The R.M.C. 803 session was called to order at 1429, 15 March 2017.

MJ [Col SPATH]: These commissions are called to order. All the parties are again present.

Trial Counsel, call your next witness.

TC [MR. MILLER]: Thank you, Your Honor. The government recalls Jane Rhodes.

MJ [Col SPATH]: Ms. Rhodes-Wolfe, come on in and have a seat. I know you're the same Ms. Rhodes-Wolfe who testified a couple of days ago. Just remember you're still under oath.

WIT: Thank you.

JANE RHODES-WOLFE, civilian, was recalled as a witness for the prosecution, was reminded of her previous oath, and testified as follows:

DIRECT EXAMINATION

Questions by the Trial Counsel [MR. MILLER]:

Q. Good afternoon.

A. Good afternoon.

Q. I'd like to now -- we've discussed sort of generally what has occurred and specific pieces of evidence which you had collected. I'd like to talk about now is the intake or what I call the evidence custodian responsibilities or duties that you may have performed.
A. Okay.

Q. If we could return to that and if you could again provide us with a brief explanation as to where that particular station was on the ship.

A. As I mentioned yesterday, it was a briefing room somewhere below deck. I don't think I could find it if I was on board the ship, but we had been provided control over that room, and we were able to secure it at night. I don't recall if -- exactly how we did that, but I know that we felt confident that we could secure that room at night or when we were in not present.

And then in the subsequent days following our first days on the ship, we were able to use a CONEX trailer or something along those lines within the Marine encampment. So at the end of the day -- again, this did not occur on the very first day. It took us a few days to really develop a process and have better access to resources, and at that time then we would secure things in this CONEX trailer within the Marine area.

Q. When you say we, was there another individual working with you, another agent?

A. Yes. Special Agent Dayna Better, and then really the other agents that were within our team as well, too. It was a
joint -- a team effort. And so at the end of the day, we had
to take a little boat from the refueling area back to land
and, depending upon the time of day when we arrived, it was
either a two-foot leap up on to the platform or it was a
five-foot leap, so it's a joint effort to get people and items
back on to the land.

Q. When an item was presented to you, how would you
process it as the evidence custodian?
A. We would indicate it -- as we looked at the materials
in the last couple days, we would then complete the
information on the outside of one of the brown bags or use one
of the plastic bags and then complete that initial information
at that time.

Q. All right. I show you what is Prosecution
Exhibit 22CD -- 22C, excuse me, for Identification. Do you
recognize that, ma'am?
A. This is a chain of custody that I see -- I see my
name on it referenced as storage on 10/22.

Q. All right. Would you agree -- does that show that
you would have received it as the evidence custodian?
A. Yes. That would have indicated I received it from
Tom O'Connor and that it was placed into storage that same day
on 10/22.
Q. All right. And that indicates -- so we sort of use this as a demonstrative aid also. That shows that you received that from Tom O'Connor. It shows the case ID number, correct?

A. Yes, it shows the case -- which is my handwriting as well, the 262 New York, NY-277031 [sic]. So yes, that indicates I'm taking it in for storage, and it is related to the USS COLE investigation.

Q. It has a 1B number?

A. Yes, 1B775. And an item number, W102, which would indicate it had been recovered from the water.

Q. Okay. All right. Now, if I could, what is a 1B number again, for the record?

A. Yes. Thank you. The 1B number is an evidence number that is assigned within the FBI case file. That would not have been assigned while we were in Yemen. That would have been assigned later.

Q. All right. That is a number unique to that particular evidence bag, correct?

A. That is correct. So within a case file, there would be only one 1B775.

Q. And the item number?

A. The item number was within our own control mechanism
or recordkeeping on board the -- while we were in Yemen for us to be able to identify, in very general terms, where it was recovered from. And then we had a numerical sequencing that we would use to track it as well.

Q. Again, that is a unique number for each evidence bag, correct?

A. Yes. That would have been our plan, yes.

Q. And how did you -- you indicated you used that as an internal mechanism?

A. Yes. Because since the 1B number is not generated automatically, we needed to have an internal system by which we would determine if it came from Deck 01, the water; I think there was some items from the beach, other areas that were associated with the USS COLE.

Q. All right. Now, as to this particular form, there is a -- it looks like it's Mr. O'Connor, Tom O'Connor, who brought this, correct?

A. I see O'Connor, so I would assume that that was Tom O'Connor, but, yes.

Q. Did you print his name or did he?

A. I can't say for sure. O'Connor -- that O'Connor handwriting looks like mine, but that -- the signature above his name does not look like mine -- my handwriting, but
O'Connor does appear to be my handwriting.

Q. Why would you do that?
A. It may have just been for time efficiency as well, too, when given Tom's responsibilities recovering the victims; just may have helped to assist in the administrative duties, and for clarity. It looks like his signature may be worse than mine, so perhaps I was just attempting to keep that clear.

Q. All right.
MJ [Col SPATH]: That item number, is that your handwriting?
WIT: Item -- yes, W102.
MJ [Col SPATH]: W102.
WIT: Looks like mine, yes.
Q. And the things -- storage, that's yours also?
A. Yes. That is mine as well.
Q. So again, you accepted this from him on the 22nd of October at 12:30, correct?
A. That is correct.
Q. All right. I'm sorry. That was 22, 22C.
MJ [Col SPATH]: Say again.
TC [MR. MILLER]: 22C, Your Honor.
Q. I'll show you Prosecution Exhibit 41C. Do you
recognize that, ma'am?

A. Yes, I do. It contains the New York file number for the USS COLE. I see my handwriting on there multiple times and my signature a couple of times.

Q. Does it show that you accepted it from the person who collected the evidence?

A. Yes, it does.

Q. And that you accepted it as the evidence custodian on October 20 -- 22, at 2:45 p.m.?

A. That I placed it into storage at that time, yes.

Q. All right. And again that would have been for the evidence marked with the 1B number of 1B875, item number W119, correct?

A. Yes. I -- it's a little fuzzy on my screen, but yes, I see 119 on the large screen. Thank you.

Q. 44. 44 is next. I show you Prosecution Exhibit 44C. Ask you, ma'am, do you recognize that?

A. Yes, I do. Again, I see my handwriting with the file number, and then I see my signature in two different -- on two different lines of the form.

Q. Right now the only signature we're interested in is the one as the evidence custodian.

A. Okay. Thank you.
Q. So that would be the second signature, correct?
A. Yes, at 3:30 p.m., looks like on 10/20.
Q. And you accepted evidence 1B860, item number W133, correct?
A. That is correct.
Q. And again, so the record is clear, these are unique numbers to each piece of evidence, correct?
A. Yes, sir, that's correct.
Q. I show you Prosecution Exhibit 45C, ask you if you recognize that, ma'am?
A. Yes, I do. Again, I see my handwriting with the file number and looks like my handwriting for the item number, and I see my signature accepting it for storage on 10/22.
Q. All right. At 2:30 p.m., correct?
A. That is correct.
Q. All right. And that is for item number W117, which is a unique number, correct?
A. Yes. 117.
Q. All right. There is a lag in the acceptance from -- in the time that Tom O'Connor collected it to the time that you received it; is that correct? It show as time of ----
A. Yes. It looks like it was collected on 10/20 at 4:00 p.m. and I put it into storage a couple of days later in
Q. All right. When you say you put it into storage, could you explain to the court what you mean.
A. Sure. So that would have been a combination of our use of the briefing room on board the ship and then also the CONEX trailer that we would take things to at the end of the day. We did not make -- I don't recall making any trips to the CONEX trailer during the day; we just did that in our one movement at night back to land.
Q. All right. So how would that explain the lag of two days?
A. I can't answer that sitting here today. I can't recall.
Q. Is there any doubt, however, in your mind when you received it after he collected it?
A. I wouldn't think so, no. Again, based upon the days on there, I have no reason to doubt that.
Q. All right. I show you Prosecution Exhibit numbered 48D.
A. Okay.
Q. Again ----
A. Yes.
Q. Do you recognize your signature ----
A. Yes.

Q. ---- on the second line?

A. Yes, I do. Accepting it for storage on 10/20 at, looks like, 3:30 p.m.

Q. All right. And from, I guess, Mr. O'Connor and Mr. -- Agents Finnerty and O'Connor; is that correct?

A. Yes. It looks like their signatures above, and that appears to be my handwriting that says Finnerty, so that we could help track whose actual signature it would have been.

Q. Has the case number on it, correct?

A. Yes, the case number and a 1B863.

Q. And an item number?

A. W132.

Q. And by signing these sheets, you're acknowledging that you took possession of it, correct?

A. That is correct.

Q. I show you Prosecution Exhibit 49C for Identification, ask you if you recognize your signature on the second line.

A. Yes, I do, indicating it had been received at, looks like, 10/20 at 3:30 p.m.

Q. And you received this evidence in the COLE investigation; you know that from the case number, correct?
A. Yes. I see my handwriting with the New York file number.

Q. And if you could read the B number -- the 1B number and the item number into the record.

A. 1B862 and item number W134.

Q. Showing you Prosecution Exhibit 50C for Identification. Again, and FD-192, ma'am. Do you recognize that?

A. Yes, I do. I see my signature accepting the item for storage, looks like on 10/20 in the afternoon. And then also I see my handwriting with the file number of the investigation and also 1B864 along with item number W130.

Q. Showing you Prosecution Exhibit 51C for Identification, if you would, please, review that document.

A. Yes, sir. Thank you. I see the New York file number in my handwriting, item number 1B871. Item -- I take that back, 1B871, item number W123, and I see my handwriting accepting it from storage from Kevin Finnerty on 10/20 at 3:30 p.m.

Q. I show you Prosecution Exhibit 75D. Do you recognize that, ma'am?

A. Yes, I do. I see my signature collecting it for storage on 10/22 at 12:30 p.m. I also see my handwriting with
the New York file number and a 1B number, which appears to be -- I think it says 885, and item number W106.

Q. And again, all the item numbers that are written on these you wrote yourself, correct?

A. The item number, yes; the 1B number, no. At least -- it has not been my handwriting on all of the item numbers. The last couple didn't appear to be mine, but this one is my handwriting.

Q. And I -- for the record, I think I called this Prosecution Exhibit 75B, but it is actually Prosecution Exhibit 75C, the green sheet, correct?

A. You know, I'm not able to see the exhibit on this screen here. Perhaps it's up there. Thank you. Yes, 75C.

Q. All right. Showing you Prosecution Exhibit 82C. Do you recognize that?

A. I do. Once again, I see my handwriting with the New York file number, a 1B number of 773, item number in my handwriting, W100, and then it indicates I accepted it from storage from Tom O'Connor on 10/22 at 12:30 p.m.

Q. And again, as far as -- we are talking about, again, the signature on the second line, correct?

A. Yes, sir.

Q. Showing you Prosecution Exhibit 94C for
Identification. Do you recognize that, ma'am?

A. Yes, I do. I see my handwriting on here multiple times. I see I completed the New York file number, this is a record of 1B870, and I see my signature on the second line accepting it for storage from Kevin Finnerty on 10/20.

Q. At 3:30 p.m., correct?

A. That is correct.

Q. And it shows an item number of W124, correct?

A. Yes. For instance, on this one, that is not my handwriting for W124.

Q. But again, whoever put that, these are unique numbers for that piece of evidence, correct?

A. That is correct.

Q. I place before you Prosecution Exhibit 95C for identification and ask you if you recognize that, ma'am?

A. Yes, I do. Again, I see my handwriting on the -- for the case number, New York case number. This record -- this is a record of 1B869, item number W125, which is not my handwriting there, but I do see my handwriting and signature on the second line accepting it for storage from Kevin on 10/20 at 3:30 p.m.

Q. Now, once this item was handed to you, where would you put it immediately?
A. I can't recall exactly what -- what that process would be, but the -- we would make sure that it was properly wrapped and in a bag and had as much of the documentation completed at that time. Then we just had simply some storage area in the room, but I can't recall anything more detailed than that.

Q. And that's what I meant. Did you keep it there in the room with you all?

A. Yes. Until -- as I mentioned, until after we had been on the ship a couple of days, we were able to take it on shore at night.

TC [MR. MILLER]: Nothing further of this witness, Your Honor.

MJ [COL SPATH]: Defense counsel.

CROSS-EXAMINATION

Questions by the Assistant Defense Counsel [MS. ELIADES]:

Q. Good afternoon, Ms. Rhodes.

A. Good afternoon.

Q. Do you know when you were able to obtain the off-site storage?

A. No. I don't think I could place a day on it. Took us a couple of days, you know, to get our sea legs, so to speak, but I don't recall what day we were able to obtain that
Q. Was that documented anywhere?
A. Not that I -- not that I can recall. But I don't -- I don't know if it was or was not, but I can't recall sitting here today.

Q. And this was an off-site, on-the-beach-somewhere storage?
A. Yes. So the Marines had established a secure area on shore, which is where we would arrive every day in our vans driven by the HRT, and from there it was a secure area for a variety of military and government officials; but, yes, within the Marine encampment.

Q. Do you know if the area or the containers that the evidence was placed in was a temperature-controlled area or was it -- I know it was under a tent, but do you know if it was climate controlled?
A. Well, I don't know it was under a tent, but I just do remember a CONEX box, and I don't recall that detail.

Q. So you don't know whether it was or not?
A. I do not, no. I don't recall.

Q. And once you established this new location to store items, is that what you used continually from that day on?
A. That is my recollection, yes.

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Q. And the process you explained was you would take it at the end of the day off the ship and bring it over to the containers on the beach?

A. Yes.

Q. And -- but you were logging the material in -- the one -- the forms -- the custodian logs as you received them?

A. So I think as we discussed yesterday, I don't have an exact memory of creating a log. I -- certainly would make sense we would have done that. But certainly we were tracking item numbers, so it would make sense that we would have tracked it that way. I just can't sit here today and exactly recall an evidence log. But we were certainly tracking our progress, which is how we were able to numerically track -- track the items we collected.

Q. And might the log contain a notation of when you switched storage spaces?

A. Certainly possible, yes.

Q. Now, you mentioned that as -- in some of your testimony and some of the exhibits, you would receive an item from someone and not record their name; is that true?

A. I'm not sure I'm following your question. Can you repeat that?

Q. Sometimes where ----
Q. ---- people were bringing you items ----
A. Yes. Thank you.
Q. ---- and you would not record their names, but other times -- like just today you were testifying somebody brought you an item, you would record their name?
A. Sure. And that would be for FBI personnel. But if a non-FBI person had presented me with something, in order for us to start the chain, we would enter it, the first FBI person who had collected it. But, for instance, like I indicated, I wrote Finnerty's name or O'Connor's name for tracking, but I would not have done that, for instance, if it had been one of the COLE crewmembers that gave me something.
Q. Is there a particular guideline that says that a -- a non-FBI person cannot be on the chain of custody?
A. Well, generally speaking, we certainly -- there are task force officers that are assigned to squads, and their names may be there, but from my understanding and my interpretation of that, that we wanted to have FBI names on the form for us to be able to track and that contain that in our systems. I don't know in 2000 if there was a policy that was -- specifically stated that one way or the other.
Q. Do you remember if you made the decision to only put
the FBI agents, or was that the general instruction given by one of the team leaders?

A. I -- I -- I don't -- I don't -- I don't recall. I don't recall.

Q. Now, you mentioned again we were -- some testimony about where this room was.

A. Uh-huh.

Q. I'm going to call it the evidence room. It's been called several different things ----

A. Okay.

Q. ---- throughout the testimony.

A. I called it the briefing room, but we can certainly call it the evidence room. Yep. So we know we're talking about the same room. Yeah, thank you.

Q. Thank you. Inside this evidence room, when someone brought you something, was there a box you would put it into, or was it just gathered in an area?

A. I -- I don't recall. I can't recall that level of detail sitting here today, but ----

Q. Do you recall any detail about the room?

A. Sure. I think, as I mentioned yesterday, I described it more as a kind of a kiva-style. For me, there was a front area that I understand that executive officers would provide
briefings, and then there were chairs that were in a -- kind
of an auditorium or a -- they were chairs that had a little
desk associated with them. I'd have to estimate there were
probably 20 chairs in there.

Q. And I guess my question is: With specific regard to
the evidence, where in the room was that being placed?
A. I -- I don't want to answer one way or the other
because I can't recall. But I recall sitting in those little
desks at various times and completing our paper, but I
think -- I don't recall one particular part of the room that
we used.

Q. Were there times when the room was filled with
evidence before you could take it off the ship?
A. That is a subjective term. I would be hesitant to
use the word -- you know, at times we collected certainly a
lot of evidence and it would -- we would obtain a large number
during the day; but to pile up or to be overwhelmed with
evidence, I don't -- I don't I think could characterize it
like that one way or the other.

Q. How did you separate one day's evidence from the next
day, if you did?
A. Well, if we -- when we were able to finally take
things to the shore at night, then we would take everything
that had been collected that day. But until we were able to
do that, we would have just maintained it. I don't know that
there necessarily would have -- that there would have been a
need to organize it by day.

Q. Okay. Fair enough.

Now, you -- you testified a little bit about
sometimes you would print the individual's name ----

A. Uh-huh.

Q. ---- and then they would sign it?

A. Uh-huh.

Q. Okay. Do you recall if they would sign it at the
same time that you printed the name?

A. I -- I can't recall.

Q. So it's possible they would have come back and signed
it later once you had printed the name, or you don't know?

A. I just don't know. But I know that it would make
sense that, you know, given some signatures are -- you know,
can be difficult to read, that would have been my intention
that I would have written their names, but I -- I don't know
when it was actually signed.

Q. Okay. So your testimony is you did that for
clarification?

A. That is correct. Yes.
Q. And once you maintained -- once you obtained this log, the 192, it stayed with the evidence, correct?
A. Ah ----
Q. I'm calling it a log, but I may be throwing you off by saying that. Just the custodian -- the 192 that stayed with the piece of evidence.
A. The 192 chain of custody.
Q. Chain of custody.
A. Thank you, yes. That should have stayed with the evidence then.
Q. And you said it was -- you kept all of this in a room that was -- you were able to secure?
A. Yes.
Q. Okay. Can you tell us how you were able to secure it?
A. I can't recall if -- I can't recall if either we had the key or there was some other locking mechanism. I just -- I don't recall at this time how we were able to do that, but we certainly felt confident being able to store it there, that it was a secure location.
Q. Could any -- could somebody at any time come back and sign anything without you knowing?
A. Well, I certainly wasn't in the room, you know,
24 hours a day. I think I mentioned I was routinely within areas of the ship, but I -- that would just be conjecture. I don't want to do that.

Q. Were you or Ms. Better ever given instructions that once you received these bags, no one else was supposed to touch them? Or how did you maintain these bags when you weren't able to take them off the ship?

A. Well, my recollection is that we would ensure that either Dayna or myself would be there to maintain the integrity of it. If not, we were able to secure the room. But I don't recall any specific guidance like that. We just used our best judgment, and again, as I mentioned yesterday, the very limited staffing we have.

Normally at this kind of large event, you would have an evidence control technician and someone that was their exact job. We did our best to balance the amount of work and the amount of materials that were coming in given just our very limited resources.

Q. Okay. So no one in this situation was an evidence technician, correct?

A. That is correct. There were no professional support employees that made the journey to support the Evidence Response Team.
Q. And if I recall correctly, did you say this room was a room where sometimes -- because it was air conditioned, correct? Or was it not?

A. Gosh, I hadn't ever thought about that. It must have been, but I can't recall one way or the other -- you know, certainly the power to the ship was intermittent at times, as was the running water, but -- I can't recall AC one way or the other.

Q. Okay. Were there times when people other than yourself and the other evidence custodian was in the room?

A. Yes. As I mentioned yesterday, as well, too, when we would need to -- there would be all the other FBI agents, other people that understood what our processes were. But as other members of the team may bring things to us, and at times there were -- yeah, other people in the room. I remember one time I cut my head and the medic was patching up my head in there with me as I was still completing the forms. So it was an interesting spot.

Q. Okay. And you said sometimes even sailors were in that room?

A. Well, they would -- I don't know that they would necessarily come in. They would come to our doorway and we would visit with them there.
Q. Okay.

A. But, you know, again, we did not have the facilities. We did not have the control or the space that we would normally have in that kind of situation, and we made our best with what we had, limited capabilities.

Q. It wasn't your preference to do it this way, it was just doing the best you could?

A. Absolutely. It's what we had available.

Q. Just a couple of questions. On -- and I think one of them was 41C -- some of these forms, you would sign saying you accepted it for storage, correct?

A. Excuse me. That's correct.

Q. And those were all of the forms you talked about today in your testimony, more or less, right?

A. Yes. I think the ones we did today all indicated I accepted them from others for storage.

Q. And you indicated that you would only do this -- you would only fill this part out at the exact time that you received the item?

A. The approximate time. I -- it would be probably -- I don't want to say that it's exactly to the minute, but it would certainly be an approximate time.

Q. Give or take, in light of everything that was going
A. Correct. Thank you, yes.

Q. So this -- when you accepted it for storage, you never took something out of the other storage place or anything like that, correct?

A. Not that I can recall.

Q. Okay. So if there is a two-day lag -- I'm sorry, that's the wrong one. Maybe 22. If there was a two-day lag -- and I believe one of them had it, I will continue to try to find it ----

A. Yes. I recall seeing that one this afternoon, yes.

Q. That means that that individual had that in their possession for two day, correct?

A. That may be what occurred. It may have been drying. It may have been collected and it may have been drying. But I don't -- I can't sit here today and remember one particular piece of evidence from another, so I can't -- I can't answer that.

Q. But it's fair to say most of the times you had it within the same day?

A. That is correct.

Q. In fact, sometimes within the same time frame?

A. Yes. Sometimes it was a very short time frame.
Q. And sometimes a half hour?
A. Yeah. Yes. Sorry. Thank you.
Q. So for -- this one is 45C. I'm showing you what's been marked as PE 45C. This is the actual item that there is a two-day -- I'm going to call it a lag -- from the time the individual collected it and gave it to you?
A. Yes. That's what the document shows, yes.
Q. And do you know how often this would occur?
A. I don't recall having seen that on many of the other forms, but certainly there's other evidence as well that I don't think we're discussing during this hearing. So I can't -- I wouldn't pretend to put a number on that.
Q. Was there any other place to store items except for with you and Ms. Better?
A. Well, there -- as I mentioned, there had been some kind of drying station. I cannot recall where the drying station was. Certainly, especially as items were -- that were either found on the victims or found near them, that was certainly a wet area and that may have been something that, in this particular instance, Special Agent O'Connor may have put into the drying station, but I -- I can't necessarily explain the gap on that document.
Q. To be clear, the drying stations were not in the
evidence room?

A. I cannot recall, sitting here today, where they were. I just know that they existed somewhere.

Q. Would you have noticed a drying station if it was in the evidence room?

A. Possible. But again, I don't want to -- I don't want to -- I don't want to make a supposition.

Q. So we're going to say it could have been outside the drying room -- I mean outside of the evidence room?

A. Yes. I agree with you, yes.

Q. Okay. And if it was then in the drying room for two days, it was not secured, correct?

A. Again, I don't -- I don't know where it was. I don't know if Tom had another way to secure it in another part of the ship. There may have been something below deck in where they were working primarily on the recovery of the victims. And there may have been another way that he felt confident that it was contained there, but I don't know for sure.

Q. That wasn't noted anywhere on this form?

A. No. There's no indication of that, and that's just -- I'm just -- that is a possibility.

Q. Is it safe to say you're deferring to him on this issue, right?
A. Yes.

Q. Okay.

ADC [MS. ELIADES]: No further questions.

MJ [Col SPATH]: Mr. Miller, any follow-up?

TC [MR. MILLER]: No redirect, Your Honor. Thank you.

MJ [Col SPATH]: I know you will remember the instruction.

Same one, don't talk about your testimony until we're finished. Thanks.

WIT: Thank you, kindly.

TC [MR. MILLER]: This witness is again subject to recall, Your Honor.

MJ [Col SPATH]: She knows.

[The witness was warned, excused, and withdrew from the courtroom.]

MJ [Col SPATH]: Call your next witness.

TC [MR. MILLER]: Government calls Special Agent Dayna Sepeck.

Ma'am, if you would, please, stand and raise your right hand.

DAYNA SEPECK, civilian, was called as a witness for the prosecution, was sworn, and testified as follows:

DIRECT EXAMINATION

Questions by the Trial Counsel [MR. MILLER]:

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Q. Would you please be seated and spell your name. State your name and spell it for the record.
Q. So we can get to this issue right away, in the year 2000, was your name Sepeck?
A. No.
Q. What was it at that time?
A. Better.
Q. All right. Ma'am, how are you presently employed?
A. Supervisory special agent with the FBI.
Q. How long you have been with the FBI?
A. Approximately 21 years.
Q. All right. Ma'am, I want to go into a little bit about your background. You attended university, correct?
A. Yes. University of Maryland.
Q. Did you receive a degree?
A. Yes.
Q. In?
A. BA in criminal justice.
Q. Did you have any post-graduate work?
A. Yes, I did. I received a master of forensic sciences from George Washington University.
Q. Now, after you received these degrees did you obtain any employment with a police department?
Q. And what were your duties and responsibilities?
A. I was a crime scene technician. I worked processing major crime scenes, homicides, rapes, assault with intent to kill, suicides.
Q. Approximately what time frame did you do that?
A. That was for two years, from 1994 to 1996.
Q. All right. Did you receive any particular -- or any specific training to do that job?
A. I did. We had a training course that we went through and also on-the-job training from the officers that worked there.
Q. Do you know one of the defense experts?
A. Yes, I do.
Q. And whom do you know?
A. Mr. Plant.
Q. And how do you know him?
A. I was trained by him as well as I worked with him for the two years that I was there.
Q. All right. Now, after your time at the D.C. Police
Department, did you obtain employment with the FBI?

A. Yes, I did.

Q. And that would have been in 1996?

A. That's correct.

Q. And did you attend the New Agent School at Quantico?

A. Yes.

Q. During your new agent training, did you receive additional training in the collection of evidence and the processing of crime scenes?

A. Yes, I did.

Q. And where was your first office out of Quantico?

A. New York.

Q. And what were your duties -- what were your assigned duties there?

A. I worked Italian Organized Crime, was my main responsibility. As well, I also worked on the Evidence Response Team.

Q. That was a collateral duty, correct?

A. Yes, it was.

Q. And when did you join the Evidence Response Team, the ERT?

A. I joined in approximately 1998.

Q. Did you receive specialized training to become a
member of that team?

A. Yes, I did. There was a two-week 80-hour basic ERT course that we took, and then following that there was advanced training courses.

Q. How long did you remain in the New York office?

A. I was there for seven years.

Q. And where did you go from there?

A. I went to Quantico to the Laboratory Division, Evidence Response Team unit.

Q. And what did you do there?

A. I was a supervisory special agent and I did training, I did operational work, administrative work, a variety of different things.

Q. Is that your present position today, or ----

A. No, it is not.

Q. What is your present position?

A. I'm the special assistant to the laboratory director.

Q. Just generally, what do your duties and responsibilities involve?

A. It's generally -- I manage sensitive assignments as given to me by the laboratory director. It includes things like public and congressional affairs, strategy management, recruitment, metric management, things like that.
Q. Have you ever acted as an instructor in the area of evidence collection and scene -- securing crime scenes?
A. Yes, I have.
Q. Have you ever -- prior to the COLE in October of 2000, had you ever been involved in evidence collection for any mass-casualty situation?
A. Prior to the COLE, I worked TWA 800 and I worked Egypt Air 990 for mass collections.
Q. Now, I want to direct your attention, ma'am, to -- Agent, to October of 2000.
Were you a member of the ERT in New York at that time?
A. Yes, I was.
Q. And did you receive information that there had been an attack on a United States naval vessel in Yemen?
A. Yes.
Q. Was any request made of you to assist in that particular incident?
A. Yes.
Q. And could you relate what that was?
A. The team leader would ask us if we were available and interested in participating in the evidence collection, and I responded that I was.
Q. And who was the team lead, if you can recall?
A. I believe it was either Stan Regan or Howard Leadbetter at the time.

Q. And did you eventually fly to Yemen?
A. Yes.

Q. How soon after receiving the request to become a member of the team?
A. It was approximately two days later.

Q. All right. Did anything unusual happen when you landed in Yemen?
A. It was not a very friendly response when we landed. We had some issues at customs. It took us a while to get through there. And then also on the tarmac, they didn't want us to get off the plane and surrounded our plane for a while before we were able to work out the situation and de-plane and get into the country.

Q. After you de-planed, where did you go?
A. We went to the hotel, Aden Hotel.

Q. And when you arrived at the Aden Hotel, were there other FBI agents and law enforcement officials there?
A. Yes. There were folks from the WFO Field Office and some other people that were there as well that had arrived before us.
Q. While there, did you receive any instructions as to what your responsibilities, what your duty was going to be regarding the search of the USS COLE?
A. At the hotel, it was more just a briefing about security and awareness and the surroundings and sort of what we had to deal with at that point.
Q. Did you go to the COLE within a day or two of your arrival?
A. Yes.
Q. And with whom did you travel to the COLE?
A. With the other ERT members. There were HRT members, Hostage Rescue Team, because they were Security Forces, and they took us in a caravan to the COLE.
Q. Was there a -- when you arrived, did you do a walk-through or were you given any instructions? If you could, relate what happened when you first arrived, let's say, at the port.
A. At the port, that was where the Marines were staged. And we got additional instructions again there about our surroundings and security and the situation, general instructions there as well.
Q. Did you travel to the ship?
A. Yes.
Q. And how did you get there?
A. We took back and forth to the ship, we were riding on trash barges.
Q. When you arrived on the ship, what were the first few things that you did? How did you sort of become familiar with the USS COLE?
A. When we first got to the ship, we were met with crewmembers and they gave us some briefings and information about the ship. We were taken around the ship to sort of get an idea of what the ship looked like, the different decks of the ship, kind of get an idea of the scene itself, the condition of the ship and just sort of view the situation.
Q. Were you informed of how the search was going to be conducted?
A. Yes. At some point we did have a discussion about how the search was going to be conducted, yes.
Q. And were there any specific instructions or were there any tasking provided or asked of you?
A. Yes. It was decided that I would be the evidence custodian.
Q. And how did you first go about fulfilling those duties, those responsibilities?
A. Well, in order to do that, I had to locate an area on
the ship that would be safe and secure to keep the evidence stored.

Q. And how did you -- if you could just describe for His Honor, how did you pick the room that you picked?

A. They assigned a crewmember to me and we walked around the ship, we looked at all different areas of the ship. The ship was in -- as I'm sure you've heard several times in the testimony already, the ship was in bad condition, it was listing, it was filled with water, so I had to find an area that would be secure, that wasn't wet, that could be locked to keep the evidence. So the crewmember took me all around the ship. We looked at many different areas until I found one that I felt was going to be safe and secure to keep the evidence.

Q. Could you describe that room as best you can remember?

A. It was essentially a suite of rooms where I had an area I that could work and had a desk and I could keep my documents that I had to fill out, and pens and writing utensils. And then it had another area where I could keep the evidence once it was finished and I had completed all of my documents, I could store it. And then I also had another area where I could, if evidence came in, if it had to be dried, if
it needed more drying or something, that I could lay out some
evidence, too, before it was packaged up and finalized and
sealed. It was very basic, there was not much there, it was
simple.

Q. What do you mean it was very basic?
A. It was very simple. It was a very basic area. The
desk was kind of a plank that came out of the wall, you know,
attached to the wall. There was nothing in there but a desk,
a table, a chair, my documents, utensils. I mean, there was
not much in there.

Q. When you say my documents, what do you mean my
documents?
A. Those were the documents that we had brought over,
our typical documents that we use when we do a search. The
evidence logs, the chain of custody 192 forms, which is what I
was responsible for doing as a part of my role.

Q. Now, you had been to many crime scenes prior to that,
correct?
A. Yes. That is correct. Many crime scenes.

Q. And how would you describe this particular crime
scene?
A. This particular crime scene was very unusual for many
reasons. Despite the fact that it was in an unfriendly
territory, which made it difficult to do things, we had to bring over all of the supplies that we thought we might need. Of course, you never know what supplies are you going to need until you get to the scene and observed what you had. And I'd think, oh, I wish I had this, I wish I had that; you never have what you need in a situation like that, so you do the best you can.

The ship was in horrible condition. It was very complex, in that we had evidence both on the ship and in the water. So we had to do recovery on the ship, we had to do the water recovery, in addition to the human remains recovery, which was very difficult.

In addition to that, in most scenes, in fact, in the majority, almost every scene I've ever worked, you as a crime scene investigator, in order to do your job -- you see a lot of very horrible things. In order to do your job, you really have to separate yourself from the victims in order to be able to collect the evidence and not think about the atrocities that you're dealing with. So you never really have friends or family or loved ones of the victims on site with you.

In this case, all of the crewmembers remained on board, and they were with us the entire time watching us, talking to us, observing us, and so it was very unusual.
was a very unusual situation. It was a very emotional situation.

And also the fact that every time a victim was recovered, everything stopped and we honored that victim. And we brought them to the top with a flag covering them, everybody came up, stood at attention, and it was one of the most emotional things that I've ever seen. Because you saw the crewmembers standing there at attention honoring their fallen crewmember, and you could -- I just very strongly remember seeing them standing at attention trying very hard not to cry, not to show any emotion, but their lips just quivering so hard because they wanted to hold it in. And it was just -- you don't see -- you don't have that at scenes that you work. So this is a very different situation.

So that being said, in addition to the fact that you had all of the other conditions that you don't normally have, you have to make adjustments. You know, it's -- you know, there's a certain way you want to process the scene; but when there's a circumstance that you have that changes everything, you have to make adjustments.

Q. Let me stop you there. Again, you've worked many scenes. You've acted as an instructor, correct?

A. Yes.
Q. There are what we call best practices?
A. Absolutely, yes.
Q. Do you always apply all of the same best practices to a scene or do you make adjustments?
A. You can't. You have to make adjustments. You try to, you try to apply those, but you have to make adjustments to fit your scenario. And that's why you do a preliminary survey.
Q. Now, in this particular room that you were working, were there any other agents that were assisting you?
A. Yes. Not an agent. He was not an agent, but there was someone assisting me, yes.
Q. Who was that?
A. His name was Ignacio Mendizabal.
Q. Do you know Special Agent Jane Rhodes?
A. Yes.
Q. Was she assisting you in any way?
A. She was not stationed in the room like Ignacio was but she was definitely assisting.
Q. Now, if we could, just sort of as a primer, if I brought you an evidence bag, walk us through what you would do when I brought you this bag of evidence.
A. So when I would receive evidence, the first thing I
would do is a chain of custody form as receiving the evidence.

Q. That's the 192, or what we call the green sheet?

A. The green sheet, right. So I would fill that out and I would do an evidence recovery log. I would fill out an evidence recovery log.

Q. What is that?

A. That is just a log that records all of the evidence that's recovered at a scene.

Q. All right. What would you do next?

A. I would pull those sheets out and I would take control of the evidence. And eventually, once I completed all of those forms, the evidence would just get maintained in my storage area.

Q. How would it get maintained, just put it ----

A. It would just get put in the area there, yeah.

Q. Then what would happen to the evidence later on? Would it be moved?

A. At some point, yes, it would get moved, yes.

Q. Now, you indicated there was also a drying area of some sort?

A. If I needed it, yes, there was a drying area in case I did need it.

Q. All right. And when would you use the -- obviously
it would be for wet evidence, but persons would bring you wet evidence?

A. Not all the time, but on occasion. If something would come in and it didn't get fully dried up on top of the deck or wherever they recovered it and I noticed it was wet, I might have to lay it out and get it a little more dried before it could be fully packaged.

Q. All right. Now, the green sheet, is that the official chain of custody form used by the FBI?

A. Yes.

Q. And is that the one upon which you rely?

A. Yes.

Q. All right. Now I'm going to show you a series of green sheets, so to speak. First, I'm going to show you Prosecution 2C and ask you if you recognize this form, ma'am?

A. Yes.

Q. All right. And do you see your signature on it?

A. I do.

Q. All right. And is it the second line?

A. Yes.

Q. All right. Now, there is certain information in addition to the signatures contained on this particular sheet; is that correct?
Q. And what is that information?
A. There is the case ID number, the item number from the evidence, the 1B number, and dates and times.
Q. All right. Let's first start with the case ID number. That is a unique number to a case, correct?
A. That's right, yes.
Q. 262 indicates the type of case, correct?
A. Right.
Q. And New York is the New York office, correct?
A. Yes.
Q. And then the following number would be the number in sequence. The next case that New York took on would be 14, correct?
A. Right.
Q. All right. Then there's a 1B number. If you could, please, explain what the 1B number is.
A. That's going to be a number that's assigned once the evidence is brought back to the office through the evidence control technicians.
Q. And that is a unique number to each bag of evidence, correct?
A. Yes.
Q. All right. So in case 262-NY-277013, there's only one 1B604, correct?
A. Right.
Q. Then there's an item number?
A. Yes.
Q. What is the item number, ma'am?
A. DK01-108.
Q. All right. And what is that number?
A. So that is the number that is assigned to the item of evidence at the time it's collected.
Q. So that would be DK01-108?
A. Yes, correct.
Q. All right. The 108th piece of evidence taken from the deck?
A. Right.
Q. All right. Who put that number on the green sheet?
A. The -- I'm not sure if that is me. It could be me or it could be the person who was assisting me. I'm not positive. It ----
Q. Who would actually assign that number to that bag of evidence?
A. That would be the person collecting the item.
Q. All right. They would come up with the DK number?
A. Right.

Q. And then you would record it?
A. Right.

Q. Would you ensure that there was no other DK01-108?
A. Yes.

Q. All right. So that again is a unique number?
A. Right.

Q. All right. So as to, again, Prosecution Exhibit 2C, it shows that you took this exhibit into your custody on 10/14 at 5:00 p.m., correct?
A. According to the chain, yes.

Q. All right. And when we say storage, is the word storage on there, that means that you as the evidence custodian have taken it into your custody?
A. Right.

Q. All right. Now, the actual evidence bag shows a date of 10/16; is that correct? I'm looking and I'm showing you Prosecution Exhibit 2B, correct?
A. Yes.

MJ [Col SPATH]: She probably can't see the prosecution number.

A. I'm not seeing the prosecution number.

Q. If you look up on the screen, I've placed on the
screen Prosecution 1D [sic].

A. Okay.

Q. If Ms. Rhodes indicates that she actually sees that on 10/16, do you have any quarrel with that?

A. No.

Q. She, however, put 10/14 on the sheet, correct?

A. Yes.

Q. Did you use her date in filling out ----

LDC [MR. KAMMEN]: Objection, leading.

TC [MR. MILLER]: No, I just asked "did you."

MJ [Col SPATH]: Hold on. Hold on. "Did you" certainly can be leading. Again, it's foundational matters. It is much easier to move through this and -- for this, I'm going to allow leading questions. I know you will correct if anyone tries to say anything that you don't believe is accurate. Don't hesitate, okay?

WIT: Yes.

MJ [Col SPATH]: You may proceed. Overruled.

Q. Whose date did you use?

A. Jane's.

MJ [Col SPATH]: All right. Stop. There's no need to laugh. We need to have some decorum in here. And I've let it go on and I'm going to stop now. No. I'm going to stop now.
You're not going to say anything. There's nothing funny about what we're doing here. Again, I'm not oblivious to the mistakes that we're talking about, but we're going to knock it off. You may proceed.

TC [MR. MILLER]: Thank you, Your Honor.

Q. I'm going to show you what has been marked as Prosecution Exhibit numbered 3C. Do you recognize that, ma'am?

A. Yes.

Q. Does it indicate that you see your -- do you see your signature?

A. I do.

Q. Which line?

A. Second.

Q. All right. And does it indicate when you received that evidence?

A. Yes.

Q. And when is that?

A. It indicates the 18th.

Q. And it was for item number 1B641, DK02-102, correct?

A. Yes.

Q. I show you Prosecution Exhibit 4C for Identification and ask you if you recognize that, ma'am?
A. Yes.

Q. Do you recognize your signature?

A. I do.

Q. And when did you receive this piece of evidence?

A. October 16.

Q. All right. That's your signature on the second line, correct?

A. Yes, it is.

Q. It's for item 1B659, item DK02-123, correct?

A. Yes, correct.

Q. Showing you, ma'am, Prosecution Exhibit 6C for Identification. Ask you if you recognize that, ma'am?

A. I do.

Q. And do you recognize your signature?

A. Yes.

Q. Which line?

A. Second.

Q. Does it show when you accepted this piece of evidence?

A. Yes. October 16.

Q. What time?

A. 4:00.

Q. And it is for item 1B609 -- excuse me. Item 1B609
and item number DK01-112, correct?

A. Yes.

Q. Show you Prosecution Exhibit numbered 8C for Identification. Do you recognize that, ma'am?

A. I do.

Q. All right. And on that particular exhibit, it shows that you accepted it for storage?

A. Yes.

Q. On what date?

A. October 16, 5:00.

Q. All right.

MJ [Col SPATH]: Leave that one up there for just a second. Just so I know the process, I see the item number up there, DK01-123.

WIT: Right.

MJ [Col SPATH]: Recognizing you probably don't remember filling out this particular form this much later ----

WIT: Right.

MJ [Col SPATH]: ---- your practice as you were working with these forms, was it to look at the evidence bag at the same time or how -- how do you fill this out when you're filling out the second line down here?

WIT: It can vary.
MJ [Col SPATH]: Okay.

WIT: So sometimes I have the bag and I have the forms and I'm just going and following the form. And sometimes I'm with the bag, so it's all right there. But it just depends, because I'm doing a whole slew of them at once. And I have another person with me and you will notice that there's different handwriting. So I have other -- sometimes the person ahead of me will actually fill in the date and the time right next to me and I'll sign it just for ex -- to expedite the process, and then I will sign it. And sometimes the person who's assisting me might do the date and times for me, you know, right there. It's kind of like a little assembly line.

MJ [Col SPATH]: Assembly line.

WIT: Yes.

MJ [Col SPATH]: I think you mentioned somebody's name, Ignacio Mendizabal.

WIT: Mendizabal, yes.

MJ [Col SPATH]: Is that person in the FBI?

WIT: Yes. He is. He's not an agent. I'm not sure what unit he was with at the time, but he was assigned to help me and we were sort of all just fill something out and then I would sign it. The key is my signature signing it accepting
it, you know, and then the date and time. But the key is my official signature.

MJ [Col SPATH]: On the second line of the 192.
WIT: It's always my official signature. Somebody else may have wrote storage or the date, but I'm looking at it, I'm signing it, I'm take the evidence.
MJ [Col SPATH]: And the other person, not an agent.
Mendizabal.
WIT: Mendizabal.
MJ [Col SPATH]: Was he from the New York Field Office?
WIT: You know, I think he might have been from the laboratory, like an explosives assistant or something. I think he was from the Explosives Unit.
MJ [Col SPATH]: Do you happen to know how to spell his last name?
WIT: I can give it a try.
MJ [Col SPATH]: All right.
MJ [Col SPATH]: Got it. Thank you.
WIT: Yes.
MJ [Col SPATH]: Sorry, Mr. Miller. You may proceed.
TC [MR. MILLER]: No, thank you.
Questions by the Trial Counsel [MR. MILLER]:

Q. Can you pull the microphone a little closer to you. It might be ----

A. Is that better?

Q. Thank you, ma'am, appreciate it. To clarify the record, this is Prosecution Exhibit 8C for Identification. Do you recognize your signature on the second line?

A. Yes.

Q. Is that for the evidence with number 1B620, item number DK01-123, correct?

A. Yes.

Q. I show you what has been -- I show you Prosecution Exhibit 11C for Identification. Do you recognize that, ma'am?

A. Yes.

Q. And do you recognize your signature on the second line?

A. Yes.

Q. It shows that you took possession of that item on October the 16th at 4:00 p.m.

A. Yes, I did.

Q. And for what item number?

A. Item number DK04-116 and 1B7, looks like 52.

Q. Show you Prosecution Exhibit 12D for Identification.
Ma'am, do you see your signature on that piece of paper?

A. I do.

Q. And is that the second line?

A. Yes.

Q. Does it show you took possession of the -- this particular piece of evidence?

A. I did, on 10/16 at 5:00.

Q. And specifically what is the identifiers for that bag of evidence?

A. Item number DK03-147, 1B708.

Q. Showing you Prosecution Exhibit 13C for Identification. Do you recognize your signature on the second line?

A. I do.

Q. Does it show that you accepted that evidence on a certain date?

A. Yes, it does. 10/16, 2:00.

Q. The piece of evidence for which -- the piece of evidence that you received?

A. Item number DK04-117, 1B753.

Q. Ma'am, I am placing on the ELMO Prosecution Exhibit 18C for Identification, ask you if you recognize your signature on that exhibit.
A. I do.
Q. Second line?
A. Yes.
Q. All right. And does it show that you accepted a piece of evidence?
A. Yes. 10/18, 2:00.
Q. And the specific piece of evidence -- or bag of evidence, item of evidence?
A. DK02-118, 1B655.
Q. Ma'am, I'm placing on the ELMO Prosecution Exhibit 20C for Identification, and ask you if -- well, can you make this one out?
A. Yes. I can see my name on the second line, 10/22, 2:50, it looks like.
Q. All right. So you accepted that piece of evidence. And what particular piece of evidence was it that you received?
A. It looks like W113.
Q. All right. And the 1B number?
A. 1B880.
Q. Thank you.
MJ [Col SPATH]: The W ----
WIT: Water.
MJ [Col SPATH]: ---- indicates to you water, correct?

WIT: [Nods head].

Q. Placing on the ELMO Prosecution Exhibit 21C for Identification. Do you recognize your signature on that?

A. Yes. Signature is on the second line. Recovered 10 -- or signed on 10/20, 4:00.

Q. All right. And what particular piece of evidence ----

A. Item W121, and 1B873.

Q. Placed on the ELMO Prosecution Exhibit 32C for Identification. Do you recognize your signature on that?

A. I do, on the second line.

Q. Does it show that you received a piece of evidence?

A. Yes. 10/17, 12:00.

Q. And specifically the item number and the 1B number?

A. DK01-118, 1B615.

Q. And just one question: The evidence that you received, would it be sealed?

A. Most of the time, it would probably be sealed, yes. There may have been an occasion where it wasn't, like if it was still wet or something, and that's when I might have to dry it.

Q. If you had to dry it, when did you officially mark
that you had received it, when you got it wet or when you put it away dry?

A. When I received it.

MJ [Col SPATH]: So when you ultimately put it into the bag and sealed it?

WIT: Yeah. If on those occasions I may have had to -- I would have had to seal it, yeah. So there could have been some like that. I don't recall specifically, but I know I do have some that I probably dried and I would try to put them in the bag and seal them.

MJ [Col SPATH]: Okay.

WIT: But I would sign the chain when I received it.

MJ [Col SPATH]: So when you put it on the table where you would let it dry, you would ----

WIT: Yeah. I had already signed it in because it was in my custody at that time.

MJ [Col SPATH]: All right.

Q. Is that part of that making do that you were talking about?

A. No. That's not very -- that's not really completely uncommon. Sometimes at a scene, you can't seal up an item because it's still wet and you don't want to put it in a bag and seal it up completely wet, and you might have to take it
and lay it out and dry it and then seal it up. But in that case, yeah.

Q. Placed before you -- put on the ELMO Prosecution Exhibit 34C for Identification. Do you see your signature on that?

A. Yes, I do, second line.

Q. And when does it show that you received this piece of evidence?

A. On 10/18 at 2:05.

Q. And if you could identify that piece of evidence.

A. DK02-103, 1B642.

MJ [Col SPATH]: Sorry, Mr. Miller, would you put that one back. Just easier if I ask while we're going through them to stay in line with --

This doesn't indicate it came from the water, I understand. But presuming that it was something you had to dry ----

WIT: Uh-huh.

MJ [Col SPATH]: ---- the signature here, the 10/18 at 2:05, that is when you would have accepted it into the area you were using to store evidence ----

WIT: Right.

MJ [Col SPATH]: ---- and placed it to dry?
WIT: Right.

MJ [Col SPATH]: And so you don't know what Mr. Davitch --
where he kept it from when he indicated he accepted it or
collected it on 10/16 at 10:30 until it was turned over to
you?

WIT: Right. No, he collected it on 10/16 at 10:30 but,
yeah, I only know when I get it.

MJ [Col SPATH]: Okay. Thank you.

Q. Prosecution Exhibit 38C for Identification. Ma'am,
do you see -- Agent, do you see your signature on that?

A. Yes. Second line.

Q. All right. Does it show that you accepted this piece
of evidence?

A. Yes, 10/18, 3:00.

Q. And could you identify it, please?

A. Item DK03-162, it looks like, 1B722.

Q. Showing you Prosecution Exhibit 47D for
Identification. Do you recognize your signature on that ----

A. Yes, second line.

Q. ---- form? Excuse me.

A. The second line, yes, I do.

Q. Does it show when you accepted this piece of
evidence?
A. 10/16, 4:00.

Q. And the piece of evidence, if you could identify it, please?

A. DK04-105, 1B741.

Q. All right. And DK, of course, would be Deck 04, correct?

A. Yes.

Q. Showing you Prosecution Exhibit 62C for -- 62C for Identification, ma'am. Do you see your signature on this form?

A. Yes, I do, on the second line.

Q. All right. And the second line indicates that you received it when?

A. October 17, 11:00.

Q. All right. And which piece of item -- or, excuse me, which piece of evidence did you receive?

A. MDK-109, 1B796.

Q. Placing before you Prosecution Exhibit 64C for Identification. Do you see your signature on that?

A. Yes, I do.

Q. And second line?

A. Second line, yes.

Q. And does it indicate when you received this piece of
Q. And is -- could you identify the specific piece of evidence which you received?
A. DK01-107, 1B603.
Q. Showing you Prosecution Exhibit 65C for Identification. Again, is that your signature on the second line?
A. Yes, on the second line is my signature.
Q. Does it show a time and date when you received this evidence?
A. 10/16, 4:30.
Q. And the specific piece of evidence that you received?
A. DK02-121, 1B657.
Q. Placing before you Prosecution Exhibit 68C for Identification. Ma'am, do you see your signature on this exhibit?
A. Yes, I do. I see my signature on the second line.
Q. Does it show that you received this piece of evidence?
A. Yes. 10/16, 2:00.
Q. And if you could, specifically, what piece of evidence?
A. DK04-123, 1B759.

Q. Showing you Prosecution Exhibit 69C for Identification. Ma'am, do you see your signature on this?

A. Yes, I do, on the second line.

Q. Does it indicate that you received the piece of evidence?

A. Yes, it does. 10/16, 4:00.

Q. And if you could identify that piece of -- or bag of evidence?

A. DK04-106, 1B742.

Q. Placed on the ELMO, Prosecution Exhibit 74C for Identification, ma'am. Do you see your signature on this form?

A. Yes, I do, on the second line.

Q. Does it indicate that you received the piece of evidence?

A. Yes. 10/16, 1530.

Q. Does it indicate, if you could, what specific piece of item -- specific piece of evidence that you seized?

A. DK06-104, 1B728, it looks like. Might be 228.

Q. Give me the bag. Are you having difficulty? You're confident, however, it is DK06-108 -- 104?

A. On that one, yes, I can't tell if it's a 2 or a 7.
Q. On the 1B number?
A. Yes.

Q. All right. But as you've testified, the DK number is also an identifying number?
A. Yes.

Q. Place before you Prosecution Exhibit 79C for Identification. Agent, do you see your signature?
A. Yes, I do, on the second line.

Q. Does it show that you received the piece of evidence?
A. It does. 10/16, 5:00.

Q. If you could identify that?
A. DK01-116, 1B613.

Q. Placed on the ELMO, Prosecution Exhibit 80C for Identification. Do you see your signature on that, ma'am?
A. Yes, I see it on the second line.

Q. And does it indicate that you received the piece of evidence?
A. 10/17, 12:00.

Q. And if you could identify that specific piece of evidence?
A. DK01-117, 1B614.

Q. Placing on the ELMO Prosecution Exhibit 81C for Identification. Do you recognize that, ma'am?
A. Yes, my signature on the second line.
Q. Does it indicate that you received that piece of evidence?
A. 10/17, 11:00.
Q. If you could identify the specific piece of evidence that you received?
A. DK01-119, 1B616.
Q. Showing you Prosecution Exhibit 87C for Identification, ma'am. Do you recognize your signature?
A. I do, on the second line.
Q. All right. And does it indicate you received the piece of evidence?
A. 10/16, 5:00, yes.
Q. And could you identify that specific piece?
A. DK02-135, 1B670.
Q. Showing you Prosecution Exhibit 88C for Identification. Do you recognize your signature, ma'am?
A. Yes, I do, on the second line.
Q. All right. Does it indicate you received this piece of evidence?
A. Yes, 10/18 at 1:39.
Q. All right. And could you identify that specific piece?
A. Yes, DK03-125, 1B689.

Q. Showing you Prosecution Exhibit 90C. Ask you, ma'am -- Agent, do you recognize your signature on that?

A. Yes, I do, on the second line.

Q. And the date?

A. 10/18, 3:00.

Q. You received evidence at that -- on that date at that time?

A. Yes.

Q. Could you identify that specific piece?

A. DK03-152, 1B713.

Q. Showing you Prosecution Exhibit 92C for Identification. Do you recognize your signature on that?

A. Yes, on the second line.

Q. Does it indicate that you received evidence?

A. 10/17, 5:00, yes.

Q. And what specific piece of evidence did you receive?

A. DK03-141, 1B702.

Q. Showing you Prosecution Exhibit 92C for Identification.

A. Yes.

Q. Do you recognize your signature?

A. Yes, I do, second line.
Q. Does it indicate you received a piece of evidence?
A. It does, on 10/16 at 4:00.

Q. I'm sorry. That ----
MJ [Col SPATH]: Yeah. What's the number on that one?
TC [MR. MILLER]: I'm sorry, it's 93C. 93C. I apologize, Your Honor.

Q. 93C. Again, let me go through that. Do you recognize your signature?
A. I do, on the second line.

Q. Does it indicate that you received a piece of evidence?
A. It does, 10/16 at 4:00.

Q. And does -- if you could identify the specific piece of evidence that you received?
A. DK04-112, 1B748.

Q. Showing you Prosecution Exhibit 102C for Identification. Do you recognize your signature on that?
A. Yes, I do.

Q. And is it on the second line?
A. Second line, yes.

Q. And does it indicate that you received a piece of evidence?
A. Yes, at 10/18 at 3:00.
Q. And could you identify the specific piece of evidence?
A. DK03-160, 1B720.
Q. Showing you Prosecution Exhibit 103C. Do you recognize your signature on that form?
A. Yes, I do, on the second line.
Q. And does it indicate that you received a piece of evidence?
A. Yes, it does, 10/16, 4:00.
Q. And could you identify that specific piece of evidence?
A. DK04-110, 1B746.
Q. Showing you Prosecution Exhibit 106C for Identification. Agent, do you see your signature on that?
A. Yes, I do.
Q. And ----
A. Second line.
Q. All right. Does it indicate that you received a piece of evidence?
A. Yes, it does, 10/15, 4:00.
Q. And if you could identify that specific piece.
A. Let's see. 1B597, and I do not see the item number on this one.
Q. All right. But again, the 1B number is a unique number to that piece or that bag of evidence, correct?
A. It is, yes.
Q. Showing you Prosecution Exhibit 107C. Do you recognize your signature on that form?
A. Yes, I do, on the second line.
Q. Does it indicate you received a piece of evidence?
A. Yes, 10/19 at 10:30.
Q. And if you could identify the specific piece.
A. RP-101, 1B732.
Q. Showing you Prosecution Exhibit 114C. Do you recognize your signature on that?
A. Yes, I do, on the second line.
Q. All right. And does it indicate that you received evidence?
A. It does, on 10/16 at 2:00.
Q. And could you identify that specific piece of evidence?
A. DK04-118, 1B754.
Q. Showing you Prosecution Exhibit 118C. Do you recognize your signature?
A. Yes, I do.
Q. And ----
A. On the second line.

Q. And does it indicate that you received this evidence, piece of evidence?

A. Yes, it does, on October 19, at 11:00.

Q. And could you identify the specific piece that you received?

A. Yes, RP-103, 1B734.

Q. Showing you Prosecution Exhibit 124C for Identification. Do you recognize your signature on that, ma'am?

A. Yes, it's here on the second line.

Q. All right. And does it indicate that you received a piece of evidence?

A. It does, on 10/17 at 5:00.

Q. And what specific piece -- if you could identify the specific piece of evidence you took in your possession.

A. Yes, sir, that would be DK03-140, and 1B701.

Q. Showing you Prosecution Exhibit 129C. Do you recognize that form, ma'am?

A. Yes, I do. My signature is there on the second line.

Q. Does it indicate that you received a -- you received a piece of evidence?

A. It does, on October 19 at 10:30.
Q. And could you identify the specific piece of evidence that you received?

A. RP-102, 1B733.

Q. Placing before you Prosecution Exhibit 133C for Identification. Do you recognize your signature on that?

A. I do. It's here on the second line.

Q. And does it indicate that you received a piece of evidence?

A. Yes, it -- October 17 at 12:00.

Q. All right. And could you identify the specific piece of evidence that you took into your possession?

A. Yes. DK01-124, 1B621.

Q. Showing you Prosecution Exhibit 140C and ask you if you recognize that, ma'am?

A. I do. My signature is there on the second line.

Q. All right. And does it indicate when you received that particular piece of evidence?

A. Yes, it does. 10/16, 5:00.

Q. All right. Or it indicates you received that piece of evidence, correct?

A. Yes.

Q. 10/16 at 5:00?

A. Yes.
Q. And what specific piece of evidence did you receive?
A. DK04-101, 1B736.

Q. Showing you Prosecution Exhibit 141C for Identification. Do you recognize that?
A. Yes, I do. My signature is there on the second line.

Q. All right. Does it indicate that you received a piece of evidence?
A. It does, October 17 at 4:00.

Q. All right. And could you identify that specific piece of evidence?
A. DK06-100 ----

Q. Oh, I'm sorry.
A. 1B724.

Q. All right. Showing you Prosecution Exhibit 143C for Identification. You can make that out, ma'am?
A. Yes.

Q. All right. And do you see your signature?
A. I do see my signature on the second line.

Q. All right. And does it indicate you received a piece of evidence?
A. It does. I can't quite ----

TC [MR. MILLER]: May I approach, Your Honor, the witness?
MJ [Col SPATH]: Yes.
A. That's better.

Q. Can you make it out?

A. Yes, that's better.

Q. All right.

A. 10/20 at 4:00.

Q. All right. And can you identify the specific piece of evidence?

A. Yes. It's W115, 1B878.

TC [MR. MILLER]: Permission to approach to retrieve, Your Honor.

MJ [Col SPATH]: You may. You don't have to ask permission to approach.

Q. I'm placing on the ELMO Prosecution Exhibit 152C for Identification. Do you recognize your signature on that form?

A. I do. My signature is on the second line.

Q. And does it indicate you received a piece of evidence?

A. Yes. On 10/19 at 10:30.

Q. All right. And could you identify the specific piece of evidence?

A. Yes, RP-104, 1B735.

Q. Showing Prosecution Exhibit 155C for Identification.

Do you recognize that form, ma'am?
A. Yes, I do. My signature is on the second line.

Q. All right. And does it indicate that you received a piece of evidence?

A. Yes, on 10/16 at 4:00.

Q. And could you identify the specific piece of evidence that you received?

A. DK04-113, 1B749.

Q. Showing you Prosecution Exhibit 158C. All right. Do you recognize your signature, ma'am?

A. Yes, I do. It's on the second line.

Q. All right. And does it indicate that you received a piece of evidence?

A. It does, on 10/16 at 4:00.

Q. All right. And could you identify the specific piece of evidence that you received?

A. Yes. DK05-127, 1B557.

Q. Showing you Prosecution Exhibit 159C for Identification. Do you recognize that, ma'am?

A. Yes, I do. My signature is on the second line.

Q. All right. Does it indicate, Agent, that you received a piece of evidence?

A. It does, on 10/17 at 1330.

Q. And could you identify that specific piece of
evidence?

A. DK05-123, 1B554.

Q. I have just a -- we've sort of gone through all of them. A couple of the pieces of evidence I have a question, if I can address it to you.

A. Okay.

Q. On 155, and this is by example, because this happened on a couple of occasions ----

A. Yes.

Q. ---- the Prosecution Exhibit 155C indicates you received the evidence when?

A. On 10/16.

Q. All right. I'm showing you Prosecution Exhibit 155B, which is the evidence bag. If you look on the chain of custody portion -- let me -- is that your signature on the second line?

A. Yes.

Q. Now, do you -- can you explain the discrepancy between what's on the chain of custody portion of the bag and what occurred on the chain of custody 192?

A. So I reviewed these items. There are several that have this on the bag. Most of the bags I did not sign on the bag on the chain because generally it's not necessary. On
these I did, and they're all consistent with the same date of
the 18th and a time period between 2:00 and 4:00 p.m. So it's
obvious to me that I did it for a particular reason and -- but
I don't recall what that reason was at this time. But it's
very consistent, and it's on particular grouping of items that
there's the 18th on the bag between 2:00 and 4:00 p.m. and
then on all of the chains there's -- I took it on the 16th.

MJ [Col SPATH]: So the blue handwriting down in the chain
of custody is yours?

WIT: It's mine. That's correct. All in the same pen and
the same blue writing and the same time period on those
grouping of items when I reviewed them all. But I do not
recall why I did that. It's obvious that there was a reason
when you look at them, but I -- I cannot recall why -- why it
was at that time that I did that.

If -- on the other bags, you will see that I did not
sign the bags for the majority of them because that is not the
official chain. We don't use that. Some people fill it out,
some people don't. It's not even on our bags anymore. But
for some reason on those particular items, I did write that on
there, and I do not -- I just do not recall why I did that at
the time.

MJ [Col SPATH]: And you said it was a particular group of
items. Do you remember -- do you remember what the grouping was or ----

WIT: No, I tried -- I looked at them to try and recall and jog my memory as to, hey, maybe looking at the items would -- would jog my memory, but, yeah, it didn't. But it's just one set of items that I seem to have done that on. But no, unfortunately, I do not recall what that reason was.

MJ [Col SPATH]: But when I'm looking through the evidence, because I have the same photographs ----

WIT: Yes.

MJ [Col SPATH]: ---- it will look the same in the blue writing.

WIT: You will see. You will see. It will be between like 2:00 and 4:00 and it's all the 18th, all between 2:00 and 4:00.

MJ [Col SPATH]: All right. Thank you.

TC [MR. MILLER]: Thank you, Your Honor. I have no further questions.

MJ [Col SPATH]: All right. Why don't we take ten minutes. We'll come back for cross-examination. We're in recess.

[The R.M.C. 803 session recessed at 1600, 15 March 2017.]

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