

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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6
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 MONDAY, MARCH 21, 2005

20
21 9:13 A.M.

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23 (PAGES 2801 THROUGH 2829)

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27 REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
28 BY: Official Court Reporter 2801

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1 I N D E X

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

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

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

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

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9 PLAINTIFF'S WITNESSES DIRECT CROSS REDIRECT RECROSS

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11 ABEL, Conn 2804-M (cont'd)

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1 Santa Maria, California

2 Monday, March 21, 2005

3 9:13 a.m.

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5 (The following proceedings were held in

6 open court in the presence and hearing of the

7 jury:)

8

9 THE COURT: Good morning, everyone.
10 THE JURY: (In unison) Good morning.
11 MR. AUCHINCLOSS: Good morning.
12 THE COURT: Let's see, who was questioning.
13 MR. MESEREAU: I was, Your Honor.
14 THE COURT: Go ahead.
15 MR. MESEREAU: Thank you.
16
17 CONN ABEL
18 Having been previously sworn, resumed the
19 stand and testified further as follows:
20
21 CROSS-EXAMINATION (Continued)
22 BY MR. MESEREAU:
23 Q. Good morning.
24 When we left off Friday, we were talking
25 about the -- what appeared to be security-related
26 equipment that you had found at Neverland, right.
27 A. Yes, sir, on Thursday.
28 Q. Oh, Thursday. That's right. Pardon me. 2804

1 And you indicated that you had not
2 personally tested the equipment, right.
3 A. That's correct.
4 Q. Have you tested it since we last spoke.
5 A. No, sir.
6 Q. And you may recall finding an investigate --
7 what appeared to be an investigator's card with the
8 equipment, correct.
9 A. Yes.
10 Q. Have you made any further efforts since last
11 Thursday to investigate whether or not that
12 investigator exists.
13 A. I have not, no.
14 Q. Okay. Have you discussed Thursday's
15 testimony with anyone in the last three days.
16 A. Yes, I have.
17 Q. Who did you discuss it with.
18 A. The -- Mr. Sneddon and the district
19 attorneys involved in this case.
20 Q. And when did you do that.
21 A. This morning.
22 Q. Okay. Where did that happen.
23 A. In the office upstairs at the District
24 Attorney's Office.
25 Q. And what time did you meet with the
26 prosecutors this morning.
27 A. I believe I was there at approximately ten
28 minutes to 8:00. 2805

1 Q. And how long did the meeting last.
2 A. Five minutes, maybe.
3 Q. And what prosecutors were present.
4 A. I believe they all were.
5 Q. So that would be Mr. Sneddon, Mr. Zonen, and
6 Mr. Auchincloss.
7 A. Yes.
8 Q. Anyone else.
9 A. I believe Mr. Robel was also there.
10 Q. And you're telling the jury you discussed
11 your testimony last week for five minutes.
12 A. Somewhere in that area, yes, sir.
13 Q. Okay. Who initiated the discussion.
14 A. I believe Mr. Sneddon did.
15 Q. And was the purpose of your meeting with
16 him, as far as you knew, to discuss your testimony.
17 A. I -- yes.
18 Q. How did you know the purpose was to discuss
19 your testimony.
20 A. I believe there was a question to ask --
21 that I was asked as to what I had said on the stand.
22 Q. And who raised that issue.
23 A. Mr. Sneddon.
24 Q. And what did he say to you.
25 A. He asked me, in reference to the security
26 equipment that you had mentioned was involved in
27 security, if I, in fact, believed it was involved in
28 security. 2806

1 Q. So Mr. Sneddon asked you that or told you
2 that.
3 A. He asked me that.
4 Q. Okay. And do you recall on Thursday, you
5 said that you really didn't know if it was involved
6 in security, correct.
7 A. Well, I think I said at one point that it
8 could not be.
9 Q. You said you didn't know, right.
10 A. I don't recall saying that I didn't know.
11 Q. Well, do you remember you said, look, words
12 to the effect, you hadn't tested it, you didn't know
13 if you could purchase it freely, and you didn't know
14 if it was used by an investigator, correct. Do you
15 remember saying words to that effect.
16 A. I don't believe it was exactly phrased in
17 that manner, no.
18 Q. I'm not suggesting it was exactly phrased.
19 But you said words to that effect on Thursday, under
20 oath, to the jury, true.
21 A. Possibly. I don't recall that.
22 Q. Okay. You indicated you found the equipment
23 and then turned it over to someone, true.

24 A. Yes.
25 Q. Do you know if that equipment was ever
26 fingerprinted.
27 A. No, sir, it was not.
28 Q. Did you ask -- excuse me, you say you know 2807

1 it was not fingerprinted.
2 A. No, I do not know if it was fingerprinted.
3 It does not appear that it was fingerprinted.
4 Q. Okay. Who told you that the prosecutors
5 wanted to discuss that equipment with you before you
6 testified today.
7 A. I don't believe anybody did.
8 Q. Well, that was the purpose of this morning's
9 meeting, right.
10 A. It was not -- it was not a meeting, sir. I
11 arrived early, just to be there for testimony today.
12 Q. Didn't you just tell the jury you had a
13 meeting for about five minutes with three
14 prosecutors and the issue of that security equipment
15 arose, true.
16 A. Do you want me to explain it.
17 Q. No, I'd like you to answer my question,
18 please.
19 A. We did have a meeting, yes.
20 Q. To talk about what you said about the
21 security equipment, right.
22 A. Yes.
23 Q. Who spoke at the meeting besides you and Mr.
24 Sneddon.
25 A. Mr. Zonen and Mr. Auchincloss.
26 Q. Did they talk about the security equipment.
27 A. I believe they did.
28 Q. Did they tell you anything about that 2808

1 security equipment.
2 A. No, sir.
3 Q. So they discussed it but they didn't tell
4 you anything about it, right.
5 A. Yes.
6 Q. Did they just ask you questions.
7 A. I don't recall exactly what the content was.
8 I know there was a discussion about what was in the
9 case, and I explained what was in the case.
10 Q. Are you suggesting that neither Mr. Sneddon,
11 Mr. Auchincloss or Mr. Zonen told you anything about
12 that equipment in this morning's meeting, which took
13 place approximately, I think, an hour and 20 minutes
14 ago.
15 A. I don't believe anybody told me anything

16 about it.
17 Q. Did you tell them anything about it.
18 A. Yes.
19 Q. What did you tell them about it.
20 A. I explained to them what was in the case,
21 and I explained to them what I believed that
22 equipment was utilized for.
23 Q. Did you tell them anything that contradicted
24 your testimony last week.
25 A. I don't believe so.
26 Q. Was everything you said to them consistent
27 with your testimony last week.
28 A. I believe so, yes. 2809

1 Q. Did you have any discussions by telephone
2 with any of them since you testified last Thursday.
3 A. No, sir.
4 Q. Correct me if I'm wrong, but you remember
5 events from November of 2003 but don't remember
6 events from an hour and 20 minutes ago when you met
7 with the prosecutors, right.
8 MR. SNEDDON: Object as argumentative.
9 THE COURT: Sustained.
10 Q. BY MR. MESEREAU: Is your memory better
11 about November of 2003 than it is about the meeting
12 this morning.
13 MR. SNEDDON: Same objection.
14 THE COURT: Sustained.
15 Q. BY MR. MESEREAU: Do you remember on
16 Thursday you looked at some documents that were with
17 that security equipment.
18 A. Yes, sir.
19 Q. And remember you began to recite for the
20 jury on the record what was in those documents.
21 A. Yes.
22 Q. And do you remember there was some -- what
23 looked to be a schematic dealing with what appeared
24 to be an outline for a security system. Do you
25 remember that.
26 A. It was for equipment, yes, sir.
27 Q. You didn't really answer my question, did
28 you. 2810

1 A. No, you kept saying "security equipment,"
2 and I think I referred that it could not be security
3 equipment.
4 Q. Okay. It referred to videos and cameras,
5 correct.
6 A. Covert cameras, yes, sir.
7 Q. It had various, what appeared to be either

8 communication lines or transmission lines going
9 between cameras, videos, et cetera, didn't it.
10 A. Talked about clock cameras. Talked about
11 fire alarm cameras.
12 Q. Right. And you don't think blocked cameras
13 or secret cameras are consistent with having an
14 internal security system.
15 A. No.
16 Q. So you think internal security systems never
17 have hidden cameras.
18 A. No.
19 Q. Did I hear that correctly, internal security
20 systems never have hidden cameras.
21 A. Sir, I've never seen one.
22 Q. Never seen a hidden camera in an internal
23 security system in a residence; is that correct.
24 A. I have never personally seen a hidden camera
25 in a security system at a residence, no, sir, I have
26 not.
27 Q. Okay. Are you aware that they exist.
28 A. No. 2811

1 Q. Okay. So the idea that someone in their
2 residence might have a security system with a camera
3 they don't want anyone to see is something you're
4 not aware of, right.
5 A. Sir, the only thing I can tell you is that
6 most -- every security system that I have observed
7 where there was a camera, it was visible.
8 Q. Have you seen any of those television shows
9 where parents will suspect a babysitter as doing
10 something to their child, so they'll have a hidden
11 video somewhere to see what's happening when they're
12 not home. Ever seen that.
13 A. Yes, sir, I have.
14 Q. Do you think that hidden video relates to a
15 concern for security with a child.
16 A. In that respect, yes, sir.
17 Q. Okay. But after last Thursday you did no
18 investigation at all into anything related to that
19 piece of evidence we discussed on Thursday, right.
20 A. No, sir.
21 Q. Okay. Did you check the cameras that
22 existed in the main house at Neverland.
23 A. Sir, I never saw any cameras in the main
24 house at Neverland.
25 Q. Okay. Did you look for them.
26 A. No, sir.
27 Q. Was it one of your responsibilities to look
28 for cameras like that. 2812

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1 A. Well, I guess I could back up on that and
2 say that when I was in the office area and when I
3 was in the arcade area, cellar, et cetera, I did
4 look around to see if there was cameras, but I did
5 not observe any.

6 Q. Did you ever observe any hidden cameras that
7 someone might install to see if, say, employees are
8 stealing.

9 A. I have not personally seen that, no, sir.

10 Q. Are you aware of anything like that ever
11 existing.

12 A. I'm sure it exists. I've just never seen
13 one.

14 Q. Okay. And never really heard of one
15 existing, right.

16 A. I've heard of them existing, yes, sir.

17 Q. You did undercover narcotics work for many
18 years, didn't you.

19 A. Yes, sir.

20 Q. How many years did you do undercover
21 narcotics work.

22 A. I would say a total of approximately ten
23 years, sir.

24 Q. In your ten years doing undercover narcotics
25 work, you never came across a situation where it
26 appeared that people you were investigating were
27 using hidden cameras to see who might be approaching
28 a particular location. 2813

1 A. I don't recall seeing or coming across
2 hidden cameras. I recall seeing cameras on the
3 outside of buildings and cameras on top of
4 computers, et cetera, that would be looking outside
5 to see if somebody was approaching, yes, sir.

6 Q. And in your estimation, were they part of
7 what you'd call a security system.

8 A. I'd say that was security, sir.

9 Q. Are you aware of any department stores that
10 have hidden cameras to see what people are doing
11 with merchandise.

12 A. I believe most cameras that I've seen are
13 pretty visible. I don't recall seeing any hidden
14 cameras involved in that.

15 Q. Never heard of that happening.

16 A. I can't say I never heard of it. But I
17 don't recall specifically knowing that.

18 Q. Have you heard of it.

19 A. Yes, sir.

20 Q. Okay. Are you aware of any cameras that are
21 sometimes hidden within clocks, someone can find out
22 what went on at a particular area when they were not

23 there.
24 A. No, sir.
25 Q. Never heard of that.
26 A. Only in that diagram you showed me.
27 Q. First time it ever entered your mind that
28 there may be a camera hidden inside a clock as part 2814

1 of a security system.
2 A. That's the first time I had ever been aware
3 of that, yes, sir.
4 Q. Okay. Are you an expert on security
5 systems.
6 A. No, I'm not.
7 Q. Okay. Now, you went into an area that you
8 described as the library at Neverland, right.
9 A. Yes, sir.

10 Q. And please tell the jury what you saw in
11 that library area.
12 A. Well, there were rows like you would see in
13 a library that had books stacked upright in them.
14 There were boxes, numerous boxes, stacked throughout
15 the library. There was a -- in the back area there
16 was a little sitting area, had a chair, lamp, et
17 cetera. Like I said, there was books and boxes
18 cluttered throughout the entire library area.
19 Q. How many books do you think you saw in that
20 library area.
21 A. Numerous. I mean, lots of books.
22 Q. There were books all over the place, right.
23 A. Yes, sir.
24 Q. And how big an area do you recall that
25 library being.
26 A. I would only estimate that it may be 25 foot
27 by 25 foot, thereabouts.
28 Q. There are thousands of books in that 2815

1 residence, aren't there.
2 MR. SNEDDON: Excuse me, Your Honor. I'll
3 object to the question. "Residence" versus what
4 he's talking about, another area. Assumes a fact
5 that he was ever in the residence.
6 THE COURT: All right.
7 MR. SNEDDON: That's my objection.
8 THE COURT: Foundation. Go ahead.
9 MR. MESEREAU: I can ask him that question.
10 Sure, Your Honor.
11 Q. Were you ever in the main residence at
12 Neverland.
13 A. No, sir.
14 Q. Never walked in once.

15 A. No, sir.
16 Q. Okay. Would it be, in your opinion, safe to
17 say that there are thousands of books in that
18 library area.
19 A. Several hundred, yes.
20 Q. More than that, right.
21 A. I -- I don't recall right offhand. It was a
22 lot of books in there. I couldn't tell you if it
23 was several hundred or thousands.
24 Q. Did you count them.
25 A. No, sir.
26 Q. Okay. You also said there were boxes of
27 books around, correct.
28 A. Yes, sir. 2816

1 Q. And did you also say there were bags of
2 books around.
3 A. There were paper bags that had items in it.
4 I don't recall if they contained books or not.
5 There was also records, records in boxes. I don't
6 recall what was in the bags especially, sir.
7 Q. And did you go through all the books that
8 you saw in the library area.
9 A. No, sir.
10 Q. Did you at least try to get a look at the
11 titles of all those books.
12 A. Not all of them, sir.
13 Q. Did you see a lot of books that referred to
14 art.
15 A. I don't -- I don't remember seeing specific
16 topics of what all of the books would equate to. I
17 mean, there was books on virtually everything in
18 there.
19 Q. And there are a lot of books on photography,
20 correct.
21 A. As I say, I don't recall specific art,
22 photography, or exact titles, no, sir.
23 Q. But you said -- you told the jury, I think,
24 that every subject imaginable was there, right.
25 A. I guess that was just a summation on my
26 part. There was books from -- there was numerous
27 books on a lot of different titles.
28 Q. And did you see books on history. 2817

1 A. I can't tell you exactly that I did. I
2 couldn't tell you that I didn't either.
3 Q. Did you see books on theater.
4 A. That would be the same answer. I mean, I
5 saw a lot of books. But I don't remember exactly
6 what they all were titled or referred to.

7 Q. Did you see books on painting.
8 MR. SNEDDON: Your Honor, I'm going to
9 object as asked and answered. It's obvious there is
10 no foundation.
11 THE COURT: Overruled.
12 THE WITNESS: I don't specifically remember
13 books on painting. But as I said, I could not tell
14 you that there wasn't books in there on painting.
15 Q. BY MR. MESEREAU: When you saw these boxes
16 filled with books, what did you do with those boxes.
17 A. Well, for most -- as much time as we had, we
18 went through as many books as absolutely possible.
19 But we could not have gone through all of the books
20 that were in that library area.
21 Q. Did you see a lot of bookcases.
22 A. Case -- I don't know exactly what you mean
23 by "cases," sir.
24 Q. Well, let me explain. Did you see items of
25 furniture that had shelves of books in those items
26 of furniture.
27 A. That's what I was referring to when I first
28 said there was rows of books scattered throughout 2818

1 the library. And I would estimate there was six, if
2 not more, rows of books.

3 Q. Okay. And you didn't go through each row,
4 correct.

5 A. There were three of us searching. Three of
6 us kind of divided up the room. As the supervisor,
7 myself, I went through pretty much each row. I
8 looked at kind of some of the books. I looked at
9 some of the boxes that had books in them. I went
10 through some of the boxes, but I don't recall that I
11 saw every title of every book in that library. It
12 would have been be virtually impossible. There was
13 just boxes -- I could not have opened all the boxes
14 myself and personally look at them.

15 Q. To your knowledge, did somebody open all the
16 boxes.

17 A. Yes.

18 Q. Were there specific instructions that those
19 who were searching the library were to open boxes if
20 they saw any.

21 A. I believe I told them, other investigators
22 that were there, to make sure they looked through
23 the boxes, open them and look through the boxes.

24 Q. Were some of those boxes unopened, as far as
25 you know.

26 A. I -- I personally believe they had all been
27 opened and looked at. Whether the investigators
28 reclosed the boxes or not, I don't know. The boxes 2819

1 that I opened and looked at, I left open.
2 Q. Okay. But there are boxes that you actually
3 opened, true.
4 A. Yes.
5 Q. There are boxes that appeared to have not
6 been opened before, correct.
7 A. Before I arrived.
8 Q. Yes.
9 A. Yes.
10 Q. And did you note down where those unopened
11 boxes appeared to have come from.
12 A. No.
13 Q. Did you notice that a lot of boxes appeared
14 to be sent from foreign countries.
15 A. I did not notice that.
16 Q. Okay. Did you ever make any attempt to note
17 where they appeared to come from, on any report.
18 A. No, sir.
19 Q. When you opened unopened boxes and looked
20 through them, did you go through every book in those
21 unopened boxes.
22 A. I can't say that I went through each book in
23 every box that I opened.
24 Q. Okay. And if you saw a book you wanted to
25 retrieve, you just took it out of the box, right.
26 A. I wouldn't phrase it that way.
27 Q. Let's take, for example, an unopened box
28 that you found in the library. 2820

1 A. Yes, sir.
2 Q. You grab the box, right.
3 A. Yes.
4 Q. You look at it, right.
5 A. Yes.
6 Q. Doesn't appear to be opened by anybody,
7 right. Right.
8 A. Now, when you say "unopened," when I talk
9 "unopened," I mean that the lid was closed. I'm not
10 saying that those boxes were sealed.
11 Q. Were any of the boxes sealed that you saw in
12 the library.
13 A. Not that I recall.
14 Q. Okay. Do you recall ever opening an
15 unsealed box. Pardon me. Let me rephrase that. Do
16 you recall ever opening a sealed box.
17 A. No, sir, I do not. Most of the ones that I
18 opened had -- the flaps were closed. They were
19 overlaid, and I had to just open up the cardboard
20 top on them.
21 Q. And you were the supervisor of this

22 operation, correct.
23 A. Not of the operation, sir. Just of the
24 library when I was there.
25 Q. Let me rephrase that. You were the
26 supervisor of the search in the library, true.
27 A. Yes, sir.
28 Q. Did you give instructions to the people who 2821

1 were working with you what they should do if they
2 found a box that was sealed.
3 A. Yes.
4 Q. What were your instructions, if anyone
5 working under you found a box that was sealed.
6 A. To open it.
7 Q. And how were they supposed to open it.
8 A. However they could get the lid open. I
9 don't recall. Like I say, I don't recall seeing one
10 that was sealed that had to be opened. I don't know
11 whether there was tape on it. I don't know how they
12 had to open it.
13 Q. Okay. But you saw boxes stacked, correct.
14 A. There were boxes stacked everywhere.
15 Q. Okay. How many boxes do you think you saw
16 stacked, if you can estimate.
17 A. Rough, 50.
18 Q. Fifty boxes stacked in the library.
19 A. Yes, sir.
20 Q. Would you -- would it be accurate to
21 describe that library as messy.
22 A. Yes.
23 Q. And did the boxes appear to be stacked in
24 any order.
25 A. No.
26 Q. They just seemed to be everywhere, right.
27 A. Yes.
28 Q. And you mentioned bags had books in them, 2822

1 right.
2 A. Yes.
3 Q. And typically where were the bags that you
4 found.
5 A. Scattered throughout the library, in with
6 the boxes, et cetera, up against the corners, on top
7 of the boxes.
8 Q. Did you ever see any writing on the bags.
9 A. No, sir.
10 Q. Ever see any addresses on the bags.
11 A. No, sir.
12 Q. Did you find books that you retrieved in any
13 of those bags.

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14 A. No, sir.
15 Q. Did you find books you retrieved in any of
16 the boxes.
17 A. Yes.
18 Q. Approximately how many of the books that you
19 retrieved did you find in those boxes.
20 A. I believe there were two removed that I
21 found, and that they were both in boxes.
22 Q. Now, you don't know when these books were
23 obtained, right.
24 A. By myself.
25 Q. By Mr. Jackson or anyone working for him,
26 right.
27 A. No, I do not.
28 Q. You don't know who placed those boxes in the 2823

1 library area, correct.
2 A. I do not.
3 Q. You don't know if Mr. Jackson did it or
4 someone working under him, right.
5 A. I do not.
6 Q. And you certainly don't know whether Mr.
7 Jackson permanently ever looked at all these books
8 you retrieved, right.
9 A. I do not.
10 Q. And you certainly are not a witness to any
11 child ever looking at them, correct.
12 A. No, sir.
13 Q. And you didn't ask that any of them be
14 fingerprinted, right.
15 A. I did not.
16 Q. And again, the dates you found these boxes
17 was when.
18 A. I believe we were there November 18th.
19 Q. Okay. Were you only there for the search
20 that day.
21 A. Yes, sir.
22 Q. Okay. Have you ever been back since.
23 A. No, sir.
24 Q. Okay. And as the person who was supervising
25 the search of the library, was there a point person
26 you were supposed to hand any books you retrieved
27 to.
28 A. Yes, sir. 2824

1 Q. Who was that.
2 A. That was Detective Cooley.
3 Q. Was he the only one that books you retrieved
4 were handed to.
5 A. Well, I will clarify that -- what happened.

6 Stuff was not arbitrarily handed to Mr. Cooley.
7 When it was located, it was photographed, and then I
8 instructed Mr. Cooley to obtain that item, the book,
9 and take it as evidence.
10 Q. Okay. The books you retrieved did not
11 appear to be illegally obtained, correct.
12 A. No, they did not.
13 Q. Okay. And you don't know as you sit here
14 today whether the books you retrieved were either
15 purchased or were mailed as gifts, correct.
16 A. I don't know.
17 Q. Okay. And if they were purchased, you don't
18 know who purchased them, correct.
19 A. No, I do not.
20 Q. And you don't have any idea who even looked
21 at them, if anyone did, right.
22 A. The day that we were there or before.
23 Q. Before you got there.
24 A. I don't know.
25 Q. Okay. Were any of the books you retrieved
26 in boxes that appeared to be under other boxes.
27 A. That part I don't recall.
28 Q. Okay. You don't know one way or the other. 2825

1 A. I don't know one way or another.
2 Q. Okay. So you don't know if the books you
3 retrieved that were in boxes were all found on boxes
4 that were stacked on top or in the middle or on the
5 bottom of the stack, right.
6 A. I could not tell you that, sir, no.
7 Q. And no effort was ever made to identify the
8 actual location where any of these books were found,
9 other than in the library, correct.
10 A. Just in the library, sir.
11 Q. Now, please tell the jury where the library
12 is in relation to the main residence.
13 A. I'd say that the -- the arcade building,
14 in my opinion, is north of the main residence.
15 You walk -- you would have -- from what I recall,
16 the main residence, you would come out what I would
17 say the back area into a little garden area.
18 There's walkways, and then you would go north to
19 the arcade.
20 You would enter the arcade. If you went
21 straight ahead and through the door to the arcade,
22 there was a stairway that went to the second floor.
23 And then the library was on -- I believe,
24 from what I recall, on the north wall of that second
25 story.
26 Q. And how far away would you estimate is the
27 library area from the main residence.
28 A. I would just -- an estimate -- I'm not real 2826

1 sure. Maybe 50 yards, 60 yards from the main
2 residence.
3 Q. And to get into the library, do you go
4 through any area that appears to be secured.
5 A. I don't know exactly what you're talking
6 about in regards to that. I don't know what you
7 mean by that.
8 Q. Let's say you want to walk into the building
9 where the library is located. Okay.
10 A. Okay.
11 Q. To your knowledge, can anyone walk into that
12 building or do you need a code.
13 A. That part I don't recall.
14 Q. How did you get in.
15 A. The door -- there's a doorway. And that
16 door was unlocked.
17 Q. Okay. Did you see a lock on the door.
18 A. It was a doorknob. But I don't recall that
19 it had a lock on it. It was like a regular house
20 doorknob.
21 Q. Did you see any cameras anywhere that might
22 detect anyone walking in the building.
23 A. Cameras I did not observe, no, sir.
24 Q. Did you search any area other than that
25 building at Neverland.
26 A. Yes, sir.
27 THE COURT: Counsel. We're going to take our
28 break right now. 2827

1 MR. MESEREAU: Okay.
2 (Recess taken.)

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1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE)

5 OF CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR,

13 CSR #3304, Official Court Reporter, do hereby

14 certify:

15 That the foregoing pages 2804 through 2828

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 21, 2005, and thereafter

20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 March 21, 2005.

24

25

26

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

28 2829

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.)

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17 REPORTER'S TRANSCRIPT OF PROCEEDINGS
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19 MONDAY, MARCH 21, 2005
20
21 9:13 A.M.
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23 (PAGES 2830 THROUGH 2998)
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25
26
27 REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
28 BY: Official Court Reporter 2830

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1 I N D E X

2
3 Note: Mr. Sneddon is listed as "SN" on index.

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

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

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

7

8

9 PLAINTIFF'S WITNESSES DIRECT CROSS REDIRECT RECROSS

10

11 ABEL, Conn 2843-SN 2849-M

12 URQUIZO, Anthony Joseph 2860-Z 2898-M 2957-Z 2963-M

13 WALLACE, Lauren 2967-A 2981-M 2990-A

14 PALANKER, Louise 2993-A

15

16

17

18

19 E X H I B I T S

20 FOR IN

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

22 49 Photograph 2995

23

24

25

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28 2832

1 THE COURT: You may proceed.

2 MR. MESEREAU: Thank you, Your Honor.

3 Q. Before the search, there was a meeting that

4 took place of all of those involved in the search,

5 correct.

6 A. Yes, there was.

7 Q. And you were all handed a memorandum which

8 described some of the details of what was going to

9 happen in the search, correct.

10 A. I can't say that I remember a memorandum,

11 sir.

12 Q. It was called an operations plan, was it

13 not.

14 A. There was an operations plan, yes, sir.

15 Q. And it was a printed operations plan that

16 was distributed to people like yourself, correct.

17 A. Yes.

18 Q. Do you recall Michael Jackson being on the

19 property when that search began.

20 A. That I have no idea about, sir.

21 Q. You never saw him, right.

22 A. No, sir.

23 Q. And you certainly never saw Michael Jackson

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24 around any of the equipment that you seized,
25 correct.
26 MR. SNEDDON: Object as asked and answered,
27 Your Honor.
28 THE COURT: I don't remember. 2833

1 Go ahead. You may answer.
2 THE WITNESS: I don't recall seeing Mr.
3 Jackson on that day at all, sir.
4 Q. BY MR. MESEREAU: Okay. So as you sit here
5 today, you don't know if Michael Jackson even knew
6 if the equipment you seized was even on the
7 property, correct.
8 MR. SNEDDON: Calls for speculation, Your
9 Honor.
10 THE COURT: Overruled.
11 You may answer. Do you want it read back.
12 THE WITNESS: No, sir.
13 It would be my opinion that he knew that
14 that was there.
15 Q. BY MR. MESEREAU: Oh, really. Let's explore
16 that a little bit. It's your opinion that Michael
17 Jackson had seen the equipment you seized.
18 A. Are you talking books, or the equipment that
19 was used to monitor phone calls, sir.
20 Q. The equipment that appeared to be capable of
21 monitoring phone calls. Tell us, tell the jury,
22 when you ever saw Michael Jackson looking at that
23 equipment.
24 A. I -- I can't say that I ever saw him looking
25 at it. It was in his office, sir.
26 Q. And tell the jury if you ever found his
27 fingerprints on that equipment.
28 A. I did not have the equipment fingerprinted, 2834

1 sir.
2 Q. And Mr. Jackson wasn't there that day, was
3 he.
4 A. No, he was not.
5 Q. Tell the jury how many security personnel
6 work at Neverland.
7 A. That I don't know, sir.
8 Q. You were told security is heavy at
9 Neverland, correct.
10 A. I was told that there was heavy security,
11 yes.
12 Q. Okay. And by "heavy security," what did you
13 mean. What do you think it meant.
14 A. That there could have been several security
15 personnel on scene, on the ranch.

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16 Q. How many did you see.
17 A. I didn't see any.
18 Q. Didn't see any at all.
19 A. No, sir.
20 Q. Even from the time you went into Neverland.
21 A. I did not see anybody from security, sir.
22 Q. From Neverland security, right.
23 A. Yes, sir.
24 Q. Did you see a security shed as you entered.
25 A. At the gate -- at the gate, as you enter
26 onto the property, yes, sir, there is a security
27 gate with a security shed. Yes, sir.
28 Q. Okay. All right. Have you ever seen Mr. 2835

1 Jackson in that office area.
2 A. No, sir.
3 Q. Do you know how often Mr. Jackson is even in
4 that office area on a typical day.
5 A. No, I do not.
6 Q. Okay. Is there any reason why you never
7 called the name on that card that was found with the
8 equipment.
9 A. Yes, sir.
10 Q. What's the reason.
11 A. That was not my responsibility. It was not
12 part of my investigation.
13 Q. Okay. Okay. Do you know whether or not
14 that card suggested that somebody came over with a
15 proposal on what they could do with that equipment.
16 A. I neverg28374.
17 Considered that, no, sir.
18 Q. Okay. Do you know whether or not Mr.
19 Jackson's even an expert on security systems.
20 A. I do not know.
21 Q. Okay. Let's get back to the library. You
22 said the door was unlocked, true.
23 A. No, sir.
24 Q. What did you say.
25 A. You never asked me that.
26 Q. I never asked you if there was any security
27 system to get into the library.
28 A. I don't believe you asked me that, sir. 2836

1 Q. Okay. I'll ask it now.
2 A. The door was locked.
3 Q. The door was locked.
4 A. Into the library, yes, sir.
5 Q. How was it unlocked, so you could get in.
6 A. Somebody from the ranch was escorted --
7 I believe was escorted on, and the door was opened.

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8 Q. Did you watch them unlock the door.
9 A. No, I did not.
10 Q. So it was unlocked when you showed up to do
11 the search, correct.
12 A. Yes.
13 Q. Okay. Now, you went into the arcade area,
14 correct.
15 A. The library is a portion of the arcade, yes,
16 sir.
17 Q. Okay. How did you get into the arcade.
18 A. The front door -- that door I was talking
19 about was the front door into the arcade. That was
20 unlocked.
21 Q. Okay. Was it unlocked when you showed up to
22 the door to go in for the search.
23 A. Yes, sir.
24 Q. As you walk through the arcade area, did you
25 find that every door you wanted to go through was
26 unlocked.
27 A. No, I did not find that.
28 Q. Did you find that there was some locks that 2837

1 had to be unlocked.
2 A. Yes, sir.
3 Q. And you asked for a locksmith, didn't you.
4 A. I did not, no, sir.
5 Q. Would it refresh your recollection if I show
6 you a police report that says you need a locksmith
7 in the arcade.
8 A. It might, but I don't recall that we needed
9 a locksmith.
10 Q. Might it refresh your recollection to show
11 you the report.
12 A. Sure.
13 MR. MESEREAU: May I approach, Your Honor.
14 THE WITNESS: I still don't recall that we
15 needed a locksmith, but I'll look at the report.
16 Q. BY MR. MESEREAU: Okay.
17 A. It does say, "Sergeant Abel needs a
18 locksmith in the arcade," and that was at 1200
19 hours. And I believe I remember what that was in
20 reference to now.
21 Q. Okay. So you've seen the report, right.
22 A. Yes, sir.
23 Q. Does it refresh your recollection about your
24 needing a locksmith in the arcade.
25 A. Yes.
26 Q. And what did that refer to.
27 A. There was a locked box on the back of a door
28 in the security -- not in a security -- there was -- 2838

1 if you went through the arcade, there was a storage
2 area in the back of the arcade. And on the back of
3 the door of that door to the storage area, there was
4 a metal security box that I asked for a locksmith to
5 come and open.

6 Q. Okay. You went into the wine cellar,
7 correct.

8 A. Yes.

9 Q. How did you get down there.

10 A. There was a large jukebox-type arcade
11 machine in the way. We moved that jukebox out of
12 the way, went down the stairs to the bottom door
13 where you would enter the cellar.

14 Q. Did you have to unlock the door in the wine
15 cellar to get in.

16 A. I didn't. But it needed to be unlocked. It
17 was locked.

18 Q. Okay. Do you know who unlocked it.

19 A. Somebody from the ranch, I believe.

20 Q. Okay. And as you testified, you found
21 alcoholic beverages in the wine cellar, true.

22 A. In the kitchen area of the wine cellar, yes.

23 Q. Okay. Is that the only area you found
24 alcoholic beverages.

25 A. No, sir.

26 Q. Where else did you find alcoholic beverages.

27 A. There was alcoholic beverages in the
28 library. 2839

1 Q. Okay. What did you find -- excuse me, what
2 alcoholic beverages did you find in the library.
3 A. There was a small bottle of -- I forget what
4 name of the type of vodka that was on one of the
5 racks that was open, and there was a small amount
6 left in it.

7 Q. Okay. What did you do with that bottle.

8 A. I asked Detective Cooley to examine the
9 bottle and see if it should be retained as evidence,
10 and I left it at that point.

11 Q. Do you know if it ever was retained as
12 evidence.

13 A. It was not.

14 Q. Okay. Do you know why.

15 A. I don't know why.

16 Q. Do you know if anybody ever tried to
17 fingerprint the bottle.

18 A. I do not know.

19 Q. Do you know if anybody tried to fingerprint
20 any of the bottles that you found.

21 A. I do not recall that anybody tried to
22 fingerprint any of the bottles, no, sir.

23 Q. And did you ever request anybody try to
24 fingerprint any bottles that you located.
25 A. No, sir.
26 Q. Okay. You talked about going into an area
27 called a museum, right.
28 A. I believe I said it was a museum/office 2840

1 where Mr. Jackson -- it was a combination. I'm not
2 sure exactly what it was called. It was called --

3 Q. What made you --

4 A. That night we called it both the office and
5 the museum, and then it referred to the office.

6 Q. What made you refer to that area as a
7 museum.

8 A. It had statuettes, figures. It had a lot of
9 memorabilia in -- as you walked through a door,
10 there was an open area -- not an open area. It was
11 an area where there was a lot of statues,
12 memorabilia, et cetera, in that area. And then it
13 entered into a hallway and back to what appeared to
14 be an office area.

15 Q. And how big an area was the museum.

16 A. Just a rough estimate was 20 foot by 20
17 foot, maybe.

18 Q. And you're calling the museum the office; is
19 that true.

20 A. Yes.

21 Q. And it goes without saying, when you told
22 the jury "his office," you were also telling the
23 jury "his museum," correct.

24 A. I think I said that, but, yes.

25 Q. Okay. You used the words interchangeably,
26 correct.

27 A. Yes.

28 Q. If you call it an office, is it a pretty big 2841

1 office.

2 A. The office area that I recall that was on
3 the back of the museum was a pretty big office area,
4 yes, sir.

5 Q. And when you refer to statues, are you
6 talking about big statues.

7 A. They were life -- life-sized. Lifelike,
8 life-sized, yes.

9 Q. And lots of them, right.

10 A. You know, there was quite a few. Looking
11 through there, you had to walk around them and be
12 careful that you didn't knock them over. So there
13 was some in there, yes, sir.

14 Q. You don't know if other individuals besides

15 Mr. Jackson entered or used that area, true.
16 A. I don't know.
17 Q. Okay. And nobody ever checked to find out,
18 correct, to your knowledge.
19 A. That would have been another part of the
20 investigation. I had no part in that.
21 Q. Okay. Okay. Did you videotape the areas
22 you searched.
23 A. I personally did not, but I had them
24 videotaped.
25 Q. Okay. Did you have the items you seized
26 videotaped.
27 A. I'm not sure if those items were exactly
28 what you call videotaped. There was a videotaping 2842

1 of the premises that were searched prior to the
2 search and after the search. During the search, the
3 items that were received were photographed.

4 Q. Okay. Now, in the area that you called the
5 museum and the office, you saw various televisions,
6 correct.

7 A. There were -- I'm not sure if you would
8 classify them exactly as televisions, but there were
9 large television-type screens, plasma-type
10 television screens. There was several of them, yes,
11 sir.

12 Q. You can see them actually from outside the
13 building, can't you.

14 A. That part I don't know.

15 Q. Okay. Where did you first see them.

16 A. In that -- what I call Mr. Jackson's office
17 area.

18 MR. MESEREAU: Okay. All right. No further
19 questions, Your Honor.

20 THE COURT: Redirect.

21 MR. SNEDDON: Yes.

22

23 REDIRECT EXAMINATION

24 BY MR. SNEDDON:

25 Q. Detective Abel, you've been asked a lot of
26 questions by Mr. Mesereau about camera security
27 equipment. I want you to take a look again at
28 People's 717. All right. 2843

1 A. Yes, sir.

2 Q. The equipment that's in that particular
3 case, does it relate to cameras or does it relate to
4 telephone monitoring equipment.

5 A. The majority of the equipment that's in
6 there refers to or is associated with telephone

7 monitoring equipment.

8 Q. Okay. And I'm not talking about the
9 paperwork. I'm talking about the actual equipment
10 itself.

11 A. There is one small cigarette lighter that
12 has also a camera in it that is also in a package
13 inside there.

14 Q. Okay. So except for that small little
15 camera inside of a -- what did you call it, a
16 cigarette lighter.

17 A. It's a camera disguised as a cigarette
18 lighter.

19 Q. Other than that, everything else in there
20 deals with telephonic monitoring; is that correct.

21 A. Telephonic and remote, covert microphones to
22 monitor conversations, yes.

23 Q. Now, with regard to the telephone monitoring
24 system itself, are you familiar with whether some of
25 that equipment can be voice-activated.

26 A. Yes, it can.

27 Q. Tell the jury what it means to
28 voice-activate a telephonic monitoring system. 2844

1 A. It would mean that the tape-recorder that is
2 inside the case would -- it could be set to run
3 continuously or to only run when there is voice
4 conversation. Voice-activated.

5 Q. Now, you indicated I think in your testimony
6 both to Mr. Mesereau and before, there are items in
7 there called alligator clips; is that correct.

8 A. Yes, there are.

9 Q. Now, with regard to the monitoring or the
10 taping of telephone conversations, how does an
11 alligator clip work. Where is it -- what is it
12 affixed to.

13 MR. MESEREAU: Objection; foundation.

14 THE COURT: Just a moment.

15 MR. MESEREAU: I think he said he's not an
16 expert, Your Honor.

17 THE COURT: Are you asking him about
18 generally or about this equipment.

19 MR. SNEDDON: This equipment, Your Honor.
20 And particularly telephonic. Not security systems
21 in general, which is what I think Mr. Mesereau
22 asked.

23 THE COURT: All right. I'll allow the
24 question as to this piece of equipment.

25 THE WITNESS: Are you asking me what the
26 alligator clips are attached to now or what they
27 could be.

28 Q. BY MR. SNEDDON: Well, they're not attached 2845

1 to anything in there right now, are they.
2 A. They're attached -- well, the clips
3 themselves are not. The other end of them is.
4 Q. What are they attached to.
5 A. Looks like it's a four-pronged device that I
6 associate with a telephone that has four prongs on
7 it --
8 Q. I'll tell you what, let's stop right there.
9 Open up the case and show us what you mean. It's
10 probably easier than to have you do it with your
11 fingers.
12 A. There's a plastic bag, Ziploc plastic bag
13 inside the case, with some batteries,
14 different-sized batteries. There's an electrical
15 plug device.
16 And then there's a phone cord that would
17 attach to a phone receptacle. And this just pops
18 off, but it was on here. And it has alligator clips
19 on there.
20 And then these two were not attached to
21 anything. These are alligator clips inside that
22 open up.
23 Q. And how do the alligator clips work in
24 connection with the taping of conversation or
25 monitoring.
26 THE COURT: All right. Your objection was
27 that he's not qualified to --
28 MR. MESEREAU: That's correct, Your Honor. 2846

1 THE COURT: All right. I'll sustain that
2 objection.
3 MR. SNEDDON: I was just laying the
4 foundation.
5 Q. In your -- in your role as a narcotics
6 investigator, were you trained with regard to
7 electronic surveillance.
8 A. Yes, sir.
9 Q. And in particular with regard to telephonic
10 surveillance, telephonic monitoring.
11 A. Yes, sir. I was instructed by the
12 Department of Justice, State of California, on
13 wiretap investigations.
14 Q. And how many such investigations have you
15 done.
16 A. I've been associated with three of those
17 type investigations.
18 Q. And this is where individuals who are
19 suspects of criminal activity had their individual
20 telephone calls monitored.
21 MR. MESEREAU: Objection; leading.

22 THE COURT: Overruled.
23 You may answer.
24 THE WITNESS: Yes, sir.
25 Q. BY MR. SNEDDON: Based upon your training
26 and your experience, can you tell the ladies and
27 gentlemen of the jury, in your opinion, how are
28 those alligator clips used to monitor or tape 2847

1 telephone conversations.
2 MR. MESEREAU: Same objection, Your Honor.
3 THE COURT: Overruled.
4 You may answer.
5 THE WITNESS: The alligator clips on the
6 bottom end could be utilized in what you call a
7 phone junction box to clip onto the connections for
8 the telephone.
9 Q. BY MR. SNEDDON: And to your knowledge, is
10 that activity legal in California.
11 A. No, it is not.
12 Q. All right. I just have one last question.
13 Mr. Mesereau asked you why you think that
14 Mr. Jackson knew that that equipment was -- that he
15 knew about that equipment. And you answered you
16 thought he did. What was the basis of your opinion.
17 A. Um --
18 MR. MESEREAU: It's been asked and answered,
19 Your Honor.
20 THE COURT: Overruled.
21 You may answer.
22 THE WITNESS: It was in his office with --
23 where the majority of items that I believed belonged
24 to him were.
25 There were allegations that the family
26 involved was concerned that their phone calls while
27 they were at Neverland Ranch were being monitored.
28 MR. SNEDDON: All right. Nothing further, 2848

1 Your Honor.
2 THE COURT: Recross.
3
4 RE CROSS-EXAMINATION
5 BY MR. MESEREAU:
6 Q. Do you know whether or not Mr. Jackson has
7 ever had concerns that his children might be
8 threatened or kidnapped at Neverland.
9 A. I do not.
10 Q. Do you know anything about threats by
11 anybody around the world to ever do that to Mr.
12 Jackson or his children.
13 A. I can't say personally I know about that,

14 no.
15 Q. When you went into Neverland to search, did
16 you have any understanding of any security measures
17 Mr. Jackson has ever used to protect he or his
18 family.
19 MR. SNEDDON: Your Honor, I'm going to
20 object as beyond the scope of redirect. My
21 redirect -- well, I won't --
22 THE COURT: Sustained.
23 Q. BY MR. MESEREAU: Now, you just told the
24 jury about alligator clips, correct.
25 A. Yes, sir.
26 Q. Did you discuss alligator clips with
27 Prosecutor Sneddon, Prosecutor Zonen and Prosecutor
28 Auchincloss at your meeting this morning. 2849

1 A. Yes.
2 Q. Why didn't you tell that to the jury when I
3 was asking you questions.
4 A. When. Today, or yesterday -- or Thursday.
5 Q. Today. Remember I asked you about the
6 meeting you had, and you started off by saying it
7 was only five minutes.
8 A. Yes, sir.
9 Q. Remember I asked you what was discussed.
10 A. Yes, sir.
11 Q. Why didn't you tell the jury you discussed
12 alligator clips with these prosecutors for the
13 government.
14 A. Well, I think you asked me if there was
15 questions and a discussion, and I think what I was
16 referring to was a discussion we had back and forth.
17 I discussed with -- earlier today, I
18 indicated to them that there was that device in the
19 case. There was no question that they asked me
20 about it. I just indicated that it was in there.
21 Q. When you had your meeting this morning with
22 the three prosecutors for the government, did you
23 discuss the camera inside the lighter.
24 A. No, I did not.
25 Q. What else did you talk to them about in this
26 five-minute meeting.
27 A. I don't recall that we discussed much more
28 than what I have explained. 2850

1 Q. Did you just suddenly remember it.
2 MR. SNEDDON: Your Honor, I'm going to
3 object as argumentative.
4 MR. MESEREAU: I'll withdraw the question.
5 Q. Do you consider yourself an expert on how

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6 this particular piece of equipment is utilized.

7 A. I would say that I'm familiar with it, but

8 I'm not an expert on it, no, sir.

9 Q. Have you ever used this equipment yourself.

10 A. This equipment.

11 Q. Yes.

12 A. No, I have not.

13 Q. Have you ever repaired equipment like that
14 yourself.

15 A. No, I have not.

16 Q. Have you ever installed equipment like that
17 yourself.

18 A. No, sir.

19 Q. Now, last Thursday, you weren't sure whether
20 that equipment could be purchased lawfully by any
21 citizen. Remember that.

22 A. Yes.

23 Q. Have you done any research on that area
24 since last Thursday.

25 A. Yes.

26 Q. Why didn't you say that this morning when I
27 asked you if you'd investigated any further what you
28 talked about last Thursday. 2851

1 A. It was an Internet search. And I should
2 have said it, but I didn't, yes.

3 MR. MESEREAU: Okay. May I approach, Your
4 Honor.

5 THE COURT: Yes.

6 MR. MESEREAU: Thank you.

7 May the record reflect that I'm looking at
8 the documents that are contained in this -- with
9 this piece of equipment that were discussed last
10 Thursday.

11 THE COURT: All right.

12 MR. MESEREAU: Thank you, Your Honor.

13 Q. Since you testified last Thursday, have you
14 reviewed the documents that were found with this
15 equipment.

16 A. No, sir. They've been in this case.

17 Q. Did you review them this morning.

18 A. No, sir.

19 Q. Did you discuss them with the prosecutors
20 this morning.

21 A. I believe we just discussed the -- I believe
22 I explained to them what I thought that the diagram
23 was referring to, that you have in your hand there,
24 regarding the cameras in the clocks and the cameras
25 in the smoke alarm, et cetera.

26 Q. You talked to the prosecutors about that
27 this morning.

28 A. I think I may have mentioned it. 2852

1 Q. And did you discuss the document that's
2 titled "Video Surveillance System with Audio".
3 A. I believe I mentioned it, yes.
4 Q. To the prosecutors this morning at the
5 meeting.
6 A. Yes.
7 Q. Did you mention to them the reference to
8 "clock video camera".
9 A. I believe I mentioned that the -- there
10 was -- that the diagram had and mentioned the clock,
11 the small alarm, and the reference to infrared.
12 Q. Did you think this all related solely to a
13 telephone monitoring system.
14 A. I didn't believe that related to a telephone
15 monitoring system.
16 Q. What do you think it relates to.
17 A. A covert surveillance system used to
18 videotape, would be any room that it would be set up
19 in.
20 Q. It talks about miniature cameras in that
21 document, correct.
22 A. I'd have to look at it again. I don't know
23 for sure.
24 Q. It talks about transmitters, correct.
25 MR. SNEDDON: I'm going to object as beyond
26 the scope of direct -- redirect.
27 THE COURT: Overruled.
28 You may answer. 2853

1 Q. BY MR. MESEREAU: Right.
2 A. Ask me that again.
3 Q. Let me rephrase the question. I withdraw
4 that.
5 Did you and Prosecutor Sneddon meet this
6 morning and discuss that -- discuss your testimony
7 at all.
8 A. Yes.
9 Q. Did you discuss what you were going to say
10 this morning in response to Prosecutor Sneddon's
11 questions.
12 A. No.
13 Q. Did you discuss this idea that you were
14 going to limit your answers to, for lack of a better
15 word, a telephone monitoring system.
16 A. There was no discussion about that at all,
17 sir.
18 Q. Okay. And when did you last look at these
19 documents that you found with that piece of
20 evidence.

21 A. It would have been last Thursday during the
22 testimony.
23 Q. Are you telling the jury that, based upon
24 your background, training and expertise, that piece
25 of equipment only relates to a telephone monitoring
26 system.
27 A. Yes.
28 Q. Are you telling the jury that it doesn't 2854

1 have any relationship whatsoever to a video
2 surveillance system.
3 A. Not the equipment in here, sir.
4 Q. Have you ever used equipment like that.
5 A. Yes, I have.
6 Q. When did you last use it.
7 A. It would have been several years ago, but I
8 have used it.
9 Q. When you found that equipment with an
10 investigator's card and with documents that appeared
11 to scheme out a video-monitoring system and an
12 audio-monitoring system, did it ever occur to you
13 that someone may have been discussing different
14 types of surveillance systems with respect to that
15 equipment.
16 A. I -- I never believed that, no.
17 Q. Did you see the document that said "Video
18 Briefcase Surveillance System with Audio". Did you
19 see that.
20 A. Yes.
21 Q. What do you think that refers to.
22 A. I'd have -- just by the wording, it would be
23 that somebody could utilize the equipment in that
24 briefcase to covertly tape-record and/or monitor
25 conversations.
26 Q. When you saw the schematic that says "Video
27 Surveillance System," did it occur to you somebody
28 may have been making a proposal for a video 2855

1 surveillance system.
2 A. That was not a consideration that I had, no,
3 sir.
4 Q. When you saw another document that's
5 entitled "Remote Room Audio Monitor" with prices and
6 with schematics, did it ever occur to you that
7 somebody may have been making some proposals for a
8 room audio-monitoring system.
9 A. You keep mentioning the word "proposal," but
10 I never considered that that was a proposal, sir.
11 Q. When you saw a document that gave a price
12 list for "Portable Electronic Surveillance

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13 Countermeasures Kit," did it ever occur to you that
14 somebody might be making a proposal for the purchase
15 of a Portable Electronic Surveillance
16 Countermeasures Kit.

17 A. As you say, "proposal," I never considered
18 that, no, sir.

19 Q. So just putting two and two together, an
20 investigator's card, a piece of evidence like that,
21 and all of this material dealing with various
22 surveillance systems, it never even entered your
23 mind that somebody might have been trying to present
24 or sell surveillance systems.

25 A. No, it was my opinion that this equipment
26 had been purchased possibly from Mr. Lupori by Mr.
27 Jackson and retained and possessed by Mr. Jackson to
28 utilize. 2856

1 Q. Ever see a purchase receipt.

2 A. I can't say that there's a purchase receipt,
3 but there are figures and there is what appears to
4 be a copy of a receipt, a tape -- or a register-type
5 receipt on there.

6 Q. Okay. Did you see also register receipts
7 for a Portable Electronic Surveillance
8 Countermeasures Kit.

9 A. You'd have to show me all that again. I'd
10 have to look at it.

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

12 THE COURT: Yes.

13 THE WITNESS: Yes, sir.

14 Q. BY MR. MESEREAU: Have you had a chance to
15 look at that document.

16 A. Yes.

17 Q. Does it appear to have a price list on it.

18 A. Yes, it does.

19 Q. Does it appear to have a typed receipt on
20 it.

21 A. Yes.

22 Q. Does it say at the top "Portable Electronic
23 Surveillance Countermeasures Kit".

24 A. Yes.

25 Q. Are you saying, after looking at that
26 document, it didn't occur to you that maybe somebody
27 was purchasing a security system at Neverland.

28 A. I never considered it to be a security 2857

1 system.

2 Q. Well, why would you look at a document that
3 says "Telephonic Taping System" with a receipt, and
4 tell the jury you thought that was being purchased,

5 and at the same time look at a separate document
6 that says "Portable Electronic Surveillance
7 Countermeasures Kit," which also has a receipt, and
8 not tell the jury you had the same reaction;
9 somebody was buying security system equipment, true.
10 A. They were buying -- that would have been for
11 countermeasures to make sure that they weren't being
12 covertly monitored.
13 The other one goes along with purchasing for
14 covert monitoring and/or tape-recording.
15 Q. What about the Video Briefcase Surveillance
16 System. That's got figures on it also, doesn't it,
17 that document.
18 A. Yeah, I would have to look at it again. I
19 don't know for sure.
20 Q. Sir, the bottom line is, you just saw what
21 you wanted to see, right.
22 MR. SNEDDON: Object as argumentative, Your
23 Honor.
24 THE COURT: Sustained.
25 MR. MESEREAU: No further questions, Your
26 Honor.
27 Can I just return these documents to the
28 exhibit. 2858

1 THE COURT: Yes, you may.
2 Anything further from you.
3 MR. SNEDDON: No. No.
4 THE COURT: All right. You may step down.
5 Secure that exhibit first, please.
6 THE WITNESS: Yes, sir. The document
7 just --
8 THE COURT: Yeah. Do you want to give him
9 the documents so he can put them in.
10 MR. SNEDDON: Yeah.
11 THE COURT: Call your next witness.
12 MR. ZONEN: Call Dr. Anthony Urquiza to the
13 stand, please.
14 THE COURT: Come to the front of the
15 courtroom, please. When you get to the witness
16 stand, please remain standing. Face the clerk here.
17 And raise your right hand.
18
19 ANTHONY JOSEPH URQUIZA
20 Having been sworn, testified as follows:
21
22 THE WITNESS: I do.
23 THE CLERK: Please be seated. State and
24 spell your name for the record.
25 THE WITNESS: My name is Anthony Joseph
26 Urquiza. The last name is spelled U-r-q-u-i-z-a.
27 THE CLERK: Thank you.

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1 DIRECT EXAMINATION

2 BY MR. ZONEN:

3 Q. Dr. Urquiza, all of the witnesses have so
4 far been admonished that you have to stay as close
5 as possible to that microphone or you won't be heard
6 throughout the courtroom.

7 A. All right.

8 Q. What is your current occupation.

9 A. I have a couple of titles. I am a
10 psychologist licensed in the State of California.
11 I am Director of Mental Health Services at
12 the Care Center, which is a child abuse treatment
13 program, child physical abuse, sexual abuse
14 treatment program in Sacramento, California.

15 And I am Associate Professor in the
16 Department of Pediatrics at the University of
17 California Davis Medical Center.

18 Q. Are you on the faculty.

19 A. I am on the faculty, yes.

20 Q. Tell us about the Care Center. What is
21 that.

22 A. The Care Center is a medical and mental
23 health treatment agency which provides services --
24 trying to remember to do the microphone -- which
25 provides services specifically for children and
26 families in which there has been some type of abuse,
27 either physical abuse, sexual abuse, or neglect.
28 We provide services, at least on the mental 2860

1 health side, to about 400 children and families in
2 any given week.

3 Q. Is the clinic in association with the
4 University of California.

5 A. It is part of the University of California,
6 yes.

7 Q. And located where.

8 A. In Sacramento.

9 Q. Doctor, what are your qualifications to hold
10 that position.

11 A. As I said earlier, I'm licensed in the State
12 of California. I am a psychologist. And I have
13 three degrees that I have earned to enable me to
14 identify myself as a psychologist.

15 Q. What are those degrees.

16 A. I have an undergraduate degree in child
17 development. I have a master's degree in clinical
18 psychology, and a doctorate, or a Ph.D., in clinical
19 psychology.

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20 Q. How long have you held the position you
21 currently hold.
22 A. I started in January of 1990. So 15 years,
23 approximately.
24 Q. And how long have you been a psychologist.
25 A. About 1988. It was around 1988. I don't
26 remember the exact year.
27 Q. And how long have you been working in the
28 child care field, particularly mental -- care for 2861

1 children with some form of disability or children
2 who have been abused.

3 A. Well, that's two parts. The disability part
4 actually goes back to the mid '70s. I started
5 working with children in the mid '70s. But I made a
6 decision to work and to focus my career specifically
7 on the issue of child abuse or child maltreatment
8 somewhere around 1982, 1983. And then I entered
9 graduate school in 1983.

10 Q. If you can, tell the jury your history,
11 beginning with that period of time back in the '70s
12 when you first started working in this field, and
13 give us a brief summary of your career from that
14 time.

15 A. Sure. For a long time I've worked in the
16 area -- or with children. Again, going back to
17 about 1973.

18 Around 1979, I took a position at Children's
19 Hospital in Seattle on their in-patient psych unit
20 where children with significant and serious mental
21 health problems were admitted to that hospital for
22 diagnosis and treatment.

23 I realized there that one of the big common
24 denominators of kids who had serious mental health
25 problems was this history of maltreatment in their
26 childhood or in their lives.

27 And so around that time, in -- roughly from
28 about 1980 to '83, I decided that that was going to 2862

1 be a career goal for me, and so I applied for it and
2 entered graduate school at the University of
3 Washington.

4 It's -- the program that I was in was a
5 combination of a clinical program where they teach
6 you to be a therapist or an evaluator; a research
7 program, where they teach you to do the research in
8 a particular area, and my research was in child
9 abuse; and teacher or faculty somewhere.

10 And so I graduated around 1988. I had a
11 brief teaching position in the Department of Family

12 Studies at San Diego State University.
13 And then in 1990, I assumed the position of
14 being responsible for all of the mental health
15 services at the Care Center, which again is within
16 the Department of Pediatrics at UC Davis Medical
17 Center and have held that position since 1990 to
18 current.
19 Those three things, research, teaching and
20 clinical practice, I have been doing continuously,
21 actually since I started entering graduate school,
22 although the treatment of children I stopped a
23 couple of years ago. The reason being was that in
24 order to see treatment of -- children in treatment,
25 you need to be able to make a regular appointment
26 with them every Thursday at four o'clock, and my
27 schedule really prevented me from doing that. I
28 didn't think it was fair to the children that I was 2863

1 providing services to.

2 But I continued to evaluate children, and
3 probably over the course of my career have seen
4 several thousand children in therapy or in
5 evaluation.

6 Q. Now, your current position is director of
7 this clinic; is that correct.

8 A. Director of mental health services, yes.

9 Q. What does that mean. What do you do.

10 A. Well, a portion of my job is administration.

11 A portion of my job is research. But the bulk of my
12 responsibilities are overseeing the mental health
13 services, which is psychological treatment or
14 evaluation of my staff. And the staff is about 45
15 or 50 people that I'm responsible for.

16 And so sometimes I provide direct services.

17 Again, no longer therapy, but I continue to evaluate
18 children and families. Sometimes I provide direct
19 supervision; that is, I have some staff people who
20 are seeing clients, and my job is to supervise them.
21 And then a portion of my responsibility is
22 to supervise my supervisors. So it's sort of a
23 second level where I supervise about six of my staff
24 who then provide supervision for direct front-line
25 service.

26 Q. Doctor, you tell us you also do research and
27 have continued to do research. What does that mean.

28 A. One of the -- and I can answer that specific 2864

1 to my field, which is child abuse and family
2 violence.

3 One of the things that we have been trying

4 to do is to move knowledge forward with some
5 empirical or research foundation. And so typically
6 it means undergoing a methodological process where
7 we acquire data, we analyze those data, and we make
8 some determination or interpretation of the data.
9 Then the last part of it is we write the
10 results up and submit it for publication in a book
11 or a journal.

12 Q. And have you done publications in the course
13 of your academic career.

14 A. I do. I have.

15 Q. Can you give us a sense of what that
16 involves and how many publications, the nature or
17 the type.

18 A. I don't know exactly how many. I'd say 35
19 to 45 publications, at least. That's an estimate.
20 I don't keep track of that. And they're all -- or
21 mostly on issues of child abuse. Some of the
22 areas -- well, there's been an overriding theme to
23 the research that I do.

24 One of the things that happens with a child
25 who's been abused is that it has a disruption in
26 their capacity to have positive and healthy
27 relationships as they grow older.

28 MR. MESEREAU: Objection; nonresponsive. 2865

1 MR. ZONEN: It's about the nature of the
2 publications.

3 THE COURT: Sustained.

4 Q. BY MR. ZONEN: Can you tell us if there is a
5 common theme to the publications that you have
6 written.

7 A. Yes.

8 Q. And what is that.

9 A. This issue of relationships, which is
10 fundamental to healthy development in children, is
11 disrupted when children are physically or sexually
12 abused or neglected. And so that has been the
13 common theme: In what way does sexual abuse or
14 physical abuse or neglect impacted -- or impact
15 their developing capacity to have satisfactory
16 relationships in adolescence, peer relationships,
17 even into adulthood in being able to have
18 satisfactory marital relationships. That has been a
19 consistent theme.

20 I've also been interested in methodological
21 issues, how to conduct good research related to
22 child abuse.

23 And I've also been very interested in ethnic
24 minority issues as they apply to different types of
25 child mental treatment.

26 Q. You teach as well, do you.

27 A. I do, yes.
28 Q. And where. 2866

1 A. Within the Department of Pediatrics and
2 usually within the Care Center. But I think
3 teaching encompasses more than -- I should back up a
4 little bit.

5 I don't teach in a classroom setting. I
6 used to when I was at San Diego State.
7 I now teach people to be psychologists or
8 social workers, to be professionals. And so I teach
9 in the capacity of supervision, seminars, training.
10 I also teach in workshops, in conferences that are
11 beyond the medical center and throughout the United
12 States and sometimes even internationally.

13 Q. And do you deliver papers in conjunction
14 with those lectures.

15 A. I do, yes.

16 Q. And what types of papers are we talking
17 about.

18 A. Pretty much the same as the research
19 publications: The effects of abuse on children, the
20 impact abuse has on developing relationships.
21 Again, issues of methodology, as well as the impact
22 of abuse on people of color.

23 Q. I think that you had said earlier that you
24 have seen perhaps a thousand children or more in the
25 course of your career.

26 A. Who have been abused.

27 Q. Yes.

28 A. Probably -- certainly more than a thousand 2867

1 children who have been abused. Several thousands
2 who have been either physically abused, sexually
3 abused or neglected during the course of my life
4 that I have provided service to. That would be much
5 larger when you incorporate people that I supervise.
6 But for direct service, certainly a few thousand
7 people.

8 Q. What percentage of them, in your opinion,
9 are victims of child sexual abuse.

10 A. That I have seen.

11 Q. Yes.

12 A. I'd say at least a third. I mean, I'd
13 say -- again, I don't keep numbers as to how many,
14 but I'd estimate maybe a thousand children, or at
15 least a thousand children that I have provided
16 service to, either therapy or evaluation, during the
17 course of my career.

18 Q. All right. You've been at the University of

19 California and it's at Davis; is that correct.
20 A. Well, it's University of California Davis
21 Medical Center. The medical center itself, the
22 teaching classrooms where you go to learn to be a
23 doctor, is in Davis. But the medical center where
24 you actually practice is in Sacramento.
25 Q. And you've taught at other universities or
26 state colleges prior to that.
27 A. As I said earlier, I've taught at San Diego
28 State University. And I taught at the University of 2868

1 Washington as a graduate student.
2 Q. And how long have you been in association
3 with the University of California at this point.
4 A. About 15 years.
5 Q. Doctor, have you ever been appointed by the
6 Court to be an expert in any type of court matter.
7 A. Yes.
8 Q. Have you ever testified in conjunction with
9 those appointments.
10 A. Yes.
11 Q. All right. What types of appointments do
12 you receive and have you received by the Court over
13 the years.
14 A. In juvenile court I have been appointed
15 usually through court order by a Judge to evaluate
16 some aspect of a case that's in the child welfare
17 system. Child welfare being children who are either
18 part of the foster care system or entry into or
19 exiting the child welfare system.
20 So I'm appointed by the Court, and then
21 usually asked to do an evaluation to answer a
22 question that the Court may need, and then
23 afterwards to testify about that case in court.
24 Q. What types of cases would you typically be
25 appointed to. What types of issues do you address.
26 A. Issues of parental competency, issues of
27 placement for a child who's been abused. Issues of
28 adoption, graduation out of foster care system. 2869

1 Certainly issues related to how to manage a child
2 who has some type of severe psychopathology that is
3 difficult to address.
4 Q. Have you ever been retained by either the
5 prosecution or the defense in criminal proceedings
6 dealing with allegations of child sexual abuse.
7 A. I have, yes.
8 Q. Can you give us a sense of how many times
9 you've been retained by either side.
10 A. Again, an estimate would be about 85 times

11 for a criminal matter.

12 Q. All right. Can you tell us what percentage
13 of that you're retained by the prosecution, what
14 percentage by the defense.

15 A. Most of that has been for the prosecution.
16 Probably be about four or five times that I have
17 been -- that I've actually testified for the
18 defense. Although I'm contacted by the defense,
19 probably only four or five times that I have
20 actually gone to court and testified for the
21 defense.

22 Q. All right. When you're testifying on behalf
23 of the prosecution, do you ever address the issue of
24 Child Sexual Assault Accommodation Syndrome.

25 A. Yes.

26 Q. And have you been asked to do that on this
27 occasion here today.

28 A. That's my understanding, yes. 2870

1 Q. Tell us, what is Child Sexual Assault
2 Accommodation Syndrome.

3 A. Sure. That syndrome is really a phrase
4 that's the title of an article or coined in an
5 article by a man by the name of Roland Summit, who
6 is a psychiatrist I believe at the University of
7 Southern California. It was published quite some
8 time ago, in 1983, in their Journal of Child Abuse
9 and Neglect.

10 The reason he wrote this article was
11 specifically for therapists who would be treating
12 children who are sexually abused to dispel any
13 misperceptions or myths that they had, so they would
14 be better able to understand what really happened
15 with children who are sexually abused and then to be
16 able to treat them better.

17 The Child Sexual Abuse Accommodation
18 Syndrome has five parts or components. I'll just
19 identify them. They are a sense of secrecy,
20 helplessness, delayed -- I'm sorry, entrapment and
21 accommodation, delayed and unconvincing disclosure,
22 and then the last one is retraction.

23 Q. Tell us what the first one means, secrecy.

24 A. In order to understand the concept of
25 secrecy, actually in order to understand how
26 children respond to being sexually abused, it's
27 important to understand the context in which abuse
28 occurs, and the context is a relationship between a 2871

1 perpetrator and a victim.

2 One of the misperceptions that occurs or

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3 myths that occur with sexual abuse is that children
4 are sexually abused by somebody who they don't know.
5 That's just not the case. Most children -- by far,
6 most children are sexually abused by somebody with
7 whom they have an ongoing relationship, not a
8 stranger.
9 That's important because it sets up the
10 dynamics for this issue of secrecy. Children tell
11 us, and the research supports, that there is usually
12 some type of mandate imposed upon the child to keep
13 them quiet about the abuse; hence, the term
14 "secrecy."
15 This mandate can be something like a threat,
16 threat of physical aggression or threat of coercion
17 of some type. It can also be special attention,
18 special favors, bribes. And it can also be
19 misinformation or informing the child of the bad
20 consequences that would occur should they disclose
21 all part of this mandate or this coercion meant to
22 keep kids quiet so they don't disclose. What
23 Dr. Summit said, that that is a part of this idea
24 called secrecy.
25 Q. Explain to us how special attention or
26 favors somehow translates to secrecy.
27 A. With sexual abuse, you don't have to
28 physically assault a child to molest them. In fact, 2872

1 that happens fairly infrequently. Coercion and
2 manipulation is probably a much more effective
3 strategy.
4 And what kids tell us happens is that a
5 relationship is established between them and the
6 perpetrator. It may be a very positive, fun,
7 enjoyable relationship, in which the child is put in
8 a position where they like, or in some cases,
9 especially in an interfamilial situation, an incest
10 situation, they may actually love the perpetrator.
11 And then that is supported by things like special
12 attention, favors, doing special things or
13 activities with the child, all aimed at creating an
14 environment where the child will feel very
15 positively, very warmly, very affectionately toward
16 the perpetrator.
17 Q. Helplessness, the second one, what does that
18 mean.
19 A. Helplessness -- it's easier to start with
20 the misperception.
21 Q. Yes, please.
22 A. The misperception is if you're a child and
23 you're sexually abused, you're being sexually
24 abused, that you will be able to fend off the
25 perpetrator. You'll be able to do something to

26 protect yourself so that you won't be abused.
27 And that just doesn't happen. We are not --
28 the research actually shows quite clearly when 2873

1 children are presented with a perpetrator who is
2 bigger, stronger, more worldly, has more resources,
3 that they are not able to fend off and protect
4 themselves, and the phrase that I usually use is "to
5 ensure their own sexual safety." They're not able
6 to keep themselves from being sexually abused.

7 Q. Do children understand a need to do that.

8 A. I'm not sure I understand your question.

9 Q. Well, you said that they're not equipped to
10 do that. Does that mean that they understand at the
11 time that they actually need to do that.

12 A. To protect themselves.

13 Q. Yes.

14 A. Well, depending upon the age, they may not
15 fully appreciate the inappropriateness of the sexual
16 activity between them and the perpetrator. Or they
17 may be vulnerable to distortions, or lies, or
18 miscommunication, or maybe misinformation on the
19 part of the perpetrator; that this is okay, or this
20 behavior is okay within the context like, "You and I
21 can do this, but we're not supposed to tell anybody
22 else," giving the child the impression that, you
23 know, "I can't tell anybody, but maybe this is not
24 such a bad thing."

25 Q. Number three, I think you said entrapment
26 accommodation. Tell us what that means, please.

27 A. It's two parts. The -- and it's two parts
28 because in the entrapment part, if you're a child 2874

1 who's being sexually abused, and you can't tell
2 anybody about it, that's the secrecy. And you can't
3 do anything about it to stop yourself from being
4 victimized, that's the helplessness sense. And then
5 you're stuck. You're trapped. Dr. Summit uses
6 maybe a fancier word of "entrapment."

7 And the reason why that's two parts is, if
8 you're in that situation and you can't do anything
9 about it, then what do you do. Hence, the word
10 "accommodation."

11 I think an easier word than "accommodation"
12 is "coping." Kids learn to cope with the experience
13 of being sexually abused because they have no other
14 alternative. They have to learn how to manage the
15 feelings that they have about their victimization,
16 and those feelings can be really difficult. Those
17 include shame and embarrassment, humiliation.

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18 Sometimes they will be traumatized. All of those
19 are very difficult to manage, and that's part of
20 what the accommodation process does is enable the
21 child to manage a difficult situation that may be
22 unbearable at times.
23 Q. Delayed unconvincing disclosure. What does
24 that mean.
25 A. Again, that's one that has two parts to it.
26 Q. Yes.
27 A. The misperception is a good place to start.
28 The common belief is if you're a child and you're 2875

1 being abused, then you will immediately -- as soon
2 as it happens, you'll immediately go tell your mom,
3 or your dad, your teacher, your best friend,
4 someone. And that really doesn't happen very often,
5 and that's why it's the misperception.

6 It is common that children have a delay and
7 often a significant delay in disclosure from the
8 first time of abuse to when they're eventually able
9 to disclose. There are now actually several studies
10 that have looked at this issue of delayed
11 disclosure. And one that I often cite is by Diana
12 Elliott and John Briere, which found that from the
13 time of the first incident of abuse to when the
14 child discloses, that about three-quarters of them
15 had failed to disclose within the first 12 months.

16 Q. Excuse me, 12 months.

17 A. 12 months.

18 Q. Thank you.

19 A. So most kids don't disclose right away.

20 What that means is that clearly there's a delay in
21 disclosure.

22 What I think that also means is, whatever
23 that mandate or coercion that was imposed on the
24 child, that secrecy part, must have been pretty
25 strong if it keeps most kids quiet for at least a
26 year.

27 Now, there's also a fair amount of research
28 that would suggest that somewhere between 30 and 50 2876

1 percent of children fail to disclose in their
2 childhood; that is, they may keep the secret of
3 their victimization quiet until their adulthood,
4 which again supports this notion that there's a
5 significant delay in disclosure.

6 Q. What are the issues that a child deals with
7 in determining whether or not to disclose that
8 they've been a victim of child sexual abuse. What
9 do they wrestle with, kids.

10 A. Well, I'll start by telling you that I often
11 tell kids when I'm in therapy with them that it was
12 a courageous thing for them to do, because they are
13 overcoming a lot of issues. They may be overcoming
14 threats. They may be overcoming a sense that
15 they're going to get in trouble if they disclose.
16 Lots of times kids feel like they're not going to be
17 believed. They'll disclose to somebody and, you
18 know, they'll get blamed for what happened.
19 For a lot of children, especially males,
20 there is this issue of stigma attached to
21 homosexuality. That is, most perpetrators are male.
22 And so for a male victim, not only do they have all
23 of these other issues about being afraid to
24 disclose, but if they disclose, the people will
25 think that they're gay, that they're homo. I mean,
26 those are the kinds of things that are teased or
27 ridiculed by adolescents or peers. And so it
28 becomes a very difficult thing. 2877

1 In addition to that, it matters who they
2 disclose to. It's a hard thing to talk about. I
3 mean, we can sort of think about it as adults
4 retrospectively, but I think it's more important to
5 try to think about it in the frame of a child. It's
6 a really hard thing to tell somebody something that
7 may be humiliating or embarrassing and traumatizing,
8 especially if it would involve penises and vagina
9 and oral copulation and sodomy.

10 Those types of things are incredibly
11 difficult, and so kids have to overcome a lot of
12 barriers to be able to say that to somebody, and
13 they often pick on somebody that they feel will be
14 supportive of their disclosure when they initially
15 start to make disclosures, somebody that they feel
16 that they can trust.

17 Q. What situation would pose the greatest
18 likelihood of a disclosure. What's the combination
19 of factors that would most encourage a disclosure.

20 A. A child -- that would promote a disclosure.

21 Q. Yes.

22 A. A child who is disclosing to somebody who
23 they felt, with some confidence, would be attentive,
24 caring, responsive. Wouldn't be blameful, wouldn't
25 say, "Well, okay, you had it coming"; or "This is
26 all your fault"; perhaps somebody who would be
27 believing of the position that they're taking by
28 disclosing. 2878

1 It can be a lot of different types of

2 people, but generally it would be somebody who the
3 child had some trust or confidence in.

4 Q. All right. Are kids concerned about whether
5 they would be believed. Is that one of the issues
6 that they deal with.

7 A. Very much so, yes.

8 Q. Now, would you expect that a child who does
9 disclose having been a victim of sexual abuse, that
10 that child would disclose to their closest relative.

11 A. If they perceive that closest relative to be
12 somebody that they had confidence in, that -- that
13 would be, you know, somebody that they felt would be
14 positively responsive to them.

15 Q. Do you have a sense of how many children
16 actually do disclose to parents as opposed to other
17 persons; friends, teachers, therapists.

18 A. Well, that's one of the tough issues. As a
19 researcher, if we were able to have a better
20 understanding of the process of disclosure, we'd be
21 able to facilitate those kids who have been sexually
22 abused to be able to disclose more frequently.

23 The problem is, there are lots of different
24 people who children could disclose to. I mean,
25 sometimes it's a mom. Sometimes it's a dad. Tends
26 infrequently to be dads. Many times it may be a
27 best friend, or a counselor, a therapist. It could
28 be a lot of different people. That's why I say that 2879

1 the common denominator tends to be somebody that the
2 child has some confidence in that they would be
3 trusted -- trustworthy and supportive of their
4 disclosure.

5 Q. Are kids at all concerned about the reaction
6 of the person who would be the recipient of this
7 disclosure; in other words, how they would take it,
8 how they would handle it.

9 A. Certainly.

10 Q. Is that a factor that may be different with
11 a parent than it would be for, say, a mental health
12 professional.

13 A. It could. I mean, usually kids are not
14 particularly concerned -- as a mental health
15 professional, they're not concerned with how I
16 receive information. Whereas they may be concerned
17 with how a mother or a father, big sister, big
18 brother may receive that information.

19 Q. How about a child who is -- we've dealt a
20 little bit with the child who voluntarily comes
21 forward on their own, his or her own. How about a
22 child that is confronted by an allegation of having
23 been a victim of sexual abuse. What are the issues
24 that a child deals with.

25 In other words, it's not a voluntary effort
26 by the child to make -- give a communication of an
27 abuse to another person, but, rather, another person
28 directly asking that child. What are the issues 2880

1 that a child deals with when they are asked
2 questions about whether or not they have been
3 abused.

4 A. Well, in addition to all those other things
5 that I mentioned about how it's difficult and they
6 have to overcome a lot of the barriers about shame,
7 humiliation, feeling they can get blamed for it or
8 be responsible, in addition to all those, there may
9 well be a natural process by which kids are able to
10 disclose being sexually abused. And if somebody
11 were to just come up and say, you know, "Were you
12 sexually abused." they may not be able to make that
13 disclosure because they weren't at that place where
14 they could make it yet. Maybe two years, five years
15 from now, they may be able to do it.

16 Also, it goes back to this issue of
17 confidence. If they felt like the person who was
18 asking them about their sexual abuse was supportive
19 and attentive and believable and helpful to them,
20 they may be able to make that disclosure.
21 If they felt like they could get in trouble,
22 that they could be leading into an accusation, if it
23 could be somebody who could get them in trouble for
24 what they said, that would be a tough thing to do.

25 Q. What is the importance of proper
26 qualifications by the person making the inquiry. In
27 other words, is there such a thing as proper
28 qualifications for a person inquiring of a child as 2881

1 to whether or not that child has been abused.

2 A. Well, there are. In California we have what
3 we call Multi-Disciplinary Interview Centers, MDICs.

4 There are places where children who have been
5 alleged to have been abused go to be interviewed,
6 and in California there is a rather extended
7 training program to be evidentiary interviewers.

8 Aside from some of the evidentiary issues,
9 there's a lot of effort trying to make these people
10 be supportive, to be the kinds of people who are
11 easy in developing rapport, who kids like, are
12 friendly, are comfortable.

13 So the notion is if you can create that type
14 of supportive, caring, attentive person, you can
15 overcome some of the barriers that kids may have who
16 don't want to disclose.

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17 So that really speaks to the issue of having
18 people who are trained and skilled be able to ask
19 questions or ask deep questions about whether a
20 child has been abused or not.
21 Q. Doctor, does it make a difference, in your
22 opinion, the gender of the child in terms of the
23 ease with which they can give a disclosure of sexual
24 abuse.
25 A. Yes.
26 Q. In what way. Explain that to us.
27 A. It goes back a little bit to what I said
28 earlier. The basic issue is I think it's more 2882

1 difficult for males to disclose than it is for
2 females. Because on top of all of the traditional
3 difficulties, the basic barriers that I described,
4 since most perpetrators are male, and if you happen
5 to have a male victim, you also have the stigma or
6 the potential exposure to ridicule and embarrassment
because you'll be identified as gay or homosexual.
8 I mean, those things get tagged onto a child. And
9 particularly at certain ages, that could be very
10 difficult to cope with.

11 Q. What kinds of ages.

12 A. Developmentally, a lot of early adolescents,
13 males and females, go through a period where it's
14 difficult to clearly sort through their sexual
15 orientation, the sexual feelings, sexual desires. I
16 mean, most of us, as early adolescents, recall the
17 sense of the early sexual feelings that we have.

18 Q. Early adolescence is about what age.

19 A. Starting probably around 10 or 11, going up
20 through, I'd say, 13, 14, 15 years of age, varying.
21 But to probably be more specific, you know, 11 to
22 14, where you start having sexual feelings, you
23 start having rather focused attention on the
24 opposite or sometimes same sex about having sexual
25 relationships.
26 And it's also a time of a lot of confusion,
27 a lot of confusion about your sexual orientation,
28 sexual identity. And so to be sexually abused, and 2883

1 then have this issue of whether you are homosexual
2 or not added into a difficult or confusing
3 adolescent time can be very difficult if you're
4 looking at trying to get a child to disclose sexual
5 victimization.

6 Q. But a child as young as 11 actually
7 understands the consequences of being stigmatized as
8 gay or homosexual.

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9 A. Oh, certainly. I've seen a lot of kids,
10 much younger than 11, who would tease each other
11 about being gay because of clothes that they wear,
12 because of, you know, a haircut or hairstyles, or
13 because of behaviors that they were doing, maybe a
14 boy walks too effeminately, and they would be teased
15 about being gay. Even younger than 11.

16 Q. Okay. Doctor, when a child does disclose
17 for the first time, is it your experience, your
18 expectation that that child would disclose each and
19 every fact and piece of information about the
20 molestation in its entirety on the first disclosure.

21 A. No.

22 Q. Explain that to us, please.

23 A. No.

24 I have to remember this microphone thing.

25 Q. Yeah. We all have to do that.

26 A. No. It's actually quite uncommon that a
27 child would make a disclosure and fully and clearly
28 articulate everything that happened in their sexual 2884

1 victimization experience and be able to do that with
2 detail. That doesn't happen very often.

3 Q. What are the issues that impact a child. I
4 mean, what happens to a child who's giving a
5 disclosure for the first time.

6 A. Well, what we're talking about with regard
7 to the Child Sexual Abuse Accommodation Syndrome,
8 what we're talking about is that fourth part,
9 because it was delayed and unconvincing disclosure.

10 The unconvincing disclosure is rather than
11 thinking of the disclosure of sexual abuse as an
12 event, or as an act, it's better to think of it as a
13 process. That is, it's the process of overcoming a
14 lot of those barriers and fears about what would
15 happen when they disclosed.

16 And the research supports the notion that
17 kids often will -- when they finally get around to
18 being able to make a disclosure, will make a
19 statement, and it may be a relatively vague
20 statement. "He touched me in a weird way." Or, "He
21 touched me and it made me feel uncomfortable,"
22 something like that.

23 If the response had been, as I suggested
24 earlier, supportive, then they may feel more able to
25 talk more about what happened and continuing on. As
26 time goes on, if they feel more and more supported
27 in being able to talk about it without fear of
28 retribution, without fear that they're going to get 2885

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1 blamed, without fear that any stigma might get
2 attached to them, all of those fears that they have
3 might start to get -- to fall away. Then they're
4 eventually able to provide a more complete
5 disclosure.

6 The difficulty is, if you have one, two,
7 three, four, five disclosures, multiple disclosures,
8 and they're not exactly the same, and they often --
9 the research shows us that they're often not the
10 same, then it looks unconvincing, which is why
11 Dr. Summit wrote, 20-some years ago, that kids who
12 are sexually abused go through this process of a
13 disclosure rather than an event.

14 Q. And referred to it specifically as a
15 process; is that correct.

16 A. Yes. Yes.

17 Q. Is that your experience in dealing with the
18 thousand or more children that you've dealt with
19 over the years or that number that have been
20 sexually abused.

21 A. Well, it is my experience. But I think more
22 important, that's what's supported by the research.

23 I mean, my experience, and granted, I have seen a
24 lot of children who have been sexually abused, but
25 it is better to rely upon what the research has to
26 say rather than just a single person.

27 Q. In the course of your dealing with children
28 who have disclosed and the research that you have 2886

1 conducted, is the demeanor of the child at the time
2 of the disclosure something that's interesting to
3 you or relevant to the question of sexual abuse.

4 A. You didn't ask me any questions about it,
5 but what that goes to is this issue of
6 accommodation --

7 Q. Yes.

8 A. -- past the process of coping with being
9 sexually abused and, again, I'll remind you that the
10 feelings are one of being afraid, embarrassed,
11 humiliated. These are not things that are easy to
12 deal with for a child.

13 One of the things that kids have to do, if
14 they're being sexually abused, especially if it
15 happens more than once, is they have to learn how to
16 manage or shut down those feelings. They have to
17 learn how to in some way separate themselves out.

18 So what happens, and it often happens in
19 therapy, when kids come in and they talk about being
20 abused, they may talk about it in a matter-of-fact

21 way, devoid of feelings. They may come in and,
22 "Well, he put his penis in there. He moved it in
23 and out. He put his hand here," and it sounds

24 almost cold or clinical.
25 What it really is, is the child's relaying
26 what they saw, what happened to them, separate from
27 the feelings that they have.
28 Q. Doctor, a child who's been a victim of 2887

1 sexual abuse, would it be your expectation that each
2 time the child is interviewed, assuming a succession
3 of interviews or even testimonies, would it be your
4 expectation that child would be perfectly consistent
5 about all of the detail each and every time.

6 A. The research supports that they are not
7 likely to be consistent. Part of that is just this
8 issue of it's a process in which they feel more
9 comfortable disclosing so they may give more
10 information.

11 Part of it also is there's some areas in
12 which kids are not attentive to. For example,
13 children don't usually wear watches, and so if you
14 were to ask a child, you know, "Did it happen at
15 2:30 or 3:30 in the afternoon. Did it last 35
16 minutes or 55 minutes." their orientation to time is
17 different than that of an adult, so they may not be
18 accurate on issues of time.

19 "Did it happen on December 13th or December
20 14th." They don't operate, as some adults do, with
21 calendars that sort of make us guide that, so they
22 may not be exactly accurate. So some of these
23 intangible kinds of things they make mistakes on.
24 Usually the things that they see, they're
25 pretty good at being able to accurately describe.
26 And there's a caveat here, which is after about four
27 or five years of age, kids are very good at being
28 able to describe what they see and recall and 2888

1 provide that information.

2 Q. Doctor, let me ask you a couple questions
3 about victims of sexual abuse and their relationship
4 with the offenders. Is it possible for a child to
5 actually have a sincere love and affection for the
6 person who is molesting them.

7 A. Certainly.

8 Q. Explain how that would be.

9 A. Well, actually it's not only possible, in
10 some situations it often happens. Going back to
11 this basic issue, even as a part of this sense of
12 secrecy, a relationship is developed between the
13 perpetrator and the victim. And as a part of that
14 relationship, in many instances the child likes this
15 person. It's really difficult to just walk up to

16 somebody and start fondling or molesting them.
17 Usually, as I said earlier, sexual abuse happens in
18 the context, and the context is that relationship.
19 So from the perspective of the child, "I
20 like this person, I enjoy doing things with them,
21 they're fun, I like that they like me, I want people
22 to like me," and so the sexual activity becomes an
23 unpleasant, disliked part of a relationship that is
24 bigger, that they, in fact, enjoy.
25 And, for example, in an incest situation,
26 you may have a child who is being sexually abused by
27 a family member. It may comprise a portion of their
28 life that is unpleasant and they don't like and they 2889

1 feel very bad about it, but the needs that they have
2 as a child, the need for a positive affiliation or
3 positive relationship, affection, the need to have
4 somebody who cares about them, they comprise a much
5 larger sense.

6 And it is quite common for kids to sustain a
7 relationship that may be abusive, adding in the fact
8 that there's a secrecy and helplessness they can't
9 do anything about anyway, because the larger scope
10 is that there's this relationship that is very
11 important and they have needs as a child that have
12 to be met.

13 Q. Doctor, you said the "unpleasant" part of
14 the molestation itself. Are there ever occasions
15 where it's not unpleasant for a child; that a child
16 actually doesn't view the actual act of molestation
17 with repulsion; that a child might actually find it
18 enjoyable. Does that ever happen.

19 A. It does, and in my experience, usually in
20 two situations: One is very unusual, with long-term
21 abuse, where the child sort of becomes a part of the
22 relationship or thinks that the relationship that
23 they may have with the perpetrator is more like
24 boyfriend/girlfriend. I've had some clients who
25 said, "I don't want to disclose because he's my
26 boyfriend," and they were 11 and the perpetrator was
27 35. So it was an abusive relationship, but their
28 perception was that it was not. 2890

1 The other one is with certain situations
2 with sexual abuse with males, particularly with oral
3 copulation. It is confusing -- or I should say, my
4 experience when kids come to therapy, one of the
5 common confusions that they have is, "I didn't like
6 what happened, it was embarrassing or humiliating,
7 but it felt good, and I don't know what to do about

8 that."

9 And the basic issue is the penis is designed
10 to feel good. It's designed to, if you stimulate
11 it, to get an erection and to have pleasurable
12 feelings. So in the process of oral copulation, if
13 it's stimulated, it may well appear to the child --
14 it may well be a pleasurable feeling. And at the
15 same time, the child has the experience of being
16 embarrassed and humiliated and disgusted by what's
17 going on. It is an odd situation that I have seen
18 in many instances with boys who have been sexually
19 abused.

20 Q. Is it unusual that a child, a boy, could
21 actually achieve an orgasm or ejaculate during the
22 course of molestation.

23 A. Not unusual at all. Again, that's one of
24 the things that penises were designed for. And you
25 stimulate it enough or in a particular way, if
26 they're old enough, they will have an erection and
27 they may well have -- they may well ejaculate.

28 Q. Doctor, in cultivating a relationship with a 2891

1 child to the point where the child accommodates acts
2 of molestation, are there materials that can be
3 shown to a child that would tend to accommodate that
4 procedure; in other words, allow a child to be able
5 to be more accepting of what's happening to him.

6 MR. MESEREAU: Objection; leading.

7 MR. ZONEN: This is an expert witness, Your
8 Honor.

9 THE COURT: Overruled.

10 You may answer.

11 THE WITNESS: Can you ask your question
12 again.

13 MR. ZONEN: Yes.

14 Q. Is it possible to use certain types of
15 materials with a child that might lessen that
16 child's sexual inhibitions.

17 A. Well, as I said earlier, it's a difficult
18 thing to just walk up to a child and stick a hand in
19 their pants and start fondling them. And I don't
20 mean to be crude about it, but that is a good
21 example, because it's likely if you were to do that,
22 that the child would -- would be offended, repulsed,
23 afraid, and difficult then to follow through and
24 molest that child in a more extensive way.

25 And you don't have to do that. What kids
26 tell us happens is that they have this relationship,
27 it's somebody that they like, somebody that they
28 enjoy, they enjoy spending time with them, and some 2892

1 minor sexual content gets to be a part of the
2 relationship. It may be an off-color joke. It may
3 be a comment about some girl's bottom or breasts
4 that -- who walked by. But it's a minor thing.
5 And then over time, it may be watching an
6 R-rated movie, and making comments about people who
7 don't have clothes on in an R-rated movie. Or even
8 more, introducing the issue of pornographic
9 materials, X-rated magazines, or videos, or touching
10 the child.

11 For example, I had a client once who said
12 that the perpetrator would give them back rubs. And
13 it started with back rubs, and then it gradually,
14 over a period of a couple weeks, progressed to be
15 more and more sexual, where it involves penetration.
16 The point is that what starts as relatively
17 innocuous sexual content, like an off-color joke,
18 gradually increases, desensitizing the child to
19 sexuality, so that eventually when you engage in a
20 more overt sexual behavior, like putting your hand
21 in their pants and touching somebody's penis or
22 vagina, then the child is more comfortable, they're
23 more used to it, and put in this odd situation that,
24 well, okay, you can now get in trouble, because it
25 wasn't just this, but "Yesterday we were looking at
26 magazines, and we were making these jokes, and
27 looking at these videos."

28 Q. What happens to -- we're now talking about a 2893

1 boy, a young adolescent boy, who is shown porn --
2 who is shown sexually graphic material with visual
3 images, pictures. How does a young boy react to
4 that.

5 MR. MESEREAU: Objection. Foundation and
6 vague.

7 THE COURT: Overruled.

8 You may answer.

9 THE WITNESS: Depending upon the age of the
10 child, I mean, we're really talking about
11 stimulation. As I said earlier, there's certain
12 ages in adolescence and early adolescence where
13 there's an increased interest in sexual activity,
14 people of the opposite sex, a lot of confusion, a
15 lot of exploration, a lot of seeking more knowledge,
16 and in some cases experimentation about sexuality.
17 So that could be very exciting, certainly; enticing
18 perhaps.

19 Q. BY MR. ZONEN: A ten-year-old boy, would a
20 ten-year-old boy be old enough to find exciting
21 looking at sexually graphic material.

22 A. Certainly.

23 Q. 13-year-old boy.
24 A. Certainly.
25 Q. I'd like to ask you some questions about how
26 a child's behavior, a child who has been exposed to
27 sexual molestation, are there ways that their
28 behavior thereafter could change. 2894

1 A. I'm not sure I understand your question.
2 Q. Is it uncommon for a child to act out in
3 some fashion, a child who's been sexually abused.
4 A. That can be very common, yes.
5 Q. In what ways.
6 A. Well, I hate to be stereotypical about this,
7 but in fact it's supported by research. The
8 experience of being sexually abused is distressing,
9 has lots of feelings that are difficult. The way in
10 which boys express distrust tend to be
11 externalizing. The way that girls express distrust
12 tend to be internalizing. What those mean, is
13 internalizing tend to be sad, withdrawn, crying,
14 depressed, those types of behaviors. Externalizing
15 behaviors tend to be aggression, acting out,
16 defiance, swearing, name-calling, those kinds of
17 things.
18 So those are common behaviors that we see
19 with children who experience some type of distress
20 or trauma, and also with sexual abuse.
21 Q. Are there other types of abuse that could
22 lead to that type of behavior as well.
23 A. Certainly.
24 Q. Does it have to be necessarily sexual abuse.
25 A. No. It can be neglect, but more likely it
26 could be sexual abuse or physical abuse.
27 Q. And both of which could manifest that kind
28 of behavior in a young, adolescent boy. 2895

1 A. Certainly, yes.
2 Q. Would that behavior include such things as
3 talking back to teachers.
4 A. That would be -- yes, that would be sort of
5 a poor response to authority.
6 Q. Getting into fights.
7 A. Getting into fights would be one.
8 THE COURT: Counsel. It's time for our
9 break.
10 MR. ZONEN: Thank you.
11 (Recess taken.)
12 THE COURT: You ready.
13 MR. ZONEN: Yes, Your Honor.
14 THE COURT: Proceed.

15 Q. BY MR. ZONEN: Dr. Urquizo, what is the
16 psychological impact of a child ultimately
17 disclosing. Does something happen.
18 BAILIFF CORTEZ: Sir, your mike.
19 Q. BY MR. ZONEN: Dr. Urquizo, what is the
20 psychological consequence or impact on a child who
21 ultimately discloses to something happening to that
22 child given that disclosure.
23 A. Well, one of the things that children tell
24 us immediately happens is that there's a sense of
25 relief from disclosing, assuming that the response
26 to that disclosure was supported. But there's a
27 sense of relief.
28 What there may well be is some degree of 2896

1 benefit on the mental health side. One of the
2 things that happens with sexually abused children
3 who are involved in therapy is the process in part
4 involves talking about what happened or disclosing
5 what's happened. And then also incorporating a lot
6 of the feelings that occurred, as well as changing
7 or modifying a lot of the distortions that the child
8 may have acquired as a result of their
9 victimization.
10 So this process of just going through the
11 act of disclosure starts that -- starts the process
12 that is parallel to -- it's not therapy, but it is
13 like therapy. It is maybe the first part of that.
14 And so oftentimes, from the point of
15 disclosure, kids have this sense of relief, and
16 there may be some gain or improvement with regard to
17 mental health symptoms. Especially if it is also
18 responded to, as is often the case, to disclose, and
19 then they usually get some type of mental health
20 treatment. So it's followed by therapy which is
21 specifically designed to help alleviate some mental
22 health symptoms.
23 MR. ZONEN: Thank you, Doctor. I have no
24 further questions.
25 THE COURT: Mr. Mesereau.
26 MR. MESEREAU: Yes, please, Your Honor.
27 Good morning.
28 THE WITNESS: Just barely morning. 2897

1 MR. MESEREAU: Huh.
2 THE WITNESS: Just barely morning.
3 MR. MESEREAU: Okay.
4
5 CROSS-EXAMINATION
6 BY MR. MESEREAU:

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7 Q. We've never spoken before, right.

8 A. I don't believe I have ever spoken with you.

9 Q. My name is Tom Mesereau and I speak for Mr.

10 Michael Jackson.

11 A. Okay.

12 Q. Now, first of all, you've indicated the
13 great majority of your expert witness testimony has
14 been for prosecutors, for the government, correct.

15 A. That's correct.

16 Q. What percentage of your expert witness
17 testimony would you say has been for the government.

18 A. Well, actually, the clarification would be
19 of criminal and juvenile court. So of criminal
20 court, you know, four or five times I've testified
21 for the defense, and then about 85 times total, so
22 that would be -- you could do the math, but that
23 would be the portion.

24 Q. So about 90 percent.

25 A. Roughly.

26 Q. 90 percent for the prosecution.

27 A. Correct.

28 Q. In criminal court, correct. 2898

1 A. In criminal court.

2 Q. Now, when you testified in juvenile court,
3 they were prosecutions, correct.

4 A. No.

5 Q. What were they.

6 A. They were part of the juvenile court process
7 where the issue is related to the safety and
8 well-being of a child, through the child welfare
9 system, is placed in foster care, and then there's
10 an 18-month process by which there's unification.
11 So it could be in any aspect of the child welfare
12 system, but it doesn't include any criminal
13 involvement, at least for the part that I do.

14 Q. So you were not involved in efforts to
15 convict juveniles of crimes.

16 A. That is correct. I have not been involved
17 in juvenile prosecutions --

18 Q. And --

19 A. -- or in juvenile prosecutions through the
20 child welfare system.

21 Q. When you testified in juvenile court, who
22 hired you.

23 A. I'm usually paid for either by the county or
24 by the court.

25 Q. Okay.

26 A. Sometimes I'm paid for by the parties, but
27 for the most part, it's by the county or the court.

28 Q. Were prosecutors involved in these juvenile 2899

1 proceedings.

2 A. No.

3 Q. Okay. Are you being paid for your services.

4 A. Yes.

5 Q. What are you being paid.

6 A. My rate's 175 an hour.

7 Q. Okay. Have you been paid any amount of

8 money to date.

9 A. No.

10 Q. How much do you expect to be paid.

11 A. Well, of course, it's 175 an hour. I don't

12 know how long my testimony will go.

13 Q. Okay. How many hours have you put in so

14 far.

15 A. Oh, about maybe ten hours. That's just an

16 estimate.

17 Q. And --

18 A. Maybe less than that.

19 Q. Okay. You had meetings or discussions with

20 prosecutors for the government in this case, haven't

21 you.

22 A. I've had meetings and discussion with

23 Mr. Zonen.

24 Q. Okay. Anyone else.

25 A. I've been introduced to other people, but I

26 have really not had any substantive discussion with

27 anybody other than Mr. Zonen.

28 Q. And when were you first contacted by 2900

1 Mr. Zonen.

2 A. Approximately a month and a half, maybe two

3 months ago.

4 Q. Have you testified as an expert witness for

5 this prosecuting office before.

6 A. I have never testified in Santa Barbara

7 County before.

8 Q. This is the first time.

9 A. This is the first time I've testified in

10 Santa Barbara County.

11 Q. Now, which District Attorney's Offices in

12 California have you testified for.

13 A. I don't know that I could name all of them,

14 but I could tell you that most of the D.A.'s Offices

15 in Northern California, primarily in Sacramento and

16 surrounding counties. As far south as Kings County,

17 and Tulare County. As far north as Siskiyou County.

18 Occasionally into the Bay Area, San Francisco, San

19 Mateo, Alameda, Napa. Napa's not quite the Bay

20 Area, but primarily in the Northern California,

21 Central Valley counties.

22 Actually, with one exception. I testified
23 for the defense in San Diego County.
24 Q. Okay. Now, you're a Ph.D. in clinical
25 psychology; is that correct.
26 A. Correct.
27 Q. You're not a medical doctor, right.
28 A. That is correct. 2901

1 Q. And you can't prescribe medication, right.
2 A. That is correct.
3 Q. And you're not a psychiatrist, right.
4 A. Correct.
5 Q. And would you -- would you describe your
6 professional activities as primarily research
7 oriented.
8 A. No.

9 Q. How would you describe the primary thrust of
10 your professional activities.
11 A. The mission of the University of California
12 faculty is really to do three things: To do
13 research, to teach, and to provide clinical service.
14 And I have done all three of those things
15 throughout the course of my career in the UC --
16 faculty in UC. It changes periodically, you know,
17 from -- sometimes from month to month or from year
18 to year, but I've always done all three of those
19 things.
20 Q. And currently, what would the percentage
21 breakdown of your time be as far as those three
22 things are concerned.
23 A. Probably -- this is a guess. I don't mean
24 to be flippant about this, but the numbers may well
25 include more than 100 percent, because my job often
26 includes more than 100 percent. I would say about
27 50 to 60 percent currently is clinical in some
28 capacity. I'd say about 30 to 40 percent is 2902

1 administrative. I'm sorry, not -- is research
2 related. And then probably about 30 to 40 percent
3 related to teaching in some capacity.
4 Q. Now, would the clinical activities you're
5 engaged in involve counseling children.
6 A. I used to do therapy or counseling. I
7 stopped about three or four years ago.
8 I had done counseling starting when I
9 entered graduate school in 1983. And then again,
10 about three or so years ago I stopped, and
11 continuously for that time.
12 But because of the demands of my position
13 and other responsibilities, it was just really

14 difficult for me to make a regularly scheduled
15 appointment every week, which I felt was a
16 requirement if I'm going to make a commitment to
17 doing therapy with a child. So I stopped doing
18 therapy specifically for that reason.
19 Q. So for the last three or four years, you
20 have not spent much of your time counseling
21 children, correct.
22 A. Yes, doing therapy. I still have clinical
23 contact with children and families, but not in a
24 therapeutic capacity.
25 Q. Well, the clinical contact you have is
26 primarily for academic purposes, correct.
27 A. No.
28 Q. What is the primary purpose of the clinical 2903

1 work that you're currently doing.

2 A. Two things. One is I still am involved in
3 evaluations, so I evaluate children and families.
4 Again, much of that is related to the juvenile court
5 system. And then I supervise cases and do in-take
6 assessments on a regular basis. But it's just the
7 part about therapy that I dropped out because of the
8 demand for the regular weekly meeting.

9 Q. And how much of your current work is related
10 to forensic.

11 A. Forensic, like --

12 Q. Like you're doing today.

13 A. Like testifying --

14 Q. Yes.

15 A. -- or --

16 Q. Forensic preparation, forensic evaluation,
17 forensic testimony.

18 A. Oh, a small percentage. Certainly less than
19 5 percent.

20 Q. And please tell the jury what the word
21 "forensic" means.

22 A. To my knowledge, being just something that
23 has to do with the courtroom, criminal prosecution.
24 Again, in my field, being the field of psychology,
25 usually mental health, its interaction with some
26 aspect of the court.

27 Q. Now, you've published a lot of papers about
28 various aspects of clinical psychology, correct. 2904

1 A. Mostly related to child maltreatment.

2 Q. Okay.

3 A. It may not always be related to psychology.

4 Some of the things I do are related to child welfare
5 services or social services, not psychology.

6 Q. You would agree that false claims of sexual
7 abuse are made by children.

8 A. Certainly.

9 Q. And none of the papers you've published have
10 ever dealt with that subject, correct.

11 A. Correct. That's not an area of research
12 that I do.

13 Q. And you've also generated a lot of papers on
14 various aspects of your work that have not been
15 published formally, right.

16 A. Some. I don't know that I would say a lot,
17 but I have some manuscripts that are in preparation.
18 Maybe four, five or six that are included on my CV
19 that are not in -- that are not currently in a
20 journal or a book.

21 Q. And none of those papers have ever dealt
22 with the subject of false claims of sexual abuse by
23 children, right.

24 A. That's correct. Again, it's not an area of
25 research that I do.

26 Q. There are people in your position, Ph.D.s
27 and clinical psychology, who do specialize in the
28 area of false claims of sexual abuse by children, 2905

1 right.

2 A. I'm not sure that they specialize in it.

3 There certainly are people who are my colleagues who
4 have done research in the area of false allegations
5 of sexual abuse.

6 Q. And they've actually published papers on
7 that particular subject, right.

8 A. There are several publications related to
9 false allegations, yes.

10 Q. And you're aware that in California there
11 have been some high-profile criminal cases which
12 involved false claims of sexual abuse by children,
13 right.

14 A. I need more information.

15 Q. Are you aware of a case in recent years that
16 took place in Bakersfield where children testified
17 they'd been sexually abused, there were convictions,
18 and years later these testifying children came
19 forward and said what they said was false.

20 MR. ZONEN: I'm going to object as exceeding
21 the scope of the direct examination and relevancy.

22 THE COURT: Overruled.

23 THE WITNESS: I'm not aware of a case like
24 that.

25 Q. BY MR. MESEREAU: You've never made any
26 study of that particular case, right.

27 A. I'm not aware of any case like that.

28 Q. Have you ever heard of a case called 2906

1 McMartin that took place in Los Angeles County many
2 years ago.

3 A. I'm aware of the McMartin case.

4 Q. Are you aware that false claims of sexual
5 abuse were made in that case.

6 A. I am, although my knowledge of the McMartin
7 case is rather small. I wasn't involved in that
8 case, so I know very little about that case.

9 Q. Okay. Have you studied -- in the course of
10 obtaining your undergraduate degree, master's or
11 Ph.D., have you actually studied as a subject the
12 area of false claims of sexual abuse by children.

13 A. Yes. And I have a quick caveat that I would
14 add to that, but absolutely. There are probably
15 about seven, eight, maybe ten research studies
16 related to false allegations.

17 And the caveat is I am -- a part of the
18 research that I do is specifically on methodology,
19 about how to do research related to sexual abuse and
20 physical abuse, primarily. And the caveat is, it's
21 very difficult to get good information about false
22 allegations, because what you're fundamentally
23 researching is something that didn't happen.

24 Clearly false allegations happen, but that issue of
25 researching something that didn't happen is really
26 hard.

27 Now, of those studies, I'm certainly aware
28 of those studies. I have read most or maybe all of 2907

1 those studies. But anything that I would say -- and
2 actually I would argue that anything that anybody
3 would say related to false allegations should
4 include that caveat, because it is just a difficult
5 area to do research in.

6 Q. But certainly there's a wealth of material
7 you can look at if it becomes your main interest as
8 a researcher, correct.

9 A. I wouldn't say that there's a wealth of
10 material. There are, in fact, some studies. Now,
11 when I say "material," I'm really referring to what
12 the research is in child sexual abuse. A lot of
13 people have written and a lot of attorneys and
14 certainly a lot of defense attorneys have written a
15 lot, maybe a wealth of material about false
16 allegations, and I have not read that. The focus of
17 my reading has been on what research exists with
18 regard to false allegations.

19 Q. Well, in your clinical work, have you ever
20 made it a point to interview anyone who originally

21 testified to sexual abuse, and later came forward
22 and said, "I lied".
23 A. In my experience, there have been, that I
24 know of, two cases where a false allegation was
25 made. Now, that may seem like a rather small
26 number, but most of -- or pretty much all of the
27 children that I see in therapy are children who have
28 already been identified as having been abused, and 2908

1 then they go off to therapy so they would come and
2 see me. I'm usually not involved in the
3 investigation part of the process. So it's
4 conceivable that a different number of false
5 allegations could happen and I have not been
6 involved in those.

7 Q. Now, isn't it true that if you had been
8 testifying for the prosecutors in any of these cases
9 where there were false allegations, you would have
10 testified exactly as you did here today, right.

11 A. I'm not sure I understand the question.

12 Q. Let me rephrase it. Maybe I didn't phrase
13 it properly.

14 Let's look at these cases where false
15 allegations of sexual abuse by children were made,
16 okay.

17 A. Okay.

18 Q. If you had been called by the prosecution to
19 testify for the prosecution in any of those cases,
20 you would have said exactly what you said here
21 today, right.

22 A. Do you mean with regard to the Child Sexual
23 Abuse Accommodation Syndrome.

24 Q. With regard to everything you've testified
25 to today.

26 A. There may be some minor variations,
27 depending upon time, as we acquire more information,
28 more research. Certainly we know information -- 2909

1 more information now than we did ten years ago. I
2 have testified in cases ten years ago, so there
3 might be some minor variations. I'd argue that
4 generally it would be the same.

5 Q. And when you talked to Mr. Zonen about your
6 testimony today, you didn't discuss the subject of
7 false statements of sexual abuse by children, did
8 you.

9 A. I don't recall Mr. Zonen asking me questions
10 about false allegations.

11 Q. Okay. Okay. In the clinical work that you
12 currently do, do any of your colleagues do clinical

13 work in the area of false allegations of sexual
14 abuse by children.
15 A. I'm not aware of anybody who does clinical
16 work. I am aware of some of my colleagues who do
17 research with regard to false allegations, but not
18 clinical work.
19 Q. Okay.
20 A. You never know exactly what clinical work in
21 false allegations would be comprised of.
22 Q. In your courses that you teach at University
23 of California at Davis, do you ever teach students
24 about the subject of false allegations of sexual
25 abuse by children.
26 A. Yes.
27 Q. And have you written anything on that
28 subject. 2910

1 A. No.
2 Q. Do you use a case book or a course book that
3 deals with that subject.
4 A. The simple answer to that question is no,
5 but that may be a little deceptive, because I no
6 longer teach in a classroom setting. I teach in a
7 graduate level. So I teach in the capacity of
8 training people to be therapists, training to be
9 psychologists or social workers, and so there would
10 not be something like a course book for the lectures
11 or the discussions, the lectures that I have related
12 to false allegations.
13 Q. When you teach about the subject of false
14 claims of sexual abuse by children, do you teach
15 your students some of the reasons you believe
16 children make false claims of sexual abuse.
17 A. Yes.
18 Q. And please tell the jury what those reasons
19 are.
20 A. Sure. Well, and it's founded on what the
21 research is, not necessarily what my personal
22 opinion is, because it's the research --
23 Q. Sure.
24 A. -- issue with the caveat.
25 Q. Sure.
26 A. There are, in fact, a history of research
27 related to false allegations that kids make; that
28 is, false allegations being that they make an 2911

1 allegation that they were sexually abused, but it
2 turns out that they were not sexually abused.
3 And the difficulty, with the caveat, and I
4 impress so many times, sometimes it's really

5 difficult to determine whether somebody was abused
6 or not.

7 The research shows that there are a few
8 dominant reasons why kids would make false
9 allegations. Actually, primarily one reason why a
10 child would make a false allegation, and that would
11 be related to issues with a marital dissolution
12 custody dispute, animosity between a husband and
13 wife who are breaking up.

14 The notion would be husband and wife break
15 up, husband or wife are angry with the other one, so
16 they make an allegation of sexual abuse because this
17 issue of custody is pending. It's a problem that is
18 extremely difficult for family court systems who
19 actually have funded some of the research related to
20 false allegations.

21 I don't know if that was -- I mean, that was
22 the primary reason why false allegations occur.

23 Q. There are other reasons, too, correct.

24 A. There may well be other -- that's the
25 largest. There could be other reasons. They would
26 tend to be more, maybe, situational or case
27 specific.

28 Q. If you saw a situation where parents were 2912

1 involved in a very, very acrimonious divorce -
2 okay. - and for the first time in that relationship
3 allegations of serious physical abuse were
4 surfacing, and in the middle of this acrimonious
5 divorce all of a sudden one parent goes to the
6 authorities and says, "My soon-to-be ex-spouse has
7 been molesting a child for years," would that cause
8 you to pause regarding the accuracy of that
9 allegation.

10 A. That's a tough question for me to answer.

11 The reason being, it's not my job to make a
12 determination about whether a particular child has
13 been abused or not.

14 I could argue -- you phrased it that, okay,
15 there's a late or delayed accusation about sexual
16 abuse, and maybe the parent put the child up to it.
17 I could similarly argue that circumstances
18 within the family or maybe the relationship between
19 the parent and the child had changed. Maybe the
20 parents had separated and the child felt safer and
21 able to disclose the sexual abuse. It's difficult
22 to not disclose physical abuse, because if you get
23 hit, you have red marks, you get a black eye.

24 That's really hard to keep secret. Sexual abuse is
25 a lot different.

26 So I could make an argument for both sides;
27 that, okay, I should be concerned or that it's

28 common for kids who have been sexually abused. I 2913

1 think the primary statement that I would make is
2 it's not my place as a mental health provider to
3 make a determination about whether a child has been
4 abused or not, sexually abused or physically abused
5 or in any other ways.

6 Q. Excuse me.

7 And is what you're saying that your line of
8 work is primarily to do research in these areas as
9 opposed to evaluate; is that correct.

10 A. Well, evaluate -- almost. Evaluate in the
11 context of mental health problems. I certainly
12 assess and evaluate children or families all the
13 time. But I assess and evaluate regarding whether
14 they have a mental health problem or not, not
15 whether they've been abused or not.

16 Q. Okay. And would it be correct to say to the
17 jury that, as you sit here today, you don't make a
18 living evaluating whether or not claims of sexual
19 abuse by children are true or not, right.

20 A. Certainly. I make a living being faculty in
21 the Department of Pediatrics, being a psychologist,
22 conducting research, providing mental health
23 services, teaching. I am not involved in the
24 determination of whether a particular child has been
25 abused or not.

26 And it's not my place and I don't --

27 actually even further argue it is not the place of a
28 mental health provider to make a determination about 2914

1 whether a particular person was abused or not, or
2 whether a particular person is a perpetrator or not.
3 In the criminal setting, that's the responsibility
4 of a jury.

5 Q. Now, you made a comment that parents can put
6 their children up to lying about sexual abuse,
7 correct.

8 A. I think I made it as a part of an example.

9 Q. And you would certainly agree that parents
10 can encourage or induce children to make false
11 claims of sexual abuse, correct.

12 A. Particularly within that context of
13 animosity between parents in issues of custody,
14 which is where most of the writing with regard to
15 false allegations comes. That has been a concern.
16 Now, I always hate to go to absolutes, so it
17 is possible for a child to be supported in their
18 false allegation by their parent.

19 Q. If you had a situation where you had a

20 mother and her children, and you had evidence that
21 the mother and her children had, from a
22 psychological standpoint, adopted someone as a
23 parental figure. Maybe there isn't a formal
24 marriage. Maybe there isn't a long-term
25 relationship, but --
26 MR. ZONEN: I'm going to object as compound,
27 Your Honor, and the narrative of the question
28 itself. 2915

1 MR. MESEREAU: I haven't finished my
2 hypothetical, Your Honor.

3 THE COURT: He's allowed to form a
4 hypothetical. Do you -- do you want the court
5 reporter to read to where you were.

6 MR. MESEREAU: I can rephrase it. Thanks.

7 THE COURT: All right.

8 Q. BY MR. MESEREAU: Let me give you a
9 hypothetical question: You've got a mother and
10 three children. There is no father figure present.
11 There has been a traumatic divorce of recent
12 vintage. For whatever reason, the mother and her
13 children pick someone and adopt that person as the
14 father figure. And they refer to that person as
15 "daddy," and they refer to that person as the father
16 of the children and the mother encourages the
17 children to refer to that person in that light.
18 And suddenly there is a split. The mother,
19 the children sense that the person they've adopted
20 as their surrogate father, as their father figure,
21 is bailing out, is getting out of the situation, for
22 whatever reason.

23 You could imagine, couldn't you, as a
24 professor of clinical psychology, a situation like
25 that where the mother suddenly induces the children
26 to make false claims of sexual abuse.

27 A. As you frame that question -- I mean,
28 there's two parts to my answer. As you frame that 2916

1 question to me, I can imagine it, because you just
2 framed it for me.

3 Q. Yes.

4 A. But that would seem to me, in my experience
5 and the research that I know about sexual abuse and
6 even false allegations, to be fairly incredible.
7 The issue being, one, as I said earlier, it's about
8 custody. And the research, with the caveat about
9 false allegations, is when there is a custody
10 dispute; that is, mom doesn't want the kids to go
11 over to dad because she's -- or he's maybe sexually

12 abused them, or vice versa, and there is this issue
13 about who has legal right to these children. And
14 that scenario that you just gave me doesn't seem
15 like there would be that issue about who has legal
16 right to it.
17 And on top of that, the research that we're
18 talking about, just to make sure that we're clear,
19 the prevalence of it, is that the numbers are really
20 pretty small. It's difficult and maybe misleading
21 to say, okay, well, there's these large number of
22 kids who are making false allegations. The studies
23 show that somewhere, at least around 2 to 6 percent
24 of kids who make allegations make allegations that
25 are false or that may be false. So we're looking at
26 a very small number of kids to begin with, and with,
27 what I would argue, doesn't fit into that high
28 percentage group that the research describes. 2917

1 Q. But, Doctor, you know that in nasty
2 divorces, very often one spouse will induce a child
3 to falsely accuse another spouse. Not just to get
4 custody; to be nasty and to hurt the person. You
5 know that happens every day, doesn't it.

6 A. That may be your experience, but it's not
7 supported by the research, that kids make false
8 allegations related to being sexually victimized
9 every day, or make a lot. I mean, those are words
10 that you qualified with. The research does not
11 support that.

12 Q. But you just said you're not an expert in
13 the area of false allegations of sexual abuse by
14 children, didn't you.

15 A. No, I don't believe I said that.

16 Q. You just said you don't do any research in
17 that area, correct.

18 A. That's not an area of research that I do. I
19 do a different area of research.

20 Q. And you've never published an article about
21 that.

22 MR. ZONEN: Your Honor, I ask the witness be
23 allowed to finish his answer in its entirety.

24 THE COURT: Sustained.

25 THE WITNESS: But of the research that
26 exists, I have read most or all of the existing
27 research - research, not just writing that somebody
28 did - related to false allegations. 2918

1 Q. BY MR. MESEREAU: You don't know anything
2 about the recent Bakersfield case, correct.

3 A. I --

4 MR. ZONEN: I'll object. Assuming facts not
5 in evidence that there is a recent Bakersfield case.

6 THE COURT: I'll allow you to answer.

7 THE WITNESS: Yeah, I'm not aware of a case
8 in Bakersfield.

9 Q. BY MR. MESEREAU: You're not aware of a case
10 where false allegations of child molestation were
11 made, people were convicted, were incarcerated.

12 MR. ZONEN: Objection; asked and answered.

13 Q. BY MR. MESEREAU: You never heard of it.

14 THE COURT: Sustained.

15 Just a minute. I want to stop for just a
16 second, just because the legal term "hypothetical
17 question" has just arisen in this case. And at the
18 end of the case, I'm going to instruct you on the
19 law concerning the whole entire case, but
20 occasionally because of things that happen during
21 the trial, I'm going to give you instruction to help
22 you deal with the evidence. And that's the case
23 here, so if you would please listen to this
24 instruction, CALJIC 2.82:

25 "In examining an expert witness, counsel may
26 ask a hypothetical question. This is a question in
27 which the witness is asked to assume the truth of a
28 set of facts and to give an opinion based on that 2919

1 assumption.

2 "In permitting this type of question, the
3 Court does not rule and does not necessarily find
4 that all of the assumed facts have been proved. It
5 only determines that those assumed facts are within
6 the possible range of the evidence. It is for you
7 to decide, from all the evidence, whether or not the
8 facts assumed in a hypothetical question have been
9 proved.

10 "If you should decide that any assumption in
11 the question has not been proved, you are to
12 determine the effect of that failure of proof on the
13 value and weight of the expert opinion based on the
14 assumed facts."

15 Thank you, Counsel. Sorry for the
16 interruption.

17 MR. MESEREAU: Thank you, Your Honor.

18 Q. I want to add a few facts to the
19 hypothetical I gave you. Okay.

20 A. Okay.

21 Q. Let's assume, hypothetically, the mother and
22 son have been involved in prior litigation where the
23 son, at an early age, testified under oath in
24 support of the mother.

25 Let's assume that lawyers were retained.

26 The mother and son had experience with lawyers, have

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27 experience making allegation of sexual assault and
28 obtaining money in the process. 2920

1 Let's assume the facts I just told you,
2 about the mother, the son, and siblings, for
3 whatever reason, adopting a new father figure to the
4 point where they're referring to that person as
5 "daddy," and referring to that person to various
6 people as someone who takes care of them, who has
7 adopted their family and become the father figure.
8 Let's assume that the new so-called "daddy"
9 decides he doesn't want to be around these people,
10 something doesn't seem right, and let's assume there
11 is a falling apart.

12 Let's also assume the mother and son again
13 go to lawyers. Not the police-lawyers. And let's
14 assume that they are interested again in financial
15 gain.

16 Given what I've given you in that
17 hypothetical, you can certainly envision the
18 possibility of false claims of sexual abuse,
19 correct.

20 A. The difficulty that I have with your
21 hypothetical --

22 Q. Yes.

23 A. -- is that I perceive my responsibility
24 here is to provide information about what the
25 research has to say about child sexual abuse. And
26 while your hypothetical, your story, is clear, I
27 know of no research that goes to that point. So I
28 don't think I can answer your question. 2921

1 Q. Well, you're not telling the jury that there
2 has been no research on false claims of sexual abuse
3 for purposes of manipulating the legal system and
4 obtaining financial gain, are you.

5 A. My understanding of the research with regard
6 to false allegations, I don't recall a single
7 article where the goal of the research literature,
8 where the goal was making a false allegation for
9 financial gain.

10 Now, perhaps making a false allegation to
11 retain custody of your child, as I mentioned
12 earlier, but I'm not aware of any research related
13 to false allegations for financial gain.

14 Q. But you're certainly not suggesting to the
15 jury that false allegations of sexual abuse cannot
16 be made for purposes of financial gain, are you.

17 A. I'm not making that statement. I'm just --

18 Q. Okay.

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19 A. -- trying to describe what the research
20 says.
21 Q. Have you had a lot of experience with
22 allegations of sexual abuse appearing in civil cases
23 as opposed to criminal cases.
24 A. A couple. But not very many. Maybe two.
25 Q. Do you know whether or not, if somebody is
26 criminally prosecuted and convicted of molestation,
27 whether or not the alleged victim would
28 automatically win a civil case if they filed one. 2922

1 MR. ZONEN: I'll object as lack of
2 foundation.

3 THE COURT: Sustained.

4 Q. BY MR. MESEREAU: Now, you've indicated that
5 you're aware of false claims by children of sexual
6 abuse, right.

7 A. Me specifically, or with regard to the
8 research.

9 Q. The research.

10 A. Okay, yes.

11 Q. And you're aware that adults can encourage
12 children to make false claims of sexual abuse,
13 correct.

14 A. Certainly they can encourage. And again,
15 usually that's within the context of marital
16 dissolution and custody.

17 Q. I know your point, but that's -- that's
18 through the articles and research you've read. You
19 aren't saying it can't happen in other contexts, are
20 you.

21 A. I'm not saying that.

22 Q. And you're certainly not saying that parents
23 could not encourage children to make false claims of
24 sexual abuse for financial reasons, are you.

25 A. I'm not making that statement.

26 Q. Okay. Now, you'd agree that children will
27 sometimes exaggerate claims that they've been
28 abused, true. 2923

1 A. I'm not sure what you mean by "exaggerate."
2 I know the casual term of "exaggerating," but you
3 seem to have a more specific one related to sexual
4 abuse.

5 Q. Well, I mean, you know what the word
6 "exaggeration" means, right.

7 A. That's what I mean, in sort of casual terms.

8 But I guess I'm asking if you could be more specific
9 with regards to sexual abuse.

10 Q. Well, certainly you would agree that

11 children can be touched by someone, and at some
12 point in time exaggerate that touching to be
13 something along the lines of molestation or
14 inappropriate touching when it isn't.
15 A. Certainly that would be possible.
16 Q. So what you're saying is there are
17 possibilities of pure falsehood; in other words, a
18 child says sexual abuse happened when they aren't
19 even touched.
20 And there are possibilities of exaggeration,
21 where a child is touched, but not inappropriately,
22 and then the child comes forward and says, "I was
23 touched inappropriately," correct.
24 A. Those are two possibilities.
25 Q. Yes.
26 A. I don't think I've ever encountered the
27 second possibility, but certainly it's possible.
28 Q. Well, common sense would tell you that it's 2924

1 certainly possible that a child could be touched
2 appropriately, and at some point come forward and
3 say that touching was either -- either, "I was
4 molested" or "I was touched in an inappropriate
5 way." That makes sense that that could happen,
6 doesn't it.

7 A. It's possible, yes.

8 Q. Okay. But in your studies, you've never
9 come across it. Is that what I'm hearing.

10 A. That description --

11 Q. Yes.

12 A. -- about the pattern of exaggerating --

13 Q. Yes.

14 A. -- is not pronounced in the literature
15 related to false allegations.

16 Q. It's not pronounced in the literature, but
17 you're not saying it doesn't happen.

18 A. I'm not saying it doesn't happen. It's
19 possible.

20 Q. Let's be honest. If parents are touching
21 their children, and they suddenly go through a nasty
22 divorce, and all of a sudden claims of inappropriate
23 touching happens, they may be exaggerated, right.

24 A. It's possible that could happen.

25 Q. And would you agree that in the last, say,
26 15 years, you've seen a tremendous increase in
27 claims of molestation in divorce cases.

28 A. I don't know the literature on that. I 2925

1 don't know that I could answer that question.

2 Q. Okay. Okay. Do you routinely in your work

3 look for research articles on the subject of false
4 claims --

5 A. Yes.

6 Q. -- by children.

7 A. False allegations, yes.

8 Q. Okay. And are studies in this area being
9 done at your university as we speak.

10 A. On false allegations.

11 Q. Yes.

12 A. No. To my knowledge, and -- the issue of
13 sexual abuse, and the clinical aspects of sexual
14 abuse, they are being done at my agency, because
15 that's what we do within the Department of
16 Pediatrics.

17 There is another researcher in the
18 Department of Psychology who does developmental
19 research that is related to physical and sexual
20 abuse, but not to the clinical aspects of sexual
21 abuse.

22 Q. Okay. Now, let me ask you some questions
23 about the way children might react if they truly
24 have been sexually abused. Okay.

25 Now, the prosecutor asked you some questions
26 about a child becoming aggressive because a child
27 has been sexually abused, right.

28 A. Yes, I believe he did. 2926

1 Q. And if you have a situation where a child
2 has been aggressive, say, in school before any
3 allegation of sexual abuse arises, you wouldn't look
4 at that child and say, "I see evidence of sexual
5 abuse because the child's being aggressive," would
6 you.

7 A. It is difficult to say if any particular
8 symptom, in this case you're using aggressiveness,
9 is directly related to physical abuse or sexual
10 abuse. You can be aggressive for a lot of different
11 types of reasons. It is hard to say, "Okay, you're
12 aggressive. You've been sexually abused." I would
13 not go there.

14 Q. And it would complicate your ability to
15 attribute aggressiveness to sexual abuse if you knew
16 that particular child was acting aggressively in
17 school before the alleged abuse, right.

18 A. It may com- -- I'm sorry, it may complicate
19 it. The issue, as I said earlier is, aggression
20 is -- may well be a reflection of the distress that
21 a victim has, but it could also be something related
22 to another aspect of their life unrelated to being
23 victimized.

24 Q. For example, if a child had been a chronic
25 discipline problem in school, a child had been

26 constantly called to the carpet for fighting,
27 getting up in the middle of class and singing,
28 disrupting teachers, calling teachers names, being 2927

1 bounced out of every class, ordered to detention and
2 not showing up to detention; if you had factors like
3 that, that would complicate your ability to say that
4 aggressiveness was a function of sexual abuse at a
5 later date, right.

6 A. Well, I would actually say it the other way
7 around. I would say that sometimes kids who are
8 sexually abused exhibit those kinds of problems. I
9 would be reluctant to say that because you exhibit
10 those kinds of problems, that you therefore have
11 been sexually abused.

12 Q. Right. Okay. Okay. Wouldn't you agree
13 that children who actually have been sexually abused
14 tend to react to that abuse in different ways.

15 A. Certainly.

16 Q. Some children who have been sexually abused
17 appear severely traumatized, right.

18 A. Yes. But that's actually a minority of kids
19 who are severely traumatized by sexual abuse. It is
20 something that some kids go through, but it's not a
21 frequent occurrence.

22 Q. Well, some kids would seem to take it in
23 stride better than other kids, right.

24 A. That's correct.

25 Q. Some seem to be very traumatized by it, and
26 some can show remarkable abilities to take it in
27 stride, correct.

28 A. We call it resilience. 2928

1 Q. Yes. Some children who have been actually
2 sexually abused will tend to act out their sexual
3 abuse, correct.

4 A. "Act out" meaning. I mean, I have a sense
5 of what "act out" usually is, but I'm not sure if
6 it's exactly what you mean.

7 Q. They will in a very overt, dramatic way,
8 describe it, right.

9 A. Now, are you talking about the disclosures,
10 or are you talking about the symptom presentation.

11 Q. I'm talking about both. Some children --
12 I'm not saying "all." Some children who actually
13 have been sexually abused will describe what
14 happened to them in a very dramatic descriptive
15 fashion, right.

16 A. That's possible, yes.

17 Q. And some, on the other hand, who have been

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18 sexually abused will become very withdrawn, right.
19 A. Correct. That's possible.
20 Q. Some children who have been sexually abused
21 will immediately tell someone about it, true.
22 A. That is, in fact, possible. Certainly that
23 occurs, as I testified earlier. It occurs in a
24 small minority of cases, but certainly it is
25 possible, and I would guess that it does occur.
26 Q. And some will never tell anybody about it at
27 all, right.
28 A. Yes. I didn't add that to what Mr. Zonen 2929

1 had asked me. I know I said that there are some
2 people who don't disclose their sexual abuse until
3 they're adults.
4 Now, it's my opinion that there are some
5 people who don't disclose throughout their entire
6 lifetime, but I don't have any research, obviously,
7 to be able to point to that.

8 Q. And again, everything you're saying comes
9 out of research studies that you've looked at,
10 right.

11 A. Either that I've looked at or that I've
12 done.

13 Q. You're not giving opinions to the jury based
14 upon any of the therapeutic work you've done with
15 actual children, true.

16 A. There may have been a couple of times where
17 I've asked -- was asked my opinion about an issue,
18 and I've tried to frame it with the statement "in my
19 opinion," rather than that's what the research says.
20 And I think I just did that a minute ago with regard
21 to people who don't disclose throughout their entire
22 lifetime.

23 Q. Okay. But what I'm trying to get at is
24 this: You're giving the jury opinions about the
25 subject. You've said some children act out their
26 abuse and some become very withdrawn. Some become
27 traumatized and others take it in stride, right.

28 A. Well, actually, I think it's -- 2930

1 Q. What are your opinions based on.

2 A. I think it's actually different than that.
3 My job is to provide information about what the
4 research has to say.

5 Q. Right.

6 A. Not to sit here and just provide an opinion
7 about what I've seen as a clinician or what I think
8 as a person. To provide what the research has to
9 say.

10 In those situations where I, in fact, have
11 an opinion that's not supported by research, I have
12 tried to say, as I gave you an example a minute ago,
13 "in my opinion" related to something.
14 Now, the other part of your question, it's
15 my job to educate the jury and, consistent with what
16 Dr. Summit wrote with regard to the Child Sexual
17 Abuse Accommodation Syndrome, is to dispel myths and
18 misperceptions about sexual abuse.
19 And so within the context of the Child
20 Sexual Abuse Accommodation Syndrome, I do exactly
21 the same thing that he wanted to do with therapists,
22 but with a jury. That they have a difficult
23 decision to make, and they should do that based upon
24 what research has to say, and that's what I have
25 tried to present.
26 For example, if they have the misperception
27 that children are sexually abused by strangers, that
28 some guy will jump out of the bushes and molest 2931

1 children, that's the way it mostly happens, well,
2 that's a misperception. It doesn't usually happen.
3 And I think I've characterized that most children
4 are sexually abused by someone with whom they have
5 an ongoing relationship.

6 Q. But you're not telling the jury that
7 strangers do not molest children, are you.

8 A. No, but I am telling them that this is a
9 misperception that strangers are the people we need
10 to look out for with regard to the frequency of
11 perpetrators. Most children are sexually abused by
12 someone with whom they have an ongoing relationship.
13 It could be a stranger, but it is infrequent for
14 them to be sexually abused by a stranger.

15 Q. Have you ever made a study of how many cases
16 go through the criminal courts in California where
17 children are molested by strangers who are
18 pedophiles. Ever made a study of that.

19 A. No, but there are a number of studies that
20 have examined the relationship between the
21 perpetrator and the victim, and the number of
22 strangers who molest kids are in single digits.
23 There's different studies, depending on methodology,
24 but it's around the 4 to 6 to 7 percent of children
25 who are sexually abused by a stranger.

26 Q. But do you know how many of those cases were
27 prosecuted in California last year.

28 A. No. Couldn't tell you that. 2932

1 Q. Do you know how many were prosecuted in the

2 last five years.

3 A. Again, I don't do research in issues of the
4 court and criminal prosecutions.

5 Q. What you're telling the jury is that the
6 vast majority of these cases, looking at it from a
7 research standpoint, are done by -- or involve
8 allegations that someone the child is familiar with
9 did this; is that right.

10 A. That most children are sexually abused by
11 somebody --

12 Q. Yes.

13 A. -- with whom they have an ongoing
14 relationship.

15 Q. Yes.

16 A. Correct.

17 Q. Okay. Now, you'd agree that some children
18 who have actually been abused have very accurate
19 memories of their being abused, right.

20 A. I would agree with that. Some children
21 probably do.

22 Q. And some children have false memories of
23 being abused, correct.

24 A. I have a hard time with that question. If
25 you --

26 Q. Let me just ask it again.

27 A. Well, if you have not been abused, then you
28 don't have a memory of it. 2933

1 Q. You could have a false memory of it, true.

2 A. There is literature which I consider
3 unusual, where certain people have stated that they
4 have a memory of being abused, and it's a false
5 memory, it turns out. Even more so with the caveat
6 that I have about false allegations, that I would
7 have a significant caveat about the credibility of
8 research related to false allegations -- I forget
9 what -- the phrase that they call it, but
10 allegations that the victim appears to believe that
11 they were abused and they were not. I mean, that is
12 a very unusual aspect of this field.

13 Q. But it certainly has happened, hasn't it.

14 A. There are reports that it's happened, yes.

15 Q. And there are people in your field who are
16 devoting a large percentage of their professional
17 endeavors to studying that particular area, aren't
18 they.

19 A. I'm not aware of those people.

20 Q. Well, you're aware of an area dealing with
21 what is called autosuggestion, where children are
22 actually induced by parents, adults, and other
23 influences to conjure up false memories of abuse.

24 You know that's going on today.

25 A. I'm not familiar with that.
26 Q. Don't know anything about that field.
27 A. No.
28 Q. Okay. Getting back to the issue of children 2934

1 who actually have been sexually abused - okay. - I'm
2 excluding false claims. All right.
3 Some children who actually have been abused
4 will actually show common symptoms of abuse,
5 correct.

6 A. There are some, well, common symptoms of
7 distress.

8 Q. Yes.

9 A. It is difficult to have common symptoms of
10 abuse because of the diversity of symptom
11 presentation with kids who have been sexually
12 abused, so it's common symptoms of distress.

13 Q. Well, in your response to the prosecutor's
14 questions, you were identifying certain generic,
15 general ways that actual abuse victims might behave,
16 true.

17 A. Yes, I think what I had said is, as a
18 stereotype, it's consistent with the stereotype that
19 female victims, who usually are victims who
20 experience some distress resulting from their
21 victimization, tend to be internalizing, and then
22 males externalizing, and try to characterize or
23 define what those two things are as broad types of
24 expression of symptoms that victims go through.

25 Q. The point I'm making is this: Some children
26 who have actually been sexually abused will act
27 perfectly normal, true.

28 A. I would -- again, it's hard for me to go to 2935

1 the issue of absolutes, but certainly there are some
2 kids who act normal and have no apparent external
3 change of behavior that would give you rise to
4 believe that they've been sexually abused.

5 Q. And some children who have actually been
6 sexually abused will not act normal, right.

7 A. Some kids who have been sexually abused
8 have -- typically have some type of symptom pattern
9 that they present.

10 Q. And it becomes very difficult when you
11 observe how a child behaves to determine if that
12 child really has been truly sexually abused, true.

13 A. It's hard to look at a child and say, "Okay,
14 you've been sexually abused." That would be a
15 difficult thing to do that.

16 Q. Okay. Nobody can determine with absolute

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17 accuracy that a child has been abused because they
18 act in a certain way, right.
19 A. Again, that would be pretty much the same
20 question that you just asked me a minute ago. It's
21 difficult to look at the child and say -- you can do
22 it either way. To look at that child and say,
23 "Okay, you've been sexually abused," and/or to look
24 at a child and say, "Okay, you have not been
25 sexually abused." It's difficult to have that
26 external ability.
27 Q. Okay. Now, you'd agree that in your field
28 it almost goes without saying that parents can have 2936

1 a tremendous effect on whether or not their children
2 tell the truth, right.

3 A. Yes. It should be -- actually, part of my
4 field is also child development. And I would hope
5 that parents have an ability to influence the lives
6 of their children in lots of ways, one of which
7 would include telling the truth.

8 Q. And if a child is continually exposed to
9 parents who are perpetual liars, that can have an
10 effect to a child's view of whether lying is
11 acceptable, correct.

12 A. I would tend to agree with that, yes. I
13 mean, they're not all cases, but I would tend to
14 agree with the sense that a child may have a value
15 about lying that might be similar to that of their
16 past.

17 Q. Let me get to the subject of when an actual
18 child victim of sexual abuse tends to disclose what
19 happened to them - okay. - because you talked about
20 when they might or might not disclose it. Okay.

21 A. Okay.

22 Q. And I'm going to limit my questions to
23 situations where the literature you've studied deals
24 with children who have actually been abused. Okay.

25 A. Okay.

26 Q. I'm not talking about children who lie. I'm
27 talking about the actual, what appear to be victims
28 of real sexual abuse. Okay. 2937

1 A. Okay.

2 Q. You'd agree that some children will disclose
3 it right away, won't they.

4 A. Again, a minority, and perhaps a small
5 minority of children will make immediate
6 disclosures.

7 Q. But some do for sure, right.

8 A. It is -- some children do. It is much more

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9 common for kids to have a delayed disclosure.

10 Q. But you aren't telling the jury that there
11 aren't situations where children who have been
12 abused have not run to their parents screaming and
13 yelling, "This person just touched me," right.

14 A. No, I think what I'm trying to do is to
15 characterize what the research says about all
16 disclosures, and so that means accurately portraying
17 what an immediate -- the frequency of an immediate
18 disclosure would be, and it is a small percentage of
19 kids who do an immediate disclosure. It certainly
20 happens.

21 Q. Okay.

22 A. It is much more common for there to be
23 either an extended delay, or a delay going into
24 adulthood. That is, I think, an accurate
25 characterization of this issue of frequency of
26 disclosure.

27 Q. And you're dealing with generalities that
28 come from the research and study that you've done or 2938

1 reviewed, correct.

2 A. Generalities I have a difficulty with. I'm
3 reflecting or describing what several studies have
4 reported that are fairly consistent --

5 Q. Okay.

6 A. -- about the issue of delayed disclosure.

7 Q. But certainly you're not suggesting to the
8 jury that every day of the year children don't run
9 to their teachers and say, "So and so just touched
10 me," "so and so just grabbed me," "You know what so
11 and so just did to me." That happens all the time,
12 doesn't it.

13 A. I'm -- I'm having difficulty -- are you
14 saying that, "They touched you," they're making --
15 so are you suggesting that it happens all the time
16 that children make false allegations.

17 Q. It happens quite often, doesn't it.

18 A. I would agree with that.

19 Q. You don't think teachers get reports like
20 that often in school.

21 A. I don't think that there are often or all
22 the time characterizations of false allegations of
23 sexual abuse.

24 Q. Have you interviewed teachers on that
25 subject.

26 A. There actually are --

27 Q. Please answer my question.

28 A. No. 2939

1 Q. Have you personally interviewed teachers on
2 that subject, ever.

3 A. No.

4 Q. Have you done any research on that subject
5 yourself.

6 A. I have read research, but I have not
7 specifically done research on that subject.

8 Q. Okay. Now, I just want to ask you if the
9 statements I'm making are correct or not. Okay.
10 Some children tell right away, right.

11 A. Again, within -- I don't mean to be
12 long-winded or redundant here.

13 Q. I'm just asking you to answer my question.

14 Is it true that some children --

15 MR. ZONEN: Your Honor, I'd ask that the
16 witness be allowed to answer the question without
17 interruption of counsel.

18 MR. MESEREAU: I'll rephrase it, Your Honor.

19 THE COURT: All right.

20 Q. BY MR. MESEREAU: Let me ask you to just
21 give a response whether you think this is true or
22 not - okay. - and then if you want to explain it
23 when the prosecutor gets up to get explanations, you
24 can do that.

25 True or false: Some children will disclose
26 sexual abuse right away.

27 MR. ZONEN: Objection; asked and answered.

28 THE COURT: Overruled. 2940

1 You may answer.

2 THE WITNESS: That would be true.

3 Q. BY MR. MESEREAU: Some children will never
4 disclose sexual abuse, right.

5 A. That is true.

6 Q. Some children will tell a little bit at one
7 point and then tell more at a later day, true.

8 A. I would agree with that, yes.

9 Q. And some children will just make up stories
10 of abuse, right.

11 A. It is true that there are false allegations
12 that occur.

13 Q. You made some statements about details when
14 a child makes a revelation about sexual abuse,
15 correct.

16 A. I did talk about the disclosure and the
17 process of disclosure, yes.

18 Q. You talked about details sometimes changing
19 when a child repeatedly discloses what has happened,
20 allegedly, to the child, true.

21 A. I talked about, and I think what I tried to
22 characterize was that there was a process to the
23 disclosure, and some of the barriers that make it

24 difficult for a child to disclose and the way in
25 which kids would disclose being sexually abused.
26 Q. But changing stories about the details of
27 alleged sexual abuse can also be consistent with
28 lies, true. 2941

1 A. Lies with regard to.

2 Q. Sexual abuse.

3 A. Again, I would agree that that's possible.

4 Q. In other words, if you see details being
5 added each time a child tells a story about alleged
6 sexual abuse, that might be an indication, as you
7 said, that the child was abused, or it might be an
8 indication that the child is a flat-out liar, right.

9 A. Well, and I think that's why Dr. Summit
10 included it in the Child Sex Abuse Accommodation
11 Syndrome, because the presentation was, back in
12 1983, that just because a child wasn't completely
13 perfect, then their disclosure was unconvincing or
14 they weren't telling the truth.

15 What we have since learned from research
16 since 1983 was that the pattern that is common for
17 kids who have been sexually abused sometimes
18 included mistakes, or errors, or they may goof up on
19 some of the details.

20 And so I'm not making a statement that,
21 "Okay, you made a mistake, and so -- with regard to
22 the disclosure, and so you are or are not sexually
23 abused."

24 I'm trying to dispel the misperception that
25 a juror may have related to the way in which a child
26 discloses sexual abuse. Just because they make a
27 mistake doesn't mean it's unconvincing or doesn't
28 mean that they weren't abused. 2942

1 Q. And just because they add new details, new
2 stories, new dates, new versions, doesn't mean
3 they're not liars either, does it.

4 A. Right. It could go either way.

5 Q. Okay. Now, are the studies that you have
6 looked at been studies that are, for lack of a
7 better word, scientifically based.

8 A. They are research based that are published
9 in peer-reviewed journals.

10 Q. How does what you've been reviewing in your
11 work relate to science, if you can even answer that
12 question.

13 A. I would argue that scientific research and
14 psychology is a component of science, part of the
15 social sciences. And then within the part of that

16 related to children or child sexual abuse, that we
17 engage scientific methodology to attempt, to the
18 best of our ability, to identify what is best known
19 about this event of sexual abuse or sexually
20 inappropriate behavior between an adult and a child.
21 So we try to gain knowledge related to sexual abuse.
22 Q. But there certainly is no scientific way to
23 determine if a child has truly been sexually abused
24 or if a child is lying about it, right.
25 A. I'm not aware of any science strategy or
26 methodology to determine guilt or innocence between
27 a specific perpetrator and a specific victim.
28 Q. Okay. And I think what you're telling the 2943

1 jury is nobody can determine that a child has been
2 abused just based on what the child says, right.
3 A. No, actually, I think somewhat differently.
4 I think what I'm trying to tell the jury is that
5 there's a difference between what you may have grown
6 up and learned about sexual abuse through reading
7 magazines or watching television or talking to your
8 friends and what research says about sexual abuse.
9 And my job is to provide you with --
10 MR. MESEREAU: Could I ask the witness be
11 admonished to answer the question.
12 THE COURT: I think he is answering it. You
13 asked him if he said one thing, and he said no, he
14 said another.
15 MR. MESEREAU: Okay.
16 THE WITNESS: My job is to provide
17 information about what the research has to say about
18 sexual abuse, and then consistent with Dr. Summit's
19 Sexual Abuse Accommodation Syndrome, to dispel any
20 misperceptions or myths that you have about child
21 sexual abuse so you have perhaps a more solid
22 foundation on which to make a determination in this
23 specific case.
24 Q. BY MR. MESEREAU: I may not have asked the
25 question properly. It could have been my mistake.
26 Let me ask it again.
27 Nobody can determine that a child has been
28 abused just based on what the child says, right. 2944

1 A. I don't think I've ever been asked that
2 question before. I don't know how to answer that.
3 I mean, I could only say that that would be a
4 difficult thing to do.
5 Q. Okay.
6 A. But I don't know how to answer that
7 question.

8 Q. There's no test you can give a child to
9 determine whether or not that child has been
10 actually sexually abused, is there.
11 A. I'm not aware of a test to determine whether
12 a particular perpetrator sexually abused a
13 particular victim.
14 Q. Okay. In terms of reliability of studies -
15 okay. - do you have -- do you have any thoughts on
16 how the research studies you look at would relate to
17 the opinions of actual clinical or therapeutic
18 workers in this field.
19 In other words, do you believe that the
20 research work you do, where you review the studies
21 that are being published, do you believe this work
22 is more reliable than the opinions of people
23 actually counseling children or administering
24 therapy to children.
25 A. I earlier made a statement that it's better
26 to rely upon what the research has to say than in my
27 particular opinion. And I happen to be a person who
28 believes in research and believes in science and 2945

1 it's part of what I do every day.
2 And the best example I can give you is I've
3 seen a lot of children who have been sexually
4 abused. But the research is founded on much more
5 rigorous, focused and a larger number of kids than
6 even than I have seen.
7 So somebody who is in, let's say, private
8 practice doing therapy maybe, over the course of a
9 few years, will have seen 20, 30, 50 children who
10 have been abused, and they take their knowledge from
11 the children that they see. And maybe that is an
12 accurate reflection of the research; maybe it's not.
13 But they enhance their knowledge by reading the
14 literature, reading scientific journals, reading
15 professional journals about sexual abuse, and then
16 add that to this issue of the clients that come in
17 and the patterns they see in their clients.
18 Q. But when you look at these research studies,
19 and you tell the jury, "Based upon the research
20 studies I have reviewed in my professional work,
21 I'll give you these percentages," the reality is,
22 you haven't talked to a single one of those alleged
23 victims of sexual abuse that are the subject of the
24 studies, right.
25 A. Well, with the exception of my studies, the
26 research that I have done, if you exclude those,
27 because, in fact, I have cited research of my own,
28 that is true. A colleague of mine does research in 2946

1 Central Michigan. I have not gone to Central
2 Michigan to talk with the subjects in her studies.
3 Q. And when you read one of these studies and
4 they say a certain percentage of victims of sexual
5 abuse don't tell right away and a certain percentage
6 do, the reality is, you don't even know who the
7 people they're talking about are, right.
8 A. I -- well, other than a general description
9 that they provide in a journal article or a piece of
10 research that they do, I don't know the names of
11 them, and I shouldn't know the names of them because
12 their involvement in research is protected by
13 confidentiality.
14 Q. Now, based on what you told the jury in
15 response to the prosecutor's questions, I'd like to
16 ask you a few questions and ask if they're true:
17 Claiming you're abused would be consistent
18 with actual abuse, correct.
19 A. I'm not sure I understand your question.
20 Q. Well, if somebody says, "I have been
21 abused," that would certainly be consistent with
22 someone who actually has been abused, right.
23 A. I would disagree with that.
24 Q. You're trying to say that victims of sexual
25 abuse never come forward and say, "I've been
26 abused".
27 A. You can be sexually abused and say, "Okay, I
28 have been abused." And you can be sexually abused, 2947

1 and again, as you pointed out, have a false
2 allegation.
3 Q. Well, let's put it this way: Denying you've
4 been abused could be consistent with having actually
5 been abused, right.
6 A. You're getting me all messed up.
7 Q. Let me rephrase it. Some people say, "I've
8 been abused," and they have been. Some people deny
9 they've been abused, and they have been. Is that
10 what you're saying.
11 A. Correct.
12 Q. By the same token, some people say they've
13 been abused, and they haven't been at all, true.
14 A. That's correct. That happens.
15 Q. And some people who deny they've been abused
16 never were abused, right.
17 A. That would be correct, yes.
18 Q. Okay. All right. You said something about
19 allegations of sexual abuse changing - okay. -
20 during the course of an alleged victim telling
21 various people about what happened, right.
22 A. I made mention of that with regard to the

23 aspect -- the fourth aspect of the accommodation
24 syndrome, the unconvincing disclosure, yes.
25 Q. If a child abuse -- excuse me, let me
26 rephrase that.
27 If a child is claiming they've been abused,
28 and you notice, during a series of interviews, the 2948

1 dates of the alleged abuse start to change, okay.

2 A. Okay.

3 Q. That could be perfectly consistent with a
4 child who's lying, right.

5 A. That's possible.

6 Q. If you knew that an alleged child victim had
7 experience in the legal system making claims and
8 getting money from those claims, would that cause
9 you any pause with respect to whether or not the
10 child was telling the truth.

11 A. I'm -- I don't think that's my area to
12 answer.

13 Q. How come.

14 A. Well, what I said earlier. I mean, if
15 you're framing it within the context of false
16 allegations, kids, in fact, do make false
17 allegations. And when they make false allegations,
18 the reasons that I provided earlier were in the
19 context of divorce and issues of custody.
20 I wasn't aware of -- or I am not aware of an
21 instance where a child has made a false allegation
22 specifically for the purpose of financial gain.
23 It's possible, which is the question you just asked
24 me, but I'm not aware of that. Nor am I aware of
25 any research that's focused on the issue of
26 financial gain and false allegations.

27 Q. Well, you've done some therapeutic work, you
28 said, earlier in your career, right. 2949

1 A. Up until about three, four years ago, yes.

2 Q. And I have to assume, as a human being, when
3 you've interviewed people, you must have been saying
4 to yourself from time to time, "I wonder if I'm
5 being told the truth," right.

6 A. Occasionally. But not frequently. Most of
7 the time when I get kids for therapy, they've gone
8 through this process where there has already been a
9 determination about whether they're -- they've been
10 abused or not.

11 And it's not my place to make a
12 determination whether they're abused or not. The
13 focus of my attention is on decreasing mental health
14 symptoms.

15 Q. Let me ask you this, Doctor: Let's assume
16 you're doing what you just described. Based upon
17 what you know, someone, or maybe more than one
18 person, has made a determination that somebody has
19 been actually abused, okay.
20 A. Okay.
21 Q. And they come to you in this therapeutic
22 context, right.
23 A. Okay.
24 Q. And you start administering therapy to this
25 alleged victim, right.
26 A. Yes. Okay.
27 Q. And in the course of your counseling this
28 alleged victim, it suddenly dawns on you, "I don't 2950

1 believe this person." What do you do.

2 A. I don't know that I've been in that
3 situation before.

4 Q. What do you do if it happens.

5 A. Probably try to address the related mental
6 health issue if it's related to this perception that
7 I have that it's a false allegation. Because my job
8 is not to investigate if there would have been a
9 determination. My job is if the child comes in and
10 they're depressed, or they are anxious, or they're
11 aggressive, is to address the mental health problem,
12 not to investigate whether they've been abused or
13 not.

14 So if I have that thought or idea or
15 feeling, then my first inclination, I think, would
16 be to relate it to the mental health system, which
17 is, in fact, my responsibility.

18 Q. Well, your profession has certain ethical
19 requirements you're supposed to follow, correct.

20 A. Yes.

21 Q. And as you've said earlier, you're aware of
22 situations where people have come forward years
23 later and said, "That allegation I made as a child
24 was false," correct.

25 A. And again, are you talking about within the
26 clients that I have seen, or just generally.

27 Q. Generally.

28 A. I'm aware that there are false 2951

1 allegations --

2 Q. Okay.

3 A. -- yes.

4 Q. My question to you is, as a professional,
5 bound by certain ethical rules, if someone comes to
6 you for therapy, and it's your understanding that

7 some other individuals, whom you may not even know,
8 have made a threshold determination, "We think this
9 child was abused," okay.

10 A. Can I interrupt you in the middle of your
11 question. In your prior question when you said
12 "other individuals," you pointed to these people
13 (indicating).

14 Q. No, I didn't mean they had done it. No.

15 A. And I made the determination there was an
16 adjudication and the client was found -- was
17 identified as being victimized by a jury, because
18 you went like that (indicating).

19 Q. No, I was not.

20 A. My mistake, then.

21 Q. The jury has nothing to do with this issue
22 at the moment.

23 A. Okay.

24 Q. What I'm asking you is, as a professional,
25 someone comes to your office for therapy. It is
26 your understanding that certain people in the system
27 out there, whom you may not even know, made a
28 threshold determination that they believed this 2952

1 person was the victim of abuse. You start your
2 counseling sessions. You start talking to the
3 person very intimately about what happened. You ask
4 them about their background. You ask them about
5 parental influence. You ask them how they live
6 their life. You probe into who they are. And at
7 some point a light goes off: "I don't believe this
8 person. Something's wrong."

9 From an ethical standpoint, what do you do,
10 as a clinical psychologist.

11 A. It's an interesting problem, and only
12 because I don't think I've ever encountered a
13 situation like that, and because it really runs up
14 against this issue of confidentiality. What goes on
15 in a therapeutic office is confidential. Clearly
16 there are mandates to report if you reasonably
17 suspect somebody is abused.

18 But you're asking me the opposite. And so
19 since I've never encountered a situation like that,
20 the first thing I'd do is go read the either state
21 ethics regulations or the ethics related to the
22 American Psychological Association, because I've
23 never encountered something like that.

24 But it would be significant for me to break
25 a client confidentiality, since it's one of the
26 hallmarks of psychotherapy, so I'm not exactly sure
27 what I would do in that situation.

28 Q. Have you ever made a study of false claims 2953

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1 of sexual abuse directed at celebrities.
2 A. I've never done a study like that, no.
3 Q. Have you ever read a study about that.
4 A. I have not.
5 Q. Have you done any research in the area of
6 false lawsuits being filed against celebrities.
7 A. That's not my area of research.
8 Q. Okay. Now, you made some comments about the
9 percentage of actual abusers being in a relationship
10 of familiarity with the person abused, right.
11 A. Yes, I think I used the word "acquaintance."
12 Q. Okay. And I believe you said that you
13 thought the -- certainly the high percentage of
14 abusers in situations where there's actual abuse
15 have a familial relationship with the victim, right.
16 A. An "acquaintance" relationship was the word
17 that I used, yes.
18 Q. And when you say "acquaintance," what do you
19 mean.
20 A. Somebody who has some ongoing relationship,
21 who the child knows. It could be lots of different
22 people. It can be a father, brother, uncle. Guy
23 who lives across the street. Babysitter. You know,
24 it can be lots of different types of people. But
25 it's somebody who is known to the victim and
26 typically has an ongoing relationship with them.
27 Q. When you say "ongoing relationship," what do
28 you mean. 2954

1 A. At least once, twice, three times. I mean,
2 I think if you are the -- if the perpetrator's the
3 guy who lives across the street, that would suggest
4 somebody who is seen by the victim on a regular
5 basis. If the person -- if the perpetrator is
6 somebody who lives in the house or is the
7 babysitter, I mean, seen multiple incidents or have
8 multiple times of interaction.
9 Q. And correct me if I'm wrong on this, but
10 it's sort of assumed that the alleged perpetrator
11 who has an ongoing relationship with the alleged
12 victim wants a relationship with that alleged
13 victim, true.
14 A. I mean, I'm pondering this issue of
15 "alleged." If you get rid of that --
16 Q. I won't.
17 A. That's where I get a little hung up on your
18 question.
19 Let's just go hypothetical. All right.
20 THE COURT: Wait. Let's just take a break.
21 MR. MESEREAU: Okay. All right. Okay.

22 (Recess taken.)
23 THE COURT: Go ahead, Counsel.
24 MR. MESEREAU: Thank you, Your Honor.
25 Q. Just to wrap things up -- oops. Just to
26 wrap things up, a couple of more questions: When
27 you talk about familiarity between the person
28 accused of improperly touching a child and the 2955

1 child, are you referring to typically an ongoing
2 relationship between the two.

3 A. I think that's what I characterized when I
4 said "acquaintance," yes.

5 Q. And by "acquaintance," you mean a
6 relationship where it appears that the two parties
7 are actively involved with one another at some
8 level.

9 A. Well, without getting all that complicated
10 about it --

11 Q. Sure.

12 A. -- it's when the perpetrator and the victim
13 know each other, and, you know, the opposite would
14 be a stranger.

15 And so that's really what I'm trying to
16 characterize is, most of the time the perpetrator
17 and the victim know each other. And I don't know if
18 that's simpler or any more clear or less clear, but
19 that's what I was trying to characterize. That's
20 what the research shows with regard to sexual abuse.

21 Q. If you uncover evidence that the person
22 accused is trying to disassociate him or herself
23 from the alleged victim, that would not be
24 consistent with what you're talking about, right.

25 A. Well, again, we got -- I'll get stuck on
26 your word "alleged." The Child Sex Abuse
27 Accommodation Syndrome talks about what commonly
28 occurs between a victim in the act of being sexually 2956

1 abused, and so it makes as its presumption that the
2 child has been sexually abused. So the word
3 "alleged" is difficult in that situation.

4 Q. Well, if, hypothetically speaking, you have
5 a situation where you learn that someone has been
6 very generous to a family in need, took that family
7 into his home, was told the child was dying, gave
8 them all kinds of benefits to help them with this
9 very difficult situation, was told the family was
10 impoverished, and at some point there's evidence
11 that the person now decides, "They're taking
12 advantage of me. I really want to disassociate
13 myself from them. They're causing all kinds of

14 problems. They're referring to me as the 'daddy' to
15 everybody when I can't be their daddy," and you see
16 evidence in the hypothetical that person is trying
17 to sort of gradually get away from them, it's
18 unlikely a molestation is going to occur at that
19 point, isn't it.
20 A. It's not my place to make a determination
21 about whether a molestation occurred or not.
22 MR. MESEREAU: Okay. Thank you.
23
24 REDIRECT EXAMINATION
25 BY MR. ZONEN:
26 Q. Doctor, the example that Mr. Mesereau just
27 gave you of a person attempting to disassociate with
28 a victim, if the same person was, in fact, plying 2957

1 that child with alcohol and pornography, is that
2 consistent with grooming that child for purposes of
3 molestation.

4 A. The prospect of giving alcohol, exposing
5 children or the victim to pornographic material, is
6 completely consistent with the notion of grooming.
7 That phrase, "grooming," has specific meaning in the
8 field, but it's consistent with the notion of
9 grooming.

10 MR. MESEREAU: Object to the question. Move
11 to strike, violates the Court's order.

12 MR. ZONEN: I believe that it was opened up
13 by the preceding question by counsel, behavior of
14 the suspect.

15 MR. MESEREAU: The Court has ordered not to
16 use the word "pornography," and Mr. Zonen knows
17 that.

18 MR. ZONEN: If I did use that word, I don't
19 recall. I'm sorry.

20 THE COURT: I haven't forbidden anyone to use
21 the word "pornography." The use of the word
22 "pornography" as applying to the materials being
23 introduced is forbidden, because that's going to be
24 a jury question for how they characterize that
25 evidence.

26 But as long as you're not -- as you're using
27 "pornography," that it doesn't relate to the
28 evidence in this case, you can use that. It was 2958

1 used earlier in the hearing. But since you have a
2 hard time distinguishing that, maybe you should use
3 "adult material" all the time.

4 MR. ZONEN: I will.

5 Is that the extent of the objection.

6 MR. MESEREAU: It is.

7 MR. ZONEN: Then I'm prepared to proceed.

8 THE COURT: All right.

9 Q. BY MR. ZONEN: Doctor, a person who makes
10 available to a child, virtually 24-hours a day,
11 every form of entertainment, from video games to all
12 manner of other games, to no restrictions
13 whatsoever, is that something that could be
14 considered grooming for purposes of making a child
15 susceptible to sexual abuse.

16 A. Certainly. I mean, grooming is -- and I
17 made reference earlier to this pattern of increasing
18 sexuality in the relationship. It desensitizes the
19 child.

20 Grooming, I think, is a broader scope issue,
21 because grooming really involves the prospect where
22 a perpetrator provides a lot of desirable things to
23 a child, and those can be the special attention,
24 making best buddies, you know, sharing a lot of
25 things.

26 It can also be sharing a lot of material
27 things, the coolest Nintendo games, the most
28 interesting bikes or nicest car, whatever. It can 2959

1 be a lot of things that essentially pair the
2 perpetrator with good, fun, enjoyable times.
3 And once that is established, then is when
4 the sexuality starts to become a part of that
5 relationship. And again, as I say, that's part of
6 the grooming. The increased sexuality makes it more
7 accessible for the child to respond positively or
8 favorably to the sexual approaches of the
9 perpetrator.

10 Now, the statement that you made is within
11 the realm of grooming behavior.

12 Q. How about encouraging a child to share not
13 just a bedroom with the suspect, but sharing a bed
14 with the person as well. Would that be considered
15 grooming.

16 A. Certainly. That would be --

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

18 THE COURT: Sustained.

19 Q. BY MR. ZONEN: Doctor, in circumstances
20 where children have difficulty relating -- or
21 relaying with some degree of accuracy events, tell
22 us, what is the difficulty associated with children
23 talking about when things occur, or how frequently
24 things occur.

25 A. Well, when things occur, is kids don't run
26 their lives with watches and calendars like adults
27 do. So they may make mistakes about whether it
28 happened the day before, the day after, the 13th or 2960

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1 the 14th. I mean, those types of things. They make
2 mistakes like this fairly commonly, not just within
3 the context of the sexual abuse. But kids do that.
4 So there's the "when." And I forget what
5 the other part of your question was.

6 Q. When or how frequently.

7 A. The "how frequently" is, if something
8 happens just once, usually this issue of frequency
9 is not hard to determine. If it happens twice or
10 three times, it's not hard to determine.
11 If it happens more than that, then it's easy
12 to not be clear about whether something happened on
13 the first time -- well, actually the fourth time or
14 the sixth time. Because those things -- the
15 specific events related to each of those incidents
16 may run together.

17 With regard to sexual abuse, if oral
18 copulation occurred on the fourth time and the
19 sixth, but not the fifth time, that would be the
20 mistake, the child would say, "Well, maybe it
21 happened on the fourth and fifth time." They may
22 not be completely accurate in being able to be
23 reliable in describing those types of details.

24 Q. Doctor, are you familiar at all with any
25 studies that have been written that deal with the
26 issue of false allegations of child sexual abuse for
27 purposes of financial gain.

28 MR. MESEREAU: Objection; asked and 2961

1 answered.

2 MR. ZONEN: Not by me.

3 THE COURT: Overruled.

4 You may answer.

5 THE WITNESS: I'm not familiar with any
6 studies related to that.

7 Q. BY MR. ZONEN: None that you've read or none
8 that you haven't read; in other words, studies that
9 you're aware of their existence but haven't read.

10 A. I try to keep fairly current with the
11 literature on all aspects of -- most aspects of
12 sexual abuse. And particularly with issues of false
13 allegations.

14 And there are, in fact, several studies
15 about false allegations, but I'm not familiar with
16 any study, either that I've read or just generally
17 aware of, where the purpose of the false allegation
18 was financial gain.

19 Q. Can I assume that over the past 20-plus
20 years that you've been dealing with this subject,

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21 child sexual abuse, have there been any cases that
22 you have had personal contact with where there were
23 allegations of sexual impropriety for purposes of
24 financial gain.
25 A. I've never encountered a case like that.
26 Q. Doctor, of all the cases that you have dealt
27 with on a personal level, not research, but on a
28 personal level, have you had a number of cases where 2962

1 you were later able to determine were false
2 allegations.

3 A. If the number is two, yes. I've had two
4 cases where there was a determination that the
5 allegation was false.

6 Q. That's over 20 years with more than what,
7 a thousand cases.

8 A. Well, I started doing therapy with kids in
9 1983, so since that time. I've had two cases in
10 which there was a determination that the allegation
11 that the child made was false.

12 MR. ZONEN: Thank you. I have no further
13 questions.

14 THE COURT: Counsel.

15

16 RE-CROSS-EXAMINATION

17 BY MR. MESEREAU:

18 Q. In the cases where the false allegations
19 were made, were you the one determining that the
20 child made a false allegation of sexual abuse.

21 A. In one of them. It wasn't -- I wasn't
22 making the determination. It was an incident where
23 a child made an allegation that he was sexually
24 abused by his father in a fast food restaurant. I
25 don't remember what kind of fast food restaurant.

26 And the father had -- it was a custody
27 dispute between the mother and the father. And the
28 father had videotaped the entire duration of the 2963

1 visit, and the mother was there through most of it.
2 And he videotaped driving in, the beginning to the
3 end. So it captured the whole interaction of him
4 and his child in the visit.

5 And I watched that videotape. And the child
6 said he was molested, and I never saw anything
7 related to that. So that was one.

8 The other one I didn't make that
9 determination. It was a child who was on a locked
10 psychiatric unit, made an allegation of abuse of a
11 staff person on a particular day. And that staff
12 person was not working on that day and wasn't

13 physically there. So it was impossible for him to
14 have been sexually abused by that staff person.

15 Q. Now, you're not telling the jury that a
16 parent cannot manipulate children to make false
17 statements for financial gain, are you.

18 A. No, that was related to the questions that
19 you asked me earlier. I mean, I can't make that
20 statement.

21 Q. In any of your work as a clinical
22 psychologist, have you ever done any investigation
23 or study of situations where parents have schooled
24 children to steal or lie.

25 A. Have schooled children to steal or lie.

26 Q. Yes.

27 A. So they coached them, trained them to steal
28 or lie. 2964

1 Q. Yes.

2 A. Not that I'm aware.

3 Q. It's not your field, is it.

4 A. I've -- I'm not aware of any research
5 studies. I have not done any research studying on
6 stealing and lying, at least directly. And I'm not
7 aware of any cases in which a parent had coached
8 their child to steal or lie.

9 Q. You can go back to the novel Oliver Twist to
10 see examples of situations where an adult --

11 MR. ZONEN: I'll object as exceeding the
12 scope of the redirect.

13 THE COURT: The sounds like an argumentative
14 question to me.

15 MR. ZONEN: I'll object in that way as well.

16 MR. MESEREAU: Okay. Okay. Okay.

17 Q. In any of these cases of false allegations
18 of child sexual abuse, was the target a world-famous
19 celebrity perceived as being very wealthy.

20 A. I've never been involved in a case like
21 that, nor read research related to that.

22 MR. MESEREAU: Thank you.

23 MR. ZONEN: No further questions.

24 THE COURT: All right. Thank you, Counsel.

25 You may step down.

26 THE WITNESS: Thank you.

27 THE COURT: Call your next witness.

28 MR. AUCHINCLOSS: Lauren Wallace. 2965

1 THE COURT: While that witness is coming in,
2 let me remind you that tomorrow afternoon we won't
3 be in session from 11:30. We'll release you at
4 11:30.

5 And Monday morning, we're going to have you
6 come in later than normal because we're going to
7 have some oral argument on some issues. I'll wait
8 till later in the week to tell you exactly what
9 time, because I need to talk to the attorneys about
10 how long the argument's going to take. But you
11 won't be coming in at 8:30. It will be 10:30 or
12 11:30.

13 And then Thursday, the 31st, which is a week
14 from this coming Thursday, is a court holiday, so we
15 won't be in session on that court holiday.

16 All right. Is the witness here now.

17 MR. AUCHINCLOSS: Yes.

18 THE COURT: Come forward.

19 When you get to the witness stand, please
20 remain standing. Face the clerk and raise your
21 right hand.

22

23 LAUREN WALLACE

24 Having been sworn, testified as follows:

25

26 THE WITNESS: I swear.

27 THE CLERK: Please be seated. State and

28 spell your name for the record. 2966

1 THE WITNESS: My name is Lauren Wallace,

2 L-a-u-r-e-n, W-a-l-l-a-c-e.

3 THE CLERK: Thank you.

4

5 DIRECT EXAMINATION

6 BY MR. AUCHINCLOSS:

7 Q. Good afternoon, Miss Wallace.

8 A. Hi.

9 Q. Who is your employer, please.

10 A. I'm currently self-employed at this time.

11 THE BAILIFF: She's got to speak up.

12 Q. BY MR. AUCHINCLOSS: One thing we're going
13 to have you do is speak into that microphone. We've
14 had a little problem with people hearing.

15 A. Okay.

16 Q. Okay.

17 A. Can you hear me now.

18 Q. Yes.

19 A. Okay.

20 Q. You're currently self-employed.

21 A. Yes.

22 Q. At some time in the past, did you work for a
23 company called Xtra Jet.

24 A. Yes.

25 Q. What did you do for Extra Jet.

26 A. I was the lead flight attendant for Xtra
27 Jet.

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28 Q. And when did your employment cease for Xtra 2967

1 Jet.

2 A. July 3rd, 2004.

3 THE BAILIFF: She still needs to scoot up.

4 MR. AUCHINCLOSS: Okay. They're still

5 asking us to have you get closer to the microphone.

6 THE BAILIFF: Is your microphone on.

7 MR. AUCHINCLOSS: Mine is on.

8 Q. What is Xtra Jet.

9 A. Xtra Jet is a charter airline company.

10 Q. And who does Xtra Jet seek as clientele for

11 their services.

12 A. Basically anyone who can -- who would like

13 their services rendered. They specify particularly

14 towards celebrities and sports figures.

15 Q. How many planes does Xtra Jet fly, or did

16 Xtra Jet fly during the period, say, 2003, 2004,

17 when you worked for them.

18 A. They had approximately four different

19 aircraft, two of which were Gulfstreams.

20 Q. You said you quit working for Xtra Jet in

21 June of '04. How long did you work for Xtra Jet.

22 A. I worked for them approximately two and a

23 half years.

24 Q. And you said you were chief cabin hostess,

25 is that correct.

26 A. Yes, chief flight -- lead flight attendant.

27 Q. Could you describe to me what your duties

28 were as a chief flight attendant for Xtra Jet. 2968

1 A. My duties entailed ensuring that all the

2 aircraft were up to specifications in regards to

3 emergency equipment, safety equipment; all the

4 dishes and linens and china and crystal and

5 everything on board for -- in preparation for a

6 First Class flight; as well as finding and staffing

7 the right flight attendants for each aircraft.

8 Q. So you'd supervise other flight attendants.

9 A. Yes.

10 Q. And how many other flight attendants did you

11 supervise. Again, we'll go to the time frame, 2003,

12 2004.

13 A. Two other flight attendants other than

14 myself.

15 Q. Okay. And what were their names.

16 A. One was -- one's name was Cindy, and the

17 other girl's name was Jamie.

18 Q. Jamie.

19 A. Yes.

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20 Q. Okay. And Cindy's last name, was that Bell.
21 Cindy Bell.
22 A. Yes.
23 Q. Okay. Have you had any background or
24 training as a flight attendant before the time you
25 went to work for Xtra Jet.
26 A. Yes, I did.
27 Q. And can you tell us a little bit about that.
28 A. Training entailed a five-day training course 2969

1 in in-corporate aviation. I also had FAA Part 121
2 training with a different company. And
3 approximately six months of experience prior to
4 coming to Xtra Jet.

5 Q. As far as supervising the other flight
6 attendants, what would that involve.

7 A. I basically ensured that their service
8 was -- was better than average; that it was -- they
9 had better than a First Class service; and that they
10 knew what to do in case there was an emergency.

11 Q. Can you tell me who your immediate boss or
12 supervisor was in that same time period. And I'm
13 going to stick with the 2003, 2004 time period.

14 A. Yes, Jim Duggan.

15 Q. And you mentioned the number of jets. What
16 are the capacities, different capacities of these
17 jets that Xtra Jet owns.

18 A. They carried approximately 12 people.

19 Q. What kind of configurations in terms of the
20 layout of the floor plan in the jet.

21 A. They had club seating in them. Sometimes
22 they had seating at tables. Normally there will be
23 two seats immediately upon walking in; one to the
24 left, one to the right. Another one facing that --
25 those seats. Then may be a table of four. And then
26 maybe a sofa for three. And then two more
27 seating -- seats facing each other, approximately.

28 Q. Are any of these jets capable of 2970

1 coast-to-coast flight, from, say, California to
2 Miami.

3 A. Yes.

4 Q. All of them or just a few of them.

5 A. Gulfstreams, yes. The other Lear jets I
6 really don't know.

7 Q. Can you give me a brief synopsis of the day
8 in the life of a flight attendant for a private
9 charter jet such as a Gulfstream on a coast-to-coast
10 flight.

11 A. First of all, you need to be there two hours

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12 ahead of time. And then you need to arrive with all
13 of your catering, the food and everything that the
14 clients requested. In addition to that, all the --
15 the food for the pilots as well.

16 You need to make sure the aircraft is clean
17 and that everything is functional in the aircraft.
18 The entertainment system, the drains, the toilet,
19 everything.

20 And then you wait for the passengers -- or
21 you prepare for the passengers, whatever you think
22 they might want. Coffee, soda pop. And then you
23 wait for the passengers and you greet the
24 passengers. You take off.

25 Q. And then how long does the flight take
26 from -- again, we'll use California to Miami as an
27 example.

28 A. Five to five and a half hours. 2971

1 Q. And over that five to five and a half hours,
2 what are your duties.

3 A. My duties are, first, to ensure that the
4 passengers are all safe, and should we need to
5 emergency-evacuate, that we're able to do that.

6 Secondly, it is to cater to the passengers
7 and that they get their food and their beverages,
8 and that they're comfortable and happy.

9 Q. You mentioned that Xtra Jet -- among the
10 clients that Xtra Jet works with are celebrities.

11 A. Yes.

12 Q. Have you personally worked on flights
13 provided by Xtra Jet to Michael Jackson.

14 A. Yes, I have.

15 Q. And is the individual Michael Jackson in
16 court today.

17 A. Yes.

18 Q. Could you identify him for the record,
19 please. Just identify him by pointing, if you
20 would, please.

21 A. Okay. Mr. Jackson.

22 MR. AUCHINCLOSS: If the record could
23 reflect the defendant was identified.

24 THE COURT: All right.

25 Q. BY MR. AUCHINCLOSS: How many total flights
26 have you flown with Mr. Jackson on them in which you
27 were the flight attendant.

28 A. Between 15 and 25. 2972

1 Q. And were you also the preparation hostess on
2 those flights, the person who prepared the plane for
3 Mr. Jackson.

4 A. Yes.

5 Q. Can you tell me, when was the last time that
6 you flew on a flight with him, or worked on a flight
7 with Mr. Jackson.

8 A. I believe that last flight was November --
9 around the end of November. November, I think,
10 22nd, 2003.

11 Q. All right. And can you characterize for us
12 your relationship with Mr. Jackson based on those
13 11-odd flights.

14 A. It was professional, but on a very friendly
15 basis.

16 Q. During a five-hour flight, would you serve
17 cocktails if that was requested.

18 A. Certainly.

19 Q. Okay. And soft drinks.

20 A. Yes.

21 Q. What about meals.

22 A. Yes.

23 Q. Snacks, this type of thing.

24 A. Yes.

25 Q. What other services would you provide, other
26 than food and beverage.

27 A. I would ensure that the passengers were
28 warm. I would ensure that the passengers knew if 2973

1 there was going to be turbulence, or if we had to
2 wait to take off. I would give them their jackets,
3 take their shoes away if they requested.

4 Q. Did you ever work any flights with a family
5 that you -- by the name of Arvizo.

6 A. I don't believe so, no.

7 Q. Okay. Are you aware of other flight
8 attendants at Xtra Jet who did work flights
9 involving Mr. Jackson.

10 A. Yes.

11 Q. Okay. Who would that be.

12 A. I know of the two from Xtra Jet, Cindy Bell
13 and Jamie Crow, both.

14 Q. Both worked with Mr. Jackson.

15 A. That were employees of Xtra Jet.

16 Q. So other than food and beverage and helping
17 out with the requests of the passengers, would that
18 pretty much compromise -- comprise your duties, and
19 making sure the safety of the passengers is
20 paramount. Would that pretty much take care of your
21 duties as a flight attendant.

22 A. That and cleaning, yes.

23 Q. Okay. How busy would you be during a five-
24 to five-and-a-half-hour flight coast to coast,
25 typically.

26 A. Depending on the number of passengers, I

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27 would not be busy at all, or I would be very busy
28 throughout the entire flight. 2974

1 Q. And assume that the -- you have a full
2 passenger list on one of the Gulfstreams. How busy
3 would you be during that five-hour flight. I guess
4 my question would be, would you get any downtime
5 during that five-and-a-half-hour flight with a full
6 passenger list on a Gulfstream.

7 A. It would be safe to say that I would have
8 minimal downtime.

9 Q. Regarding Mr. Jackson's -- the preparation
10 of Mr. Jackson's plane, would he have any special
11 requests.

12 A. He had special catering orders.

13 Q. Okay.

14 A. That is standard with every flight.

15 Q. And describe what that would be for me, if
16 you could.

17 A. His precise orders or --

18 Q. Yes.

19 A. Or an example of --

20 Q. How would he like the plane prepared before
21 take-off.

22 A. Well, as far as having the plane itself
23 prepared --

24 Q. No, I mean special requests. Any things --
25 items that he wanted on the plane. Beverages, food,
26 this type of thing.

27 A. His normal catering request was -- and it
28 may not have been his. It may have been one of his 2975

1 children's or nannies or something. But my trip
2 sheet always had like Kentucky Fried Chicken, and
3 Subway sandwiches some of the time, and sometimes
4 chicken breast with rice pilaf.

5 Q. Okay. Concerning -- would Mr. Jackson have
6 any special requests regarding alcohol.

7 A. It was never written on a trip sheet.

8 Q. Okay. But did you become aware of a special
9 request that he desired when he flew on Xtra Jet
10 regarding alcohol.

11 A. Yes.

12 Q. How did you become aware of that.

13 A. Through another flight attendant.

14 Q. And who was that.

15 A. Miss Bell.

16 Q. And during the flights that you flew with
17 Mr. Jackson, what -- how did you handle -- well, let
18 me back up, first of all, and ask you a foundational

19 question.
20 Did Mr. Jackson drink alcohol on those
21 flights that you flew with him, the 11 flights.
22 A. Yes.
23 Q. All of them.
24 A. Not all of them, no.
25 Q. Okay. Can you characterize how many of them
26 he drank alcohol on.
27 A. Nine or ten.
28 Q. Can you characterize the amount of 2976

1 consumption of alcohol that he would drink on a
2 given flight.

3 MR. MESEREAU: Objection; vague.

4 Q. BY MR. AUCHINCLOSS: How about -- I can
5 tighten that up.

6 Can you characterize how much alcohol he
7 would drink on a typical coast-to-coast flight.

8 A. It was different from what I witnessed.

9 Q. From what to what.

10 A. Sometimes maybe it was a little bit of wine.

11 And other times it was maybe three six ounces of

12 wine, and then a glass or two of tequila or

13 Tangueray gin. But it -- it wasn't like I looked

14 and said, "That's exactly seven ounces," or

15 anything.

16 Q. Okay. I'm just asking for your general

17 recollections.

18 You said a glass or two of Tangueray or

19 tequila. Would he drink out of a glass.

20 A. Yes, he would.

21 Q. Would he ever drink wine out of anything

22 other than a glass.

23 A. Yes.

24 Q. What would he drink out of.

25 A. A Diet Coke can.

26 Q. Did you prepare those cans for him.

27 A. Yes, I did.

28 Q. Okay. Tell me about that. How did that 2977

1 come about that you would put wine in a Diet Coke
2 can.

3 A. Miss Bell had informed me that that is

4 something that he did. And so when I initially flew

5 Mr. Jackson, I had emptied out three Diet Coke cans

6 and filled them up halfway with white wine, kept

7 them on ice for him, and had them available for him

8 upon boarding.

9 Q. Did you serve him wine in a Diet Coke can.

10 A. Yes. I placed them there for him.

11 Q. Did he drink it.
12 A. Yes. Maybe not all of it sometimes.
13 Q. Would he ever have a mixed drink in a Diet
14 Coke can, such as tequila or Tangueray.
15 A. Not that I'm aware of, no.
16 Q. And when you prepared a flight for Mr.
17 Jackson, how often would you prepare these cans with
18 wine in them. You said you did about three.
19 A. I would make three up, approximately three.
20 And if there was more people in the party, I would
21 make up more than that.
22 Q. Would other people drink wine out of the
23 Coke cans.
24 A. Sometimes, yes.
25 Q. Do you have any specific recollections of
26 someone else drinking wine out of a Coke can other
27 than Mr. Jackson.
28 A. I believe -- I don't know his name, but I 2978

1 think he was his cousin or something. I think he
2 was a family member.

3 Q. A what.

4 A. I believe he was a family member of Mr.
5 Jackson's.

6 Q. You don't recall his name.

7 A. No.

8 Q. Do you recall what he looked like, this
9 individual.

10 A. He was an attractive younger gentleman.
11 Brown, wavy hair, very full. Dark olive complexion.

12 Q. Do you know -- can you approximate his age.

13 A. 22.

14 Q. When was this flight; do you remember.

15 A. It must have been around October of 2003.

16 Q. Miss Wallace, did you ever hide alcohol on
17 any of these flights for Mr. Jackson.

18 A. Yes, I did.

19 Q. What did you hide. What alcohol did you
20 hide for Mr. Jackson.

21 A. I hid little bottles of Tangueray and
22 tequila, and maybe vodka.

23 Q. And what are we talking about, the small
24 airplane-type bottles.

25 A. Yes.

26 Q. Is that --

27 A. Those are called minis.

28 Q. Minis. Okay. And where would you hide 2979

1 those bottles.

2 A. It depended. Usually in the lav above

3 children's reach. The lav is the lavatory and the
4 bathroom of the airplane.

5 Q. And how would Mr. Jackson become aware of
6 the location of the bottles.

7 A. I would inform him. Initially I informed
8 him. But after a while, upon flying the same
9 aircraft, I figured that maybe he would know they
10 were there for his disposal.

11 Q. You said, "Usually in the lav." Where else
12 would you hide bottles.

13 A. I know once I carried one in my jacket
14 pocket, but he never got it.

15 Q. Okay.

16 A. He never knew it was there. It wasn't for
17 him to really get. I was just going to give it to
18 him, but I never got the opportunity.

19 Q. And did he ever drink those bottles. Did
20 you ever find evidence that he had ever drunk any of
21 those bottles.

22 A. Once or twice. Only one or two bottles. It
23 was very rare.

24 Q. How many occasions -- how many of the
25 flights that you flew on with him did you hide these
26 bottles.

27 A. Out of the -- let's see, 20 -- 20 flights we
28 did, they were there maybe 15, 15 of the flights. 2980

1 Q. All right. 15 times.

2 A. Yeah.

3 MR. AUCHINCLOSS: Okay. Thank you. No
4 further questions.

5 THE COURT: Mr. Mesereau.

6 MR. MESEREAU: Thank you, Your Honor.

7

8 CROSS-EXAMINATION

9 BY MR. MESEREAU:

10 Q. Good afternoon.

11 A. Good afternoon.

12 Q. You were interviewed by the Santa Barbara
13 Sheriffs about this case, right.

14 A. Yes, I was.

15 Q. Do you know how many times you were
16 interviewed by them.

17 A. Once.

18 Q. Okay. And your understanding was that
19 Mr. Jackson did not want children seeing him drink
20 alcohol, right.

21 A. Yes.

22 Q. And it was your understanding that he wanted
23 wine placed in cans because he didn't want children
24 to see him drinking that wine, right.

25 MR. AUCHINCLOSS: I'll object. Foundation;

26 hearsay.
27 THE COURT: Foundation; sustained.
28 Q. BY MR. MESEREAU: Did you have an 2981

1 understanding as to why Michael Jackson wanted white
2 wine placed in cans on the flights.

3 MR. AUCHINCLOSS: Same objection.

4 THE COURT: Overruled.

5 You can answer that "yes" or "no."

6 THE WITNESS: Yes.

7 Q. BY MR. MESEREAU: Would you please tell the
8 jury what your understanding was as to why you were
9 putting white wine in cans on the flights.

10 MR. AUCHINCLOSS: Same objection.

11 THE COURT: Sustained; foundation.

12 Q. BY MR. MESEREAU: Did someone ever tell you
13 that Mr. Jackson wanted wine placed in soda cans
14 because he didn't want children to see it.

15 MR. AUCHINCLOSS: Objection. Same

16 objection.

17 THE COURT: Sustained.

18 Q. BY MR. MESEREAU: Why did you hide those
19 little bottles of alcohol so children couldn't get
20 to them.

21 A. I wanted to make sure that -- that Mr.
22 Jackson and whomever he decided to inform that there
23 was additional alcohol for grown-ups to drink, that
24 they could at their own disposal in secrecy.

25 Q. And why did you put white wine in soda cans
26 when Mr. Jackson flew on the flights.

27 MR. AUCHINCLOSS: Same objection as before,

28 Your Honor. 2982

1 THE COURT: No, it's not -- she's already
2 testified that the other flight attendant told her
3 to under direct, so I'll allow the question. I
4 don't think it's the same question.

5 I'm going to have it reread so you know what
6 the question is.

7 Go ahead, reread it.

8 (Record read.)

9 MR. AUCHINCLOSS: I'll object as foundation.

10 THE COURT: Okay. I'll -- go ahead and lay
11 the foundation.

12 Q. BY MR. MESEREAU: You testified in response
13 to the government prosecutor's questions that you
14 had talked to Cindy Bell, right.

15 A. Yes.

16 Q. And Cindy Bell also worked with you with
17 Xtra Jet, right.

18 A. Yes.
19 Q. And Cindy Bell would often work with you on
20 plane flights where Mr. Jackson was a passenger,
21 right.
22 A. We never worked together, but she was on one
23 flight with him and I was on the others so --
24 Q. And you discussed with Cindy Bell why Mr.
25 Jackson wanted wine placed in cans, correct.
26 A. Yes.
27 Q. And you did indicate in response to the
28 prosecutor's questions that because of what 2983

1 Ms. Bell said to you, you would put wine in cans,
2 right.

3 A. Yes.

4 Q. And Ms. Bell told you in that regard, he
5 didn't want children to see him drinking, right.

6 MR. AUCHINCLOSS: Objection; hearsay.

7 THE COURT: Sustained; hearsay.

8 Q. BY MR. MESEREAU: What did Miss Bell tell
9 you in that regard.

10 MR. AUCHINCLOSS: Same objection.

11 THE COURT: Sustained.

12 Q. BY MR. MESEREAU: Do you remember telling
13 the Santa Barbara Sheriffs in your interview that
14 Mr. Jackson didn't want children to see him drinking
15 at all.

16 MR. AUCHINCLOSS: Objection, Your Honor.

17 THE COURT: Sustained.

18 Q. BY MR. MESEREAU: Do you know of your own
19 personal knowledge why Mr. Jackson wanted wine
20 placed in cans on these flights.

21 A. Yes, I do.

22 Q. And what do you know.

23 MR. AUCHINCLOSS: Your Honor, objection.

24 THE COURT: Calls for hearsay. Sustained.

25 MR. MESEREAU: Okay.

26 Q. Do you remember telling the Santa Barbara
27 Sheriffs that you had never observed children
28 intoxicated on flights when Mr. Jackson was a 2984

1 passenger.

2 MR. AUCHINCLOSS: Objection, beyond the
3 scope.

4 THE COURT: Overruled.

5 You may answer. Do you know the question.

6 THE WITNESS: I never saw intoxicated
7 children on Mr. Jackson's flights.

8 Q. BY MR. MESEREAU: Okay. And was it your
9 understanding that Mr. Jackson wanted wine placed in

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10 cans because he tends to get nervous on flights.

11 A. Yes.

12 Q. And, Ms. Wallace, are you familiar with what
13 is called a "Passenger Profile" for people who fly
14 on Xtra Jet flights.

15 A. I am aware of this, yes.

16 Q. Would you please tell the jury what a
17 Passenger Profile is.

18 A. A Passenger Profile is a profile based on
19 each passenger with their likes and dislikes, their
20 friends' dislikes -- likes and dislikes, and
21 family's likes and dislikes.

22 And they're notes basically so that if
23 another flight attendant or another person should
24 work with that particular client, that they're aware
25 of allergies or preferences.

26 Q. And Mr. Jackson had given the Xtra Jet
27 company some information to put in his Passenger
28 Profile, right. 2985

1 A. He did not give Xtra Jet any information.

2 It's -- it's information that was gathered.

3 Q. Well, didn't Mr. Jackson's Passenger Profile
4 say that white wine in Diet Coke cans is to be
5 prepared for every flight.

6 A. His profile could have said that.

7 Q. Would it refresh your recollection if I just
8 show it to you.

9 A. Yes, it would.

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

11 THE COURT: Yes.

12 MR. MESEREAU: Thank you.

13 THE WITNESS: Uh-huh. Thank you.

14 Q. BY MR. MESEREAU: Miss Wallace, have you had
15 a chance to review that Passenger Profile on Michael
16 Jackson that was prepared by Xtra Jet.

17 A. Yes.

18 Q. Does it refresh your recollection about
19 whether or not in Mr. Jackson's Passenger Profile it
20 was specified that white wine in Diet Coke cans are
21 to be ready for every flight.

22 A. Yes.

23 Q. Okay. Had you actually been shown that at
24 some point.

25 A. I wrote it.

26 Q. Oh, you wrote it, okay. Okay.

27 All right. So you're the one that wrote
28 down "Kentucky Fried Chicken" for all these meals, 2986

1 right.

2 A. Everybody has different likes.
3 Q. Okay. You had "Kentucky Fried Chicken" for
4 breakfast, lunch and dinner, right.
5 A. Yeah. It's good.
6 Q. Now, did you do the passenger profiles for
7 Mr. Jackson's children as well.
8 A. Yes, I did.
9 Q. And you wrote down "Paris loves to bake
10 cookies and will try to eat the sugar." Is that
11 what you wrote.
12 A. Yes, I did.
13 Q. Did you know his children very well.
14 A. I know them, but I don't think I know them
15 very well.
16 Q. Did you often see them on flights with him.
17 A. Yes, I would.
18 Q. Okay. In fact, they -- most of the flights
19 he took with Xtra Jet, they would be with him,
20 right.
21 A. Certainly, yes.
22 Q. Okay. Now, Mr. Auchincloss, the prosecutor,
23 asked you about miniature bottles of alcohol that
24 you would have on the plane for Mr. Jackson, right.
25 A. Yes.
26 Q. And do you know why Mr. Jackson wanted to
27 have those miniature bottles on the plane.
28 A. Mr. Jackson never asked for the miniature 2987

1 bottles to be on the aircraft.
2 Q. Okay. Well, you brought those miniature
3 bottles on the aircraft for a reason, didn't you.
4 A. I brought them to better my service rendered
5 to Mr. Jackson.
6 Q. Do you remember testifying before the Santa
7 Barbara Grand Jury about this.
8 A. Yes.
9 Q. And do you remember telling the Santa
10 Barbara Grand Jury, "I knew that Mr. Jackson did not
11 like to drink alcohol in front of his children, so I
12 would bring in a little miniature baggy full of
13 little miniature bottles of Tangueray gin and
14 tequila". Do you remember saying that.
15 A. Yes.
16 Q. And you said, "I would put them away, hide
17 them away in the lavatory, and I would sometimes
18 inform him that they were there for his own
19 disposal." Do you remember saying that.
20 A. Yes.
21 Q. Okay. When did you first meet Mr. Jackson.
22 A. I believe I initially met him, it must have
23 been around October of -- maybe it was more like
24 March of 2003.

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25 Q. And when did you last see him.
26 A. Around the end of November of 2003.
27 Q. And did you ever meet a physician of
28 Mr. Jackson on any of those flights. 2988

1 A. No. Not that I know of, no.

2 Q. You don't recall that. Okay. Do you recall
3 seeing other people with Mr. Jackson typically on
4 these flights.

5 A. Yes.

6 Q. Nannies, for example.

7 A. Yes.

8 Q. Okay. When you saw his children, would you
9 usually see nannies with them on these flights.

10 A. Yes.

11 Q. And other members of -- excuse me. Other
12 members of his family would fly with him from time
13 to time, right.

14 A. Yes.

15 Q. And approximately how many seats did an Xtra
16 Jet plane have for one of these types of flights, if
17 you know.

18 A. Usually -- 12. 12 or 13. One plane at that
19 time carried 13.

20 Q. And when Mr. Jackson would fly on these
21 flights, would all the seats typically be full, if
22 you remember.

23 A. Six out of ten times the seats would be
24 full. Sometimes there would be one or two, the
25 empty seats.

26 Q. Did he often have security people with him.

27 A. Yes, he did.

28 Q. Did you ever see Mr. Jackson dozing off on 2989

1 any of these flights.

2 A. Sleeping, yes, I would.

3 Q. Okay. Did he often do that.

4 A. Half the time, yes.

5 Q. Okay.

6 A. Maybe seven out of ten times.

7 Q. Now, you have to get on a plane tomorrow
8 morning, don't you.

9 A. Yes, I do. It's private. It's a personal
10 trip, so it's not a work trip.

11 Q. Well, no further questions, then. Thank
12 you.

13 THE COURT: Anything further.

14 MR. AUCHINCLOSS: Just a couple of
15 questions, Your Honor.

16

17 REDIRECT EXAMINATION

18 BY MR. AUCHINCLOSS:

19 Q. How often would Mr. Jackson fly without his
20 children percentagewise in terms of the flights that
21 you were with him.

22 A. There may have been four or five trips that
23 he didn't have his children with him.

24 Q. Did he drink white wine out of Coke cans
25 during those flights as well.

26 A. Yes.

27 Q. Did you hide alcohol for him on those
28 flights as well. 2990

1 A. Yes.

2 Q. Did he ever drink any of it, if you recall.

3 A. Out of the --

4 Q. Of the hidden alcohol.

5 A. I noticed two or three of the little bottles
6 empty and that was it.

7 Q. Was it on one of the flights with -- when
8 the children were present, or when they weren't, if
9 you recall.

10 A. I don't recall.

11 Q. You said he drank mixed drinks out of a
12 glass. Was that his normal routine.

13 A. Towards the end of the flight, he would --
14 if he was going to get into the tequila, or whatever
15 it was, he normally would get a glass, or I would
16 have a glass for him and make it up. But it wasn't
17 every flight. It was pretty rare.

18 Q. Okay. Could his kids see him drinking at
19 that point, if you were fixing a mixed drink for
20 him.

21 A. They could if they were looking. But we
22 were very discreet about it. He was very discreet.

23 Q. Do you know an individual by the name of
24 Dieter Weizner.

25 A. Yes.

26 Q. Has he ever flown on Mr. Jackson's flights.

27 A. Yes.

28 Q. How often. 2991

1 A. Maybe three --

2 MR. MESEREAU: This is beyond the scope.

3 MR. AUCHINCLOSS: He asked questions about
4 who was on these flights.

5 THE COURT: All right. Overruled.

6 BY MR. AUCHINCLOSS:

7 Q. You may answer.

8 A. Maybe three out of ten times.

9 Q. What about Ronald Konitzer.
10 A. I don't recall the name.
11 Q. How about an individual by the name of Marc
12 Schaffel.
13 A. I am familiar with Mr. Schaffel.
14 Q. How many flights was Mr. Schaffel on with
15 Mr. Jackson.
16 A. Maybe four out of ten.
17 Q. And this would all be in the 2003, 2004 time
18 frame, or earlier. You tell me.
19 A. My initial flight with Mr. Jackson, I know
20 that Mr. Schaffel was on board. And, yes, it was in
21 the 2003 -- Mr. Schaffel flew with Mr. Jackson
22 towards the beginning of our flights. And towards
23 the end, I didn't see him as often.
24 Q. All right. Thank you. No further
25 questions.
26 MR. MESEREAU: No further questions, Your
27 Honor.
28 THE COURT: All right. Thank you. You may 2992

1 step down.
2 THE WITNESS: Thank you.
3 THE COURT: Call your next witness.
4 THE BAILIFF: Should be right outside.
5 MR. AUCHINCLOSS: Call Louise Palanker.
6 THE COURT: Come to the front of the
7 courtroom, please.
8 When you get to the witness stand, please
9 remain standing. Face the clerk here, raise your
10 right hand.
11 THE WITNESS: Hi.
12
13 LOUISE PALANKER
14 Having been sworn, testified as follows:
15
16 THE WITNESS: I do.
17 THE CLERK: Please be seated. State and
18 spell your name for the record.
19 THE WITNESS: My name is Louise Palanker.
20 L-o-u-i-s-e, P-a-l-a-n-k-e-r.
21 THE CLERK: Thank you.
22
23 DIRECT EXAMINATION
24 BY MR. AUCHINCLOSS:
25 Q. Good afternoon, Miss Palanker.
26 A. Hi. How are you.
27 Q. I'm just fine. How are you.
28 A. Good. 2993

1 Q. What is your profession, please.
2 A. I'm a comedian, writer, producer, teacher.
3 Q. All right. And how long have you been so
4 employed.
5 A. About 20 years.
6 Q. Have you had any association over your
7 20 years as a comedian with The Laugh Factory.
8 A. Yes, I have.
9 Q. Tell me about that, if you would.
10 A. I was a comedienne there for a while. And
11 during that time there, I helped Jamie on Saturdays
12 during the summer with comedy camp for
13 underprivileged children.
14 Q. Okay. You said "Jamie." Would that be
15 Jamie Masada.
16 A. Yes, Jamie Masada.
17 Q. What is the comedy camp.
18 A. For two months during the summer, he has
19 about 25 children come in from underprivileged
20 neighborhoods and learn how to become comedians.
21 And at the end of the summer, in September,
22 they graduate and they perform in front of a live
23 audience at night, at The Laugh Factory.
24 Q. And how often did the comedy camp meet over
25 that two-month period.
26 A. Every Saturday for about four to five hours.
27 Q. Do you still work with the comedy camp.
28 A. No, I started my own program at two Boys & 2994

1 Girls Clubs, which I teach stand-up comedy to
2 children all year long.
3 Q. And when did you switch over from the comedy
4 camp to the Boys & Girls Clubs.
5 A. Right after the Arvizo summer. I did both
6 for a little while --
7 Q. All right.
8 A. -- for a couple of summers afterwards. But
9 I started my own program in 2000, which was the year
10 Gavin got sick.
11 MR. AUCHINCLOSS: May I approach, Your
12 Honor.
13 THE COURT: Yes.
14 Q. BY MR. AUCHINCLOSS: Miss Palanker, I show
15 you People's Exhibit No. 49, a photograph. Can you
16 identify that for me, please.
17 A. That's Gavin, Davellin, me and Star.
18 Q. All right. And when was this picture taken.
19 A. That was the day Fritz came as the guest
20 teacher. And I remember he ran off before they
21 could get their picture with him. And that was
22 outside of Laugh Factory after class.
23 Q. Okay. So was that during one of the comedy

24 camps.
25 A. Yes.
26 Q. And that would have been during one of the
27 regular sessions, or during the end of the -- the
28 graduation ceremony. 2995

1 A. It was -- I'm feeling like it was the third
2 or fourth Saturday of the summer.

3 Q. And I don't know if you said it, but did you
4 mention what year that picture was taken.

5 A. 1999.

6 Q. Okay.

7 A. Summer of 1999.

8 Q. How did you come to meet the Arvizo
9 children.

10 A. They came to audition. I met them the day
11 they auditioned. And then they were chosen to be
12 enrolled in the program.

13 Q. So there's a selection process for the
14 program.

15 A. Yes, there is.

16 Q. How does that work.

17 A. Probably three times as many children as
18 Jamie has room for have seen the flyers up at their
19 schools and teachers have recommended talented
20 children. And they all come down to The Laugh
21 Factory over a series of two to three Saturdays.
22 And then Jamie makes a final selection, and
23 those children are called and told that they have
24 been -- that they've been selected.

25 And Jamie -- he never takes one child from a
26 group of siblings. If he takes one, he takes the
27 brothers and sisters.

28 Q. So what is the criteria for becoming a 2996

1 member of the laugh camp for the children.

2 A. I think sometimes he looks for particularly
3 talented children. And sometimes he looks for
4 children that he feels would get something out of
5 the program. For instance, if they're especially
6 withdrawn, he might choose them when you wouldn't
7 think that he would, but he might choose them
8 thinking that they really need it.

9 Q. Is there any kind of aspect of these
10 children's background that makes them eligible for
11 the laugh camp to begin with.

12 A. He -- he -- I think he recruits from
13 neighborhoods where the children might not have even
14 a chance to come to that part of town. Or sometimes
15 they haven't even been to Hollywood before.

16 Q. Okay.
17 THE COURT: Let's take our afternoon break.
18 See you at 8:30 tomorrow.
19 (The proceedings adjourned at 2:30 p.m.)
20 --o0o--
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26
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28 2997

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 2833 through 2997
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 21, 2005, and thereafter
20 reduced to typewriting by computer-aided
21 transcription under my direction.
22 DATED: Santa Maria, California,
23 March 21, 2005.

24
25

26

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

28 2998

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