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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SANTA BARBARA

3 SANTA MARIA BRANCH; COOK STREET DIVISION

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

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

18

19 FRIDAY, MAY 27, 2005

20

21 8:36 A.M.

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23 (PAGES 12375 THROUGH 12484)

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

28 BY: Official Court Reporter 12375

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1 APPEARANCES OF COUNSEL:

2

3 For Plaintiff: THOMAS W. SNEDDON, JR.,

4 District Attorney -and-

5 RONALD J. ZONEN, Sr. Deputy District Attorney

6 -and- GORDON AUCHINCLOSS,

7 Sr. Deputy District Attorney -and-

8 MAG NICOLA, Sr. Deputy District Attorney

9 1112 Santa Barbara Street Santa Barbara, California 93101

10

11

12 For Defendant: COLLINS, MESEREAU, REDDOCK & YU

13 BY: THOMAS A. MESEREAU, JR., ESQ. -and-

14 SUSAN C. YU, ESQ. 1875 Century Park East, Suite 700

15 Los Angeles, California 90067

16 -and-

17 SANGER & SWYSEN BY: ROBERT M. SANGER, ESQ.

18 233 East Carrillo Street, Suite C Santa Barbara, California 93101

19

20

21 For Witness LAW OFFICES OF STEVEN GRAFF LEVINE Mark Geragos: BY:
STEVEN GRAFF LEVINE, ESQ.

22 1112 Montana Avenue, Suite 309 Santa Monica, California 90403

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26

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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.

7

8 R E B U T T A L

9 PLAINTIFF'S

10 WITNESSES DIRECT CROSS REDIRECT RECROSS

11 BONNER,

12 Craig (Re-called) 12413-SN 12429-SA 12453-SN

13 (Contd.)

14 ROBEL, Steve

15 (Re-called) 12464-SN 12469-SA 12474-SN 12475-SA

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1 E X H I B I T S

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

3

4 460 Phone link chart prepared by Craig Bonner 12454

5 889 Photos of Brett Barnes 12457

6 890 Photos of Brett Barnes

7 and Michael Jackson 12457

8 891 Photos of Michael Jackson 12457

9 892 Photos of Brett Barnes and Michael Jackson 12457

10 893 Photos Brett Barnes

11 and Michael Jackson 12457

12 894 Photos of Michael Jackson 12457

13 896 Photos of Michael Jackson

14 and buildings 12457

15 900 Sheriff's interview of Gavin Arvizo 12467

16 907 Diagram prepared by

17 Craig Bonner 12418 12419

18 908 DVD of a portion of December 2004 Neverland

19 search 12416

20 908-A Redacted version of 908 12417 12419

21 909 Photo of sensor areas 12413 12414

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1 Santa Maria, California

2 Friday, May 27, 2005

3 8:36 a.m.

4

5 (The following proceedings were held in
6 open court outside the presence and hearing of the
7 jury:)

8

9 THE COURT: Good morning.

10 COUNSEL AT COUNSEL TABLE: (In unison)

11 Good morning, Your Honor.

12 THE COURT: Let's see, we have a motion to
13 quash a subpoena.

14 Mr. Levine, is it?

15 MR. LEVINE: Yes, Your Honor.

16 Did the Court have an opportunity to read my
17 motion?

18 THE COURT: I've read your motion. I don't
19 have a copy of the subpoena.

20 MR. LEVINE: Could you --

21 MR. NICOLA: I have to get one.

22 MR. LEVINE: I faxed it over, but I didn't
23 fax the subpoena, Your Honor. The content of what
24 they want is pretty much everything in the file.
25 And I think the Court has previously ruled twice
26 that they were not entitled to that. And I think
27 the Court told Mr. Zonen on two separate occasions,

28 on the 13th and the 20th, that the Court wasn't 12379

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1 going to order that. And I just wanted to point out --

2 THE COURT: You must understand, though, I
3 was telling them that they had to follow the proper
4 legal process. They couldn't just, in open court,
5 ask me to order people to produce records. So
6 you've misconstrued my refusals.

7 MR. LEVINE: To the extent that that may
8 be -- I will accept that, Your Honor. But I think
9 what we have here is a very limited attorney-client
10 waiver. There's been no waiver of the attorney
11 work-product privilege. And I think the law is very
12 clear that that privilege is strictly with Mr.
13 Geragos.

14 THE COURT: I think you're mistaken there.
15 There was a waiver of the attorney work-product
16 privilege, plus it's very limited in criminal cases
17 anyway. So it's very, very limited, if at all.

18 MR. LEVINE: Well, 105.46 of the discovery
19 code incorporates the attorney work-product
20 privilege. I mean, I understand that the waiver
21 executed by Mr. Jackson purported to waive that
22 privilege, but case law is very clear that that
23 privilege rests solely with Mr. Geragos.

24 THE COURT: Yes. It's also very clear it's
25 very limited in criminal cases. We've been through
26 this on numerous witnesses here, Counsel. We've
27 been schooled well on this issue.

28 MR. LEVINE: Okay. The point that I would 12380

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1 like to make, Your Honor, is that the request is
2 just for everything. And I think that --

3 THE COURT: I haven't seen the subpoena.

4 That's the deficiency I'm dealing with here.

5 MR. LEVINE: Could we wait, then, until
6 after you review the subpoena?

7 THE COURT: Sure.

8 MR. LEVINE: Thanks.

9 THE COURT: Okay. And somebody's getting it
10 for us?

11 MR. ZONEN: Yes, Your Honor.

12 MR. LEVINE: Yes.

13 THE COURT: All right. There's another issue
14 here, the -- a couple of issues I want to bring up.
15 One is the -- originally when we allowed the
16 rebuttal tape in, I gave -- I guess the takeout
17 tape. It was the takeout that -- no, it wasn't the
18 outtakes. It was the original Bashir tape; that the
19 District Attorney asked that certain things that Mr.
20 Jackson said be admitted for the truth of the matter
21 asserted, and we instructed the jury that certain
22 things would be -- that we'd advise them later.
23 Someone brought this to my attention the
24 other day, and I think the District Attorney should
25 provide us with the portions of the tape -- not
26 right now.
27 (Laughter.)

28 THE COURT: With the portions of the tape 12381

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1 that show -- that you intend to argue are
2 admissions, so that perhaps the Court should be more
3 specific; at least we should discuss in our
4 preparation of final instructions what areas the
5 jury might conceivably consider are admissions or
6 not admissions, which ones you were thinking about,
7 because it is ultimately a jury question, but there
8 is some preliminary finding, maybe, that I should
9 make.

10 MR. SNEDDON: Yes. I'll do that, Your
11 Honor. I believe I have the notes that were made
12 the day the Court ruled as to which ones would be
13 admissible when we went through it. And I'll take
14 the responsibility for that, and share it with
15 Mr. -- with counsel for the defense, and hopefully
16 we can just come up with something we both agree on.
17 It's on the record. I remember we did it in open
18 court, so -- and it was by page and line number, so
19 it shouldn't be that difficult to come by.

20 THE COURT: And in connection with that,
21 then you had asked for a special instruction along
22 the same lines on the takeout tape.

23 MR. SNEDDON: We did.

24 THE COURT: The outtakes and -- so we should
25 address -- I will give that instruction, but we
26 should address the same issue on that tape.

27 MR. SNEDDON: All right. I'll review that

28 tape. I don't believe there's any in there, but 12382

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1 that would be good for us to come to a consensus on.

2 THE COURT: Yeah. I would want it.

3 MR. SNEDDON: Okay. I'll do that.

4 THE COURT: And be sure that everyone agreed

5 that was the case.

6 MR. SNEDDON: That would be fine, Your

7 Honor.

8 MR. SANGER: I take it you're going to give

9 us an opportunity to argue that motion. I don't

10 think that's actually been heard yet.

11 THE COURT: What motion is that?

12 MR. SANGER: The motion the prosecution made

13 to limit the outtake tape.

14 THE COURT: Oh, yeah. No. That's why I

15 didn't give -- that's what I'm talking about.

16 MR. SANGER: Yes.

17 THE COURT: I want some actual material,

18 what we're talking about; this piece of information,

19 that piece of information, all the information. I

20 want both sides to address that. I'm more

21 concerned -- the tape's been shown, you know. What

22 we're talking about is jury instructions on this

23 issue.

24 MR. SANGER: Right. Correct.

25 THE COURT: So I'm just asking you to be

26 prepared to discuss those as we get ready to discuss

27 jury instructions.

28 MR. SANGER: Yes, sir. 12383

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1 MR. SNEDDON: Judge, can I ask for a point

2 of clarification on that?

3 THE COURT: Yes.

4 MR. SNEDDON: I understand exactly what the

5 Court is saying, but, as I mentioned yesterday, I'm

6 assuming -- and I don't want to assume too much, but

7 I'm assuming that some sort of a limiting

8 instruction on the tape in general is going to be

9 given; that it was not admitted for the truth of the

10 matter, except for those portions that may --

11 THE COURT: That's the issue.

12 MR. SNEDDON: Well, it would affect our

13 rebuttal, because if the Court determines that those

14 statements come in for the truth of the matter, then

15 we obviously would be putting on evidence to show

16 some of the statements made by Mr. Jackson during

17 the course of those outtakes were not true. And so

18 that's why we filed it prior to the time that we sit

19 down for instructions.

20 I know I'm not -- I'm not asking the Court

21 to carve out those portions of the tape where there

22 may be -- may or may not be admissions by the

23 defendant that would come in for the truth of the

24 matter. But generally speaking, there's a great

25 deal of narrative, an interview by the defendant

26 that has nothing to do with what I would believe to

27 be an admission.

28 And so I guess that's what I'm asking the 12384

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1 Court now, because we need to know that before we
2 rest, because, I mean, if some of that stuff comes
3 in for the truth of the matter, we're going to call
4 witnesses to prove otherwise. That's why we filed
5 the motion, Your Honor.

6 And I believe that the understanding on the
7 original Bashir tape was that that was not for the
8 truth of the matter, except for the admissions, and
9 it seemed to me that the same thing should apply to
10 the outtakes.

11 THE COURT: That is true. That's what the
12 Bashir tape ruling was, and that's the reason for
13 admitting the outtakes. There really was not a
14 truth-of-the-matter admission there. It was to
15 balance the information. It was sort of the rest of
16 the story.

17 I kind of viewed it as a situation where you
18 have a conversation and only part of the
19 conversation is admitted, so you let the other side
20 admit the conversation, or the document. Sometimes
21 part of a document's admitted. It's not clear the
22 total meaning unless the whole conversation -- or a
23 whole document.

24 So that's why I admitted the outtakes, was
25 to give the defense -- they had been requesting
26 that. They wanted the balance of the total picture
27 and --

28 MR. SANGER: But in that case, it would come 12385

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1 in for the truth of the matter. The whole
2 conversation comes in for the truth of the matter.

3 THE COURT: Then the Bashir tape all comes in
4 for the truth of the matter, right?

5 MR. SANGER: No.

6 THE COURT: You just want your side to have
7 the truth of the matter.

8 MR. SANGER: No, I understand the irony
9 there, in a sense, but the fact is that the whole
10 Bashir tape has all sorts of other hearsay. The
11 only reason that it was admissible for the truth was
12 that --

13 THE COURT: I meant as to Mr. Jackson's
14 statements.

15 MR. SANGER: As to his statements, yeah.
16 If his statements come in for the truth of the
17 matter --

18 THE COURT: Whether they're admissions or
19 not. I don't think you do understand the irony.
20 But go ahead.

21 MR. SANGER: No, no, I do. I'm wrestling
22 with the irony at the moment. Ironically, it turns
23 out.

24 (Laughter.)

25 MR. SANGER: I understand what the Court is
26 saying, and I was just about to concede that, but I
27 don't know -- I'd have to think about the Bashir

28 tape. But it seems to me, if Mr. Jackson said 12386

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1 things on the Bashir tape -- we had limited portions
2 of the tape --

3 THE COURT: We've already told them they are
4 not to take that tape for the truth of the matter
5 asserted except for certain parts, which we told
6 them we'd advise them about later.

7 MR. SANGER: Now, I'm not too worried about
8 what Mr. Jackson said in the Bashir tape. What I'm
9 worried about is -- you're not suggesting, Your
10 Honor, that what Mr. Bashir says and other people --

11 THE COURT: No.

12 MR. SANGER: Okay. So that would still not
13 come in for the truth.
14 Then the rest of the conversation, it would
15 seem to me, whether it was on the Bashir tape or the
16 outtakes, the whole conversation would come in for
17 the truth of the matter as to what Mr. Jackson said.

18 THE COURT: Well, what Mr. Jackson said
19 there was hearsay, and it has to have an exception
20 to the hearsay rule to come in for the truth of the
21 matter asserted, and admissions is one exception.

22 MR. SANGER: Well --

23 THE COURT: Clearly you don't let
24 out-of-court statements of the defendant in that are
25 not within the normal classifications, and that's
26 what you're suggesting.

27 MR. SANGER: Well, generally, under the

28 Evidence Code, if the entire statement comes in -- 12387

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1 THE COURT: That doesn't --

2 MR. SANGER: -- it generally does all come

3 in. I understand, Your Honor --

4 THE COURT: As to one limited piece of the

5 conversation. You know, if they said, "Okay. The

6 admission is, 'I sleep in the bed with young boys,'"

7 and the other part of the conversation is, "But I

8 don't have sex," then, yeah, that comes -- that's

9 it. But if, you know, part of the conversation was

10 what he did in town yesterday, no. And that's where

11 we come in. There's a lot of outtake material there

12 that's not material to the parts that are

13 admissions.

14 MR. SANGER: Well, and that -- I think

15 that's something we need to -- I don't know that we

16 can accomplish it right now, because --

17 THE COURT: Well, the D.A. says he can't rest

18 until -- literally he can't rest --

19 MR. SANGER: The District Attorney is

20 restless.

21 MR. SNEDDON: That's the most accurate thing

22 you've said during this whole trial, Judge.

23 MR. SANGER: Okay. Well, my first argument

24 is, under the Evidence Code -- I understand what the

25 Court just said, but under the Evidence Code,

26 generally if they let in part of the conversation,

27 the rest of it -- ordinary case, the rest of it

28 comes in and it just comes in for the truth. 12388

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1 THE COURT: That's your argument.

2 MR. SANGER: Your Honor is saying, well, we
3 need to do something to pare it down. In order to
4 pare it down, it's going to --

5 THE COURT: We need to do something to give
6 the jury some legal instruction, some help here, you
7 know. We can talk about it, but they have to decide
8 it.

9 MR. SANGER: All right. Now, the tape
10 itself also came in, the outtakes. The Hamid video
11 came in also to show -- to rebut -- to rebut the
12 contention that the Bashir tape was such a disaster
13 and there was nothing that could be done except to
14 do illegal things to the Arvizos.

15 THE COURT: That's right.

16 MR. SANGER: And so it came in to show,
17 "Well, no, we had this in the bank." That was
18 there. That was a strong piece of information or
19 something that could be put out to the public.

20 THE COURT: Let me ask the District Attorney
21 what his --

22 What is your position on the instruction we
23 should give on the outtake tape that Mr. Sanger and
24 I have just been discussing?

25 MR. SNEDDON: Judge, our position is I think
26 outlined in the papers we filed with you; that is,
27 that the outtakes were admitted, as the Court has

28 amply pointed out, as simply a further picture of 12389

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1 the entire portions of the interview of the Bashir
2 documentary which was originally shown, and that
3 they do not meet any exception to the hearsay rule,
4 and therefore the limiting instruction that you gave
5 the jury early on in this case with regard to the
6 original documentary should be given with regard to
7 the rest of the outtakes.

8 Now, what we haven't done, and the part
9 where we addressed earlier in our conversation is, I
10 can't tell you, as I stand here, whether there are
11 or are not any admissions by Mr. Jackson during the
12 course of those outtakes.

13 Frankly, my recollection is that there are
14 not, because I recall that the tape -- the outtakes
15 ended before the discussion began of his
16 relationship with Gavin and his relationship with
17 other boys and his -- and the questions asked by Mr.
18 Bashir about, you know -- that dialogue about,
19 "Well, isn't it" -- "Shouldn't an adult man not be
20 sleeping with little boys?" So I don't believe
21 that's on the outtakes.

22 So I don't think -- I believe that probably
23 all of the outtakes are probably subject to the
24 limiting instruction, except for one portion. And
25 the one portion I would point out to the Court that
26 we put in independent of the outtakes, actually we
27 put in in our case, is the defendant's statement

28 about the Jesus Juice, as an admission that he did 12390

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1 use that term and it corroborates the statement of
2 the kids.
3 But other than that one statement, my
4 recollection, as I stand before the Court right now
5 is, I don't believe there's probably any other
6 admissions that would qualify as those that we set
7 out - when I say "we," the Court, and counsel for
8 the defendant, and us - in open court and delineated
9 in the original Bashir, which may qualify as
10 admissions.

11 But I'll tell you that my opinion is that
12 the bulk of that tape, the outtakes takes are
13 hearsay and should be subject to the same
14 instruction as the original Bashir documentary.
15 I hope that addresses what the Court asked.

16 THE COURT: It does. Let me ask you a
17 question now. On the tape of Garvin -- Gavin --

18 MR. SNEDDON: Yes, sir.

19 THE COURT: -- what's your purpose in
20 introducing that?

21 MR. SNEDDON: Well, we indicated to the
22 Court that there were two purposes. And of course
23 one was prior consistent statements. And the other
24 was that there has been an allegation on the part of
25 the defense that this entire case, and the
26 allegations made by Gavin in particular, was
27 scripted by the mother. They presented several

28 witnesses, most particularly Mary Holzer, to try to 12391

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1 infer from what happened, or what statements were
2 made in prior cases, or a prior case, that this case
3 is a similar situation.

4 And so we are offering it for two purposes.

5 One is the prior consistent under Evidence Code
6 Section 791, but more importantly, we're offering it
7 for the -- it would be actually a nonhearsay
8 purpose, which would be for the purpose of allowing
9 the jury simply to examine the demeanor and the
10 manner in which the disclosures were originally made
11 by Gavin to the law enforcement agencies.

12 And of course I realize that is a different
13 type of a ruling for the Court. And when you ruled
14 that we could show it, I realize that you just made
15 the ruling and didn't say on which basis. And so I
16 do -- I do recognize, and I did recognize at the
17 time, that there may be -- the way it would come in
18 and whatever instructions you would give the jury
19 may be different, and I do concede that, and so --

20 THE COURT: If I didn't say it - and I
21 think, now that you mention it, I probably didn't -
22 my intent in allowing that, making that ruling, was
23 to -- not for the impeachment statements, but for
24 the purpose of allowing the jury to examine his
25 demeanor and the manner in which he made the
26 disclosures.

27 And it's been my thought to give some

28 instruction along with that, or afterwards when we 12392

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1 give instructions, to limit the use of that tape not
2 for the truth of the matter asserted.

3 MR. SNEDDON: Judge, I have no problem with
4 that. For us, the significance of it is simply the
5 way the disclosure occurred, and his manner and the
6 way he behaves and reacts to the officers in what he
7 says. So that's not a problem with us. And I
8 understand the difference. And I kind of
9 anticipated that might be what the Court had in
10 mind.

11 THE COURT: Mr. Sanger?

12 MR. SANGER: Yes, sir.

13 THE COURT: Would you address that point,
14 please? You are doing that issue, aren't you?

15 MR. SANGER: Yes.

16 I agree with the Court, it was not -- it
17 should not be let in for prior consistent
18 statements, because that should have been in the
19 case-in-chief. And that's why we argued that on
20 this thin basis, that it's collateral impeachment of
21 Holzer, scripted, that may or may not apply to this
22 situation.

23 And we argued that it was very -- you know,
24 to be able to play this at the end, as we cited the
25 case several times, the Carter case from the Supreme
26 Court, that says you shouldn't be allowed to put
27 dramatic evidence on at the end for a purpose that

28 isn't really -- or that goes beyond what the real 12393

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1 lawful purpose is, and we still believe that that's
2 the case. So that's the first thing.
3 Secondly, as far as the truth of the matter,
4 I think the Court could frame an instruction. The
5 danger, though, would be that no matter what the
6 Court says, the jury's going to sit here and listen
7 to Gavin's statement at the end of the case and
8 they're going to hear the words, and there's no way
9 that they're going to be able to disregard what he's
10 saying.

11 And if the Court limits it the way the Court
12 limits it, there's also the fact that then we can't
13 cross-examine even on some strange remarks that are
14 made by Gavin that may not otherwise be picked up.
15 Because it is our position that this was rehearsed.
16 He had told Davellin this story. Davellin had told
17 Dr. Katz. Davellin had told the police. And then
18 he comes in, and by the end of the statement, he
19 says, "I haven't told my sister or my brother about
20 this."

21 If we can't -- if we can't inquire about
22 that -- the officer, when they put the tape on, for
23 instance, and say, "Well," you know, "he told
24 you" -- "Isn't it a fact that you already
25 interviewed Davellin and she already told you that,
26 and you are aware Dr. Katz interviewed Davellin and
27 she had all the details?" You know, I'm just giving

28 that as an example. 12394

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1 THE COURT: And to respond to that example,
2 it seems to me that if the purpose is the
3 spontaneity and demeanor of the child reporting it
4 to the police for the first time, then in fact that
5 cross-examination would be permitted, because -- not
6 for the truth of the matter, but because it shows --
7 or it's evidence that a jury could infer shows lack
8 of spontaneity.

9 MR. SANGER: Okay.

10 THE COURT: So it's tricky business, I
11 understand. You know, that's why I --

12 MR. SANGER: We can live with that. That
13 would -- that makes sense. I appreciate what the
14 Court just said. And that would make sense if we're
15 at least allowed to cross-examine on a couple of
16 those issues like that.

17 I still -- I don't know if the Court was
18 inviting a further argument it shouldn't come in at
19 all, but I certainly would argue that. I think the
20 Court ruled previously, so I don't mean to be
21 arguing with the Court.

22 THE COURT: I did. And I understand that.
23 And all of these issues are -- they're similar legal
24 concepts, and that's why it's good to be discussing
25 all of them at the same time, because invariably one
26 side wants to produce evidence that's very similar
27 to what the other side wants to produce, and they

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28 both oppose the evidence. 12395

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1 MR. SANGER: Right. That's our job.

2 THE COURT: Well, but I like to make you look
3 at it that way.

4 MR. SANGER: No, I understand that.

5 Well, and so in this -- if the Court was
6 going to let it in -- I don't know if the Court's
7 considering revisiting that decision.

8 THE COURT: Well, I would consider -- since
9 we're rediscussing it, I would consider anything new
10 that you want to say on that issue, if you felt that
11 you were cut short. I don't want to hear the
12 argument again. I heard the argument. But if
13 there's something you thought of later, or in this
14 conversation we've just had this morning, if there's
15 something else you want to say about that ruling,
16 say it.

17 MR. SANGER: What I would add to everything
18 else I said is that -- and it's actually become more
19 clear right now, is that, by playing the tape, that
20 could well lengthen the -- the surrebuttal process
21 considerably. By not playing the tape, it would
22 eliminate a good amount of surrebuttal that I don't
23 think -- I think by the time all the dust settles
24 with that rebuttal and the surrebuttal, I don't
25 think the jury is going to be any further ahead in
26 their process of finding out what happened, but --

27 THE COURT: Well, in that regard -- let's

28 talk about your surrebuttal. If it's admitted -- if 12396

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1 the tape's admitted only for the purpose of the
2 demeanor, spontaneity, that type of issue with
3 Gavin, and not for prior consistent statements or
4 the truth of the matter asserted, you'll be required
5 to address for me each issue, each witness that you
6 intend to call on surrebuttal as to what the
7 significance, relevance of that witness would be.

8 MR. SANGER: Well, I understand. I could
9 address that briefly so the Court has an idea. I
10 mean, for instance, Gavin would be called and could
11 be cross-examined on circumstances leading up to
12 giving this interview, and whether or not he's
13 spontaneous during the particular interview. And
14 there's some particular issues I --

15 THE COURT: I'm not really concerned about
16 Gavin. I could clearly see that. But why would you
17 re-call Mrs. Arvizo?

18 MR. SANGER: Mrs. Arvizo, because she has --
19 let me answer my part first, and I think Mr.
20 Mesereau wants to add something there.
21 But the -- but we'd call Mrs. Arvizo because
22 that is the reason it's called -- I mean, the reason
23 it's presented by the prosecution is they're saying
24 this rebuts somehow Holzer's implication that
25 because J.C. Penney's was coached, that this was
26 coached. Well, we can -- we would like to call her,
27 now that we've had some further evidence in this

28 case, and confront her with some issues that 12397

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1 suggested this was coached. And so --

2 THE COURT: When you say that "this was
3 coached," you're saying that this interview with the
4 sheriff was coached.

5 MR. SANGER: That's correct.

6 THE COURT: Okay.

7 MR. SANGER: And then we have Dr. Katz,
8 because Dr. Katz did the prior interviews where
9 Davellin also told him all the details. And that
10 obviously flies in the face of the idea that this is
11 spontaneous and the police officers are somehow
12 dragging this out of him. And Gavin also told
13 all -- different details, but generally the same
14 story, with some striking inconsistencies, but
15 generally the same story he told to Dr. Katz.
16 So we would need to go through and show that
17 this is not as spontaneous as it appears. And I
18 think if it's looked at in those eyes, it isn't
19 spontaneous. But if it isn't looked at through
20 those eyes, then, you know, the People are going to
21 say, "Well, look and see how spontaneous he is."
22 And so we need to do that.

23 We also have Mr. Feldman --

24 THE COURT: What I really wanted to be sure
25 of was that you weren't going down the street of now
26 you have to impeach him with statements he made
27 post. I mean, that's how we -- you see what I'm

28 saying? 12398

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1 If they're not admitted for the truth of the
2 matter asserted, we're not -- we're not admitting
3 them for prior consistent statements, then we're not
4 going to admit them for inconsistent statements.

5 MR. SANGER: And if the Court does that, if
6 that's -- if the Court's going to allow the tape --
7 and I'm urging the Court to reconsider that, because
8 I think at this point it's -- it shouldn't be. But
9 if the Court were to admit the tape, then I think
10 that would be a good part of the instruction to give
11 the jury, to let them know that we are not going to
12 be attempting to impeach his statement, because it's
13 not offered for the truth. We're not going to be
14 attempting to impeach it at this time. Counsel's
15 not being allowed to, or however the Court would
16 phrase it, go into the subsequent statements that
17 were made.

18 Now, we have introduced evidence of some of
19 those previously, so they're in evidence, but I
20 think that would be fair. Otherwise, it will appear
21 that we're just kind of giving up or not challenging
22 what was said. And I don't think that would be fair
23 to the defense.

24 Could I have a second, just to see if Mr.
25 Mesereau wanted --

26 MR. SNEDDON: Judge, may I have a chance to
27 respond just briefly to something?

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1 MR. SNEDDON: I'll wait for Mr. Mesereau.

2 MR. SANGER: I'm sorry, I heard Mr.

3 Sneddon's voice, but I didn't hear what he said

4 because I was talking to Mr. Mesereau.

5 THE COURT: Well --

6 MR. SANGER: Too bad, I missed it?

7 THE COURT: Well, I don't know. It was

8 pretty important.

9 MR. SANGER: All right. Let me respond to

10 that, Your Honor. Once again, Mr. Sneddon is wrong.

11 THE COURT: He said, "Let me be" -- he wants

12 to be heard.

13 MR. SANGER: On this issue.

14 THE COURT: On this issue.

15 MR. SANGER: I would like to just remind the

16 Court, please, on the outtakes, I did have a

17 response. I would like to respond to what Mr.

18 Sneddon said on that. But we are now talking about

19 this other issue, so I'll -- as long as you give me

20 an opportunity to do that before we're through.

21 THE COURT: No, go ahead and respond to the

22 outtakes.

23 MR. SANGER: Okay. Switching gears here to

24 the outtakes, Mr. Sneddon said the outtakes ended

25 before the discussions about Gavin. Well, that's

26 not correct. That's not even close to being

27 correct. The outtakes are outtakes that were done

28 in June, the end of June of 2002, the first two 12400

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1 tapes, and then the third disk is in January of
2 2003. The third disk, actually, is at the very end.
3 All of the other filming for the entire video, for
4 the entire Bashir video, has been done at that time.
5 In June, some of the videotaping has been done.
6 But -- and the last -- the last one, all of it was
7 done.

8 Secondly, not all of the statements of
9 Mr. Jackson were taken by Mr. Bashir's film crew
10 during the same time that Hamid was taping. So in
11 other words, Bashir also taped at other times,
12 obviously in Las Vegas and other places, at the
13 ranch, at other dates undisclosed. We don't know
14 because he's asserting the shield and won't answer.
15 So he has other material that he got, and we don't
16 have outtakes from that.
17 So, first of all, on the outtakes, let me
18 give an example here. If the Court is going to
19 limit it, our first position is the outtakes come in
20 for the truth of the matter because it's part of the
21 overall conversation. And there were cuts from that
22 that were played in the actual Bashir, so the whole
23 thing comes in.
24 Second, if the Court says it doesn't come in
25 for the truth of the matter entirely, then we would
26 ask that the Court look at this liberally. For
27 instance - I was just thinking of an example -

28 there's a point at which Mr. Jackson talks about his 12401

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1 former wife, Debbie Rowe. And you recall there's
2 questions about the children and -- a number of
3 questions that related to the children.
4 If the Court is going to start carving
5 things out, I suppose there could be an order that
6 the statement as to the circumstances of the birth
7 of his children would not be offered for the truth
8 of the matter. But the statements that relate to
9 his love for his children and his relationship with
10 his children, particularly in direct response to
11 questions from Mr. Bashir, would be admitted for the
12 truth of the matter, because that goes directly to
13 the issues in the Bashir tape where he talks about
14 his love for children.
15 What Bashir did is, he cleverly and
16 surgically took out what he thought was the most
17 sensational clips from all the footage he had, which
18 included all of this, and he did not include
19 extensive commentary by Mr. Jackson about how he
20 loves children, and Mr. Bashir encouraging him, and
21 Mr. Bashir saying, "Oh, this is wonderful. I've
22 seen your relationship," and he's responding to it.
23 Because that truly does put the statements on the
24 tape in context. So, if we're going to do it
25 surgically, it would have to be somewhere along
26 those lines.
27 Now, the Court could probably -- if our

28 motion to admit it all for the truth is denied, the 12402

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1 Court could probably give a general instruction,
2 without going through and saying, "The tape up to
3 this part is admissible for the truth of the matter,
4 and then from this counter number to this counter
5 number it isn't." And the Court could probably
6 fashion something that covers the subject matter, in
7 other words, saying that the entire tape -- give
8 examples, perhaps.

9 THE COURT: I understand your position.

10 MR. SANGER: Okay. Very good.

11 All right. So unless there's a response to
12 what Mr. Sneddon has on the other thing, I'll submit
13 it.

14 THE COURT: All right. Mr. Sneddon?

15 MR. SNEDDON: Judge, I'm done on the Bashir
16 thing. I think the Court has our position on it.
17 And we'll look at the tape. If there's something on
18 there, there's something on there. If there's not,
19 there's not. I think I made that clear.

20 With regard to the second part, however, I
21 do want to say this, because I think there's been
22 the creation of a misimpression with this Court, and
23 that is that -- the question that you asked about
24 Dr. Katz and the reason that Dr. Katz would be
25 called, and counsel's reference of a fact that
26 Davellin made statements to Dr. Katz about there had
27 been previous disclosures, based upon my

28 recollection of the testimony, is untrue. 12403

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1 There had been discussion by Gavin with
2 Davellin with regard to certain incidents, including
3 the showing of the pornography, adult materials, the
4 drinking, the mannequin incident, but there had been
5 no disclosure of the sexual activities between the
6 defendant and Gavin. And I think Dr. Katz was very
7 clear that, in Gavin's conversation with him, there
8 was no disclosure, and when he got to that point he
9 just dropped his head and he wouldn't talk anymore,
10 and that's why Dr. Katz felt he needed to make a
11 mandated report.

12 So I think what I'm saying to the Court
13 simply is, before the Court opens up a lot of
14 avenues for cross-examination or bringing these
15 witnesses in, I think it's incumbent on the defense
16 to show where there's some testimony in this case
17 that there really was a disclosure of the sexual
18 conduct between the defendant and the victim in this
19 case on a prior occasion, before he disclosed on the
20 video that we're about to play.

21 I believe the state of the evidence in this
22 case is there was absolutely none. This was it.
23 And that this would be collateral to the main issue
24 as to why this tape is being shown. So --
25 THE COURT: I think, so that you understand,
26 I will require both sides, but in this case
27 specifically the defense, to -- before a witness is

28 called, to make an offer of proof on surrebuttal as 12404

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1 to why they're calling the witness and how it
2 relates to your rebuttal. I'm not opening up this
3 trial again for anybody.

4 MR. SNEDDON: Okay.

5 THE COURT: So -- and at that time you'll
6 have an opportunity to address it. I just wanted --
7 and I appreciate that Mr. Sanger gave me a picture
8 of some of the material he thought he was going to
9 be bringing in, and most of what he said seemed
10 relevant. But I will look at each piece, and I'm
11 going to hold people tight to this, because we're on
12 surrebuttal. The case is over. You're on rebuttal.

13 MR. SNEDDON: All right. Thank you, Your
14 Honor.

15 THE COURT: On your subpoena, come forward.

16 MR. LEVINE: Yes, my more boring issue, Your
17 Honor.

18 Just to keep it very brief --

19 THE COURT: I don't think your issue is
20 boring, Counsel.

21 MR. LEVINE: Thank you, Your Honor.

22 Compared to the others.

23 With the benefit of hindsight, it seems
24 that Mr. Geragos testified pretty much that he
25 ordered surveillance in this case and the reasons
26 why he did that. And I think that's the extent of
27 what both sides were getting at during the cross.

28 We have here an attempt to basically try to 12405

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1 get billing statements, everything related to his
2 representation. A lot of that, the Court can see,
3 is irrelevant to what has occurred. It would be
4 beyond the scope of both cross and direct. And I
5 think to even -- and I think what he stated in his
6 testimony is that he didn't take any notes. He
7 didn't have any tapes. Whatever e-mails there were,
8 the Court -- they have been provided by the defense
9 to the prosecution.

10 And I think that Brad Miller, who did the
11 surveillance and would be the relevant witness as to
12 what occurred during the surveillance, I think he
13 was raided, and I think that there was a search
14 warrant served on his offices. I don't really think
15 that the records, his billing records and what are
16 other extraneous items that may be in the file, are
17 really relevant at this point.

18 I think both sides -- Mr. Zonen did a very
19 effective cross-examination that lasted almost five
20 hours. And I think that there's really nothing left
21 to do in this particular area. So, it appears that
22 the request, as it's framed in their subpoena, is
23 just overbroad, putting aside any privileges or any
24 other issues. And I think that it would be better
25 if there was something specific that we can respond
26 to.

27 I mean, you have to understand, the file

28 with Mr. Jackson, the brunt of it is just box -- I 12406

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1 don't know how big it is. I haven't seen it. But
2 most of it is after he was arrested. So there would
3 be a lot of --

4 THE COURT: That seems to be one of the
5 problems with the subpoena, now that I see it, is
6 that the -- there's not a limitation to the time
7 period that the waiver purports to. You know, it
8 appears to be overly broad from the standpoint that
9 they subpoena everything, which, you know, clearly
10 they are not entitled to subpoena records beyond the
11 time waiver.

12 MR. LEVINE: Even if we limit it to records
13 within the time waiver, I mean, let's say they add
14 that sentence and it's in there, which I think
15 they -- I think that was their intent. Again, it's
16 just a situation here where, at this very late stage
17 of the trial where everybody has rested, and we're
18 getting back into what seems to be very
19 insignificant information. Mr. Geragos's testimony
20 was very collateral to -- it's just ancillary, a
21 very small part, and he just basically ordered
22 surveillance. And it seems that --

23 THE COURT: It's a little more complicated
24 than that.

25 MR. LEVINE: I understand. I read --

26 THE COURT: You didn't see the trial, so
27 I'll accept --

28 MR. LEVINE: I did see parts of it. It was 12407

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1 very compelling, Your Honor. I was here last week.

2 But I think that it would be better if we

3 can just have --

4 THE COURT: One of the things I'm addressing

5 is there was some testimony just yesterday about the

6 number of phone calls between Mr. Geragos and other

7 people involved during this period, which flies in

8 the face of your assertion that he was just -- that

9 he just ordered surveillance. You know, that's not

10 true. He was very involved in a lot of that, you

11 know, what was going on, and that -- so I just --

12 you know, I just have to tell you, your assertion

13 doesn't stand up. But --

14 MR. LEVINE: I'm not suggesting that he

15 didn't talk to people. The fact that a phone call

16 was made, again, I'm just really -- just seems --

17 again, what the defense called him for was for that

18 purpose. That other items came up, I understand.

19 I'm just trying to --

20 THE COURT: You have to realize that, until

21 the defense called him, he claimed the privilege,

22 and he -- the District Attorney couldn't call him.

23 They couldn't subpoena his records. In fact, I had

24 a special master spend months going through the

25 e-mails, the computer hard drives that were seized,

26 and segregating out the privileged material, only to

27 have him come into court and have the privilege

28 waived. So what may appear to you to be a late 12408

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1 subpoena isn't late at all, considering when Mr.

2 Geragos and Mr. Jackson waived the privilege.

3 MR. LEVINE: All right. We didn't like that

4 argument. We didn't like the attorney-client and

5 not the attorney work-product. I understand that.

6 THE COURT: I'll just make this easy for

7 you. I'm going to -- I'll make it easy for me,

8 excuse me, not for you.

9 MR. LEVINE: Thank you, Your Honor.

10 THE COURT: I'm going to allow the subpoena,

11 but I'm going to limit it to materials that are

12 within the scope of the waiver.

13 MR. LEVINE: Okay. Is there a time frame as

14 far as -- I know that the boxes are in storage

15 somewhere and they have to be pulled out.

16 THE COURT: Well, Mr. Geragos actually said

17 he didn't think there was much material.

18 MR. LEVINE: I agree.

19 THE COURT: So it can't be very burdensome.

20 He didn't think there was hardly anything.

21 MR. LEVINE: Well, that would be me, though.

22 I would have to go through the boxes, Your Honor,

23 so --

24 THE COURT: All right. We're back in session

25 Tuesday. That's when I want it here.

26 MR. LEVINE: Thank you, Your Honor.

27 MR. ZONEN: Your Honor, would it be possible

28 to get it earlier than that? Given the reality of 12409

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1 our case, we're going to be done Tuesday.

2 THE COURT: They can't hear you back there.

3 MR. ZONEN: One of these days I'll remember
4 this.

5 We believe that we will likely be resting on
6 Tuesday. If we don't get the materials until that
7 time -- and frankly, if we have to wait till
8 Tuesday, we would probably need Mr. Geragos's
9 presence here. If we could have it before Tuesday,
10 we might be able to resolve a stipulation where he
11 wouldn't actually have to come; that we could
12 perhaps stipulate to the admissibility of some
13 materials. But we would need the materials in
14 advance of that date. Otherwise, I'm afraid Mr.
15 Geragos would have to be here on Tuesday, as he
16 would be the only one to lay the foundation for the
17 introduction of those documents, assuming there's
18 some relevant documents among the file.

19 MR. LEVINE: I really have nothing to do
20 this weekend, it being Memorial Day weekend. I'm
21 happy to accommodate this request to go through it.
22 I don't really think there is much, because I think
23 his testimony was he didn't take notes, he didn't
24 have tapes. And I know that --

25 THE COURT: That's pretty much what he
26 testified to.

27 MR. LEVINE: He also turned over a lot of

28 stuff to the defense, which I would assume they have 12410

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1 possession of and they would be obligated to turn
2 over to the prosecution, given the fact that they
3 waived the privilege that they had.

4 THE COURT: They have different obligations.

5 You're only required to turn over what you have, not
6 what's been forwarded to other people.

7 So in order to help bring this case to an
8 end, and to ruin your weekend, I'll order that you
9 present it on Monday to the district attorneys.

10 MR. LEVINE: It's a lovely drive here from
11 Los Angeles, Your Honor.

12 MR. ZONEN: He'll only have to go to Santa
13 Barbara.

14 MR. LEVINE: Okay.

15 THE COURT: You should make an agreement how
16 you're going to get together.

17 MR. ZONEN: I'll do that. Thank you, Your
18 Honor.

19 MR. LEVINE: Thank you, Your Honor.

20 THE COURT: Thank you.

21 What I want to do is -- you want to say
22 something?

23 MR. SANGER: I do. I just missed the last
24 part there.

25 These are documents that are subpoenaed to
26 the Court, not to the District Attorney's Office.
27 I don't mind them being delivered to the District

28 Attorney's Office if we have an agreement that they 12411

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1 will immediately provide us with a copy.

2 THE COURT: So ordered.

3 MR. SANGER: Thank you.

4 THE COURT: But I don't think they were

5 listening this time either.

6 MR. AUCHINCLOSS: I was listening.

7 THE COURT: Oh, you were. Okay.

8 Oh, it was you that wasn't listening last

9 time. I get confused about who's not listening.

10 Don't bring the jury in. I want to just

11 take a couple minutes and look at some material here

12 before you bring the jury in.

13

14 (The following proceedings were held in

15 open court in the presence and hearing of the

16 jury:)

17

18 THE COURT: (To the jury) I know what you're

19 thinking.

20 JUROR NO. 7: Uh-oh.

21 THE COURT: You're probably thinking, "Well,

22 if you don't want us to come in until 9:15, then why

23 do you have us here at 8:30?" Right?

24 This is just a little bit more complicated.

25 We're in the rebuttal stage, and the legal issues

26 become more complicated, and I'm just trying to take

27 care of them as quickly as they come up and then get

28 you in here. 12412

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1 Just think of it this way: You only have 15
2 more minutes till the break.

3 Counsel, you may proceed.

4 MR. SNEDDON: Thank you, Your Honor.

5

6 CRAIG BONNER

7 Having been previously sworn, resumed the
8 stand and testified further as follows:

9

10 MR. SNEDDON: First of all, I'd like to
11 begin by having another photograph marked as 909 for
12 identification purposes. I've shown it to counsel
13 and I'd like to approach the witness, with the
14 Court's permission.

15 THE COURT: You may.

16

17 DIRECT EXAMINATION (Continued)

18 BY MR. SNEDDON:

19 Q. Detective Bonner, yesterday, we were talking
20 during your testimony about the location of the two
21 areas where the sensors were located in the
22 downstairs area of Mr. Jackson's bedroom suite,
23 okay? And I've handed you the exhibit marked as
24 People's 909. Do you recognize that photograph?

25 A. Yes, I do.

26 Q. And have you seen that area before?

27 A. Yes, I have.

28 Q. And is that photograph an accurate depiction 12413

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1 of what it purports to represent?

2 A. Yes, it is.

3 MR. SNEDDON: Your Honor, I'd move that 909

4 be admitted into evidence.

5 MR. SANGER: No objection.

6 THE COURT: It's admitted.

7 MR. SNEDDON: Your Honor, could we have the

8 input for the Elmo, please?

9 Q. We put on the board the photograph -- excuse

10 me. There we go -- the photograph marked as 909,

11 which is now in evidence. And do you recognize that

12 photograph?

13 A. Yes, I do.

14 Q. Okay. And in that photograph, do you see

15 the areas where the -- what you call the -- what do

16 you call them? -- the enunciators are located?

17 A. Yes.

18 Q. And I guess I should give you the red --

19 that's the laser. Would you, first of all, point

20 out the locations of what you call the enunciators?

21 A. The two enunciators, or alarm speakers, were

22 located, the first one, underneath this

23 bookcase/cabinet, right down here.

24 Q. You're indicating in the lower left-hand

25 corner of the Exhibit 909?

26 A. Correct. Underneath it.

27 Q. All right.

28 A. The second enunciator was located underneath 12414

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1 this chair, or throne.

2 Q. Okay. Now, I'm going to show you another
3 photograph marked as 54, which is in evidence. Do
4 you recognize that photograph?

5 A. Yes, I do.

6 Q. And that's the same chair -- the chair
7 that's depicted in that photograph is the same chair
8 depicted in photograph 909; is that correct?

9 A. That's correct.

10 Q. And was that the location of the chair the
11 time that you were out at the house in November of
12 2003?

13 A. Yes.

14 Q. And was that the location of the sensor --
15 or the enunciator that you mentioned on that
16 occasion?

17 A. Yes.

18 Q. And the same thing in December of 2004?

19 A. Yes.

20 Q. So -- and this is -- which door is this?

21 A. This is the doorway that leads from the
22 hallway into the private area of Michael Jackson's
23 room, or the living space downstairs.

24 Q. All right. Now, the next photograph is
25 People's 69, which is in evidence. You recognize
26 that photograph?

27 A. Yes, I do.

28 Q. And is the cabinet depicted in that 12415

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1 photograph the same cabinet that you referenced
2 earlier in your testimony?

3 A. Yes, it is.

4 Q. And the room just to the left of that
5 cabinet is what room? What is that?

6 A. That's the bathroom with the Jacuzzi tub.

7 Q. Okay. And again, was this the same

8 location -- was this cabinet and the enunciator in
9 the same location as depicted in this photograph on
10 the 18th of November, 2003?

11 A. Yes. However, due to the angle that the
12 film -- or the photograph is taken at, you cannot
13 see it in this photograph.

14 Q. But you did see it personally?

15 A. Yes.

16 Q. And in December when you went out there in
17 2004, was that cabinet still in the same location?

18 A. Yes, it was.

19 Q. And the enunciator was still in the same
20 location?

21 A. Yes, it was.

22 MR. SNEDDON: We can have the lights, Your
23 Honor.

24 Now, Your Honor, I have an exhibit which has
25 been marked as 908 for identification purposes, and
26 I've indicated to counsel what portion of the
27 exhibit that we want to play, and we have it pre-set

28 to that portion. And what I've told counsel that we 12416

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1 would do, if this is okay with the Court, is that we
2 will take the portion that's played in court out of
3 this exhibit and provide that, simply that portion,
4 for the Court in case the jury wants to look at it
5 later. In other words, we'll substitute -- not --
6 we won't substitute. We will provide a 908-A, which
7 will have just the portion that's shown to the jury.

8 THE COURT: That's good.

9 MR. SNEDDON: Because there's other matters
10 on here, and we didn't have time to do the editing
11 on it. And I think that's acceptable to the Court
12 and I think that's acceptable to counsel.

13 MR. SANGER: Yes, it is.

14 THE COURT: All right. That's good. I'd
15 like you to do that.

16 MR. SNEDDON: We will do that, Your Honor.

17 So this is Exhibit 908, and we're going to -- let me
18 ask a few foundation questions and then we'll show
19 it.

20 Q. Detective Bonner, you had occasion to review
21 a DVD disk of some portions of the search warrant
22 that was executed in December of 2004, correct?

23 A. That's correct.

24 Q. And you were present when those portions of
25 the video that the jury is about to see were filmed;
26 is that correct?

27 A. Yes, I was.

28 Q. In fact, your voice can be heard on the 12417

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1 video?

2 A. Correct.

3 MR. SNEDDON: And with regard to the
4 portions that we are about to see, Your Honor, I
5 have another exhibit that I'd like to have marked as
6 People's 907 for identification purposes. I've
7 shown it to counsel, and it's a diagram. And I'd
8 like to show it to the witness and authenticate it
9 before we show the video.

10 THE COURT: You may. How long is the video
11 now?

12 MR. SNEDDON: Very short. It's --

13 THE WITNESS: About 40 seconds, 45 seconds.

14 MR. SNEDDON: 40 seconds. What's the number
15 on that? 907?

16 THE WITNESS: Absolutely.

17 MR. SNEDDON: Your Honor, can I ask the
18 questions here? I'll talk real loud, if that's all
19 right.

20 I'll go back and forth. I could use the
21 exercise.

22 Q. 907, do you recognize that?

23 A. Yes, I do.

24 Q. Did you prepare that?

25 A. Yes, I did.

26 Q. And is that -- does that purport to be to
27 scale or just an illustration of the various

28 locations of the rooms of the defendant's master 12418

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1 bedroom?

2 A. This is not in any way to scale. It's just
3 a quick drawing just to show relative location.

4 MR. SNEDDON: With the Court's permission, I
5 move that be admitted for illustrative purposes of
6 the witness's testimony that he's about to give.

7 MR. SANGER: No objection.

8 THE COURT: It's admitted.

9 MR. SNEDDON: All right. I think we'll play
10 the video and then we'll go back to this exhibit.

11 THE COURT: All right.

12 (Whereupon, a portion of a DVD, People's
13 Exhibit 908 (to be later marked as 908-A) was played
14 for the Court and jury.)

15 MR. SNEDDON: All right. For the record,
16 that portion of the video that was shown was 19:20
17 to 19:55.

18 Now, we could have the lights again, Your
19 Honor.

20 Q. Mr. -- Sergeant Bonner, where was the
21 cameraman located at the time that those chimes were
22 going off?

23 A. He was standing directly in front of or on
24 top of the area where the enunciator was located
25 underneath the bookcase/cabinet.

26 Q. All right. Let's put this Exhibit 907 up on
27 the board, if we can.

28 Okay. This is Exhibit 907, correct? 12419

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1 A. That's correct.

2 Q. All right. Now, on the particular exhibit -
3 you have the laser there - you have an "Enunciator
4 1," with a little square; is that correct?

5 A. Correct.

6 Q. Where is that located in relationship to the
7 room?

8 A. Enunciator 1 is located right here. This
9 was where the bookcase was. And the enunciator was
10 underneath the bookcase.

11 Q. All right. And could you illustrate to the
12 ladies and gentlemen of the jury the approximate
13 location of the cameraman at the time that they
14 heard the chimes going off in the Exhibit 908?

15 A. Our cameraperson was standing right above
16 that bookcase pointing down, at one point in time
17 directly, the camera pointing directly at where that
18 enunciator was at.

19 Q. You're indicating just to the top left of
20 the small square, correct?

21 A. Correct.

22 Q. Or rectangle?

23 A. Through the video, he moves -- he starts out
24 approximately right here, and I believe he ends
25 right about here.

26 Q. Okay. And then with regard to the
27 "Enunciator 2," what does that relate to in your

28 previous testimony? 12420

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1 A. Enunciator 2 was the nonworking enunciator
2 that was underneath that red and gold chair.

3 Q. Now, using this diagram as a further
4 illustration, you were shown a photograph yesterday
5 that showed one of the sensors up in the ceiling
6 prior to -- close to the entrance of Mr. Jackson's
7 bedroom door, correct?

8 A. Correct.

9 Q. And would you show us the location of that
10 on the diagram?

11 A. It is right here, and I have called it
12 "Curtain Sensor 1."

13 Q. Now, in November and December -- November of
14 2003, let's take them one at a time, was that
15 curtain sensor working?

16 A. Yes.

17 Q. And in December of 2004, was that curtain
18 sensor working?

19 A. Yes.

20 MR. SANGER: I'll object, asked and
21 answered, Your Honor.

22 THE COURT: Overruled. Next question.

23 Q. BY MR. SNEDDON: With regard to the exhibit,
24 907, you have a second curtain sensor located on
25 that exhibit, correct?

26 A. Correct.

27 Q. And why don't you show the jury where that's

28 located? 12421

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1 A. That's located prior to the doorway leading
2 into the foyer. Right there.

3 Q. And was that sensor active on November 18th,
4 2003?

5 A. It did not activate any alarms.

6 Q. And with regard to December of 2004, was it
7 working?

8 A. Again, it did not activate any alarms.

9 Q. You weren't out at the ranch in February and
10 March of 2003, correct?

11 A. Correct.

12 Q. All right. I'm just going to ask you one
13 other thing and then we'll be done.

14 I've handed you the exhibit that -- it's
15 907, correct?

16 A. Correct.

17 Q. And would you please put on Exhibit 907,
18 with the red pen I've given you, the approximate
19 location of the sheriff's department cameraman at
20 the point where the video was played to the jury?

21 So with regard to Exhibit 907, you've placed
22 a little red figure on that; is that correct?

23 A. Two circles with a line between the two,
24 approximating the positions that you observe him to
25 be in.

26 Q. So he moved during the course of the
27 filming; is that right?

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1 Q. But in that area. That was the area during
2 the entire time that the chimes were ringing?

3 A. Correct.

4 Q. Okay. You've had occasion to view the
5 defense video of the three scenes where the chimes
6 were filmed?

7 A. Correct.

8 Q. Okay. And with regard to the time that
9 those were filmed, could you determine, from your
10 experience of being out there twice, whether both of
11 the enunciators were working on that day?

12 A. I believe both enunciators were working when
13 the defense did their video.

14 MR. SANGER: I'm going to move to strike
15 that. I didn't understand the question. I move to
16 strike the answer for the purpose of objecting.

17 That would call for speculation. There's no
18 foundation. He wasn't there.

19 MR. SNEDDON: I'm about to ask him that
20 question.

21 THE COURT: All right. I'll sustain the
22 objection and strike the answer so you can --

23 Q. BY MR. SNEDDON: Have you reviewed that
24 video?

25 A. Correct.

26 Q. And from reviewing that video, are you able
27 to determine whether or not both of those

28 enunciators were working at the time that the 12423

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1 defense conducted their experiment?

2 A. Yes.

3 MR. SANGER: Objection. He answered. He
4 just answered "yes" or "no," so that's fine.

5 Q. BY MR. SNEDDON: And are you able to reach
6 that opinion based upon your prior experiments and
7 familiarity with how this system works?

8 A. Yes.

9 Q. When you were actually out there?

10 A. Yes.

11 Q. I would ask you how -- what is the basis of
12 your opinion that both enunciators were working the
13 day that the defense filmed their exhibit concerning
14 the chimes in the Jackson suite?

15 MR. SANGER: Objection, Your Honor. Assumes
16 facts not in evidence. There's no evidence as to
17 his opinion, only that he had one. And I object to
18 his opinion, to any opinion, as not being based on
19 an adequate foundation.

20 THE COURT: Overruled. I'll allow the
21 answer.

22 THE WITNESS: There are two different
23 enunciators located in two different locations.
24 There are two different curtain sensors located in
25 two different locations.

26 We know, based upon our being there in
27 December of '04 and on November 18th of '03, that

28 Curtain Sensor 1 activated Enunciator 1, which is 12424

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1 located furthest from the stairwell, and that would
2 presumably have a lower volume than if Enunciator 2
3 was activated, based upon the filming with the
4 individual in the upstairs.

5 When you listen --

6 MR. SANGER: Excuse me. First of all, it's
7 a narrative. And second of all, I move to strike
8 the last part as being an opinion without a
9 foundation.

10 THE COURT: I am going to sustain the
11 objection and strike the opinion.

12 Q. BY MR. SNEDDON: Are you able to tell, from
13 a review -- based upon your familiarity with the
14 system and your having been out there, are you able
15 to determine, "yes" or "no," from a review of those
16 films, that both enunciators were working that day?

17 A. Yes.

18 Q. And are you able to determine that based
19 upon your review of the sounds, the differing sounds
20 that the chimes make at certain portions during
21 those scenes?

22 A. Yes.

23 Q. Were you also able to determine, when you
24 were out there before, that the enunciators have
25 three volume settings on them?

26 A. No.

27 Q. Multiple volume settings?

28 MR. SANGER: Objection. Leading; asked and 12425

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1 answered.

2 THE COURT: Overruled.

3 THE WITNESS: No.

4 Q. BY MR. SNEDDON: Did you determine that at
5 some other point in time?

6 A. Yes.

7 MR. SNEDDON: All right. I have no further

8 questions on this subject, Your Honor. But I

9 believe at this point I would have this witness --

10 I'll ask one question, and then I think we have a

11 stipulation to offer to the Court. And we can have

12 the lights.

13 MR. SANGER: First of all, I want to object

14 to the last question and move to strike the last

15 answer for the purpose of objecting to the question

16 on the grounds there's no foundation.

17 THE COURT: Overruled.

18 Q. BY MR. SNEDDON: During the course of your

19 role in this investigation, was it your

20 responsibility to review the items that had been

21 obtained through the course of the search warrant

22 process?

23 A. Yes.

24 Q. And was one of the assignments that you had

25 to determine the items that were seized from the

26 office of Investigator Brad Miller?

27 A. Yes.

28 Q. And during the course of that review, did 12426

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1 you determine whether or not there was a tape that
2 was recovered from Mr. Miller's office that dealt
3 with an interview between Janet Arvizo and the
4 Department of Child & Family Services in Los Angeles
5 on February the 20th of 2003?

6 A. There was not.

7 MR. SNEDDON: All right. I believe the
8 stipulation, Your Honor, is that --

9 MR. SANGER: Tom?

10 MR. MESEREAU: Oh.

11 MR. SNEDDON: Do you want to read it?

12 That's fine, thank you.

13 I'll read the stipulation, Your Honor, into
14 the record, if that's appropriate for the Court.

15 THE COURT: You may.

16 MR. SNEDDON: Both sides are willing to
17 stipulate to the following: That prior to the
18 trial, both the prosecution and the defense
19 exchanged documents and other evidence with each
20 other, and on December the 6th of 2004, the defense
21 provided to the prosecution a copy of the DCFS
22 interview of February the 20th of 2003.

23 THE COURT: Is that your agreement, Mr.
24 Mesereau?

25 MR. MESEREAU: The stipulation reads we
26 provided the prosecution with our copy of that
27 interview, I believe.

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1 MR. SNEDDON: That's fine.

2 THE COURT: Is that your agreement?

3 MR. SNEDDON: That's our agreement

4 THE COURT: Is that your agreement?

5 MR. MESEREAU: So stipulated, Your Honor,

6 yes.

7 THE COURT: I'll approve that stipulation.

8 (To the jury) When the parties stipulate to

9 a fact, the jury is bound by that stipulation.

10 MR. SNEDDON: Your Honor, I think probably

11 to tie things together for the jury and the Court,

12 we should indicate that the stipulation we entered

13 into is directly related to the exhibit that has

14 been played for the jury here in the courtroom. And

15 I don't have -- I'm sorry, I apologize for not

16 having the exact exhibit number, but I will find

17 that and provide that to the Court later, if you

18 want.

19 MR. MESEREAU: I'm not sure what that even

20 refers to, Your Honor.

21 MR. SNEDDON: I'm referring to the tape that

22 was played of that conversation that the jury heard,

23 which is the February 20th DCFS interview.

24 MR. MESEREAU: I'm not stipulating to that.

25 I'm just -- if he wants to argue that, he can. The

26 stipulation is the stipulation.

27 THE COURT: (To the jury) All right. So

28 you're not bound by what they don't stipulate to. 12428

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1 All right. Let's take our break.

2 (Recess taken.)

3 THE COURT: Go ahead.

4 MR. SANGER: I believe Mr. Sneddon was
5 concluded, so may I proceed, Your Honor?

6 THE COURT: Yes.

7 MR. SANGER: Thank you.

8

9 CROSS-EXAMINATION

10 BY MR. SANGER:

11 Q. Detective Bonner, how are you doing?

12 A. Good.

13 Q. All right. Now, there was a lot of
14 testimony about "enunciators" and "curtain sensors"
15 and things like that. Did you learn those terms
16 when you were out there in December of 2004?

17 A. The terminology, yes.

18 Q. Okay. And you learned that because you were
19 out there with some people who had some background
20 in these items; is that right?

21 A. Correct.

22 Q. All right. You're not an expert in any of
23 this; is that correct?

24 A. No.

25 Q. And before December the 4th, 2004, if
26 somebody said, "Where was the enunciator?" what
27 would you have said?

28 A. "What is an enunciator?" 12429

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1 Q. All right. And if somebody said, "Where is
2 the curtain sensor?" what would you have said?

3 A. "What's a curtain sensor?"

4 Q. All right. Now, you mentioned in the video
5 that we saw that the person was pretty much standing
6 right on top of that cabinet. Do you remember that
7 testimony?

8 A. Correct.

9 Q. All right. In fact, the person with the
10 camera was standing some distance away from the
11 cabinet, wasn't he?

12 A. Not far.

13 Q. Okay. Not far. But that's some distance
14 away. That's not "on top of," is it?

15 A. He was -- in the position of the camera, the
16 camera was on top of the location.

17 MR. SANGER: Uh-huh. Do we have the Exhibit
18 907? Oh. It's right here. Thank you.

19 May I put 907 up, Your Honor?

20 THE COURT: Yes.

21 MR. SANGER: Thank you.

22 Q. I'm showing the exhibit tab, "907," at the
23 bottom and then I'll shift back up here.

24 This is your not-to-scale drawing, correct?

25 A. Correct.

26 Q. And you did not make that at the time that
27 you were out there, did you?

28 A. No, I did not. 12430

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1 Q. You made that when? Yesterday? Or --

2 A. A couple days ago.

3 Q. All right. Do you remember a piano in that
4 room?

5 A. Yes, I do.

6 Q. It says, "First floor living room area."

7 Where is the piano?

8 A. It's not in there.

9 Q. I know you didn't draw it in there, but can

10 I have the --

11 A. It was located right about approximately
12 where the "R" -- where the "O" is for "Enunciator
13 1."

14 Q. All right. Well, anyway, everybody can see
15 that, I suppose. We used to have a pointer.

16 Do you have a pointer?

17 MR. ZONEN: Yes.

18 MR. SANGER: May I borrow it?

19 MR. ZONEN: Certainly.

20 MR. SANGER: Thank you.

21 I'm not sure what you do to make it point.

22 All right. Here you go. That's it.

23 Q. So the piano -- there's a little alcove over
24 here, is that right, with a window?

25 A. Yes.

26 Q. And the piano is right in that alcove; is
27 that correct?

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1 Q. Do you remember seeing the piano in the
2 video, the little clip that we just saw?

3 A. No.

4 Q. All right. And the picture -- let's see
5 which one this is.

6 May I put up 909, Your Honor?

7 THE COURT: Yes.

8 Q. BY MR. SANGER: In the picture, 909, the
9 photographer was standing right in this area right
10 here; is that correct?

11 A. From that point to poss -- I believe a
12 little bit left of where you're pointing.

13 MR. SNEDDON: I'm going to object as vague
14 as to whether he's talking about this photograph or
15 the cameraman.

16 THE COURT: Sustained.

17 Q. BY MR. SANGER: I obviously meant the
18 cameraman that you were talking about who's taking
19 the video. Because the photographer who took this
20 picture, if he was standing there, you'd see him,
21 right?

22 A. Correct.

23 Q. So the photographer who was taking the video
24 was standing in approximately this location that
25 we're -- I'm pointing at on Exhibit 909; is that
26 right?

27 A. Correct, and then moved slightly to his left

28 within the filming. 12432

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1 Q. Moved over here a little more; is that
2 right?

3 A. Up closer, but, yes.

4 Q. Okay. All right. Now, you heard the video
5 that was played, right?

6 A. Which video are you talking about?

7 Q. The one that was just played. I forget the
8 number. It was --

9 A. Our video.

10 Q. -- your video.

11 A. Yes.

12 Q. I'm sorry, forgive me one second. 908-A
13 theoretically is the video that was played.

14 A. Right.

15 Q. You heard that?

16 A. Yes, I did.

17 Q. All right. Now, were you aware that there's
18 a volume control on this video player here on the
19 console in the middle of the courtroom?

20 A. I am aware of that, yes.

21 Q. Okay. Were you aware that all other videos
22 that were played for all subject matter were played
23 between Sound Level 7 and 9?

24 A. Yes.

25 Well, I'm sorry, I take that back. No, I am
26 not.

27 Q. Were you aware that Mr. Auchincloss set this

28 video on 1, the sound level 1 to play the 908-A? 12433

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1 MR. SNEDDON: I move to strike this
2 testimony as lack of foundation on the witness's
3 part and irrelevant as to the testimony.

4 THE COURT: Sustained on foundation.

5 Q. BY MR. SANGER: Okay. Do you know what
6 setting Mr. Auchincloss put that on when he played
7 it?

8 A. No, I don't.

9 Q. You would agree that there's generally
10 volume controls when you're playing videos, right?

11 A. There are.

12 Q. Now, you were asked some questions about
13 being aware of the investigation in this case
14 because of your position as one of the detectives in
15 the case, right?

16 A. Correct.

17 Q. And are you aware that a number of people
18 have testified that the bell that they heard at the
19 time of the video that was played by the defense,
20 that being the video of the test of the alarm, that
21 that alarm is pretty much the alarm that they've
22 been hearing at that ranch in that hallway for
23 years? Were you aware of that?

24 A. I've heard that secondhand, yes.

25 Q. And you don't have any decibel level tests
26 to produce to the Court at this time?

27 A. No. We attempted, and it was not -- it

28 wasn't worth doing. There was no -- it wasn't 12434

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1 consistent would be the best way to describe it.

2 Q. Well, decibel level tests really don't do
3 you much good unless you have something to compare
4 it with; is that right?

5 A. Correct.

6 Q. So you're basically saying, "Yeah, pretty
7 much that's what I heard. I heard a bell, and it
8 sounded like a bell," right?

9 A. And the volume level, yes.

10 Q. And other people have said they heard what
11 they heard, right?

12 A. Correct.

13 Q. All right. And I think you answered this to
14 Mr. Sneddon, but just to be certain, you personally
15 have no idea how this system was functioning in
16 February and March of 2003, correct?

17 A. Correct.

18 Q. All right. Okay. Let me go back to the
19 phone records now, which is the first thing you
20 testified to. And let me clear some of this out of
21 the way.

22 You have in front of you, I think, Exhibits
23 460, 448 and 449; is that correct?

24 A. Correct.

25 Q. And those exhibits would be the packet of --
26 let me withdraw that.

27 Exhibit 460 would be the packet of materials

28 that contain your various charts of phone calls made 12435

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1 to and from various people; is that correct?

2 A. Correct.

3 Q. And 460 also includes the list of the phone
4 numbers that went to and from; is that correct?

5 A. That's correct.

6 Q. That's a chart that's also in 460.

7 All right. Now, 460 was your effort to add
8 certain phone calls, based on records that you
9 reviewed, to the charts that you made previously; is
10 that right?

11 A. Not necessarily, no.

12 Q. Not necessarily. I always worry about an
13 answer like that.

14 A. Well, in certain situations, we did.

15 However, in situations where the calls only showed
16 calls between Bradley Miller and Mark Geragos and
17 did not connect up to the alleged co-conspirators,
18 then we did not include that data in there.

19 Q. Okay. So what I'll do -- I think, to be
20 safe, I better take the actual exhibit.

21 Your Honor, may I approach to retrieve the
22 exhibits?

23 THE COURT: Yes.

24 MR. SANGER: Thank you.

25 Just so we're oriented, Your Honor, I'd like
26 to put up the first page of Exhibit 460, if I may.

27 THE COURT: All right.

28 Q. BY MR. SANGER: So on page one on 460, you 12436

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1 show four calls going between Geragos & Geragos and

2 Brad Miller, correct?

3 A. Correct.

4 Q. And to make that determination, you used the

5 phone records that were in those other two exhibits,

6 448 and 449; is that correct?

7 A. Correct.

8 Q. So 448 were the records of Brad Miller?

9 A. Correct.

10 Q. All right. And then 449 were the records of

11 Geragos & Geragos?

12 A. Correct.

13 Q. Now, what phone was it that you looked at

14 for the records of Geragos & Geragos?

15 A. His cellular telephone ending in 3900. I'm

16 sorry, ending in 2100.

17 Q. 2100. Now, Freudian or otherwise, you said

18 3900. Why would that --

19 A. That is his office phone.

20 Q. Did you analyze that phone number as well?

21 A. We do not have those records.

22 Q. Okay. Did you analyze that number when you

23 looked at the Brad Miller records?

24 A. Yes, I did.

25 Q. Okay. So are some of the phone calls that

26 you've identified on your chart? And I'm putting up

27 the first page here of 460. Are some of those phone

28 records phone calls that were made between the law 12437

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1 firm's number of Geragos & Geragos and Brad Miller?

2 A. Correct.

3 Q. Brad Miller's cell phone records have both

4 incoming and outgoing calls; is that right?

5 A. Correct.

6 Q. So that's not always the case, right? In

7 phone records, you don't always --

8 A. That's correct, yes.

9 Q. So in this case, you could tell, by Brad

10 Miller's phone records, what calls were being made

11 from that phone and what calls were received in most

12 cases, correct?

13 A. Correct.

14 MR. SANGER: Now, let me skip ahead to the

15 next page. And actually this is page three, because

16 there's a page -- if I may, Your Honor, there's a

17 page on the back of page one. They're two-sided.

18 So I'll put up what is, in essence, page three.

19 THE COURT: All right.

20 Q. BY MR. SANGER: And this is for 2-12 of

21 2003; is that correct?

22 A. Correct.

23 Q. And I think you told us, by the way, the

24 first two pages say "'05" and they're really "'03"?

25 A. That's correct.

26 Q. I put one up there that said "'05," but it's

27 really "'03."

28 Now, you have lines back and forth. You 12438

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1 still don't show which direction the calls are going
2 in your chart; is that right?

3 A. Correct.

4 Q. And if you go back to the records, you could
5 figure that out, and you did on occasion; is that
6 right?

7 A. Correct.

8 Q. Except for the three-way calls that you
9 identified, of which there were a couple, I think
10 you testified to --

11 A. Correct.

12 Q. -- the rest of them are calls between two
13 different phones?

14 A. Correct.

15 Q. Okay. So once again, when you put everybody
16 together, when you loop everybody together, it
17 doesn't mean that Brad Miller's phone, for instance,
18 in this -- if you look at this chart for 2-12, that
19 Brad Miller's phone has any connection to Vincent
20 Amen's phone; is that correct?

21 A. Only in that they have Schaffel in common.

22 Q. Well, but they don't have Schaffel on the
23 line at the same time; is that right?

24 A. No.

25 Q. All right. So from the standpoint of the
26 theory of the prosecution that somehow these people
27 are all related, that's --

28 MR. SNEDDON: I'm going to object to that 12439

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1 question as argumentative.

2 THE COURT: Sustained.

3 Q. BY MR. SANGER: When you say they have
4 Schaffel in common, you're simply showing that
5 there's phone calls from Miller to Schaffel, however
6 you say his name, and there's phone calls from
7 Schaffel's phone to Amen's phone or vice versa,
8 right?

9 A. Correct.

10 MR. SNEDDON: I object. That's
11 unintelligible and compound.

12 THE COURT: Well, it's compound for sure.

13 MR. SANGER: Okay. Is it sustained, Your
14 Honor? I couldn't quite hear what you said.

15 THE COURT: I said it's compound. I didn't
16 rule on the other issue. Go ahead.

17 MR. SANGER: Spared me an unintelligible
18 ruling.

19 THE COURT: Right.

20 Q. BY MR. SANGER: Okay. Well, what I'm
21 getting at here is, the Brad Miller phone and the
22 Schaffel phone have calls that go one way or the
23 other, three calls going one way or the other,
24 right?

25 A. Correct.

26 Q. And then the Schaffel phone and the Amen
27 phone have three calls going one way or the other,

28 correct? 12440

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1 A. Correct.

2 Q. You have no information from these phone
3 records who was on any of those phones, correct?

4 A. Yes and no.

5 Q. Okay. You have phones that are registered
6 or purchased by a certain person?

7 A. And cellular phones at that.

8 Q. And some are cellular phones, so you might
9 assume that the person who has the cell phone is a
10 person who's making the calls, right?

11 A. Correct.

12 Q. All right. So -- but other than that, you
13 don't know --

14 A. No.

15 Q. -- who was on the phone?

16 All right. And you certainly don't know the
17 subject matter of these calls, right?

18 A. No.

19 Q. Now, throughout here, and I'm not going to
20 put all these up, you listed quite a number of phone
21 calls between Brad Miller and -- Brad Miller's phone
22 and the Geragos & Geragos phones, right?

23 A. Correct.

24 Q. And those phone calls you listed starting on
25 February the 4th of 2005, right?

26 A. Correct.

27 MR. SANGER: So I'll go back -- with the

28 Court's permission, I'll go back to that page. 12441

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1 THE COURT: Yes.

2 Q. BY MR. SANGER: And you prepared this as an
3 exhibit in the case of People versus Michael
4 Jackson, correct?

5 A. Correct.

6 Q. And from these phone records, do you have
7 any information that any of those four phone calls
8 had anything to do with Michael Jackson or any of
9 these other people who were doing whatever they were
10 doing during this period of time?

11 A. On that particular day, I do not.

12 Q. Okay. In fact, you omitted to list a large
13 number of telephone calls between the Geragos phone
14 or phones and the Brad Miller phones during the
15 period of time for which you had records, did you
16 not?

17 A. I don't understand what you're --

18 MR. SANGER: Okay. Well, let's do this.

19 May I approach? I want to show the witness an
20 exhibit.

21 THE COURT: Yes.

22 MR. SANGER: I'll tell you what, I'll do it
23 this way, if it's all right with the Court. I have
24 Exhibit 903, which actually was introduced through
25 the testimony of Mr. Dickerman, and I'd like to turn
26 to a page several pages into it, and I'll put that
27 up.

28 MR. SNEDDON: Can I see it, please? 12442

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1 MR. SANGER: Yeah.

2 Q. I'm going to put this up here, and I'm
3 really just showing the top part of it, which is the
4 letterhead of Geragos & Geragos, right?

5 A. Correct.

6 Q. And you mentioned a 3900. It's a little
7 unclear, actually, as I look at it, but the phone
8 number there is (213) 625-3900. That's the main
9 phone number for that law firm, correct?

10 A. It appears by that particular document, yes.

11 Q. And you had mentioned earlier 3900?

12 A. Correct.

13 Q. So you were aware that this is, in fact, the
14 main phone number for the Geragos & Geragos law
15 firm; is that right?

16 A. 3900 or 3000.

17 Q. 3900?

18 A. 3900 is the information that I have received
19 from the phone company.

20 Q. Yeah. Okay. Well, now we're having some --
21 where do you get 3000 from? Does that look like
22 3000? It does, a little bit, to me.

23 A. It does -- it does when I'm looking at it
24 here.

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

26 THE COURT: Yes.

27 Q. BY MR. SANGER: That was my concern, too.

28 So let me just show you the document. 12443

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1 When you look at it -- if I may ask the
2 question here, when you look at it, it really is
3 3900, correct?

4 A. Correct.

5 Q. Okay. I'll put it back up, and maybe I can --
6 there we go. That's the way it is. So that number,
7 (213) 625-3900, that is the number that you looked
8 for when you looked for phone numbers starting with
9 February 4, 2005, correct?

10 A. Correct.

11 Q. Were you aware that Brad Miller was a
12 private investigator?

13 A. Yes.

14 Q. Were you aware that Brad Miller was working
15 for Mr. Geragos during the time period 2003,
16 February through March?

17 A. That is my understanding.

18 Q. Were you aware that Mr. Miller was working
19 for Mr. Geragos on other cases during that time?

20 A. I am not aware personally, no.

21 Q. Not personally, but through your
22 investigation, you became aware of that, did you
23 not?

24 MR. SNEDDON: I'll move to strike as
25 hearsay; lack of foundation.

26 THE COURT: Overruled.

27 You may answer.

28 THE WITNESS: As of, I believe, yesterday, I 12444

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1 heard somebody mention another case that they were
2 working on together.

3 Q. BY MR. SANGER: High-profile case, right?

4 A. Correct.

5 Q. And you would expect a lawyer and an
6 investigator working on a high-profile case --
7 having nothing to do with Mr. Jackson, right? The
8 case you just heard about, the case you heard about
9 had nothing to do with Mr. Jackson, correct?

10 A. Correct.

11 Q. You would expect that Mr. Geragos and Mr.
12 Miller, his investigator, would be having telephone
13 conversations about that high-profile case,
14 independent of anything to do with Mr. Jackson or
15 anybody associated with Mr. Jackson, right?

16 MR. SNEDDON: Same objection, Your Honor.

17 Lack of foundation; calls for speculation.

18 THE COURT: Sustained.

19 Q. BY MR. SANGER: In fact, when you look at
20 the records --

21 And I have here, Your Honor, 448, and this
22 is an envelope of records which were the Bradley
23 Miller records. And I want to turn to certain
24 pages.

25 Okay. As luck would have it, they're in a
26 different order. Give me just one second, Your
27 Honor.

28 I'm going to turn to the page that is the 12445

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1 telephone bill of January 8, 2003, and it's page 6
2 of 29, and I'd like to put that page up on the
3 screen, and it would be from Exhibit 448.

4 THE COURT: All right.

5 MR. SANGER: Thank you.

6 Q. I'm not going to go through all of these,
7 because they're in evidence, but just as an
8 example -- take a few examples here. Here on
9 November 30th of 2002, there is a call from the
10 Geragos law firm to Mr. Miller's phone; is that
11 correct?

12 MR. SNEDDON: Your Honor, I'm going to
13 object to this. November is way out of the time
14 frame of the purported testimony offered by the
15 prosecution. This is irrelevant and immaterial.

16 THE COURT: Overruled.

17 MR. SANGER: I don't know if there was an
18 answer, Your Honor.

19 THE COURT: No, there wasn't.

20 Q. BY MR. SANGER: So my question was, it
21 appears November 30th, 2002, there was a telephone
22 call from the Geragos & Geragos telephone system to
23 Mr. Miller; is that correct?

24 A. Correct.

25 Q. And let's see if we can -- I'm not going to
26 go through all of these again, but let me just do
27 some representative ones here.

28 If we -- I'd like to put up page 9 of 29, 12446

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1 the January 8th phone bill from Exhibit 448, if I
2 may.

3 Do you see an incoming call? Brad Miller's
4 phone receives a call from the Geragos & Geragos law
5 firm on December 5, 2002, correct?

6 A. That's correct.

7 Q. And you see down here a couple of calls.

8 One is an incoming call from the cell phone number
9 you had for Geragos & Geragos; is that correct?

10 A. That's correct.

11 Q. And that would be December 6th, 2002?

12 A. Correct.

13 Q. And it's followed by an outgoing call to the
14 Geragos cell phone on that same date, three minutes
15 later, right?

16 A. Correct.

17 Q. In fact, if we go through the records prior
18 to February 4, 2003, the records that you have that
19 start about November of 2002 and go through February
20 3, 2003, there's quite a number of calls, dozens of
21 calls between Mr. Miller's phone and the Geragos &
22 Geragos phones; is that correct?

23 A. I know now that there are three. We did not
24 extend beyond the relevant time frame during our
25 analysis.

26 Q. Well, and how did you determine the relevant
27 time frame?

28 A. Based upon what was happening with the 12447

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1 family and the events that occurred beginning in the
2 beginning of February and ending mid March.

3 Q. So when you say you're showing the phone
4 calls that are in the relevant time period, you're
5 saying that you believe somehow support your theory
6 in this case against Mr. Jackson; is that right?

7 MR. SNEDDON: I'm going to object to that
8 and ask counsel be admonished. It's argumentative.

9 THE COURT: Sustained.

10 Q. BY MR. SANGER: Saying the relevant time
11 period, you're talking about the time period that
12 you believe pertains to this case, right?

13 A. Correct.

14 Q. But you don't know that the phone calls were
15 made during that period of time. Let me withdraw
16 that.

17 You don't know whether or not the phone
18 calls made during that period of time had any
19 relation to this case?

20 A. I think I can, yes.

21 Q. You think some of them did?

22 A. Correct.

23 Q. Some of them -- there are calls being made
24 between Mr. Miller and Mr. Geragos that have
25 something to do with what he testified to that he
26 was doing in this case, we would assume, right?

27 A. Well, in addition to that, you have direct

28 calls between Mr. Geragos and the alleged 12448

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1 co-conspirators. You also have direct calls between
2 Mr. Miller and the alleged co-conspirators.

3 Q. That's right.

4 A. And calls between Mr. Geragos and Mr. Miller
5 during that same time frame.

6 Q. That's right. But when you put the calls
7 between Mr. Geragos and Mr. Miller up there, you
8 don't know how many of those pertain to this case
9 and how many of those pertain to the other
10 high-profile case you talked about, right?

11 MR. SNEDDON: Your Honor, I'm going to
12 object. It's argumentative and asked and answered.

13 THE COURT: Overruled.

14 THE WITNESS: No.

15 Q. BY MR. SANGER: And you also don't know how
16 many calls pertained to other things that relate
17 maybe to other cases or other matters, do you?

18 A. Not necessarily, no.

19 Q. Okay. Now, you said you only know of three.
20 I think I showed you four so far, but --

21 A. I remembered three, but if you showed me
22 four, I know four.

23 Q. All right. Let me ask you to do this,
24 because I really don't want to take up the Court's
25 time doing this, if I may.

26 What I'd like to do is take this off the
27 board, and I'm going to -- with the Court's

28 permission, I'm going to take Exhibit 448, which is 12449

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1 the actual court exhibit of the Brad Miller phone
2 records, and I'm going to also bring up a book with
3 some markers on it and let the witness take a look
4 at all of that and see if we can't identify some
5 more phone calls more quickly.

6 May I do that?

7 THE COURT: Fine.

8 MR. SANGER: Thank you.

9 THE WITNESS: Thank you.

10 Q. BY MR. SANGER: That's 448, and I'll show
11 you my book there, and you can do whatever you want
12 to answer this question. But what I'm going to ask
13 you, after you have a chance to flip through, there
14 appears to be some phone numbers that we already
15 highlighted and put some post-its there so you can
16 find them.

17 And what I'm going to ask you is, after you
18 reviewed that, if that would give you sufficient
19 information to tell me whether or not there appear
20 to be dozens of phone calls between Mr. Miller
21 and -- Mr. Miller's office and Mr. Geragos's office
22 prior to February the 4th, 2003.

23 A. I did it.

24 Dozens, as long as you're talking multiple,
25 as in two or three dozen, yes.

26 Q. Two or three dozen, all right.

27 May I approach with another exhibit, Your

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1 THE COURT: Yes.

2 Q. BY MR. SANGER: I was going to say while
3 counsel is looking at that, but by the way, the Law
4 Firm of Geragos & Geragos, you determined, has a
5 number of lawyers in it; is that correct?

6 A. I know of at least two --

7 Q. Okay.

8 A. -- personally.

9 Q. Personally you know of two?

10 A. Yes.

11 Q. All right. In fact, besides personally
12 knowing of two, there's five or six lawyers in the
13 firm, is there not?

14 A. I don't know.

15 MR. SNEDDON: I'm going to object to that.

16 Calls for speculation

17 THE COURT: It's overruled. He said he
18 doesn't know.

19 MR. SANGER: All right. I'm going to show
20 you what's been marked for identification as Exhibit
21 5108.

22 And, Your Honor, this was previously marked
23 for identification perhaps at a point when the jury
24 wasn't in the room, so if I may recite what it is.
25 It is a page from a telephone bill of February the
26 25th, 2003, to a number at the ranch, 688-1679. And
27 I believe Mr. Sneddon agreed to the foundation for

28 that. It hasn't been offered yet. 12451

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1 Q. Okay. So I'm asking you to look at Exhibit
2 5108. You've got that in front of you. And I'd
3 like you to look at the first entry, which is on
4 line 13, for February the 12th, a call at 12:55 a.m.

5 A. Okay.

6 Q. Does it appear that a call was made at 12:55
7 a.m. from the ranch to a particular number that's
8 shown there? Do you see it?

9 A. Yes.

10 Q. And it lasted about seven minutes. They
11 were billed for seven minutes?

12 A. Correct.

13 Q. All right. Do you recognize the number to
14 which that call was placed?

15 A. I do not.

16 Q. But you would agree that there is a call at
17 2:55 a.m. that's made from the ranch elsewhere; is
18 that correct?

19 A. 12:55 a.m.

20 Q. I'm sorry, 12:55 a.m., and it's made to a
21 local (805) area code --

22 A. Correct.

23 Q. -- destination.

24 All right. Thank you. And I have no
25 further questions.

26 //

27 //

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1 REDIRECT EXAMINATION

2 BY MR. SNEDDON:

3 Q. Detective Bonner, with regard to the exhibit
4 that was played for the jury, 808, I believe is the
5 exhibit --

6 MR. SANGER: It was 908-A.

7 MR. SNEDDON: I'm sorry.

8 MR. SANGER: 908.

9 MR. SNEDDON: 908? Thank you.

10 Q. 908-A, the one that was played in the
11 courtroom, the one that you marked the location of
12 the cameraman at the time it was made --

13 A. Correct.

14 Q. -- you were there at that location when that
15 film was made; is that correct?

16 A. Yes, I was.

17 Q. And you were obviously in the courtroom when
18 you heard it played for the jury?

19 A. Yes, I was.

20 Q. Was the sound of those chimes louder or
21 softer at the time that you were standing next to
22 the cameraman in the room than in the courtroom
23 here?

24 A. I would say it was consistent.

25 MR. SNEDDON: All right. Thank you very
26 much.

27 MR. SANGER: I have no further questions.

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1 MR. SANGER: Oh, maybe I do.

2 MR. SNEDDON: I'm just reminded, yeah,

3 before the witness leaves, that there was -- we

4 moved 416 into evidence and the Court held it back

5 until after Mr. Sanger had cross-examination, and we

6 would now move that 416 -- 460, I'm sorry. That's

7 how these problems occur -- 460 be admitted into

8 evidence.

9 MR. SANGER: Those are the --

10 MR. SNEDDON: Charts.

11 MR. SANGER: -- the charts. They're

12 cumulative to a certain extent, but I'll submit it.

13 THE COURT: Admitted.

14 Any other questions?

15 MR. SNEDDON: No, I don't have any

16 questions.

17 THE COURT: All right. You may step down.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: Call your next witness.

20 MR. SNEDDON: Your Honor, at this time I

21 have a document which I'd like to move -- I've had

22 marked as People's 902 for identification purposes.

23 I gave counsel a copy of it yesterday. I'll let him

24 examine it to make sure it's --

25 MR. SANGER: No, no. That's all right.

26 MR. SNEDDON: It's a document from the

27 Superior Court, the State of California, the County

28 of Los Angeles, and it's a five-page document, and 12454

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1 it is part of the lawsuit involving the Arvizos and
2 J.C. Penney. And I would move that this document be
3 admitted into evidence. It is certified by the
4 Clerk of the Court May 26th of 2005.

5 MR. SANGER: Your Honor, I have an objection
6 to that which I'll state in legal terms first.

7 The objection is that the document contains
8 hearsay, and the Court will have to look at it to
9 see what I'm talking about. There's a declaration
10 that's just hearsay, opinion.

11 Secondly, it's an incomplete document.

12 THE COURT: Wait. Who has the document?

13 MR. SNEDDON: I do, Your Honor. I'll --

14 MR. SANGER: It's an incomplete -- if I may
15 just finish my objection. Is that all right, Your
16 Honor?

17 THE COURT: Yes.

18 MR. SANGER: It's an incomplete document in
19 that it refers to Exhibits, I believe, A and B that
20 are not attached to this particular document, and it
21 is also one document that, besides being hearsay, is
22 out of context without those exhibits and without
23 the other documents surrounding it.

24 If you'd want us to approach, I was going to
25 pinpoint the objection.

26 MR. SNEDDON: I could state the relevancy,
27 which probably might be helpful to the Court. I

28 could do it from here or I could do it at the bench. 12455

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1 THE COURT: Why don't you approach.

2 (Discussion held off the record at sidebar.)

3 MR. SNEDDON: Your Honor, there is another
4 item.

5 THE COURT: All right.

6 MR. SNEDDON: There is a series of
7 photographs marked 889 through 897, which are the
8 photographs I believe that were relevant to the
9 testimony of Brett Barnes, and they were marked for
10 identification. They were authenticated by at least
11 two witnesses, and we move that they be admitted
12 into evidence.

13 MR. SANGER: And I missed the numbers on
14 that. I'm sorry.

15 MR. SNEDDON: 889 and 897. I believe the
16 letter is 897. The photographs are 889 to 896. And
17 there might even be a blank space in there.

18 MR. SANGER: Before we get to that, Your
19 Honor, just so the record is clear, I don't think
20 the Court ruled on the record.

21 BAILIFF CORTEZ: Your microphone's off, sir.

22 MR. SANGER: My fault, I'm sorry.

23 I don't think the Court ruled on the record
24 with regard to 902.

25 THE COURT: All right. I'm ruling at this
26 point, without further information, it's
27 inadmissible.

28 MR. SANGER: Now, with regard to what was 12456

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1 just offered, quite frankly, I'd have to take look
2 at it to see what we're talking about.

3 THE COURT: 889 --

4 MR. SANGER: Could I approach your clerk? I
5 believe she's retrieving them.

6 THE COURT: Yeah. 889 through 897. 895 has
7 not been identified, so it wouldn't include 895.

8 MR. SANGER: Let me show them to Mr.
9 Mesereau.

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

12 MR. SANGER: Your Honor, as far as the
13 photographs are concerned, which are 889 through
14 896, minus 895, which is not being offered, we would
15 have no objection to that series.

16 With regard to the letter, which is 897,
17 that's hearsay, and we would object.

18 THE COURT: 889 - let me see those, please -
19 through 896 are admitted.

20 895, not having been identified, it's not
21 one of the ones I'm admitting.

22 MR. SANGER: With regard to the letter -- I
23 just gave it back. Whatever number that was. 897?

24 THE COURT: Yes.

25 MR. SANGER: I'll object as hearsay, but I'd
26 also object that this is not proper rebuttal. This
27 is something that occurred during the defense case

28 or was brought up during the defense case, and if it 12457

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1 was going to be moved in, it should have been moved
2 in then. But it's still hearsay, so I don't think
3 it comes in either way.

4 THE COURT: Do you want to speak to the
5 hearsay issue?

6 MR. ZONEN: Yes, Your Honor.

7 It's reflective of the declarant's state of
8 mind. She was cross-examined extensively about that
9 letter. The author of that letter was a witness for
10 the defense during the defense case. And that
11 letter, without getting into the content of it,
12 reflects her feelings and views of the relationship
13 between she, the defendant and her child, and I
14 believe it's relevant for that, in that regard.

15 THE COURT: I'll take this up later.

16 MR. ZONEN: Would you like a typed copy of
17 that? It's easier to read in a typed copy.

18 THE COURT: If you have one.

19 MR. ZONEN: I don't know that I have one
20 here, but I will get one for you as soon as
21 possible.

22 THE COURT: Okay.

23 MR. SANGER: Will you give us a copy of the
24 typed copy?

25 MR. ZONEN: Yes.

26 THE COURT: Go ahead.

27 MR. AUCHINCLOSS: Your Honor, at this time

28 we would like to publish for the jury seven 12458

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1 different documents from the 400 series of
2 documents, all in the 400 notebook. These were the
3 documents that were admitted pursuant to a search of
4 the home of Marc Schaffel.

5 I can proceed in a couple of ways. There's
6 two of the documents that will require reading,
7 either by myself or by the jury. So those will take
8 just a little bit of time. And I can publish them
9 on the Elmo and give the jury time to read them.

10 The other documents are short and should be pretty
11 quick to get on and off the screen.

12 So I'm happy to proceed any way you'd like
13 me to. These documents, by the way, are not part of
14 our rebuttal case. They were admitted at the end of
15 the People's case, and we did not have a chance to
16 publish them because of that.

17 THE COURT: And I said I would allow you to
18 publish them.

19 MR. AUCHINCLOSS: How would you like me to
20 proceed? Just to put them on the Elmo and give the
21 jury time to read them?

22 THE COURT: That's fine.

23 MR. AUCHINCLOSS: All right. Very well.

24 I'll just mention each document as I'm placing it on
25 the Elmo.

26 THE COURT: All right.

27 MR. SANGER: Your Honor, could we just

28 approach for a moment? Could we approach for a 12459

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1 moment?

2 THE COURT: Yes.

3 MR. SANGER: Thank you.

4 (Discussion held off the record at sidebar.)

5 (Off-the-record discussion held at counsel

6 table.)

7 MR. AUCHINCLOSS: I believe counsel's just

8 going to take a moment to look at the documents

9 before I publish them.

10 THE COURT: That's what we agreed to.

11 MR. SANGER: Based on the representation

12 that each of these has actually been received -- I

13 know the Court had some rulings, but based on that

14 representation, I have no objection.

15 THE COURT: All right. Thank you.

16 MR. AUCHINCLOSS: All right. Your Honor, if

17 I could please have the Elmo.

18 MR. SANGER: I would object to any reading.

19 I mean, introduce what it is, but I don't think

20 there should be further discussion, except to say,

21 "This is Exhibit so and so."

22 MR. AUCHINCLOSS: That's my intention.

23 And if I could confirm with Madam Clerk, was

24 419 received into evidence? 419, page three?

25 THE CLERK: Yes. Yes. Yes, it was.

26 MR. AUCHINCLOSS: Thank you.

27 The first exhibit will be 419, page three,

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1 (Whereupon, People's Exhibit 419, page
2 three, was published to the Court and jury.)

3 MR. AUCHINCLOSS: The next exhibit will be
4 418-A.

5 THE CLERK: 418-A was not received.

6 MR. AUCHINCLOSS: 418-A?

7 THE CLERK: 418, page three, was received.

8 MR. AUCHINCLOSS: Yes, okay. But 418-A?

9 THE CLERK: Was not received.

10 MR. AUCHINCLOSS: Not received, okay.

11 418?

12 THE CLERK: That was received.

13 (Whereupon, People's Exhibit 418 was
14 published to the Court and jury.)

15 MR. AUCHINCLOSS: The next exhibit I'll ask
16 to publish is Exhibit 417, page 12.

17 (Whereupon, People's Exhibit 417, page 12,
18 was published to the Court and jury.)

19 MR. AUCHINCLOSS: I'll show a wide-angle
20 view, and then I'll close in on the text portion.

21 THE COURT: Counsel, we're going to stop just
22 for a second.

23 Go ahead, Alternate.

24 MR. SANGER: Could we use the moment to
25 approach on a different matter at this time?

26 THE COURT: Yeah.

27 MR. SANGER: I think with Mr. Sneddon on

28 this one. 12461

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1 I'm sorry, Mr. Sneddon.

2 MR. SNEDDON: What's the matter?

3 MR. SANGER: Approach.

4 MR. SNEDDON: May I know what it's about?

5 (Off-the-record discussion held at counsel
6 table.)

7 (Discussion held off the record at sidebar.)

8 MR. AUCHINCLOSS: May I proceed, Your Honor?

9 THE COURT: Yes.

10 MR. AUCHINCLOSS: The next exhibit I will be
11 publishing will be Exhibit No. 410, page two.

12 (Whereupon, People's Exhibit 410, page two,
13 was published to the Court and jury.)

14 MR. AUCHINCLOSS: And the next exhibit I
15 will be publishing will be 407, pages two and three.

16 And this one will take a little bit of time. These
17 next two are -- have some text in them, so I'll
18 probably move in close and then gradually move down
19 the page, with the Court's permission.

20 (Whereupon, People's Exhibit 407, page two,
21 was published to the Court and jury.)

22 MR. AUCHINCLOSS: If I may, I'll move the
23 letter down.

24 (Whereupon, People's Exhibit 407, page two,
25 continued to be published to the Court and jury.)

26 MR. AUCHINCLOSS: And finally, I'll move on
27 to page three now.

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1 three, was published to the Court and jury.)

2 MR. AUCHINCLOSS: And then the last exhibit

3 we'll be publishing at this time is Exhibit No. 405.

4 I'll also move this down slowly to give everyone a

5 chance to read it.

6 (Whereupon, People's Exhibit 405 was

7 published to the Court and jury.)

8 MR. AUCHINCLOSS: All right. Thank you very

9 much, Your Honor.

10 THE COURT: Mr. Sneddon?

11 MR. SNEDDON: Yes, Your Honor.

12 THE COURT: Do you have the -- remember that

13 short brief you gave me on the issue on this tape,

14 on this DVD?

15 MR. SNEDDON: Do I remember the issue?

16 THE COURT: Do you have the brief that you

17 provided me with?

18 MR. SNEDDON: On this issue?

19 THE COURT: Yeah.

20 MR. SNEDDON: I -- I -- I'm not sure if I

21 do. Could I check my briefcase?

22 THE COURT: Yes. I don't have mine at bench,

23 so I was just wondering if someone had it.

24 MR. SNEDDON: Oh, on the -- yes, sir, I know

25 what you're talking about.

26 I'm sorry, Your Honor, I did not bring my

27 copy with me. I think Mr. Auchincloss can retrieve

28 it on his computer, but to get it printed out would 12463

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1 be another thing.

2 THE COURT: Okay. Are you going to -- are
3 you preparing to play that now?

4 MR. SNEDDON: I was. I have a few questions
5 to ask to lay the foundation, but I can have
6 somebody run upstairs and print it out. It may be
7 on -- should be on Mag's computer, isn't it?
8 Your Honor, I think Mr. Nicola has it on his
9 computer as well, and we can go up and print it out
10 and have it down here, I think, in just a couple of
11 minutes.

12 THE COURT: All right. I appreciate it.

13 MR. SNEDDON: Would you like me to go ahead
14 and at least lay the foundation?

15 THE COURT: Yes. Go ahead.

16 MR. SNEDDON: All right. I'll call Sergeant
17 Robel back to the stand, Your Honor.

18 THE COURT: You're still under oath. You may
19 be seated.

20

21 STEVE ROBEL

22 Having been previously sworn, resumed the
23 stand and testified further as follows:

24

25 DIRECT EXAMINATION

26 BY MR. SNEDDON:

27 Q. Sergeant Robel, in conjunction with your

28 assignment involved in this investigation, did you 12464

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1 conduct an interview with Gavin Arvizo?

2 A. Yes, I did.

3 Q. Do you recall when the first time it was

4 that you interviewed Gavin Arvizo?

5 A. Yes, I do.

6 Q. And when was that?

7 A. I believe it was July the 6th, 2003.

8 Q. And where did that interview take place?

9 A. In the City of Santa Barbara.

10 Q. And where in the City of Santa Barbara?

11 A. At the SART Cottage.

12 Q. And what does "SART" stand for?

13 A. Sexual Assault Response Team. It's a
14 building that we use to conduct forensic interviews.

15 Q. And was the conversation and interview that

16 you conducted that day with Gavin Arvizo

17 tape-recorded?

18 A. Yes, it was.

19 Q. Was it also videoed?

20 A. Yes, it was.

21 Q. And was there another officer who

22 participated with you in that interview?

23 A. Yes, there was.

24 Q. And who was that?

25 A. Detective Paul Zelis.

26 Q. Now, you have had occasion since then to

27 review the tape of the interview with Gavin Arvizo,

28 correct? 12465

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1 A. Yes, I have.

2 Q. And you've actually done that on a number of
3 occasions?

4 A. Yes, I have.

5 Q. Now, with regard to the original interview,
6 what media format was that done in?

7 A. VHS.

8 Q. And you've reviewed that VHS tape; is that
9 correct?

10 A. Yes, I have.

11 Q. And later, for purposes -- well, later, that
12 VHS was converted into a digital form; is that
13 correct?

14 A. Correct.

15 Q. And have you had occasion to review the
16 digital form of the interview between you and Gavin
17 Arvizo?

18 A. Yes, I have.

19 Q. And have you -- with regard to the VHS
20 original and the DVD copy that was made, do they
21 appear to you to be the same?

22 A. Yes, they do.

23 MR. SNEDDON: Your Honor, I believe that we
24 have previously marked People's 900, and it was
25 marked for identification purposes at that time, and
26 we would now move that People's Exhibit 900 be
27 admitted into evidence.

28 MR. SANGER: We object, of course, but if 12466

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1 it's admitted, it's admitted for a limited purpose.

2 THE COURT: It is.

3 MR. SNEDDON: With that understanding, Your

4 Honor, and --

5 THE COURT: It's admitted.

6 MR. SNEDDON: -- I'm afraid I've stalled as

7 long as I can.

8 THE COURT: Maybe we'll just start the break.

9 The reason I wanted that is, I want to give

10 a limiting instruction, and I'm trying to develop

11 some words, and so I think we'll just break early so

12 I can look at that. I don't want to show the tape

13 till we've done that.

14 MR. SNEDDON: I understand. That's -- I

15 understand fully. Thank you.

16 THE COURT: Send it back to me as soon as

17 you --

18 MR. SNEDDON: I'm sorry?

19 THE COURT: Send it back as soon as you get

20 it.

21 MR. SNEDDON: Oh, send it back. Yes, sir.

22 (Recess taken.)

23 THE COURT: (To the jury) I was going to

24 say, "Would you step out for a minute?" but I got

25 the laugh anyway.

26 All right. What I've been working on, what

27 we've been working on, is an instruction here, and

28 this is an instruction as it relates to this 12467

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1 evidence that the District Attorney is about to
2 present:

3 You have previously heard evidence of
4 Gavin's statements presented by both the prosecution
5 and the defense. You are about to hear and see a
6 tape-recording of the interview of Gavin Arvizo by
7 Sergeant Robel and Detective Zelis in July of 2003.

8 This is being shown to you only to observe
9 the demeanor, manner and attitude of the witness.

10 His statements are not to be considered for the
11 truth of the matter stated.

12 Since the evidence is offered for this
13 limited purpose, the defense is only permitted to
14 offer rebuttal evidence for this limited purpose.

15 All right. You may proceed.

16 MR. SNEDDON: Your Honor, we're prepared to
17 show the video at this time, and I would request
18 that Sergeant Robel be allowed to sit back here so
19 he wouldn't be in the way for people to see the
20 video.

21 THE COURT: Yes.

22 MR. SNEDDON: Is that okay with the Court?

23 THE COURT: Yes.

24 MR. SNEDDON: All right. Fine.

25 I think I should indicate for the record,
26 this is Exhibit 900. It's in evidence.

27 THE COURT: And you should tell everyone

28 about how long it will take to play it. 12468

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1 MR. SNEDDON: Oh, okay. It's about one hour
2 and four minutes long.

3 THE COURT: All right.

4 (Whereupon, a DVD, People's Exhibit 900, was
5 played for the Court and jury.)

6 MR. SNEDDON: I have no further questions,
7 Your Honor.

8 THE COURT: Mr. Sanger?

9

10 CROSS-EXAMINATION

11 BY MR. SANGER:

12 Q. All right. I only have a couple of areas to
13 cover with you here.

14 The first one is that there's sniffing you
15 hear throughout that tape. Did you hear that?

16 A. Yes.

17 Q. That was Detective Zelis; is that right?

18 A. On a couple occasions it was Detective
19 Zelis. He had a cold.

20 Q. A couple of occasions?

21 A. There were occasions that it was Gavin as
22 well.

23 Q. And I saw you giving Gavin Kleenex to help
24 him with his sniffing?

25 A. No, he was wiping his nose with his finger.

26 Q. And you would agree, if people watch that,
27 they can form their own opinion on that?

28 MR. SNEDDON: I'll object as argumentative. 12469

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1 THE COURT: Sustained.

2 Q. BY MR. SANGER: All right. Now, the other
3 thing I want to ask you about is, and this relates
4 to the demeanor of Gavin Arvizo, because that's our
5 limited scope here, okay?

6 The demeanor of somebody when you're --

7 well, let me put this in context. Excuse me.

8 I think we've already been over this, but

9 you've been a police officer for a long time,
10 correct?

11 A. Correct.

12 Q. And you've conducted many, many interviews;
13 is that correct?

14 A. That's correct.

15 Q. And you've conducted many, many
16 interrogations; is that correct?

17 A. Correct.

18 Q. All right. And there's a difference between
19 an interview and an interrogation, correct?

20 A. Correct.

21 Q. An interview, you're listening, you're
22 taking notes, you're hearing what has to be said,
23 right?

24 A. Correct.

25 Q. An interrogation, you're trying to get
26 somebody to tell you something. You think they're
27 not maybe being forthcoming. You want to

28 interrogate them and get it out of them; is that 12470

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1 right?

2 A. That's correct.

3 Q. All right. This was an interview, not an

4 interrogation, correct?

5 A. Correct.

6 Q. And the demeanor of a person will differ --

7 in your vast experience in this regard, the demeanor

8 of a person is going to be affected by whether or

9 not you're doing an interrogation or an interview,

10 correct?

11 A. In a way, I don't agree totally with that.

12 Q. Let's start with this: Do you agree mostly

13 with that?

14 A. When you're interviewing adults versus

15 children, there is a difference in their demeanor,

16 whether -- and even interviewing children, there's a

17 major change in their -- even if it's a friendly

18 interview, you're going to see behavioral changes in

19 a child versus an adult.

20 Q. All right. You may be reading more into the

21 question than I thought there, but the fact is, if

22 you're saying to somebody in a situation where you

23 are interrogating them and challenging what they are

24 telling you, that is likely to have an effect on

25 their demeanor, as opposed to simply interviewing

26 them and listening to what they have to say, right?

27 A. That is correct.

28 Q. And in this particular case, Gavin was 13 12471

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1 when you did this interview; is that correct?

2 A. Yes, he was.

3 Q. And, for instance, there's a part where you
4 ask him what an erection was, if he knew what an
5 erection was; is that right?

6 A. Yes.

7 Q. And this 13-year-old boy told you he knew
8 what it was because Michael Jackson had told him.

9 Remember that?

10 A. He shook his head and -- I even had a hard
11 time hearing what he said, but he shook his head as
12 "Yes." I couldn't say exactly if he said it was
13 Michael or not at this point.

14 Q. Okay. Whatever it is, it's on there.

15 A. Right.

16 MR. SNEDDON: Your Honor, I'm going to
17 object to counsel's statements and move to strike.

18 THE BAILIFF: Can't hear you.

19 MR. SNEDDON: Object to counsel's statements
20 and move to strike.

21 MR. SANGER: It's actually foundational to
22 the next question.

23 MR. SNEDDON: Well, it --

24 MR. SANGER: But, whatever.

25 THE COURT: Sustained.

26 Q. BY MR. SANGER: Okay. My point is, whatever
27 he said, whatever he said in response to the

28 questions as to whether or not this 13-year-old boy 12472

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1 knew what an erection was, you did not challenge him
2 at that point and say, "Well, what do you mean?
3 You're 13 and you're telling me you don't know what
4 an erection is," right?

5 A. No, I did not.

6 Q. All right. And you would agree that if you
7 had conducted an interview in that fashion, that
8 that might have resulted in a different demeanor on
9 the part of the witness that you were interrogating;
10 is that correct?

11 A. Can you ask that again, please?

12 MR. SANGER: Probably not.

13 THE COURT: Do you want it read back?

14 THE WITNESS: Yes, please.

15 MR. SANGER: If we can read have it back, if
16 that's all right, Your Honor.

17 (Record read.)

18 MR. SANGER: Now that it was read back, I
19 actually used two words there that probably aren't
20 compatible. Can I withdraw it and make it more
21 clear?

22 THE COURT: Yes.

23 Q. BY MR. SANGER: You indicated you were
24 conducting an interview and not an interrogation, so
25 my question is, if you had used interrogative
26 techniques in response to questions like that, you
27 would expect to see a different demeanor on the part

28 of the subject, no matter who it is, right? 12473

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1 A. Asking that particular question? Is that --

2 Q. Sure. I was just using that as an example.

3 A. Under interrogation versus interview.

4 Q. Yeah. You'd expect to see a different

5 demeanor, correct?

6 A. Possibly.

7 MR. SANGER: Okay. Thank you. I have no

8 further questions.

9

10 REDIRECT EXAMINATION

11 BY MR. SNEDDON:

12 Q. Sergeant Robel, in the course of your

13 training, you have been to a number of classes and

14 training exercises dealing with the specific

15 interview of child sexual assault cases, have you

16 not?

17 A. Yes. Several.

18 Q. And have you ever been to a class where

19 they've told you to use the interrogation and

20 techniques that you would use with an adult with a

21 kid in that setting?

22 A. No.

23 MR. SANGER: I would object, Your Honor, as

24 beyond the scope of cross and outside the limited

25 issue.

26 THE COURT: Sustained.

27 Q. BY MR. SNEDDON: Would you ever use an

1 victim?

2 A. No, I wouldn't.

3 MR. SANGER: Objection; outside the scope.

4 MR. SNEDDON: Judge, he asked specifically
5 that question.

6 THE COURT: Overruled.

7 You may answer.

8 THE WITNESS: I would not. It's --

9 Q. BY MR. SNEDDON: Why?

10 A. Because interviewing a child, he is -- this
11 person is a victim, not a suspect, and in this
12 particular interview, I was trained in forensic
13 interviewing, and that is interviewing and not
14 interrogation.

15 MR. SNEDDON: Nothing further.

16

17 RE-CROSS-EXAMINATION

18 BY MR. SANGER:

19 Q. And that decision is based on the fact that
20 you assumed that this individual was a victim,
21 correct?

22 A. I assumed to -- the charges that I was
23 investigating, the alleged charges, yes.

24 MR. SANGER: Thank you. No further
25 questions.

26 MR. SNEDDON: Nothing further, Your Honor.

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

28 MR. SNEDDON: Your Honor, we have no further 12475

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1 evidence to present in rebuttal.

2 I would indicate to the Court, however, that
3 with regard to the document that we went to the
4 Court -- to sidebar on, which I believe is 902, that
5 I would like the opportunity to present further
6 documentation on Tuesday morning on that issue, so I
7 could rest contingent upon that.

8 THE COURT: Is that agreeable with you?

9 MR. MESEREAU: Yes, sir.

10 THE COURT: All right.

11 MR. SNEDDON: Thank you, Your Honor.

12 Thank you, Counsel.

13 THE COURT: I was trying to remember what
14 document that was, but now I do remember.

15 MR. SNEDDON: Do you remember now?

16 THE COURT: I do. So now I'm -- I would
17 allow you to try to resubmit that. That was taken
18 under that --

19 MR. SNEDDON: Thank you.

20 MR. SANGER: Before we proceed, could we
21 have a moment to talk?

22 THE COURT: Well, you can have a break if
23 you'd like.

24 MR. SANGER: Very well.

25 THE COURT: But I wouldn't want to have to
26 take a break and then come back and you weren't
27 going to do anything.

28 MR. MESEREAU: Let me talk to counsel if I 12476

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1 can, Your Honor.

2 MR. SANGER: Can we just have a moment?

3 THE COURT: Yeah.

4 Let me make a ruling. Counsel? You don't
5 have to move. I'm just -- I am going to sustain the
6 hearsay objection to 897.

7 (Discussion held off the record among the
8 defense team.)

9 MR. MESEREAU: Your Honor, the defense
10 rests.

11 THE COURT: All right. Both sides have
12 rested subject to one document.

13 MR. SNEDDON: That's correct, Your Honor.

14 MR. ZONEN: Your Honor, there's one
15 additional document that the Court has under
16 submission as well. That's the letter. And I did
17 furnish --

18 MR. SNEDDON: He just ruled on that.

19 MR. ZONEN: Oh.

20 THE COURT: I just ruled it was hearsay.

21 MR. ZONEN: Oh, I'm sorry.

22 MR. SNEDDON: You lost it.

23 THE COURT: And I sustained the objection.

24 MR. ZONEN: It's not the first time.

25 THE COURT: (To the jury) All right. Then
26 you have heard all of the evidence that you're going
27 to hear in this case. What remains for the Court

28 and the attorneys is the process to agree and work 12477

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1 out jury instructions.

2 It's hard for me to estimate how much time
3 that's going to take. I know it's going to take a
4 day. I know that. I mean, that's a minimum. And
5 that means that you would not come in on Tuesday.

6 So Monday is a holiday, right?

7 Okay. Tuesday you're not going to come in
8 because we're going to go over jury instructions.

9 Now, what I'm going to have you do is to
10 call in on Tuesday afternoon at -- let's say, you
11 know, not before -- say at four o'clock, and there
12 will be a message on whether you're to come back in
13 on Wednesday or -- yeah, Wednesday or Thursday. And
14 that depends on whether we get all of our jury
15 instructions done, and I think we will. I really
16 think we will, but I don't want you coming in and,
17 you know, have to wait around. I just don't want
18 that. I want us to be done with our job before you
19 come back.

20 Now, is there a number -- what number can I
21 give them? What's your number, Leslie?

22 THE BAILIFF: Mine?

23 THE COURT: No, no.

24 THE BAILIFF: Mine?

25 THE COURT: No, I need -- what's a number to
26 give them so that we can have a message for them?

27 Should they call Jury Services?

28 THE BAILIFF: Jury Services would be the 12478

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1 best number.

2 THE COURT: You know what? If you'll go back
3 in the jury room, I'll release -- just stay there
4 until the bailiff comes back and gives you a number
5 to call. So it's kind of -- I know it puts you on
6 this kind of a situation, but it's better to do it
7 Tuesday afternoon than Wednesday morning.

8 MR. SANGER: Your Honor, could there be an
9 admonition, given the long weekend?

10 THE COURT: Oh, yes.

11 MR. SANGER: Thank you.

12 THE COURT: I will admonish you to remember
13 you're not to discuss the case with anyone. You're
14 still not to form any opinions or conclusions,
15 because until you know the law, until you hear the
16 law, until you hear the argument of counsel, you
17 really aren't allowed to decide this case. You've
18 got to wait till that moment when everything has
19 been done for you to decide the case.

20 You're not to go to any place mentioned in
21 the evidence for the purpose of investigation or
22 trying to find out for yourself. You're not to
23 consult any written works, legal works or other
24 works, to try and help you in this case. Remember,
25 you can only decide the case from what you hear on
26 the witness stand and the evidence that comes in.
27 You're not to watch any news events, any

28 news programs. You're not to read any newspapers or 12479

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1 magazines relating to this case.

2 And there's an admonition, too, that I never
3 have to give a jury, and you're going to hear about
4 it in the final instructions, but there is a rule of
5 law that prevents jurors, after the case is over,
6 from charging compensation for giving information or
7 accepting compensation for giving information about
8 your experience.

9 And I alert you to that, because it's not
10 something we usually read, you know. It's not
11 something you really -- jurors aren't usually
12 offered compensation or have that opportunity. But
13 I wanted to just advise you in advance there is some
14 specific laws about that that affect all of you, and
15 I will give you the actual law when I read it to you
16 next week.

17 And I'll see you probably on Wednesday, but
18 we'll get this phone number for you in just a couple
19 minutes.

20 Take them back and --

21 BAILIFF CORTEZ: Yes, sir.

22

23 (The following proceedings were held in
24 open court outside the presence and hearing of the
25 jury:)

26

27 THE COURT: All right. Is there any reason

28 not to recess until -- 12480

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1 MR. MESEREAU: I don't think so, Your Honor.

2 THE COURT: -- until Tuesday morning?

3 MR. MESEREAU: I don't think so.

4 THE COURT: You'll be prepared in every

5 respect with your jury instructions, any that you

6 don't have?

7 MR. MESEREAU: If I may, Your Honor, I think

8 I may have spoken prematurely. There was an issue

9 yesterday that --

10 THE BAILIFF: Can't hear you.

11 MR. MESEREAU: There was an issue

12 yesterday --

13 MR. SNEDDON: Microphone.

14 Gordon? He wants to use the mike.

15 MR. AUCHINCLOSS: Oh.

16 THE COURT: My secretary's reminding me that

17 there was a motion that you're going to file to seal

18 those phone records, Mr. Geragos's phone records.

19 MR. SNEDDON: I'll take care of that. We'll

20 have it on Tuesday morning.

21 MR. SANGER: I believe the representation

22 was that the motion was going to be to seal

23 everybody's phone records.

24 THE COURT: All phone records, yeah. Okay.

25 MR. MESEREAU: Your Honor, there was an

26 issue yesterday where I stipulated to some e-mails

27 that it appeared had been sent from Mr. Miller's

28 office to Mr. Geragos's office. I later learned 12481

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1 that there was some documents attached to that
2 exhibit that were not strictly e-mails. I think Ms.
3 Yu and Mr. Zonen met with you about that.

4 THE COURT: They did.

5 MR. MESEREAU: And I was not stipulating to
6 the non-e-mail documents. And I did discuss that
7 with Mr. Zonen as well. I don't -- I think --

8 THE COURT: They're not -- that was
9 explained to me. Those are not in evidence.

10 MR. MESEREAU: Yeah, okay. Thank you, Your
11 Honor.

12 MR. ZONEN: The entire packet has been
13 withdrawn; is that right?

14 THE COURT: The entire packet has been
15 withdrawn. Make sure my clerk knows the number of
16 that packet.

17 MR. ZONEN: Okay.

18 THE COURT: Anything else?

19 MR. MESEREAU: Not from the defense, Your
20 Honor.

21 MR. AUCHINCLOSS: Just one minor detail,
22 Your Honor. We now have the redacted portion of
23 908-A, and we'll submit that to the Court for
24 admission at this time.
25 908, we will -- it's marked, and it will be
26 an exhibit, but we will not ask for its admission.

27 MR. SANGER: And out of an abundance of

28 caution, it's the old pig in a poke as opposed to 12482

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1 the horse in the arena thing. I should probably
2 listen to it once. It's only 40 seconds.

3 MR. AUCHINCLOSS: I have a copy for defense
4 counsel.

5 MR. SANGER: Maybe what I could do is just
6 play it here. After you leave the bench, play it
7 here real quick, listen to it. If it's okay, we
8 will submit it. If not, we'll bring it up Tuesday
9 morning.

10 THE COURT: That's fine.

11 MR. SNEDDON: What time did the Court want
12 us here Tuesday morning, Your Honor?

13 THE COURT: We're going to conduct court the
14 same time as we have.

15 MR. SNEDDON: Regular hours, okay.

16 THE COURT: Okay?

17 MR. SANGER: Okay. Thank you, Your Honor.

18 THE COURT: I intend to do that during
19 deliberations, too. Deliberations will only be
20 during the same hours as we've had court.

21 (The proceedings adjourned at 1:25 p.m.)

22 --o0o--

23

24

25

26

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1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE OF)

5 CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR, CSR

13 #3304, Official Court Reporter, do hereby certify:

14 That the foregoing pages 12379 through 12483

15 contain a true and correct transcript of the

16 proceedings had in the within and above-entitled

17 matter as by me taken down in shorthand writing at

18 said proceedings on May 27, 2005, and thereafter

19 reduced to typewriting by computer-aided

20 transcription under my direction.

21 DATED: Santa Maria, California,

22 May 27, 2005.

23

24

25

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

27 OFFICIAL COURT REPORTER

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