[The R.M.C. 803 session was called to order at 1613, 15 March 2017.]

MJ [Col SPATH]: Commissions are called to order. The parties are present. The witness remains on the stand. Just remember you're still under oath.

Defense counsel, may cross-examine.

ADC [MS. ELIADES]: Thank you, Your Honor.

CROSS-EXAMINATION

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

Q. Good afternoon, Ms. Sepeck. Am I saying your name right?

A. You are.

Q. I want to go over a few things just for my own clarification. On these previous mass-destruction sites you worked on in the TWA and the Egypt flight, did you actually serve as an evidence collecting technician? Were you collecting evidence?

A. Not on TWA 800. On TWA 800, I worked to reassemble the parts of the plane onsite. And on Egypt Air 990, I worked on a Navy ship to dredge and collect items, yes.

Q. So that would be what we referred to as ERT duties, then?

A. That is correct.
Q. And you said you worked with dredging items?
A. Yes. So the Egypt Air plane went down off the coast of Rhode Island into the ocean. So we had to go out on a ship as a part of the collection duties, and the ship was a dredging ship. I'm not familiar with Navy ships that well. I think it was like an LPD type ship and they could dredge the bottom and pull up items of the ship -- or of the plane, and we would collect them from that.

Q. Okay. So you didn't do the actual dredging, you just collected it from there?
A. We would collect it once it came up, yes. But that was an ERT response, yes.

Q. Okay. I'm assume in that situation, you had the same things, evidence bags and the other forms, the green sheets with you, and you filled them out?
A. Same process. It's a very similar process as this was, yes.

Q. And after you collected it, you -- in that situation, you would hand it over to somebody else, correct? You weren't the actual custodian the whole time?
A. No. I was not the custodian on that one, no.

Q. So you took the dredged items yourself and labeled the bag that you collected yourself, correct?
A. I don't recall my exact responsibility on that, but yes, if I had collected it, then I would be the labeler and the bagger and sealer, yes.

Q. And you were, in that situation, the original chain -- you were the person in the original chain of custody, correct?

A. If that was my role on that scene, yes.

Q. With regards to the items you collected, you collected items ----

A. Uh-huh.

Q. ---- and you filled out the forms as the initial ----

A. The bag.

Q. The bag. But it's got a little form on it, so I -- I use that term interchangeably, unfortunately.

So you fill out the bag as the initial person in the chain of custody; is that fair?

A. If I was the one collecting the item, I would have filled out the information on the bag, not necessarily -- if the chain of custody was printed on the form, I may or may not have. Because again, as I told you before, we don't always use the chain on the bag because it is not an official chain.

Q. Okay. But for purposes of a general discussion, you collected it and you were the actual originator on the chain
of custody; is that fair to say? It began with you?
A. If I was the collector. The chain would begin with
the collector, yes. That's right.
Q. Okay. That's the general rule, correct?
A. The chain begins with the collector, yes.
Q. And why is that important to note who the initial
collector is?
A. Because that's the beginning of the chain. You need
to know where the evidence initiates.
Q. Okay. Thank you. Now focusing on the COLE incident,
when you boarded the plane, were there more of you on your
team than there were at the time they actually arrived in
Yemen? Did you have more people you wanted to use on your
team than the ones you actually got to use, let's say?
A. Yes. There was a limit on how many people were
allowed to come into the country, so we were not able to bring
our entire team into Yemen from New York. Part of the team
remained in Germany.
Q. And who was with you on your team?
A. Jane Rhodes.
Q. Are you the only two that made it?
A. Initially.
Q. Okay. And then others came later?
A. Later.

Q. How much later, would you know?

A. I don't recall exactly how much later it was.

Q. Did those members who came later also work on the ship as well?

A. They did, yes.

Q. Okay. And as far as the timeline, you left two days after the COLE?

A. I believe it was two days, yes.

Q. So you arrived on the 14th in the evening?

A. I don't recall the time, but approximately the 14th, is my best recollection.

Q. On the 15th, do you go onto the ship? Would that be your first date?

A. I don't recall the exact date.

Q. Was it the day after you arrived, or was there a delay?

A. I don't recall exactly.

Q. You don't recall the dates?

A. No.

Q. After you arrived on the ship, was it your sole duty to be one of the ERTs on that ship ----

A. Yes.
Q. ---- or did you go -- did you go to any other scenes while you were in Yemen?

A. I did attend another scene, yes.

Q. And when did you go to another scene?

A. I don't remember the date.

Q. Where was the other scene?

A. It was off the ship, a house location.

Q. Was it in -- was it after you finished your duties on the COLE or was it in the interim?

A. It was -- at some point during the processing of the COLE, I was asked to go and process a house.

Q. Okay. And do you remember if that lasted more than a day, or could it have been more than a day?

A. The house processing?

Q. Yes.

A. I believe it was just a day.

Q. Okay. And then you returned to the COLE?

A. I don't recall if I was finished at that point and that was the last thing I did or if I went back.

Q. Okay. So you're not sure?

A. No.

Q. So your response earlier that you left in between, you're saying now you're not sure if you left ----
A. I left at some point ----
Q. ---- and returned?
A. ---- to go and process the house, and I don't recall if it was the last thing I did or if I came back to the COLE after.
Q. Okay. But once you arrived on the COLE, you were responsible almost as the evidence room custodian; is that fair to say?
A. Yes.
Q. And you chose the room that you would use for that purpose, correct?
A. I did.
Q. And your description I noted told us that there were suites in the room, separate rooms. It was one room with different sections.
I wrote down suites, so I might have misheard you, but ----
A. It was a suite of rooms.
Q. Suite of rooms, okay. I apologize. So when you say rooms, are they divided with a door, a wall, glass, or nothing at all?
A. The best of my recollection is there were just separate areas, and I don't recall if the doors closed on them
or not. I just remember separate areas. One was an office area for me to use, one was a storage area, and I used one as a drying area. I don't recall if they had closing doors or didn't, but the main door closed.

Q. Okay. Okay. And did you recall if anyone else had access to those separate rooms?

A. Myself and Iggy, Ignacio, who I was working with, had access to those rooms. I can't say if there was anybody on the ship that had access that might have, you know, master -- person on the ship that did. I -- I can't say for sure. But I could secure the room.

Q. But as far as you understand, only yourself and Mr. Ignacio could go in there, right?

A. Right. As far as I knew.

Q. And this room was pretty important on the COLE, correct?

A. Yes.

Q. Did -- do you know if any photographs were taken of this room?

A. I know of one photograph, that I'm aware of.

Q. Okay. So at least one photograph was taken. Was that by the photographer who took all of the pictures or is that by a separate individual?
A. I don't recall who took the photo.
Q. Did you see it being taken or did you see it afterwards, if you ----
A. I'm in the photo.
Q. You're in the photo. Okay. Fair enough.
A. It's a photo of me working in the room.
Q. Of you working in the room?
A. Yes.
Q. And when did you see this photo?
A. At some point after we returned home.
Q. Is this while you were going through the file? Is that fair to say?
A. No. Somebody just showed me the photo; said I have a photo of you working in the room.
Q. Do you remember who showed you the photo?
A. No. Huh-uh.
Q. Okay. And do you remember if that photo was part of the evidence in this case?
A. I don't.
Q. Now, you did not physically go collect any evidence, did you?
A. No.
Q. You maintained the room?
Q. And there's -- was there ever a time when you used a different place to store the evidence other than the room?
A. Aside from when it was removed from the ship, no.
Q. So while you were on the ship, was it ever removed from the ship? Or was that done at the end when all -- I guess I'm -- here's a simpler way to ask it: Did the evidence stay in there overnight?
A. I believe there was -- it was there initially overnight, and then it was brought off the ship periodically.
Q. Do you remember why it would be brought off the ship periodically?
A. No. It could have been because the room was too full or just to bring it off and secure it at the Marine area.
Q. Did you keep track of when it was taken off that room -- or taken out from that room?
A. Keep track -- well, it just -- I didn't keep a record of it, no. It just was -- the chain of custody was the record.
Q. Okay. So there's no separate accounting for when the evidence left the room, is what you're saying?
A. No.
Q. But you did mention there was a log of the evidence
coming into the room, right?

A. Chain of custody.

Q. And I'm sorry. I apologize. I thought you said there was an evidence log. You're not saying there was a separate log that listed all of the evidence?

A. No. The evidence log lists all of the evidence. That's just a record and -- an ongoing record of every item that's collected; doesn't have anything to do with the room.

Q. Is that something you maintained ----

A. Yes.

Q. ---- in your possession?

A. Yes.

Q. And the purpose of having it was to record everything that would come into the room, correct?

A. No. No.

Q. What was the purpose of having it?

A. The purpose of having it was to collect -- to record every item of evidence that was collected on the COLE.

Q. So you ----

A. So evidence recovery log.

Q. Okay. It's an evidence recovery log?

A. Yes.

Q. Okay. When is the last time you saw the evidence
recovery log in this case?

A. In Yemen.

Q. In Yemen?

A. Yes.

Q. And you were responsible for this log, correct?

A. While I was completing it, I was responsible for it.

It was turned over to the case -- the team leader and the WFO team that was in charge of the scene.

Q. When you say it was turned over, are you saying you turned it over to them?

A. Yes.

Q. And when did you do that?

A. Before we left.

Q. And do you remember the name of the person that you turned it over to?

A. I don't.

Q. But it was one of the leads from the WFO office?

A. It was somebody from WFO, yes.

Q. But you're not certain if they were a lead or not?

A. It was somebody -- yeah, it was somebody from WFO.

Q. And that's the last time you saw it?

A. Yes.

Q. Now, when the evidence was taken off the ship, you
said you weren't involved in that, correct?
A. I was there, yes, when it was transported. I was on the trash barge with it.
Q. This would be -- is it fair to say this would be at the end of the day ----
A. Yes.
Q. ---- when everyone was departing from the ship?
A. Right.
Q. Uh-huh. And were you there when it was placed in another container once you got off the -- whatever mechanism took you off -- back to shore?
A. The trash barge.
Q. The trash barge, thank you.
A. I don't recall.
Q. And I'm going to assume other members of the team were carrying those boxes; is that fair to say?
A. Or myself. I just don't recall.
Q. Everybody was pitching in to ----
A. Yeah. Uh-huh.
Q. And they were secured in a place, but you don't know any details about the place where they were secured?
A. It was -- it was, I believe, a CONEX box or something similar at the Marine area. But I don't recall the details of
it.

Q. Did you ever -- since you carried a box, did you place that box you carried into the CONEX?

A. I would -- I don't recall the details of that. I just don't recall.

Q. Do you recall if there was a log near the CONEX box?

A. Again, I don't recall.

Q. Okay. Did you maintain any documentation of people who entered this evidence room? Did you keep a log of people?

A. No.

Q. How many -- well, how -- who -- who would come into the room?

A. Just the people who were bringing the evidence.

Q. And were those people always agents, FBI agents?

A. Majority, but no.

Q. What other types ----

A. Not necessarily.

Q. What other types of people?

A. Well, the person I worked with, Iggy, was not an agent, and he was in the room the majority of the time.

Q. And how was he -- I'm going to call him Iggy because I can't pronounce his last name, so I don't mean any disrespect. But how did you get linked up with him? Who
was -- who was he from? You said possibly he was a ----
A. I believe he was from the Explosives Unit, if I recall, at the time. I mean, he -- I believe that's where he was working.
Q. But you don't know if he was a federal agent, you said, or ----
A. He's not an agent. He was not an agent, no, but he was with the FBI.
Q. Did someone assign him to you?
A. Yes. Either he volunteered or he was assigned. That's pretty much how all of the assignments were made.
Q. It's fair to say you worked very close together with him?
A. Yes.
Q. Was he more your assistant or kind of partner in doing this?
A. Kind of my assistant. I would say partner. I mean, I don't look at him like an assistant; I looked at him like a partner.
Q. Well, who was in charge?
A. I was.
Q. Okay. Did you -- or was there any way of documenting anything he did on the case?
A. The only documentation that we did in that room were the evidence logs and the 192 chain of custodies. Now, there's other documentation that was done for the scene as a whole, which would be administrative paperwork, which would be -- which the team leader would have done from WFO, and there may have been documentation in that paperwork that would indicate who had what roles on a scene. Because when you do the initial paperwork, you fill out who has what roles. So that documentation could indicate his role, my role, all of the other roles, but I did not do that paperwork. I was not -- that was not part of my role.

Q. So if he helped you with something, there's no documentation of that, correct?

A. As I just said, there's documentation for a scene, administrative paperwork that the team leader running the scene fills out, and that could include in there everybody's roles and what they did, and he would be indicated or could be indicated on that as assisting me. But not what -- the paperwork that I did did not have that indicated.

Q. Okay. Now, your evidence recovery log, is that something that only you were allowed to make entries on, or was that something that someone else would also have access to?
A. No, I completed those.

Q. So you didn't see anyone else handling the log or ----

A. No.

Q. And other than handing it over to someone when you got back, nothing -- no one else ever saw this?

A. Not that I'm aware of.

Q. I think I was asking you how many different types of people actually came into the room and you mentioned there were some agents, some of the other experts. Were there ever any sailors that came into the room?

A. There were some, yes.

Q. Okay. And why would they come into the room?

A. To see if I needed anything, if I needed paper, pens, anything to assist me.

Q. Do you remember if they ever brought in any evidence they recovered to the room or ----

A. No.

Q. Okay. So they were basically supportive of you?

A. Yes.

Q. Did they stay in the room or just check on you?

A. Just checked on me.

Q. Do you -- how big would you say the room was in -- in
its entirety, with all of the different sections? There's three sections, so would it be -- one of the dimensions be further than you -- where you are sitting to the wall?
A. I don't think I can give an accurate description of exact size. It wasn't a very large area. My area that I sat in was where I spent the most time and it was not very big. It had a table sort of like this that I sat at most of the time and it -- I mean, it wasn't any bigger than this area here.

MJ [Col SPATH]: And this area being the witness stand and the desk that I'm at?
WIT: Maybe a little bit more of your desk. I mean, not even your whole area.

MJ [Col SPATH]: So approximately five, six feet or ----
WIT: Gosh.

MJ [Col SPATH]: ---- you can't even ----
WIT: I'm not great with that kind of stuff.

MJ [Col SPATH]: I understand.
WIT: It was not a large area where we worked. I would hate to just wager a guess.

MJ [Col SPATH]: Don't.
WIT: Not huge. I mean, it was a ship, so nothing on the ship is -- areas are huge, so ----
Q. Okay. And just to be clear on the layout, you'd walk in and I -- I believe there was a screen in the room, right, you said?
A. A screen?
Q. Was there any kind of, yeah, a screen?
A. What kind of screen?
Q. Okay. So when you walk in the room as you stand in the door, what do you see in front of you?
A. There's a table, as I said. There was -- I believe there was some, like, cabinets on the left, but -- and a chair and some open space.
Q. And your table was in the -- and the table there was your desk, or was that for ----
A. That's where I sat, yes.
Q. So you're right near the door; is that fair to say?
A. I -- I really -- it was a small room. You walk in and the table would be -- was off to the right, is the best I recall. The chair where I sat, it was up against the wall. It was against the wall. When you sat there -- when I sat there, I was facing the wall.
Q. What else did you see in the room?
A. Evidence piled up.
Q. Okay. Were there tables?
A. No, just the one and the chair that I sat in.
Q. Were there other chairs?
A. There was one other chair that Iggy would sit in.
Q. Were there any other chairs than those two chairs?
A. I don't recall how many chairs were in the room.
Q. Okay. So you don't remember if there were more than two chairs?
A. No, I don't.
Q. Do you know if this room was used in the morning for meetings sometimes?
A. That's a different -- that was not in my area. That was a different room where there was -- are you talking about the meeting room?
Q. Yeah.
A. That was a different room.
Q. When you say different room, what do you mean by that?
A. There was another room where we held meetings that had a whole bunch of chairs in it. That was a different room.
Q. Not in my room.
Q. Your room was not connected in any way to the room where the -- your room where you collected evidence was not connected in any way to the room where the meetings were held
is what you're saying?

A. It may have been connected somehow, but that's not the area that I used.

Q. Could you access the meeting room while you were inside -- I'm going to call it the evidence-collecting room.

A. I don't recall if it was connected. I just know my rooms that I used and then there was a meeting room.

Q. Do you know if the meeting room was part of the -- was the area you were in secured?

A. Yes, we could secure it.

Q. Do you know if the meeting room was part of the secured area?

A. I don't recall.

Q. Okay. Do you remember how the room was secured?

A. Locked. We could lock it.

Q. Was that a lock already on the door or did you ----

A. No. It was already a lock on the door. We did not add anything to the room.

Q. Who had access -- was it keys ----

A. Yeah.

Q. ---- that you used?

A. I believe so, yes.

Q. And who would have access to those keys?
A. That's why I said I'm not sure if there was crew people that also did, but we did.

Q. So you don't know who else had those -- a copy of those keys?

A. I can't say that there wasn't a ship person that did.

Q. But you had your own set?

A. Right.

Q. Now, you mentioned there was also an area in this room where you would dry items.

A. Yes.

Q. What type of items would you need to dry?

A. Something that would come in, like a piece of plastic or something that was still a little bit wet possibly that we would just lay out and let it dry.

Q. And you said we, so I'm assuming that's you and Ignacio?

A. Right.

Q. And where was that area in -- with respect to where your desk was and where you two were sitting?

A. The best I recall, it was in that same area.

Q. Behind you -- I know it's the same area ----

A. Within those rooms.

Q. Within those rooms. Okay. But you don't recall if
it was behind you, next to you ----

A. It would depend on what way you're facing, I guess.

Q. Well, if you're sitting in your chair behind the desk, you're facing the wall, you said, right?

A. Yes.

Q. Where would the drying area be?

If you don't remember, you can say.

A. Yeah, I really don't recall specifically, no.

Q. Okay. Now, when you placed items to dry, did they dry by that evening or did it sometimes take longer to dry?

A. I don't recall. I mean, it would vary, I guess. I don't recall that specific.

Q. Did you ever leave -- do you ever recall leaving anything overnight to dry?

A. Not necessarily, but I -- again, I couldn't say.

Q. It's possible.

A. Yeah, I don't recall that specifically.

Q. Now, most importantly, I believe you testified that you would document the items that you needed to dry the moment you received them, correct?

A. Right.

Q. Even if you didn't actually package them -- even if you -- if it took a day or so, you wouldn't wait until a day
to actually log it in, right?
A. When I received an item, it would be logged in, yes.
It would be put on the chain.
Q. Put on the chain and logged, right? Because you had a log that was separate from the chain.
A. Put on the evidence log, right.
Q. Thank you. Now, there -- sometimes -- were you ever the first person on an item of evidence as the initial chain custodian? I don't know how to put it.
A. Not on the ship. I don't believe so on the ship, no.
Q. Not on the ship. Give me -- can you provide me the best way to refer to the initial person?
A. The collector.
Q. The collector. Okay. So you never signed any item as the collector?
A. I -- I'm not going to say never. There may be something that I collected, but I don't -- that wasn't my role.
Q. So you -- every -- most items that you signed would have someone else's signature above your name?
A. Right.
Q. Okay.
A. Right.
Q. And you -- that was your way of recording who brought that item to you as well, correct?
A. What do you mean? Can you clarify that?
Q. You would record the collector's name or they would record their name?
A. They would, right.
Q. Okay. That's fair.
A. Yeah.
Q. So they would record their name, but that was a way to maintain a record?
A. The chain, yes.
Q. Okay. Now, you mentioned there was a little discussion about the DK numbers. You did not assign the DK numbers?
A. No.
Q. Okay. Do you know who did?
A. Generally, it's going to be the person collecting, but I don't know what their setup was. So it could have been -- there could have been one person assigning all the number, but it's going to be done at the point of collection, but not by me.
Q. Okay. So you're -- those numbers were assigned before the item came to you, and you never ascribed -- wrote
the actual number on anything, correct, on any of the bags?
A. No, not on the bags. I may have written them on the
green sheets when they came to me.
Q. You recorded them on the green sheets?
A. Right. But not on any bags. Unless, of course, I
noticed one where it wasn't on there, I may have then written
it on a bag.
Q. So as far as you know, you -- you are not familiar
with the process of assigning these DK numbers, right?
A. I don't know how they chose to do it there, no. But
it was at some point during the actual, initial collection.
Q. There were some items, and I think Mr. Miller
reviewed number 155 with you, and you noted that you actually
wrote some information on the evidence bags, correct?
A. On the chain portion, yes.
Q. On the chain portion of the evidence bag.
A. Yes.
Q. And looking at what's been marked as Prosecution
Exhibit 155B ----
A. I don't know if this is ----
MJ [Col SPATH]: It will show up in just a second. Don't
worry. There it is.
WIT: Uh-huh.
Q. Okay. And it shows on there that you actually signed for this item on the 18th at 4:00 p.m., correct?

A. On here, I did. These are the ones I was explaining to you.

Q. I'm sorry.

A. Yes. These were the -- this is one of the items that I was explaining earlier that I did write on this chain.

Q. Okay. And then when you compare it to the 192, that date does not appear -- or that entry does not appear on the 192?

A. Right.

Q. You don't have an explanation for that, I understand.

A. Uh-huh.

Q. Right?

A. [Nods head].

Q. But you do note that that's a date after you received the item on the 192; is that fair to say?

A. Right. Yes.

Q. And it's -- they're all consistently dated on the 18th, you said, at the same time?

A. Yes.

Q. So you took some action after -- as the custodian with respect to these -- these pieces of evidence?
A. Yes.

Q. Did you document that anywhere?

A. On those bags is what I wrote, is what I documented. And as I said earlier, there was something that I did for some reason, but I don't recall what that reason was. It was consistent. I did it on a certain number of bags during the same time period, but I don't recall why. It doesn't change the chain of custody ----

Q. Did you ----

A. ---- it doesn't change the fact that I received the item when I received the item. But I was making some notation on the bag for a reason.

Q. Well, you don't know if it changed anything because you don't recall and you didn't document?

A. Well, it doesn't change that the chain of custody -- that I received the item when I received it because the chain of custody -- the official chain is the green sheet, which is consistent.

Q. But it indicates something was done to the item that is not reflected in the official chain ----

A. It doesn't indicate ----

Q. ---- is that fair?

A. ---- necessarily that anything was done to the item.
It indicates that I wrote something on the bag, which means I did -- I was notating something. It doesn't mean that I did anything to the item necessarily.

Q. What would you ----

A. It still doesn't change the chain of custody. It -- it still doesn't change that I had it in my custody. I could have been drying it. I could have -- it's hard to say.

Q. But you noted something that you don't recall what you -- what transpired ----

A. Yes.

Q. ---- on this ----

A. Right.

Q. ---- and there's no documentation. Okay.

There are a couple of -- let me ask you this: Did you ever have to print someone's name on the form, someone else's name on the form other than your own?

A. On what form?

Q. On the I92 -- 192.

A. I could have, yes. There's two pages to the form and I could have printed someone's name on the front of the form. As I explained earlier, we fill out different portions of the form to assist one another so that's possible, but not the signatures.
Q. And what would be the purpose of you printing the name on there?
A. I would have to see the circumstance.
Q. Fair enough. Did you ever sign anyone else's name on these forms?
A. No. No.
Q. So if someone maintained that a document that was signed with their name was not signed by them, you wouldn't know how that came to be, correct?
A. No.
Q. No one ever gave you a document and said, I didn't really sign this but it's me?
A. No.
Q. But it's me and, I mean, I'm the one who had custody of it?
A. I don't understand what you're saying.
Q. Well, I know there were a lot of -- a lot of chaos during this time, you said -- you referred to adjustments that were made.
A. Not signing other people's names.
Q. Okay.
A. No. That's not an adjustment we would make.
Q. Can you give me an idea of what an adjustment was in
this scenario?

A. Well, an adjustment could be, like I said earlier, when we're filling out the forms, the person who signed the chain ahead of me might then write the storage for me, or they might write the info at the top of the form instead of me writing it just to expedite. So they might write the case number for me on the form just to help speed it along faster. So information stuff like that; not signatures, not people's signatures. They might help me with the front page of the form by putting some information on there, or Iggy might, you know, write some information on there for me. But signatures, no. Signatures are people's signatures.

Q. So adjustments, as you're testifying, are limited to situations where someone would provide or fill out a form in order to assist you.

A. In ----

Q. Help you fill out a form?

A. In my circumstance, yes.

Q. And those are pretty much the only kind of adjustments ----

A. Oh, there could have been other ones, too, with -- like I said, with that kind of scene, there may be other things, but not in my area. Not that I could speak about.
Q. If anything procedurally was done that was an adjustment, it would make sense that you would record that, correct?

A. Well, there aren't procedures. There's guidelines. So nothing is a procedure. There's no set, necessary procedures that we have to do. We follow guidelines the best that we're able to.

So as I said, you adjust your circumstances, your scene and how you process it to your circumstances. So rather than following every single one of the steps that we might do, we might not be able to do every single step.

Q. In that case, you'd want to record it to indicate that you hadn't followed that step, correct?

A. That's up to how the team leader is doing their paperwork.

Q. Okay.

A. Because again, they're not procedures. They're guidelines. The team leader determines how they do their scene.

Q. So you're never given standard operating procedures ----

A. No.

Q. ---- for collection of evidence?
Q. You have never heard of the 12-step program?
A. The 12-step process are not standard operating procedures. They are guidelines to follow.

Q. The question was have you heard of it?
A. Of course, yes.

Q. Why are those 12 steps provided as guidelines?
A. Because they are best practices that you hope to be able to follow if you are able to.

Q. So just to summarize, your basic duties, and your main and only duty on the ship, was to keep track of the evidence that people brought to you, correct, and be the record -- be kind of the room custodian, correct?
A. It was to take in the evidence and complete the chain of custodies and the evidence log.

Q. Did anyone else have that duty or assignment?
A. Like I said, Iggy shared that with me as my assistant or ----

Q. Did you have anyone on your team who also would fill in and take in forms as well, other than Iggy?
A. Well, Jane would help me periodically if I had to step away. Jane Rhodes.

Q. Okay. So if she had filled out a form, it was
because you were not able to; is that what you're saying?

A. Or if she was just assisting me, yes.

Q. So there were the three of you assisting in this process, correct?

A. She had other roles as well, but yes.

Q. Now, so you were -- but this is something you were in charge of, not her?

A. Right.

Q. Okay.

ADC [MS. ELIADES]: I don't think I have any further questions. Thank you, Your Honor.

MJ [COL SPATH]: Thank you.

TC [MR. MILLER]: Just one question, Your Honor.

Redirect Examination

Questions by the Trial Counsel [MR. MILLER]:

Q. So we're clear, did you tamper with or alter any of the evidence that you took into your custody?

A. No, absolutely not.

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

Thank you.

MJ [COL SPATH]: Ms. Eliades, any follow-up? Just looking at my notes.

ADC [MS. ELIADES]: [Microphone button not pushed; no
EXAMINATION BY THE MILITARY COMMISSION

Questions by the Military Judge [Col SPATH]:

Q. There's been a lot of talk between the different witnesses about guidelines for evidence collection, and best practices and the like.

A. Yes.

Q. I know you will, so if I get this wrong, correct me or help me understand it.

A. Okay.

Q. Example.

A. Okay.

Q. I assume in a crime scene different than the COLE ----

A. Yes.

Q. ---- where you had the ability to secure evidence in a room where you were the only one who had access, you would do that?

A. Absolutely.

Q. And so what I take as here where you're saying, you make adjustments, you had to keep the evidence somewhere?

A. Right.

Q. And so you were trying to figure out, you, as owning
that part of the process, kind of what -- what's the best way
to do it with the limitations here?

A. Exactly.

Q. Is that fair?

A. It's not like we had the world of options that we
would have liked to have under normal circumstances. Under
normal circumstances, you'd want to find the perfect room that
you could lock and have a key card access and nobody could
have access except for me, and, you know, we could record
every -- electronically every person that walked in. We
didn't have those kind of options there.

So, you know, I found the best possible option I
could. You know, it wasn't as secure as maybe one of our
electric -- you know, our evidence control rooms that we have
in our offices, but, you know, we did the best that we could
under our circumstances.

I don't believe anybody did anything with that
evidence; I don't believe touched it, tampered with it, went
in that room when they weren't supposed to. I believe it was
completely secure as best as we could secure it. So, yes,
you're exactly right. I mean, had we had the perfect
circumstances, I would have had it in the perfect
circumstances.
But we were shown options and we said, this room isn't flooded, this room isn't under water, this room is lockable, and it worked for what we had offered to us.

Q. There's been some talk, you referred to the evidence control log, just the master list of what was coming in.

A. It's a recovery log. I think there's some confusion ----

Q. That helps.

A. ---- from what the defense was asking. It's not -- it's not a control log as to what's coming in. It's a recovery log. So basically it's a list. It mirrors the information that's on the bag of evidence. So it tells you the item number, it tells you who recovered it, it tells you where it was recovered, and any information, like what it was packaged in, was it in plastic, paper. So it's not meant to be a log of evidence coming into that room. It has nothing to do with the room.

It is just a running list of every piece of evidence that's recovered at that scene. It's part of the ERT paperwork, which includes the administrative log, the photo log, latent print log, if you do latent prints, and the evidence recovery log. So it really doesn't have anything to do with the control of the evidence in the room. That's
merely the chain of custody form. That's ----
Q. That's what you were doing was the chain of custody forms?
A. Yes. And I also did the evidence logs because the -- the recovery logs ----
Q. Okay.
A. ---- because that information came from the bags. So it's the same exact information that's on the bags. The two people that recovered the evidence, that's what that is. It's not a record of the evidence coming into that room, it's a record of the evidence collected from the scene.
Q. All of the evidence.
A. All of the evidence as it came to me.
Q. Oh, sorry. So we've had some conversation here about whether or not it's been able to be located.
A. Yes.
Q. I assume you had some knowledge of that.
A. I heard it was, yeah.
Q. So first from you, your recollection is you turned it over to somebody from the Washington Field Office?
A. All of the documentation/paperwork from the scene would go back to the original -- to the team running the scene. New York was supplementing the Washington Field
Office, so everything got turned over -- back over to the Washington Field Office. And so that was their role to maintain all of that.

Q. All right. And so from there, you don't know where it went?

A. I don't know where -- anything that happened to it after it was all turned over.

MJ [Col SPATH]: Mr. Miller, any questions based on my questions?

TC [MR. MILLER]: Nothing from the government. Thank you, Your Honor.

MJ [Col SPATH]: Defense counsel?

ADC [MS. ELIADES]: [Microphone button not pushed; no audio].

MJ [Col SPATH]: Sure.

RECross-EXAMINATION

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

Q. I believe the judge asked you about certain confusion that was going on in this case, and you said you heard about it, correct?

A. Confusion? Regarding?

Q. About the evidence log. I'm sorry.

A. Yes.
Q. You heard there had been some discussion about the evidence log; is that correct?
A. Not discussion. I heard that -- I haven't seen it. I hadn't seen it so I -- my understanding was that it was not able to be found, yes. Not current discussion. Discussion back ----
Q. Okay.
A. ---- during prep.
Q. That's all I wanted to know.
A. Yeah.
Q. Okay.

ADC [MS. ELIADES]: Thank you.
MJ [Col SPATH]: Thank you. Let me make sure.
WIT: Anything else I can clarify?
MJ [Col SPATH]: I think I've got everything. Trial Counsel, is Ms. Sepeck scheduled to come back to testify or not?
TC [MR. MILLER]: She is not, Your Honor.
MJ [Col SPATH]: Not for this session. Ms. Sepeck, am I saying it right?
WIT: Yes.
MJ [Col SPATH]: Standard order, I know you will recognize this. I don't want you to discuss the substance of your
testimony with anyone until this matter is resolved. However, in this case, you recognize that could be a longer time than normal.

WIT: Yes.

MJ [Col SPATH]: So with that said, you certainly can talk with the trial and the defense team, if you want to, as you continue to prepare for any other upcoming sessions you're going to testify in. I just don't want you to talk to other witnesses or people not associated with the teams about your testimony. Does that make sense?

WIT: Yes.

MJ [Col SPATH]: All right. With all of that said, I have said to all of the witnesses, I recognize that you have an option about coming down here to testify in person or testifying over VTC, I appreciate you coming down here in person and taking the time to testify. Thank you.

WIT: Thank you.

MJ [Col SPATH]: You're excused.

WIT: Thank you.

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

MJ [Col SPATH]: Trial Counsel, tomorrow, how many witnesses do you anticipate?
TC [MR. MILLER]: For planning purposes, Your Honor, we anticipate we will recall Ms. Rhodes. She was simply -- she will testify as to chain of custody. She took these and transported them from Germany.

MJ [Col SPATH]: Transport home.

TC [MR. MILLER]: And then we'll have Ms. Vanarsdale who will say simply, I received them, and very similar to what happened here today. Those will be the only two witnesses for purposes of the hearing.

MJ [Col SPATH]: For this part of the hearing. Okay.

That helps.

We'll plan to start at 9:00 tomorrow and we will continue moving through this with an anticipation we should be finished tomorrow. See you all tomorrow at 9:00. We're in recess.

[The R.M.C. 803 session recessed at 1702, 15 March 2017.]