibit 746?

7 A. It is a fingerprint chart showing the latent

8 comparison between the latent fingerprint

9 photographed on Item 304-D David, page 52, marked

10 Latent No. 1, and the left little finger of Mr.

11 Jackson.

12 Q. Did you make a positive identification?

13 A. Yes, we did.

14 MR. NICOLA: Move 746 into evidence.

15 THE COURT: It's admitted.

16 Q. BY MR. NICOLA: Exhibit No. 747, do you

17 recognize that?

18 A. Yes, sir. That is a chart created showing

19 the identification made on the fingerprint which was

20 photographed on Item 317-L, Lincoln, page 31, marked

21 Latent No. 1, against the left middle finger of Star

22 Arvizu.

23 MR. NICOLA: Move 747 into evidence.

24 THE COURT: It's admitted.

25 Q. BY MR. NICOLA: Exhibit No. 750?

26 A. Okay. No. 750 is item -- latent fingerprint

27 photographed on Item 317-R, Robert, page 54, Latent

28 1-N. And "N" indicates this is a 3680

♀
1 ninhydrin-developed fingerprint, not a

2 super-glue-developed fingerprint.

3 MR. NICOLA: Your Honor, we'd move 750 into

4 evidence.

5 THE COURT: It's admitted.

6 MR. NICOLA: Oh, I thought you did.

7 THE WITNESS: It's a comparison against the

8 left thumb of Mr. Jackson and a positive

9 identification was made.

10 MR. NICOLA: Now we'd like to move it into

11 evidence, Your Honor, 750.

12 Q. Exhibit 751, do you recognize that?

13 A. 751 is a photograph of the latent

14 fingerprint photographed on Evidence Item 317-R,

15 Robert, page 92, marked Latent No. 1, with the left

16 little finger of Gavin Arvizu.

17 Q. Is that a positive identification?

18 A. Yes, it was.

19 Q. Exhibit No. 752, please?

20 A. 752 is a chart of the fingerprint comparison
21 made from the picture -- or the fingerprint
22 photodocumented on Item 317-R, Robert, page 92,
23 marked Latent No. 2, and it is -- it was compared
24 and identified, the left ring finger of Gavin
25 Arvi zo.

26 Q. Is that a positive identification?

27 A. Yes, it is, sir.

28 Q. Exhibit 753, please? 3681

♀
1 A. 753 shows a photograph of the latent
2 fingerprint located on Item 317-R, Robert, page --
3 excuse me, page 92, marked Latent No. 4. This
4 latent fingerprint was compared against the left
5 index finger of Gavin Arvi zo and a positive
6 fingerprint comparison was completed.

7 MR. NICOLA: Move 751 in evidence.

8 THE COURT: It's admitted.

9 Q. BY MR. NICOLA: Exhibit 754?

10 A. Exhibit 754 shows a photograph of a latent
11 fingerprint photographed on Item 317-S, Sam, page
12 62, Latent No. 1. This item was compared against
13 the right thumb of Mr. Jackson, and a positive
14 identification was completed.

15 MR. NICOLA: Move 754 into evidence, Your
16 Honor.

17 THE COURT: It's admitted. It's admitted.

18 MR. NICOLA: Did I move 752, Judge?

19 THE COURT: I don't think so.

20 MR. NICOLA: Move it now, please.

21 THE COURT: It's admitted.

22 Q. BY MR. NICOLA: Exhibit 755?

23 A. 755 shows a photograph of a fingerprint

24 photodocumented on Item 317-S, Sam, page 87, Latent

25 No. 1. It was compared and identified against the
26 left ring finger of Mr. Jackson.

27 Q. Is that a positive identification?

28 A. Yes, sir, it is. 3682

♀

1 MR. NICOLA: We'd like to move 755 into
2 evidence.

3 THE COURT: It's admitted.

4 Q. BY MR. NICOLA: Exhibit No. 756, please?

5 A. 756 shows a charted comparison using the
6 photograph of the fingerprint photographed on Item
7 317-T, Tom, page three, Latent No. 1, against the
8 left thumb of Mr. Jackson.

9 Q. The result of that comparison?

10 A. It was a positive identification.

11 MR. NICOLA: Move 756 into evidence.

12 THE COURT: It's admitted.

13 Q. BY MR. NICOLA: Exhibit 758?

14 A. 758 shows a charted comparison between a
15 latent fingerprint photographed on Item 317-YY, or
16 yellow-yellow, page A, marked Latent No. 1. And it
17 was compared against the left index finger of Gavin
18 Arvizo.

19 Q. And the results?

20 A. It was a positive identification.

21 MR. NICOLA: Move 758 into evidence.

22 THE COURT: It's admitted.

23 Q. BY MR. NICOLA: Exhibit 759?

24 A. 759 shows a charted comparison using the
25 fingerprint photographed from Item 321-A, Adam, page
26 three, marked Latent No. 1, against the known
27 fingerprint of the right thumb of Mr. Jackson.

28 Q. And the result of that comparison? 3683

♀

1 A. It was a positive comparison.

2 MR. NICOLA: We'd like to move 759 into
3 evidence.

4 THE COURT: It's admitted.

5 Q. BY MR. NICOLA: Exhibit 760?

6 A. 760 shows a charted comparison between a
7 latent fingerprint photographed on Item 321-A, Adam,
8 page 29, marked Latent No. 1, and the known
9 fingerprint of Mr. Jackson's right thumb, and it was
10 a positive identification.

11 MR. NICOLA: Move 760 into evidence.

12 THE COURT: It's admitted.

13 Q. BY MR. NICOLA: 761, please?

14 A. 761 shows a latent fingerprint photographed
15 on Item 321-E, Edward, page one marked Latent 1,
16 and the known fingerprint of Mr. Jackson's left
17 thumb, or left thumbprint.

18 Q. And the result of that comparison?

19 A. That was a positive comparison.

20 MR. NICOLA: I'd like to move 761 into
21 evidence.

22 THE COURT: It's admitted.

23 Q. BY MR. NICOLA: Exhibit 762, please?

24 A. 762 shows -- is a charted comparison. It
25 shows a photograph of a latent fingerprint
26 photographed on Item 321-E, Edward, page seven,
27 marked Latent No. 1, compared against the known
28 right thumb of Mr. Jackson. 3684

♀

1 Q. And the result of that comparison?

2 A. It's a positive comparison.

3 MR. NICOLA: Move 762 into evidence.

4 THE COURT: It's admitted.

5 Q. BY MR. NICOLA: Exhibit 763, please?

6 A. 763 is a charted comparison showing a latent

7 fingerprint photographed on Item 321-F, Frank, page
8 11, marked Latent No. 1, and the right thumb of Mr.
9 Jackson.

10 Q. And the result of that comparison?

11 A. It's a positive comparison.

12 MR. NICOLA: Move 763 into evidence.

13 THE COURT: It's admitted.

14 Q. BY MR. NICOLA: Exhibit 764, please?

15 A. 764 shows a latent fingerprint, which was
16 photographed on item -- correction, 363-M, Mary,
17 page 57, marked Latent No. 2, against the right --
18 known right thumb of Mr. Jackson.

19 Q. And the result of that comparison?

20 A. It was a positive comparison.

21 MR. NICOLA: Okay. Move 764 into evidence.

22 THE COURT: It's admitted.

23 MR. NICOLA: At this time, Your Honor, I
24 would like to publish, via Power Point, Exhibit 746
25 through 764.

26 THE COURT: All right.

27 THE CLERK: Judge, he hasn't moved 751 into
28 evidence. 3685

♀
1 MR. NICOLA: Did I miss 751?

2 THE CLERK: You just didn't ask to have it
3 received into evidence.

4 MR. NICOLA: If I missed 751, I would like
5 to move it into evidence at this time.

6 THE COURT: It's admitted.

7 MR. NICOLA: Thank you, Judge.

8 If I may have "Input 1" again, Your Honor.

9 Q. If you could please compare what is on the
10 board to the exhibit in front of you and read the
11 exhibit number for the jury, please.

12 A. This exhibit number is Exhibit No. 746.

13 Q. Is that the positive identification you made
14 with Michael Jackson's left little finger on page 52
15 of the magazine entitled "Barely Legal"?

16 A. Yes, sir.

17 Q. Okay. Move to the next exhibit, please.

18 Is that Exhibit 747?

19 A. That's correct.

20 Q. Would you look at the screen, please?

21 Does that accurately depict the positive
22 identification of Star Arvizo's left middle finger
23 on page 31 of the magazine entitled "Finally Legal"?

24 A. Yes, sir, it does.

25 Q. Are there additional points of comparison on
26 that aside from the 12 that you've marked?

27 A. Yes, sir, there are.

28 Q. How many total comparison points are on that 3686

♀
1 exhibit, if you know, off the top of your head? You
2 may refer to your notes, if you wish.

3 THE BAILIFF: Mr. Nicola, you haven't pushed
4 the appropriate button down there to magnify the --

5 THE WITNESS: 20 points of comparison.

6 Q. BY MR. NICOLA: And the next exhibit,
7 please?

8 A. 750.

9 Q. Does this show --

10 A. They're out of order.

11 Q. Are they out of order?

12 A. (Nods head up and down.)

13 Q. Sergeant Spinner, do you remember those
14 exhibits I showed you earlier? Is the next one 748?

15 A. That's correct. 748.

16 Q. And that would be a comparison --

17 A. Between the fingerprint found on Item 317-L,
18 Lincoln, page 26, Latent No. 1, comparing the

19 photographed latent fingerprint against the right
20 index finger of Mr. Star Arvizio.

21 Q. Arvizio?

22 A. Arvizio.

23 Q. And how many individualizing characteristics
24 did you find in that comparison?

25 A. 25.

26 Q. Would you please proceed to Exhibit 749?

27 A. I have it.

28 Q. Does Exhibit 749 show the identification of 3687

♀
1 the defendant's left thumb on the magazine entitled
2 Hustler "Barely Legal"?

3 A. Yes, sir, it does.

4 Q. How many individualizing characteristics on
5 this exhibit?

6 A. 17.

7 Q. I'd like to go to Exhibit 750 next.

8 Is this the identification of the
9 defendant's left thumb -- or did I miss -- is that
10 it?

11 A. 750 is a ninhydrin print.

12 Q. That's a ninhydrin print, right?

13 A. That's correct.

14 Q. Okay.

15 A. It's 750.

16 Q. And is that the identification of Mr.
17 Jackson's left thumb on the magazine Hustler "Barely
18 Legal Hard-Core"?

19 A. Right. 317-R, page 54 --

20 Q. How many --

21 A. -- Latent 1.

22 Q. How many points of comparison in this
23 exhibit?

24 A. 18 total points.

25 Q. Exhibit 751, is this Gavin Arvizo's left

26 middle finger in the same magazine, Hustler "Barely

27 Legal Hard-Core"?

28 A. Page 52, marked Latent 1. 3688

♀
1 Q. And how many individualizing characteristics

2 did you find there?

3 A. We had 21 detailed.

4 Q. 21?

5 A. 21.

6 Q. 752, please. Is this Gavin Arvizo's left

7 middle finger found on the magazine Hustler "Barely

8 Legal Hard-Core," Sheriff's Item 317-L?

9 A. That's correct, Latent 2, page 92.

10 Q. How many individualizing characteristics did
11 you find in that?

12 A. 13.

13 Q. 13?

14 A. 13.

15 Q. Exhibit 753, please. It appears to depict

16 Gavin Arvizo's left index finger, Sheriff's Item

17 317-R, Hustler "Barely Legal Hard-Core."

18 A. Correct. Page 92, marked Latent No. 4.

19 Q. And how many individualizing characteristics
20 did you find on that print?

21 A. 14 total.

22 Q. Proceed to Exhibit 753, please -- 54

23 please. Is that next in order? Does that depict

24 the defendant's right thumb on the magazine

25 Penthouse, Sheriff's Item 317-S?

26 A. Correct, page 63, Latent No. 1.

27 Q. And how many individualizing characteristics

28 are in that? 3689

♀
1 A. 16 total.

2 Q. 16?

3 A. One-six.

4 Q. Exhibit No. 755, please. And is that also

5 the defendant's finger in Item 317-S, Penthouse?

6 A. Yes, sir, page 87, Latent -- marked Latent

7 No. 1.

8 Q. And how many individualizing characteristics

9 in that print?

10 A. 21.

11 Q. Exhibit No. 756, please?

12 A. I have it.

13 Q. Okay. Is that the defendant's left thumb in

14 the magazine "Visions of Fantasy"?

15 A. "Visions of Fantasy, Hard-Rock Affair," page

16 three, marked Latent No. 1, and we had again 21

17 points.

18 Q. Okay. Item 757, please. Is that Gavin

19 Arvizo's right middle finger in the magazine

20 "Visions of Fantasy" or did I not --

21 A. I don't think you changed it. We need 758.

22 Q. That's where we are.

23 A. Item 317-YY is "Al Goldstein's 100 Best

24 Adult Videos." It was from page A, marked Latent

25 No. 1. And it's the left index finger of Gavin

26 Arvizo. We had 18 total points.

27 Q. Is 757 right under that exhibit?

28 A. It's right here. 3690

♀

1 Q. Okay. Let's do 757, then.

2 A. Okay. 757 is from Item 317-U, union, page

3 ten, marked Latent No. 1.

4 Q. That would be Gavin Arvizo's right middle

5 finger?

6 A. That's correct, sir.

7 Q. And how many individualizing characteristics

8 in Exhibit 757?

9 A. 20.

10 Q. 20. Is 759 next on that stack?

11 A. Correct.

12 Q. Okay. And is that the defendant's right

13 thumb on page three of Item 321-A, "Playboy Special

14 Edition, Girlfriends"?

15 A. Yes, sir, it is.

16 Q. And how many individualizing characteristics

17 in that exhibit, please?

18 A. 26.

19 Q. 26. Proceed to Exhibit 760, please.

20 A. I have 760.

21 Q. Is that also the defendant's right thumb in

22 the same magazine at page 29?

23 A. Yes, it is, sir.

24 Q. And how many points of comparison in that

25 exhibit?

26 A. Approximately 30.

27 Q. Can we go to Exhibit 761, please?

28 A. I have it. 3691

♀

1 Q. Exhibit 761, is that a positive

2 identification of the defendant's left thumb on the

3 magazine "Girls of Barely Legal"?

4 A. Correct. Item 321-E, page one, Latent 1.

5 Q. And how many individualizing characteristics

6 in that diagram?

7 A. 24.

8 Q. Exhibit 762, please. And is that also the

9 defendant's right thumb in the same magazine at page

10 seven?

11 A. Page seven, marked Latent No. 1.

12 Q. How many individualizing characteristics in

13 that?

14 A. 19, 1-9.

15 Q. Exhibit 763, please.

16 This is Mr. Jackson's right thumb on the

17 magazine "Finally Legal"?

18 A. Yes, sir.

19 Q. And how many individualizing characteristics

20 on that exhibit?

21 A. 16.

22 Q. Is this also the exhibit that got switched

23 into a different binder when it left your lab?

24 A. Yes, sir, it was.

25 MR. SANGER: Well, I would object and move

26 to strike as being a leading question.

27 THE COURT: Sustained. Stricken.

28 Q. BY MR. NICOLA: Why does the picture say 3692

♀
1 "321-D"?

2 A. The picture says "321-D" because when it

3 left the Santa Barbara lab, it was evidently

4 switched and mismarked with Item 321-F, Frank. When

5 it got to Santa Maria, they relied on that

6 identification when they did the photodocumentation

7 placard, so the placard would show on the whole

8 picture the Item No. 321-D, not F, Frank.

9 Q. Did you verify that you made the right

10 comparison?

11 A. Yes, I did.

12 Q. And this is a photograph from which

13 magazine, which page?

14 A. This would be a photograph from a magazine

15 which was originally 321-F, Frank, and the one that

16 was mislabeled, and the one that Detective Sutcliffe

17 and I depict was relied on that label when they did

18 the photography

19 Q. Is there a woman's face in that Scenescape

20 image? Do you see the side of her face?

21 A. No. It must be the angle, sir.

22 Q. Is Exhibit 764 next?

23 A. That's correct. 764.

24 Q. Okay. And is that Mr. Jackson's right thumb

25 on the magazine "Club International," March '98?

26 A. Correct. Item 363-M, Mary, page 57, Latent

27 No. 2.

28 Q. And how many individualizing characteristics 3693

♀

1 in that one?

2 A. 19.

3 Q. 19.

4 That's the end of the exhibits, Your Honor.

5 Sergeant Spinner, on how many occasions did

6 you review the fingerprint identifications that you

7 made in this case?

8 A. Several.

9 Q. And why did you do that?

10 A. I usually review my work after it's

11 completed to make sure there's no problem, something

12 that was either missed, just to make sure that

13 there's no problems in the future. And I'll again

14 review them before I go to court.

15 Q. Okay. If there is an issue in your mind

16 about an identification, what is your habit and

17 custom?

18 A. I will correct -- if there is a problem,

19 I'll make every effort to correct that problem.

20 Q. And how would you do that?

21 A. Write a report describing the issue at hand

22 and what should be done, or what action should be

23 taken or was taken.

24 Q. Would you testify to a fingerprint that you

25 had issues with?

26 A. No.

27 Q. In this case, did you have issues with a
28 fingerprint? 3694

♀

1 A. Yes, I did.

2 Q. Do you recall which one it was?

3 A. I believe it was off of Item No. 317-0,
4 ocean. It was a thumbprint belonging to Mr. Jackson
5 which was fraught with problems.

6 Q. Okay. Is that the thumbprint that you
7 testified in court today matched Mr. Jackson's
8 thumb?

9 A. No, it is not.

10 Q. With respect to the other print, what did
11 you do to remedy the situation that you had with it?

12 A. The thumbprint?

13 Q. Yes.

14 A. Yes, sir, I wrote a report changing the
15 classification of the print from an identification
16 to an inconclusive identification.

17 Q. Did you engage in a peer review of the
18 fingerprints that you've identified today in court
19 under oath?

20 A. Yes, I did.

21 Q. And how many people reviewed those findings?

22 A. Two additional people.

23 Q. Please explain to the jury what the function
24 of a peer review is.

25 A. A peer review is basically an extension of
26 the ACE-V protocol methodology for fingerprints.
27 It's also something recognized by a group known as
28 SWGFST, which is a scientific working group for 3695

♀

1 fingerprint work and they have published guidelines
2 in the past. And it's basically a way to verify

3 what an individual has done and to kind of like --

4 in a way, it would be like a blind test to see
5 whether any problems were encountered, or whether
6 there was a different way of doing things, or
7 whether the identifications which were made are
8 correct, and get any feedback from that individual,
9 maybe a different way of doing something or
10 different way of handling a situation.

11 Q. And -- you mentioned it's sort of a blind
12 test. How does a peer review function?

13 A. The latent prints and the purported matches
14 would be sent to an individual without any marks on
15 them whatsoever, and just questions asked, "Do you
16 agree or disagree?"

17 Q. Okay. And who did you use for the peer
18 reviews in this case?

19 A. Initially -- I.D. technician Hemman was off
20 on maternity leave at the time we did this. I used
21 Identification Technician Mike Allmeyer from the
22 Santa Barbara Police Department for the initial.

23 Q. Have you known him for some time?

24 A. Yes, I have.

25 Q. What does he do with the Santa Barbara
26 Police Department?

27 A. He's an identification technician in their
28 lab. 3696

♀
1 Q. How long were you professionally affiliated
2 with him?

3 A. Since he came to work for the sheriff's
4 office initially, and then he went from the
5 sheriff's office to the police department. I was
6 going to guess about 13, 14 years.

7 Q. I'm going to start going through some
8 magazines with you, if that's all right.

9 Did you process - and I'm talking "process,"

10 photograph, slice, and direct to be bagged - all the
11 magazines that came to you during the Michael

12 Jackson case?

13 A. That's correct, sir.

14 MR. NICOLA: Okay. I'm going to go through
15 these exhibits. And hopefully we'll do it very
16 quickly, Your Honor.

17 May I inquire from the well Your Honor?

18 It's quite a bit.

19 THE COURT: It's a problem for people to
20 hear. So you can try it, but if they can't hear --

21 MR. NICOLA: May I try that, Your Honor?

22 THE COURT: You can try.

23 MR. NICOLA: Okay.

24 THE BAILIFF: Don't get it too close to that
25 other one.

26 MR. NICOLA: Do you have a paper clip or
27 something that I could. ...

28 Q. I'm going to hand you Exhibit 542, marked 3697

♀

1 Sheriff's Item 363-M.

2 Is that one of the magazines that you
3 processed and had placed in plastic sleeves?

4 A. Yes, it is, sir.

5 MR. NICOLA: Your Honor, we'd move this
6 exhibit into evidence.

7 THE COURT: It's admitted.

8 Q. BY MR. NICOLA: Exhibit 541? And I
9 apologize, these are not going to be in order. What
10 is that magazine?

11 A. It's Item No. 360-L, and it's a Plumpers
12 magazine.

13 Q. Is that one of the magazines that you
14 processed, cut, placed in plastics sleeves?

15 A. Yes.

16 MR. NICOLA: We'd move 541 into evidence.

17 THE BAILIFF: You're going to end up getting
18 feedback if you put that microphone too close to
19 that one.

20 MR. NICOLA: He did it

21 THE BAILIFF: You can use it, but not that
22 close.

23 MR. NICOLA: Okay. 541's been admitted,
24 Judge?

25 THE COURT: It's admitted.

26 Q. BY MR. NICOLA: Exhibit 540?

27 A. Yes, sir, this is Item No. 363-K, king.

28 Q. Is that one of the magazines you processed, 3698

9
1 super glued, placed in --

2 A. Sliced and diced, yes, sir.

3 MR. NICOLA: Move 540 into evidence.

4 THE COURT: It's admitted

5 Q. BY MR. NICOLA: Exhibit 539, Item 6 -- Item
6 363-J. Did you process, super glue, fume, place in
7 plastic sleeves that exhibit?

8 A. Yes, sir, I did.

9 MR. NICOLA: Move 539 in evidence, sir.

10 THE COURT: It's admitted.

11 MR. NICOLA: Exhibit 538, Item 363-I.

12 Similarly, did you process that magazine, Sergeant?

13 A. Yes, I did.

14 MR. NICOLA: Move 538 into evidence, Your
15 Honor.

16 THE COURT: It's admitted.

17 Q. BY MR. NICOLA: Exhibit 537, which sheriff's
18 item is that?

19 A. That is 363-H, Henry.

20 Q. Did you process -- did you look at it?

21 A. Yes, sir.

22 Q. Did you process that item as well?

23 A. Yes, I did.

24 Q. MR. NICOLA: Move that into evidence, Your

25 Honor.

26 THE COURT: It's admitted.

27 Q. BY MR. NICOLA: Exhibit 536, Item 363-G, as

28 in "golf," did you process that item? 3699

♀

1 A. Yes, I did, sir.

2 MR. NICOLA: Move it into evidence, Your

3 Honor.

4 THE COURT: It's admitted.

5 Q. BY MR. NICOLA: I'm handing you Exhibit 535.

6 A. It's 363-F, Frank.

7 Q. Did you process that item?

8 A. Yes, sir, I did.

9 MR. NICOLA: Move it into evidence, Your

10 Honor.

11 THE COURT: It's admitted.

12 Q. BY MR. NICOLA: Exhibit 534, please.

13 A. 363-E, Edward.

14 Q. Did you process that item?

15 A. Yes, I did.

16 MR. NICOLA: Move it into evidence, Your

17 Honor.

18 THE COURT: It's admitted.

19 Q. BY MR. NICOLA: Exhibit 532?

20 A. 363-C, Charles.

21 MR. NICOLA: Move that into evidence, Your

22 Honor.

23 Q. Did you process this?

24 A. Yes, I did.

25 MR. NICOLA: May we move it into evidence,

26 Your Honor?

27 THE COURT: It's admitted.

28 Q. BY MR. NICOLA: 533, did you process that 3700

♀
1 item?

2 A. Yes, I did. 363-D, David.

3 MR. NICOLA: Move that into evidence, Your
4 Honor.

5 THE COURT: It's admitted.

6 Q. BY MR. NICOLA Exhibit 531?

7 A. It's 363-B, boy.

8 Q. Did you process that item?

9 A. Yes, I did.

10 MR. NICOLA: Move that into evidence. Your
11 Honor.

12 THE COURT: It's admitted.

13 Q. BY MR. NICOLA: Next I'm handing you Exhibit
14 530.

15 A. 363-A, Adam.

16 Q. Did you process that item?

17 A. Yes, I did.

18 MR. NICOLA: Move it into evidence, Your
19 Honor.

20 THE COURT: It's admitted.

21 MR. NICOLA: May I have just a moment to
22 restack?

23 Q. Picking up with Item Exhibit No. 543

24 A. Item 363-N, Nora. I processed this

25 MR. NICOLA: Move that into evidence, Your
26 Honor.

27 THE COURT: It's admitted.

28 Q. BY MR. NICOLA: Exhibit 544? 3701

♀
1 A. It's Item 363-O ocean.

2 Q. Did you process that one?

3 A. Yes, I did.

4 MR. NICOLA: Move it into evidence, Your

5 Honor.

6 THE COURT: It's admitted.

7 Q. BY MR. NICOLA: Exhibit 545?

8 A. Item 363-P, Paul. I processed this.

9 MR. NICOLA: We'd move that into evidence,

10 Your Honor.

11 THE COURT: It's admitted.

12 Q. BY MR. NICOLA. Why don't you pull that out

13 for just a second. Inside the front cover there's a

14 little placard, isn't there?

15 A. This is the photo slip I used to mark it,

16 mark the magazine when I took the original

17 photograph.

18 Q. Just hold that up for the jury.

19 A. I created this little slip when I took the

20 original photographs of it so they could -- the

21 photographs could be filed correctly, the correct

22 item number, when they were put in the computer and

23 retained as evidence.

24 Q. And that's kept loosely in the binder?

25 A. Yes, it is.

26 Q. Is that how 321-D and F got switched at some

27 point?

28 A. I would -- 3702

♀

1 MR. SANGER: I'm going to object. That's a

2 leading question.

3 MR. NICOLA: I'll withdraw it.

4 THE COURT: Sustained.

5 Q. BY MR. NICOLA: Exhibit 546?

6 A. This is Item No. 636-Q, queen. And I did

7 process this item.

8 Q. You did the same thing I did.

9 A. 363, excuse me.

10 MR. NICOLA: Move that into evidence. Your

11 Honor.

12 THE COURT: 546 is admitted.

13 Q. BY MR. NICOLA: Exhibit 547?

14 A. 363-R, Robert. Yes. I processed this.

15 MR. NICOLA: We'd like to move that into

16 evidence as well, Your Honor.

17 THE COURT: 547 is admitted.

18 Q. BY MR. NICOLA: Exhibit 548?

19 A. This is Item No. 363-S, Sam.

20 Q. Did you process that item?

21 A. Yes, I did.

22 MR. NICOLA: We'd like to move that into

23 evidence, Your Honor.

24 THE COURT: 548 is admitted.

25 Q. BY MR. NICOLA: 549 is next.

26 A. Item No. 363-T, Tom.

27 Q. Did you process that exhibit?

28 A. Yes, I did. 3703

♀

1 MR. NICOLA: We'd like to move that into

2 evidence, Your Honor.

3 THE COURT: It's admitted.

4 Q. BY MR. NICOLA: Exhibit 550.

5 A. Item 363-U, union, processed.

6 Q. By you?

7 A. I did process it, yes.

8 MR. NICOLA: Move that into evidence, Your

9 Honor.

10 THE COURT: It's admitted.

11 Q. BY MR. NICOLA: Exhibit 551?

12 A. 363-V, Victor, and I did process this item.

13 MR. NICOLA: We'd like to move that into

14 evidence, Your Honor.

15 THE COURT: It's admitted.

16 MR. NICOLA: If I may take a moment.

17 Q. I'll show you Exhibit 580.

18 THE COURT: All right. We're going to take

19 our break, five minutes early.

20 (Recess taken.)

21 THE BAILIFF: Remain seated and come

22 together.

23 (Laughter.)

24 THE BAILIFF: I don't think you can top

25 that.

26 THE COURT: She must already be at Easter

27 service.

28 THE BAILIFF: I'm going to sit down right 3704

♀
1 now.

2 THE COURT: Go ahead.

3 MR. NICOLA: Thank you, Judge.

4 Q. I've placed in front of you a bag marked

5 Evidence Item 716. Do you recognize that?

6 A. Yes. This is the magazine, Sheriff's

7 Evidence Item 1002, along with the original evidence

8 bag which it was received in when I got it, and I

9 rebooked both items under 1002 and 1002-A.

10 Q. Can you take the contents of 7 -- 716, the

11 contents, each have individual exhibit numbers,

12 please?

13 A. That's correct. One is 587 and 586

14 Q. And what is Exhibit 587?

15 A. 587 is Sheriff's Evidence Item 1002, which I

16 processed.

17 MR. NICOLA: We've move 587 into evidence,

18 Your Honor.

19 THE COURT: It's admitted.

20 Q. BY MR. NICOLA: And Exhibit No. 586, that is

21 what, Detective Spinner?

22 A. This is the original evidence bag this item
23 was in when I obtained it from the property room.

24 MR. NICOLA: We would move that into
25 evidence.

26 THE COURT: It's admitted.

27 MR. NICOLA: And we would also move 716 into
28 evidence. 3705

♀
1 THE COURT: What is that?

2 Q. BY MR. NICOLA: Would you describe 716 one
3 more time for the Court?

4 A. Item 716 is a brown evidence bag containing
5 Sheriff's Evidence Item No. 1002 and 1002-A. The
6 002 item is the magazine itself, and the 002-A is
7 the original bag that it was -- that I received it
8 in when I got it out of the property room to process
9 it.

10 THE COURT: All right. That's admitted.

11 MR. NICOLA: Thank you Your Honor.

12 Q. Next we have Exhibit 174, which is a bag
13 that contains Exhibit 585 and Exhibit 584. Sergeant
14 Spinner, do you recognize these items?
15 (Laughter.)

16 MR. NICOLA: You missed it.

17 THE BAILIFF: That's why you don't go in the
18 well.

19 Q. BY MR. NICOLA: Okay. What is Exhibit 714?

20 A. 714 is an evidence bag in which I returned
21 Item 1001, which is Exhibit 585, back to the
22 property room, along with the original bag, evidence
23 bag, that I got the evidence item from, and I
24 checked it out of the property room, which is
25 Evidence Item 584

26 MR. NICOLA: We'd move those into evidence,
27 Your Honor.

28 (Laughter.) 3706

1 THE COURT: They're admitted.

2 MR. NICOLA: We'd also move 714 into
3 evidence, Your Honor.

4 THE COURT: It's admitted.

5 MR. NICOLA: Thank you. Too much sugar at
6 lunch.

7 Q. Exhibit 580, please.

8 THE COURT: Now you know why the rest of the
9 attorneys stay behind counsel table.

10 (Laughter.)

11 THE COURT: Go ahead, Counsel.

12 MR. NICOLA: Yes, I do.

13 Q. Do you recognize --

14 A. This is the original evidence bag in which I
15 got Item -- Sheriff's Item 306 out of the property
16 room, and I started processing. And this is the
17 item, magazine, that was inside this evidence bag
18 when I got it out of the property room. Both items
19 were returned in the plastic evidence bag.

20 MR. NICOLA: Okay. Your Honor, we would
21 move, excuse me, 580 into evidence, please.

22 THE COURT: It's admitted.

23 Q. BY MR. NICOLA: Okay. Showing you Exhibits
24 563 and 564.

25 A. 563 is Sheriff's Evidence Item 304-C
26 Charles.

27 Q. Did you process that item?

28 A. Yes, I did, sir. And Exhibit No. 564 is 3707

1 Sheriff's Evidence Item No. 304-D, David, which I
2 also processed. Both items were returned to the
3 sheriff's property room by myself in this bag.

4 MR. NICOLA: Okay. We'd move both of those

5 exhibits into evidence, Your Honor.

6 THE COURT: 563 and 564 are admitted.

7 MR. NICOLA: Thank you.

8 Q. Take those out one at a time, please.

9 Exhibit 567 is?

10 A. Sheriff's Evidence Item 309-B-2, which I
11 processed.

12 MR. NICOLA: We'd like to move that into
13 evidence, Your Honor.

14 THE COURT: It's admitted.

15 Q. BY MR. NICOLA: Next is Exhibit 566?

16 A. 566 is Sheriff's Evidence Item No. 301-B-1,
17 which I did process.

18 MR. NICOLA: We'd move that into evidence,
19 Your Honor.

20 THE COURT: 566 is admitted.

21 MR. NICOLA: Thank you.

22 Q. Exhibit No. 554?

23 A. This is Sheriff's Evidence Item No. 321-A,
24 Adam.

25 Q. You processed that item?

26 A. I processed it or it was processed at my
27 direction.

28 MR. NICOLA: Move that into evidence. 3708

♀
1 THE COURT: 554 is admitted.

2 Q. BY MR. NICOLA: Exhibit 555?

3 A. 555 is Sheriff's Evidence Item No. 321-B,
4 boy. And it was processed in the lab at my
5 direction.

6 MR. NICOLA: We'd move that into evidence,
7 Your Honor.

8 THE COURT: It's admitted.

9 Q. BY MR. NICOLA 321-C?

10 A. 321-C is Sheriff's Evidence Item No. 321,

11 and 556 is Item No. 321-C, Charles.

12 Q. Processed --

13 A. Processed at my direction.

14 MR. NICOLA: Move that into evidence. Your

15 Honor.

16 THE COURT: It's admitted.

17 Q. BY MR. NICOLA: Exhibit 557?

18 A. 557 is Sheriff's Evidence Item No. 321-D,

19 David.

20 Q. Did you process that item?

21 A. I did or at my direction.

22 Q. Okay. I'd like you to take that back out

23 for a moment, please, and find the placard that was

24 used when you photographed it. I think it's behind

25 the actual label on the front cover. The front

26 cover. It's behind that label.

27 MR. SANGER: One of the problems is we can't

28 see the witness if he's going to be doing something. 3709

♀
1 MR. NICOLA: How's this?

2 MR. SANGER: Thank you.

3 Q. BY MR. NICOLA: You could just put that back

4 in the front part.

5 Is this an item that was processed by you or

6 at your direction?

7 A. Yes, sir, it is.

8 MR. NICOLA: We'd move this into evidence

9 Your Honor. It's 557.

10 THE COURT: It's admitted.

11 Q. BY MR. NICOLA: Exhibit No. 321 -- excuse

12 me, Exhibit No. 558?

13 A. 558 is Sheriff's Evidence Item No. 321-E,

14 Edward.

15 Q. And was that processed by you?

16 A. By me or at my direction.

17 MR. NICOLA: Okay. Move 558 into evidence,

18 Your Honor.

19 THE COURT: It's admitted.

20 Q. BY MR. NICOLA: Exhibit No. 559?

21 A. 559 is Sheriff's Evidence Item No. 321-F,

22 Frank.

23 Q. Did you process that?

24 A. Yes, I did.

25 MR. NICOLA: We would move 559 into

26 evidence, Your Honor.

27 THE COURT: It's admitted.

28 Q. BY MR. NICOLA: Exhibit No. 560, please? 3710

♀
1 A. 560 is Sheriff's Evidence Item No. 321-G,

2 George.

3 Q. Did you process that item?

4 A. Yes, I did, or at my direction.

5 MR. NICOLA: We would move 560 into

6 evidence, Your Honor.

7 THE COURT: It's admitted.

8 MR. SNEDDON: The label must have come off.

9 THE CLERK: Judge, each item is marked inside

10 the book that they're looking at. They're looking

11 for an exhibit tag.

12 Mr. Nicola, that notebook, each item is

13 marked inside the notebook.

14 MR. NICOLA: Are they?

15 Q. Sergeant Spinner, for the record, we have a

16 black three-ring binder, with the numbers "317" and

17 the lettering "Combined Items" on the spine. Inside

18 are a number of individual pages with the exhibit

19 numbers. Can you please flip to the first exhibit

20 number, read it out?

21 A. Exhibit No. is 7 -- or correction. 471.

22 Q. Can you flip to the very last page, the last

23 exhibit number?

24 A. This is Exhibit 508.

25 Q. Okay. Can you flip all the way through that

26 binder, tell us whether or not you processed those

27 items? Did you actually make this binder?

28 A. Yes, I compiled this compilation myself in 3711

♀

1 an attempt to not have one binder just for one page.

2 So I put all the individual pages into one binder

3 and marked it as such with the evidence items that

4 were in that binder. And I did that with the front.

5 Q. Okay. Just flip through that. Confirm it's

6 accurate as to what you've done.

7 Your Honor, while he's doing that, may I

8 move Exhibits 774, 773 and 772 into evidence? They

9 were the three Power Points regarding the print

10 comparisons.

11 THE COURT: All right. They're admitted.

12 MR. NICOLA: We would also like to move

13 Exhibit No. 529, which was testified to yesterday by

14 Char Marie, containing Evidence Items 317 and booked

15 into the DOJ Lab, I'd like to move that into

16 evidence.

17 THE COURT: It's admitted.

18 MR. SANGER: With regard to the description

19 of that item, that's just the bag; is that right?

20 THE COURT: Yes.

21 MR. NICOLA: Yeah.

22 I'm going to show him these next.

23 Q. Are each of the items, Exhibit Nos. 471

24 through and including 508, items that you processed?

25 A. Yes, they are.

26 MR. NICOLA: Your Honor, we've move Exhibit

27 Nos. 471 through 508 into evidence at this time.

28 THE COURT: They're admitted. 3712

♀

1 Q. BY MR. NICOLA: Handing you Exhibit 511.

2 A. Sheriff's Evidence Item No. 317-I, Ida, and

3 I did process this.

4 MR. NICOLA: Okay. We would move Exhibit

5 511 into evidence, Your Honor.

6 THE COURT: It's admitted.

7 Q. BY MR. NICOLA: Exhibit 512?

8 A. Sheriff's Evidence Item No. 317-K, King, and

9 I did process this item.

10 MR. NICOLA: We would move that into

11 evidence, Your Honor.

12 THE COURT: 512's admitted.

13 Q. BY MR. NICOLA: Exhibit No 509.

14 A. Sheriff's Evidence Item No. 317-F, Frank,

15 and I did process this item.

16 MR. NICOLA: We would move that into

17 evidence, Your Honor.

18 THE COURT: It's admitted.

19 Q. BY MR. NICOLA: 510, please?

20 A. Sheriff's Evidence Item No. 317-G, George.

21 And I did process this item.

22 MR. NICOLA: We would move that into

23 evidence, Your Honor.

24 THE COURT: It's admitted.

25 Q. BY MR. NICOLA: 512.

26 We did 511, right?

27 A. 512 is Sheriff's Evidence Item No. 317-K,

28 King. 3713

♀

1 Q. Did you process that item?

2 A. Yes, I did.

3 MR. NICOLA: We would move 512 into

4 evidence, Your Honor.

5 THE COURT: It's admitted.

6 Q. BY MR. NICOLA: Exhibit No. 513?

7 A. This is Sheriff's Evidence Item No. 317-L,
8 Lincoln, and I did process this item.

9 MR. NICOLA: We would move that item into
10 evidence, Your Honor.

11 THE COURT: It's admitted.

12 Q. BY MR. NICOLA: Exhibit No. 514, please.

13 A. Sheriff's Evidence Item No. 317-M, Mary, and
14 I did process this item.

15 MR. NICOLA: We'd move that into evidence,
16 Your Honor.

17 THE COURT: It's admitted.

18 Q. BY MR. NICOLA: Exhibit No. 515?

19 A. Sheriff's Evidence Item No. 317-O, ocean.

20 Q. Did you process --

21 A. And I did process this item.

22 MR. NICOLA: We would move this item into
23 evidence, Your Honor.

24 THE COURT: It's admitted.

25 Q. BY MR. NICOLA: Exhibit No. 516?

26 A. 516 is Sheriff's Evidence Item No. 317-P,
27 Paul, and I did process this item.

28 MR. NICOLA: We would move 516 into 3714

♀
1 evidence, Your Honor.

2 THE COURT: It's admitted.

3 Q. BY MR. NICOLA: Exhibit 517, 5-1-7?

4 A. 5-1-7 is Sheriff's Evidence Item No. 317-Q,
5 queen, and I did process this item.

6 MR. NICOLA: We would move 517 into
7 evidence, Your Honor.

8 THE COURT: It's admitted.

9 Q. BY MR. NICOLA: Exhibit No. 518, 5-1-8?

10 A. Sheriff's Item 518 is Item No. 317-R,
11 Robert, and I did process this item.

12 MR. NICOLA: We would move 5-1-8 into

13 evidence, Your Honor.

14 THE COURT: It's admitted.

15 Q. BY MR. NICOLA: Exhibit No. 519?

16 A. 519 is Sheriff's Evidence Item No. 317-S,

17 Sam, and I did process this item.

18 MR. NICOLA: Your Honor, we'd like to move

19 519 into evidence.

20 THE COURT: It's admitted.

21 Q. BY MR. NICOLA: Exhibit 520. Exhibit 520?

22 A. Evidence 520 is Sheriff's Evidence Item No.

23 317-T, Tom, and I did process this item.

24 MR. NICOLA: We would move 520 into

25 evidence, Your Honor.

26 THE COURT: It's admitted.

27 Q. BY MR. NICOLA: Exhibit No. 521, please?

28 A. 521 is Sheriff's Evidence Item No. 317-U, 3715

♀
1 union, and I did process this item.

2 MR. NICOLA: We would move this item into

3 evidence, Your Honor.

4 THE COURT: It's admitted.

5 Q. BY MR. NICOLA: Exhibit 522?

6 A. 522 is Sheriff's Evidence Item No. 317-V,

7 Victor, and I did process this item.

8 MR. NICOLA: We would move 522 into

9 evidence, Your Honor.

10 THE COURT: It's admitted.

11 Q. BY MR. NICOLA: Exhibit No. 523, please?

12 A. No. 523 is Sheriff's Evidence Item No. 317-

13 William, W.

14 Q. Did you process that item?

15 A. Yes, I did.

16 MR. NICOLA: We'd like to move 523 into

17 evidence, Your Honor.

18 THE COURT: It's admitted.

19 Q. BY MR. NICOLA: Handing you Exhibit 524.

20 A. 524 is Sheriff's Item No. 317-X, X-ray, and

21 I did process this item.

22 MR. NICOLA: We'd like to move this item

23 into evidence, Your Honor.

24 THE COURT: 524 is admitted.

25 Q. BY MR. NICOLA: Exhibit No. 525?

26 A. 525 is Sheriff's Evidence Item No. 317-BB,

27 or boy-boy.

28 MR. NICOLA: I'd like to move 525 into 3716

♀
1 evidence, Your Honor.

2 THE COURT: It's admitted.

3 Q. BY MR. NICOLA: Exhibit 526?

4 A. 526 is Sheriff's Evidence Item No. 317-DDD,

5 or David-David-David, and I did process this item.

6 MR. NICOLA: We'd move 526 into evidence,

7 Your Honor.

8 THE COURT: It's admitted.

9 Q. BY MR. NICOLA: Exhibit 527?

10 A. 527 is Sheriff's Evidence Item No. 317-EEE,

11 or echo-echo-echo, and I did process this item.

12 MR. NICOLA: We'd move 527 into evidence.

13 THE COURT: It's admitted.

14 Q. BY MR. NICOLA: Exhibit 528?

15 A. Sheriff's Item 5-2-8, or 528, is Sheriff's

16 Item No. 317-FFF, or Frank-Frank-Frank.

17 Q. Did you process that item?

18 A. Yes, I did.

19 MR. NICOLA: We would like to move 528 into

20 evidence, Your Honor.

21 THE COURT: It's admitted.

22 MR. NICOLA: We admitted 529?

23 THE CLERK: Yes.

24 MR. NICOLA: Good. It's a wrap for that.

25 Q. I'd like to show you Exhibit No. 775: ask if
26 you recognize what's depicted on Exhibit 775?

27 A. On 775, there are pictures of fingerprint

28 basic patterns: A plain arch, tented arch, a left 3717

♀
1 slant loop, a right slant loop, a plain whorl, a
2 central pocket loop whorl, double loop whorl, an
3 accidental whorl

4 MR. NICOLA: Okay. We'd like to move this

5 into evidence, Your Honor, and publish it for the
6 jury.

7 THE COURT: All right.

8 MR. NICOLA: Can we have "Input 4." Your
9 Honor?

10 Q. Can you explain to the jury what's in the
11 first six boxes up there?

12 A. In the box where the laser pointer is
13 pointing now is a pattern known as a plain arch
14 pattern. It's a class characteristic. And the
15 ridges in a plain arch will flow in from one side,
16 go through the arch pattern and out the other side.
17 They do not re-curve or turn in any way.

18 Q. What's next?

19 A. On the next one is what we call a tented
20 arch pattern. In this pattern, the ridges again
21 will come in, flow through the pattern and come out.
22 However, there will be some ridges which will come
23 in either from the left or the right and will go
24 into a vertical, or a near vertical, and the ridge
25 end at that point, causing a tent to occur and the
26 ridges that flow over that particular ending ridge.

27 Q. Okay. Another example of a Class I

28 characteristic? 3718

♀

1 A. Yes, sir.

2 Q. What's next?

3 A. Next is a loop, where the ridges come in, in
4 this case they come in from the left, go up through
5 the pattern, re-curve, and go back out to the left.

6 There's -- and then you have ridges that
7 start on the other side, come all the way through
8 and go through to the left. And then you have
9 ridges that come through the left and go under the
10 re-curving pattern. And you have in this position,
11 about right here, what they call a delta or a
12 tri-radius, where the ridges flow up and over. They
13 flow around and they come under, so it's what they
14 call a tri-radius, but it's what they refer to also
15 as a delta.

16 Q. Okay. Is there another kind of Class I
17 characteristic up there?

18 A. If you go to the -- let me explain one
19 thing. As far as the loop goes, I use the term
20 "left slant." Prior to computers and computer
21 matching, loop patterns were called "ulnar" or
22 "radial" if they opened toward the thumb or the
23 little finger, for the bones in the arm, ulnar bone,
24 radial bone.
25 Now computers won't recognize bones, so the
26 people who have built the programs, we now call them
27 "left slant" and "right slant" so everybody's
28 talking about the same thing, because there's no way 3719

♀

1 to tell without seeing four, five patterns in a row
2 to know which way the arches actually flow or the
3 loops actually flow.

4 Okay. On top we have a plain whorl. In
5 this case, you have a delta at this location and a
6 delta at this location. Whorls have two deltas, and

7 then the center ridge flow goes in a circular manner

8 or angle, something like what I refer to as a
9 hurricane. They just go around.

10 And the next one down, we have what we call

11 a central pocket loop whorl, in which we have a
12 delta inside the pattern area, about where my laser
13 pointer is, and we have another delta at this
14 particular point creating the two-delta requirement
15 for a whorl. To have a central pocket loop whorl,
16 you have to have a re-curve under the center core
17 area, but that re-curve could not be cut by a line
18 which is drawn between the left-hand delta and the
19 right-hand delta.

20 On the bottom right, we have what we call a

21 double loop whorl, in which case we have two
22 re-curving patterns, one right here and we have one
23 right here. Two separate patterns. We have two
24 loops. So we call it a double loop whorl, because
25 you have two loops within the pattern, plus the two
26 deltas.

27 Q. There are two more examples on this exhibit.

28 A. On the bottom left, we have what we call 3720

♀
1 right slant loop, again because the ridges come in
2 from the right, flow in, re-curve, and flow out. We
3 have the ridges coming in on the left going up over
4 the re-curve and out the other side, and then we
5 have our delta right at this location where the
6 ridges come down and separate. And there would be
7 more ridges under it if the picture was complete.

8 Q. Okay.

9 A. On the right side, we have what we call an

10 accidental whorl, which has, in most cases, three
11 delta areas. You have one right here, one right
12 here, and one right here, and we have two distinct

13 pattern types. This, if I could, it looks like it
14 has either an upthrust or a re-curve, and we have a
15 re-curve here. So you'd have delta, delta, delta,
16 possibly tented arch, and then you would have a
17 looping pattern, or you have a looping pattern and a
18 looping pattern.

19 Q. Okay. Are there more kinds of Class I
20 characteristics that are just not on this sheet of
21 paper?

22 A. No, those are the basic Class I
23 characteristics for fingerprints. There's four
24 whorl types, two arch types, and two loop types.

25 MR. NICOLA: Okay. Thank you, Sergeant
26 Spinner.

27 Your Honor, I have no further questions.

28 THE COURT: Counsel? 3721

♀
1 MR. SANGER: Thank you.

2 THE COURT: You don't need to start. I
3 can't take any more.

4 (Laughter.)

5 A JUROR: Good.

6 THE COURT: Good. Let me -- just before I
7 release you, remember, tomorrow morning we'll --

8 THE JURY: (In unison) Tomorrow?

9 THE COURT: I mean Monday morning. Do you
10 want to work tomorrow?

11 THE JURY: (In unison) No.

12 THE COURT: Monday morning, 11:30.

13 MR. AUCHINCLOSS: Your Honor, I'm sorry.

14 There was just one exhibit that we wanted to admit,
15 769.

16 THE COURT: Let's do it later. We're past
17 that. We're on our way.

18 I want to give you another special admonition

19 at this point. I've tried to remind you as we go
20 along through the week, but it's important.
21 It's extremely important that you don't read
22 any newspaper accounts or watch television or listen
23 to the radio concerning this case. We're at a point
24 in the case where the news media is not restricted
25 anymore from reporting pretty much almost entirely.
26 There's just a few restrictions. So there's a lot
27 of things they could report that's not for you to
28 know about. 3722

♀
1 That's frankly what it's about. There's
2 things that jurors are not to know when they reach
3 their decision. And those are the things that we
4 discuss out of your presence, and it would be
5 extremely unfortunate if you got that information
6 from somewhere else. But I trust you not to do
7 that, and that's why the restrictions don't exist
8 anymore, because I do trust you not to do that.
9 And I did mention to you to have some family
10 member collect those items. You know, they can
11 collect the newspaper articles, and they can record
12 television programs, and you'll be, you know, very
13 interested, I'm sure, when it's over to read all
14 that and have that. So I hope you have somebody
15 doing that for you, but they're not to relate those
16 things to you now.
17 Again, you can't talk to anybody about the
18 case, including each other. It's extremely
19 important that you not do that. I've said before
20 that the community is watching. I don't mean people
21 are spying on you. That's not the case at all. But
22 the community is watching to see how the Court and
23 the jurors, the attorneys, the witnesses behave in
24 this case.

25 And in that regard, I want to address
26 particularly family members. because, you know,
27 family members feel that they have an exception to
28 the rule. You know, "Well, you're not supposed to 3723

♀
1 discuss the case with anyone but me," you know.
2 And I like to joke about that and say, this
3 is the one time that you have the opportunity to
4 hold something over your spouse, you know, your
5 special other, your children, and say, "No," you
6 know, "I'm not going to talk to you about this and
7 you're not to talk to me about this. And I know
8 you're watching television when I'm not here, and I
9 know you're getting this information, but that's for
10 you to keep to yourself."

11 And it's been important that you draw this
12 hard line with your family, because that's the
13 place. It's not some stranger that's going to walk
14 up to you and say, "Did you know what they had on
15 T.V. the other day?" It's going to be someone close
16 to you.

17 So if they do that you know, you need to
18 demonstrate your strength and tell them, "No, don't
19 talk to me about this. The Judge has said we're not
20 to talk about it, and I don't want to hear it about
21 it, and if you keep doing it, I'm going to kick you
22 out of the house" -- no, don't say that. But you
23 know what I mean. Be firm with them.

24 And I do like to hear laughter in the
25 courtroom. I'll see you all Monday morning.

26 THE JURY: (In unison) Thank you.

27 (The proceedings adjourned at 2:15 p.m.)

28 --oOo-- 3724

♀
1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE)

5 OF CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR,

13 CSR #3304, Official Court Reporter, do hereby

14 certify:

15 That the foregoing pages 3606 through 3724

16 contain a true and correct transcript of the

17 proceedings had in the within and above-entitled

18 matter as by me taken down in shorthand writing at

19 said proceedings on March 25, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 25, 2005.

24

25

26

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

28 3725

♀