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1 [The R.M.C. 803 session was called to order at 1011, 15 March
2 2017.]

3 MJ [Col SPATH]: These commissions are called to order.
4 All of the parties who were present at our last session are
5 again present.

6 Mr. Miller, call your next witness.

7 TC [MR. MILLER]: Thank you, Your Honor. The government
8 calls Special Agent Edmond Cronin.

9 Step forward, sir, to the witness stand. Raise your
10 right hand, please.

11 EDMOND G. CRONIN, civilian, was called as a witness for the
12 prosecution, was sworn, and testified as follows:

13 DIRECT EXAMINATION

14 Questions by the Trial Counsel [MR. MILLER]:

15 Q. Would you please be seated. Would you state your
16 name for the record, please, and spell it?

17 A. Edmond Gerard Cronin. E-D-M-O-N-D, G-E-R-A-R-D,
18 C-R-O-N-I-N.

19 Q. And again for the record, you are Edmond Cronin,
20 correct?

21 A. Yes, sir.

22 Q. How are you presently employed, sir?

23 A. I'm a special agent with the Federal Bureau of

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1 Investigation.

2 Q. How long have you been with the FBI?

3 A. Approximately 21 years.

4 Q. I want to review briefly some of your professional
5 credentials with the court.

6 You attended university, correct?

7 A. Yes, sir.

8 Q. And where did you go?

9 A. University of Massachusetts at Amherst.

10 Q. Did you graduate?

11 A. Yes, sir.

12 Q. With a degree in?

13 A. Geography.

14 Q. And you were a member of the Air Force ROTC during
15 that?

16 A. Yes, sir.

17 Q. All right. Did you go into the Air Force after
18 the -- after your college?

19 A. Yes, sir.

20 Q. How long were you with the Air Force?

21 A. About five years.

22 Q. What did you do for them?

23 A. I was -- I worked at the Aeronautical Systems

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1 Division at Wright-Patterson Air Force Base in Ohio as a
2 warplanes officer and then I was also an Air Force officer
3 special investigations agent.

4 Q. What we commonly refer to as OSI?

5 A. Yes, sir.

6 Q. How long were you with OSI?

7 A. About two years of active duty.

8 Q. Did you remain in the reserves after that?

9 A. Yes, sir.

10 Q. About how long?

11 A. About seven years.

12 Q. When you became an OSI investigator or agent, did you
13 receive any training in the collection of evidence?

14 A. Yes, sir, in the basic criminal academy that they
15 ran.

16 Q. After you left the Air Force, did you become involved
17 with law enforcement?

18 A. Yes, sir.

19 Q. And what was your first law enforcement employment?

20 A. I was an agent with the Bureau of Alcohol, Tobacco
21 and Firearms.

22 Q. Again what we commonly call ATF?

23 A. Yes, sir.

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1 Q. When did you join ATF?

2 A. September of 1989.

3 Q. How long did you remain with them?

4 A. About seven years.

5 Q. Were you stationed at a particular field office
6 during the entire time?

7 A. Boston.

8 Q. Again, did you receive any specialized training in
9 the area of evidence collection and the processing of crime
10 scenes?

11 A. Yes, sir.

12 Q. Did you receive any specialized training or specific
13 training regarding explosions or post-blast?

14 A. Yes, sir, there was post-blast training provided by
15 ATF in their schools.

16 Q. When did you join the FBI?

17 A. June of 1996.

18 Q. Did you go through their New Agent School?

19 A. Yes, sir.

20 Q. At Quantico?

21 A. Yes, sir.

22 Q. I'm assuming that you received training at Quantico
23 regarding the collection of evidence and the processing of

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1 crime scenes?

2 A. Yes, sir.

3 Q. What was your first office with the FBI?

4 A. The New Haven Division, the Bridgeport RA,
5 Bridgeport, Connecticut.

6 Q. Did you become a bomb tech during your time at that
7 particular RA?

8 A. Yes, sir.

9 Q. When you say RA, for the record and for the court,
10 please, what do you mean, RA?

11 A. Resident agency.

12 Q. Does that mean it's a smaller office?

13 A. Correct.

14 Q. Explain what it took to become a bomb tech.

15 A. Attending the Hazardous Devices School in Huntsville,
16 Alabama, at that time it was four weeks in length, plus some
17 follow-on training for weapons of mass destruction.

18 Q. How long did you remain in the New Haven RA?

19 A. I was in New Haven through May of 2000.

20 Q. Were you transferred?

21 A. Yes, sir.

22 Q. To what office?

23 A. Boston FBI.

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1 Q. How long did you remain in the Boston office?

2 A. I remain there today.

3 Q. All right. And if you could, what have you done
4 there? What have your assignments been?

5 A. From May of 2000 on until about 2010, I was the
6 special agent bomb technician coordinator for all but about
7 six months of that time and I worked on the counterterrorism
8 squad.

9 Q. What did the bomb -- what were the duties and
10 responsibilities of the bomb tech coordinator?

11 A. To be aware and be part of any and all coming
12 incidents that occurred within the Boston Field Division's
13 four states.

14 Q. Have you ever been an instructor in the area of
15 post-blast crime scene investigations?

16 A. Yes, sir, I have.

17 Q. All right. Have you done that both domestically and
18 internationally?

19 A. Yes, sir.

20 Q. I believe that you have worked on some
21 significant what we call mass casualty cases; is that correct?

22 A. Yes, sir.

23 Q. One of them being the Egypt Air?

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1 A. Correct.

2 Q. You worked the 9/11 case?

3 A. Yes, sir; in terms of Boston, yes.

4 Q. And did you work the Marathon -- Boston Marathon
5 bombing?

6 A. Yes, sir, I did.

7 Q. I want to direct your attention to October of 2000.

8 Did you receive information that there had been a bombing of a
9 United States naval vessel in Yemen?

10 A. Yes, sir.

11 Q. Where were you when you received that information?

12 A. Tashkent, Uzbekistan.

13 Q. What were you doing in Uzbekistan?

14 A. We were teaching post-blast to the Uzbek authorities.

15 Q. Were there any other individuals with you?

16 A. Yes, sir, there were about eight or ten FBI agents --
17 other FBI agents with me.

18 Q. Best you can recall, who are they?

19 A. Greg Karl, William Davitch, Leo West, Robert Holley,
20 Morgan Bodie.

21 Q. When you received the information, was any request
22 made of you?

23 A. Yes, to be prepared to travel to -- possibly to

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1 Yemen.

2 Q. And did you in fact travel to Yemen?

3 A. Yes, sir, we did.

4 Q. Did you fly through Germany?

5 A. Yes.

6 Q. All right. When you landed at Yemen, anything
7 unusual occur?

8 A. Yeah, we were, you know, kept on the aircraft for a
9 while. Then we were in a -- what I'd term a customs
10 clearinghouse for a while, and then we were on a bus headed
11 for a hotel after that, but it took quite a while.

12 Q. Now, when you arrived at the hotel, did you meet with
13 other law enforcement officials ----

14 A. Yes, sir.

15 Q. ---- agents?

16 A. Yes, sir. There were a number of FBI and U.S.
17 Government personnel that were already in the country as well
18 as the probably 40-ish U.S. Government personnel that traveled
19 into the country from Germany on that -- on the flight that I
20 was on.

21 Q. And who were the persons in charge?

22 A. The SAC was John O'Neill.

23 Q. There were no other individuals there from the Boston

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1 office, were there?

2 A. Correct.

3 Q. All right. So did you associate or were you placed
4 with agents from any other office?

5 A. Yeah. It was either New York or W -- Washington
6 Field Office.

7 Q. All right. Were you provided with any instruction as
8 to what your specific duties would be?

9 A. Sure. To recover evidence from the USS COLE.

10 Q. Were you teamed with any individual?

11 A. Sure. I worked a lot with Agent Kneisler.

12 Q. Do you remember when you first went to the ship?

13 A. Yes.

14 Q. All right. Did you receive any instruction? Did you
15 do a walk-through? What did you do when you first arrived?

16 A. We were in the -- at the beachhead that was
17 established and we moved to the dolphin via small boat. The
18 instructions were we're going to assess the scene, we'll
19 attempt to find a workplace, a central workplace, and then
20 begin to gather evidence from the open decks to make best
21 efforts and not losing whatever evidence may be up there.

22 Q. When you got on -- first got on the ship, what did
23 you do? Did you survey it?

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1 A. We surveyed it and we went to a small theater that's
2 located on the ship to establish a working point.

3 Q. Did you walk through any other areas of the ship?

4 A. I observed the galley from a distance. I walked --
5 no, it was just -- you know, we were -- we boarded the ship
6 through the -- up the gangway, which is about center of the
7 ship, observed what was left and right immediately there, then
8 went down to the theater. But I do remember seeing the galley
9 and the eating area of the ship that first day.

10 Q. Is there anything that sticks in your mind about
11 that?

12 A. Sure. The complete destruction of the galley. The
13 gaping hole that was on the side of the ship that you could
14 see from what I would term the center of the ship.

15 Q. Anything else?

16 A. Through the -- you know, to the outside of the ship,
17 to the water.

18 Q. Were you then provided an area in which you were to
19 search?

20 A. Yes.

21 Q. All right. And what was that area?

22 A. Outside decks, including some decks high above the
23 main deck of the ship.

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1 Q. All right. And what specifically were you looking
2 for?

3 A. Items that would not be native to the -- to a U.S.
4 warship.

5 Q. All right. And what sort of items would those be?

6 A. There were -- we're looking for pieces of what are
7 potentially the device, the initiation method, or unexploded
8 explosives that could be present.

9 Q. And how would you describe the scene? Was it a
10 difficult scene to work?

11 A. Yes. It was -- you know, the ship was struggling to
12 remain powered. At times power would be lost on the ship and
13 there would be interruptions due to that. It was about
14 110 degrees. There were still sailors missing at that point
15 in time, so there was -- the primary concern was the recovery
16 of three missing sailors.

17 Q. Were there sailors -- I guess there were sailors,
18 then, working on the ship, correct?

19 A. Yes, sir, there were.

20 Q. Do you remember any divers being there?

21 A. Yes.

22 Q. What was the purpose of the divers? What were they
23 doing?

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1 A. They were attempting to recover the bodies of the
2 missing sailors that were believed to be in the water under
3 the ship.

4 Q. Did they assist in any evidence collection in the
5 water?

6 A. I did not take -- receive any evidence from that, but
7 I would say absolutely they did.

8 Q. You yourself didn't receive any evidence from that?

9 A. No, sir, I did not.

10 Q. Now, if you could, just briefly walk the -- or for
11 His Honor, explain what you would do when you came upon a
12 piece of evidence.

13 A. With gloved hands, it would be collected and placed
14 in a plastic bag. And then at some point when we considered
15 that bag to have enough pieces in it, it would be taken to a
16 collection point and -- you know, the bag signed, filled out,
17 sealed, dated, and marked appropriately.

18 Q. Now, if you found a piece of fiberglass, let's say
19 burnt fiberglass, I'll use that as an example, and you found
20 three or four pieces close together, what would you do? Would
21 you give each a separate bag or would you group?

22 A. No. They would all be placed in one bag.

23 Q. Now, who would mark the bags when you were working

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1 with Agent Kneisler?

2 A. It could be either of us.

3 Q. Generally, do you know who did?

4 A. Yeah. Agent Kneisler.

5 Q. Was there a reason she did it?

6 A. I believe because maybe she was the junior agent, and
7 WFO was one of the two divisions that would have been
8 responsible for the investigation and potential prosecution at
9 that point in time.

10 Q. All right. Now, you indicated that once it was
11 bagged, would you take it to a certain area?

12 A. Yes, sir. My recollection is that we would take it
13 down to the movie theater area, movie theater in the ship, and
14 keep it there.

15 Q. Do you remember who was working in that particular
16 area? Do you remember who the evidence custodians were?

17 A. No -- no, I don't. Not in particular.

18 Q. All right. Because you were not either from New York
19 or from the Washington Field division, correct?

20 A. Correct.

21 Q. Now, do you know what happened with the evidence at
22 the end of the day?

23 A. We would take it off the ship.

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1 Q. Where would you take it?

2 A. It would be taken to the beachhead.

3 Q. All right. Was there a CONEX box of some sort there
4 for storage?

5 A. Yes, sir.

6 Q. All right. I want to show you, if I could -- before
7 that, did you help or assist in any way bringing the evidence
8 back to the United States?

9 A. Yes, sir, I did.

10 Q. Could you relate what part you played in that?

11 A. Sure. I departed on a C-5 aircraft, and we had a
12 load of evidence on the aircraft. We flew to Germany,
13 remained in -- overnight in Germany. But prior to departing
14 the aircraft, we worked with the Air Force crew to secure the
15 aircraft and put a -- a lock on the -- have a tab on the
16 aircraft door to know that the aircraft wasn't tampered with
17 while we were gone.

18 Q. And do you remember coming back to the United States?

19 A. Yes, sir.

20 Q. Do you remember where you landed?

21 A. Andrews Air Force Base.

22 Q. And do you remember with whom you met?

23 A. Yes.

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1 Q. Who?

2 A. Agent -- it was then Technician Arsdale [sic], but
3 now Agent Arsdale.

4 Q. Any other members from the lab, if you recall?

5 A. No, I don't recall.

6 Q. Okay. I show you what has been previously
7 identified -- now, I believe that you indicated typically
8 Agent Kneisler would fill out the bag, correct?

9 A. Correct, sir.

10 Q. I want to show you Prosecution Exhibit 68B for
11 Identification. Do you recognize that, sir?

12 A. Yes, sir, I do.

13 Q. All right. And what do you recognize it to be?

14 A. A picture of the -- an evidence bag that would have
15 been filled out on the ship.

16 Q. All right. And at the bottom there's a chain of
17 custody that's filled out. Is any of that your handwriting?

18 A. No, sir, it's not.

19 Q. Now, there is a place up on top for date and time of
20 recovery, a description, location of recovery, and recovered
21 by. Do you recognize that handwriting?

22 A. Yes, sir, I do.

23 Q. All right. And for the record, could you read into

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1 the record the description of the evidence.

2 A. Miscellaneous small pieces.

3 Q. Time and date of recovery?

4 A. 10/16/2000, 1340 hours.

5 Q. Location?

6 A. Starboard 04.

7 Q. Recovered by?

8 A. SA Cronin, SA Kneisler.

9 Q. That again is your handwriting?

10 A. Yes, sir, it is.

11 Q. What does BS stand for?

12 A. Boston.

13 Q. And WFO is?

14 A. Washington Field Office.

15 Q. Washington Field Office. All right.

16 If I could have 69. I want to show you what has been

17 previously marked or -- I want to show you Prosecution

18 Exhibit 69B for Identification and ask you if you recognize

19 that, sir?

20 A. Yes, sir. Again, a picture of an evidence bag that
21 was used on the COLE.

22 Q. Is that one evidence that was recovered by yourself
23 and Agent Kneisler?

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1 A. Yes, sir, it is.

2 Q. Now, there's a chain of custody section. Do you
3 recognize any of the handwriting in the chain of custody
4 section?

5 A. No, not as mine.

6 Q. What?

7 A. Not as mine.

8 Q. All right. And what about the date and time of
9 recovery, location of recovery, and recovered by?

10 A. Yep. That's my handwriting.

11 Q. All right. And also there's an item description,
12 correct?

13 A. Yes, sir, there is.

14 Q. All right. If you could read into the record -- all
15 of that is in your handwriting?

16 A. Yes, sir, it is.

17 Q. Could you please read what the item description is?

18 A. Yes, sir. Miscellaneous items.

19 Q. Date and time of recovery?

20 A. 10/16/2000, 1540 hours, Port Side 04.

21 Q. And recovered by?

22 A. Agent Kneisler and Agent Cronin.

23 Q. Again, that's all in your handwriting, correct?

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1 A. Yes, sir, it is.

2 Q. Lastly, I want to show you what has been marked as --
3 excuse me, I want to show you Prosecution Exhibit 103B for
4 Identification and ask you if you recognize that photograph,
5 sir?

6 A. Yes, sir. Again, a picture of a bag used to recover
7 evidence on the COLE.

8 Q. There's a chain of custody section that's filled out.
9 Is any of that handwriting in that section yours?

10 A. No, sir. It's not.

11 Q. Is the portion description of evidence, date and time
12 of recovery, location of recovery and recovered by, do you
13 recognize that handwriting?

14 A. Yes, sir. That's mine.

15 Q. All right. If you could, for the record, please read
16 what the description of the evidence is.

17 A. Pieces of black plastic.

18 Q. Date and time of the recovery?

19 A. 10/16/2000, 1540 hours.

20 Q. Location?

21 A. Port Side 04.

22 Q. Recovered by?

23 A. SA's Kneisler and Cronin.

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1 Q. I take it as to all of these exhibits that I've shown
2 you here today, three exhibits, that information is accurate?

3 A. Yes, sir, it is.

4 TC [MR. MILLER]: I have nothing further, Your Honor.
5 Thank you.

6 MJ [Col SPATH]: Defense counsel.

7 **CROSS-EXAMINATION**

8 **Questions by the Detailed Defense Counsel [LCDR POLLIO]:**

9 Q. Good morning.

10 A. Good morning.

11 Q. I just want to come back and clarify a few of the
12 questions that you talked about with Mr. Miller and make sure
13 that I'm understanding and following the time line of what's
14 going on here, okay?

15 A. Yes, ma'am.

16 Q. Okay. So first I want to ask you a little bit, you
17 talked about your past experiences, and trial counsel asked
18 you about some different scenes that you had been to. How
19 many bomb sites had you worked on previously to the USS COLE?

20 A. A number. When I was first assigned to ATF, I was
21 assigned to the Arson and Explosives Group for the Boston
22 office. So I -- we would, you know, be assigned whatever
23 arson or explosive matters that came up over that time.

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1 Q. Can you recall specifically any bomb scenes, though?

2 A. You know, one that comes to mind was in Massachusetts
3 in October of 1991, what is termed the Roslindale bombing.

4 Q. And you mentioned a flight and we've heard a couple
5 of different flight names, sadly, throughout the different
6 witness testimony. Do you remember what flight was it?

7 A. Egypt Air 990.

8 Q. When was that?

9 A. It occurred October 30th or 31st of 1999. It crashed
10 off the coast of Nantucket, the coast of Rhode Island, and the
11 remains of the people on board that were brought in at that
12 time into the -- into naval station in Rhode Island.

13 Q. And were you involved in the evidence collection on
14 that site as well?

15 A. I was involved in the morgue operations.

16 Q. Okay. So you weren't collecting evidence at the
17 scene, though?

18 A. No. No. The scene was -- well, at times I was
19 assigned to the morgue. There was also a time where personnel
20 were placed on U.S. Navy ships. I was part of that detail as
21 well. I was out -- out in the waters helping whatever items
22 would be collected. The -- there were a number of items
23 there. There were probably seven or eight U.S. vessels that

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1 were out there collecting, looking for the remains of the
2 aircraft, as well as the remains of the souls on board.

3 Q. Okay. I just want to make sure that I am
4 understanding. You had many responsibilities, but primarily
5 you were not involved in evidence collection on that site?

6 A. No. It was -- it was certainly -- examination of
7 human remains in the morgue was -- went on for a number of
8 days that I was there.

9 And subsequent to that they -- there was another
10 operation, maybe a month after that that was again recovery of
11 human remains and parts to the aircraft. I was definitely on
12 land for that one.

13 Q. Okay. Thank you. I think I understand ----

14 A. Okay.

15 Q. ---- generally speaking what you are saying now.

16 A. Sure.

17 Q. You stated earlier that when you got the call to come
18 to the USS COLE, you were with several other -- I think I'm
19 using the right word here -- bomb technicians or bomb techs?

20 A. Correct.

21 Q. Is there a difference between a bomb technician and
22 an explosives technician at the scene of evidence collection?

23 A. There's a difference in the -- the FBI Lab employs

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1 physical science technicians. That may be what you are
2 referring to.

3 Q. Okay.

4 A. They may have attended the Hazardous Devices School
5 or they may not have. There are times that they do -- they
6 have sent them there and there are times that they have not.
7 But a -- what -- someone that attends the Hazardous Devices
8 School in Huntsville, Alabama, is referred to as a bomb
9 technician.

10 Q. And is there a different training that somebody goes
11 to to then be labeled an explosives expert?

12 A. Well, they would have gone through -- you could be
13 referring to an explosives examiner in the FBI Lab.

14 Q. Okay. Would you have an explosive expert on the
15 scene with you to help you look at evidence as well?

16 A. There can be an explosives examiner there. There
17 were two.

18 Q. And you said there were two. Are you talking about
19 on board the USS COLE?

20 A. Yes, ma'am.

21 Q. And who were they?

22 A. One was Leo West. The other was Don Sachtleben.

23 Q. And did they help you, as you're doing your evidence

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1 collection, to identify items or what was their purpose?

2 A. No. Their purpose was supervisory.

3 Q. Okay. I'll come back to that in a second. I just
4 want to make sure I'm tracking on the time line here.

5 A. Yes, ma'am.

6 Q. You said that when you arrived, you were delayed for
7 some time. Do you know why you were delayed?

8 A. Yeah. It was the process of entering the country of
9 Yemen.

10 Q. And what was that process?

11 A. I think deliberations between the two governments.

12 Q. Did you notice anything unusual from your perspective
13 sitting on the plane?

14 A. Yeah. There were Yemeni authorities with automatic
15 weapons.

16 Q. And that was unusual to you?

17 A. Yes.

18 Q. And you said that process delayed your search
19 efforts, correct?

20 A. No, because we landed probably 9:00 at night. We
21 certainly would not have started until sunrise, no matter
22 what. So I would say, you know, we -- we probably spent an
23 extra two hours processing, or just, you know, awaiting the

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1 debates of the governments to be allowed into the country.

2 Q. Okay. And the next day, you said that you started
3 your duties, you began your search, collection on the beach;
4 is that right?

5 A. No, I didn't start on the beach. I started on the
6 ship. We arrived at what was termed the beachhead where there
7 was a location where we could -- where we were dropped off,
8 where we could form and wait for transport to the ship.

9 Q. So did you have any involvement with the search
10 anywhere other than on the USS COLE?

11 A. I searched several houses later on in the week.

12 Q. Okay. But that beachhead, did you not search that?

13 A. No, ma'am, I did not.

14 Q. You said that you were given duties on different
15 areas that were to be searched. Who gave you your assignment
16 for the day?

17 A. Don Sachtleben.

18 Q. So he was in charge of assigning out the duties and
19 specific areas to be searched?

20 A. Yes, ma'am.

21 Q. I take it that you would get a duty assignment on the
22 beginning of each day?

23 A. Yes, ma'am.

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1 Q. And each day it was Don that gave you this
2 assignment?

3 A. No, because I think -- my recollection is my duties
4 on the ship lasted for the 16th.

5 Q. Okay.

6 A. After that, I was detailed to search the two houses
7 that were relevant to the -- two houses that were relevant to
8 the investigation.

9 Q. So it's fair to say, then, Don was controlling your
10 duty assignments while on the ship and somebody else was
11 controlling assignments off the ship?

12 A. Correct.

13 Q. Okay. I want to ask you a little bit -- and there's
14 been some talk about the theater room and it's been called a
15 couple of different things throughout the course, but that was
16 where the evidence was collected and stored onboard the ship,
17 correct?

18 A. I believe so.

19 Q. Okay. And this is the room that you physically would
20 take the bags of evidence -- after the bag was full, you would
21 then take it down to this theater room?

22 A. I want to say Agent Kneisler would take it down. I
23 probably stayed on the top deck collecting more evidence.

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1 Q. Did you ever see the theater room?

2 A. Oh, yes. Start of the day and end of the day.

3 Q. Okay. And the theater room, do you recall what the
4 rough size of that room was?

5 A. Maybe 15 feet wide, 30 feet long.

6 Q. And I take it that the room was not empty; there
7 might have been chairs or other ----

8 A. There were fixed chairs that you might see in a -- in
9 an older style movie theater, and a screen at the front of the
10 room.

11 Q. Okay. So do you know how -- with the fixed chairs,
12 how they were arranging the evidence that you would bring
13 down? Did you ever see it in the room?

14 A. No, I -- no. I don't remember that.

15 Q. You said that at the end of the day, the evidence
16 would be taken from there, the theater room, off the ship.
17 Were you involved in that process?

18 A. Yes, I certainly carried evidence off the ship.

19 Q. Did you start with that evidence at the theater room?

20 A. I don't remember.

21 Q. Okay. So you don't recall if you took the evidence
22 from the theater room directly to the shore?

23 A. No. I remember carrying it off the ship. I -- I

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1 don't remember where we might have had it. It would -- it
2 would seem to make sense that we took it out of the theater
3 room, but I don't have a clear memory of that.

4 Q. Was there anybody that was giving you, whether it was
5 a box or a plastic bag, somebody handing you this and saying,
6 please take this to the shore?

7 A. Sure. That would have been a logical instruction.
8 Who might have given me that, I don't remember. I would
9 certainly say we knew that we were at the end of our duties
10 for the day and we would take all of the evidence with us off
11 of the ship.

12 Q. And I understand this was a while ago and so I -- and
13 I also understand that you were not part of the New York or
14 Washington offices, but do you recall, just from who you saw
15 on a daily basis, was it the same person that would ask you to
16 do this?

17 A. Well, again, that start of collection, I was only
18 there that one day, so it would have been that person.

19 Q. Do you recall if it was a male or a female?

20 A. I don't.

21 Q. Fair enough. And you said that at the start of the
22 first day that you were there on the 16th. The evidence was
23 taken from the ship to the CONEX box on the shore?

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1 A. We certainly took it to the shore and I participated
2 in taking it to the shore. I remember, you know, we -- I
3 would have left it down. There would have been another part
4 of the team that would have put it in storage. I did not do
5 that.

6 Q. No, and I understand that. I'm just asking on that
7 first day, because you said you searched the ship the first
8 day on the 16th and then you had other duties off the ship,
9 correct?

10 A. Correct, ma'am.

11 Q. So on that first day, after you had done evidence
12 collection, you were involved in taking the evidence that had
13 been collected throughout the day off of the ship and to the
14 shore?

15 A. Yes, ma'am.

16 Q. Okay. Thank you. And it's fair to say that it was
17 on that first day that you collected evidence, other people
18 were collecting evidence, too, correct?

19 A. Yes, ma'am. Absolutely correct.

20 Q. And do you know if -- and I'm trying to word this
21 question correctly.

22 All of the evidence that was collected on that first
23 day, was that all then removed on that first day, to your

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1 knowledge?

2 A. I would say yes. You know, I couldn't think of a
3 logical reason why we would leave any behind.

4 Q. Thank you. Now, I want to make sure I'm
5 understanding. My understanding of your duties on the
6 different spaces that you were assigned by Don was that you
7 were searching locations on the outside of the skin of the
8 ship; is that correct?

9 A. Yes, ma'am, on the exterior decks.

10 Q. Okay. And so you talked a little bit about some of
11 the work that was being done by the sailors to save the ship
12 and interruptions with the electrical power, but that was
13 mostly on the inside and the interior of the ship, correct?

14 A. Sure. Yes. Yes.

15 Q. Thank you. We've heard a lot from some of the
16 witnesses and we've seen some of the evidence that there's
17 some very small pieces of evidence collected, correct?

18 A. Yes, ma'am.

19 Q. And some of that was collected through sifting?

20 A. I have seen photos of sifting. I did not participate
21 in it.

22 Q. In any of the pieces that Trial Counsel, Mr. Miller,
23 showed you, did you -- were any of those obtained through

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1 sifting or did you physically pick the pieces up and put them
2 in the bag?

3 A. We physically picked them up and put them in the bag.

4 Q. Okay. And you did not participate in the sifting
5 stations or the sifting duties, correct?

6 A. No, ma'am.

7 Q. Okay. You said that as part of your duty when you
8 were walking around these outside spaces was to try to
9 identify what might have been from the USS COLE and what might
10 have been foreign; is that right?

11 A. Correct, ma'am.

12 Q. Did you have somebody with the ship to help you on
13 those duties?

14 A. Yes -- there were personnel assigned to us. I
15 honestly don't remember asking anybody, you know, what wire --
16 if I collected a piece of wire, would I think that was native
17 to the ship or from another vessel. But they were available
18 to us.

19 Q. But you don't recall specifically using their
20 assistance?

21 A. No, ma'am, I don't.

22 Q. You testified that you were part of the team that
23 left Yemen with some of the evidence. Do you recall what date

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1 it was that you left?

2 A. No, I don't.

3 Q. Okay. Was that, to your knowledge, the first flight
4 that left Yemen with evidence?

5 A. Yes, ma'am.

6 Q. Okay. And who was with you on that first flight, if
7 you recall anybody.

8 A. Agent Davitch, Agent Holley, Agent Yacone. Those are
9 the three that I remember.

10 Q. And you testified about a lock on the door to make
11 sure that the evidence was not contaminated. Is that normal
12 procedure?

13 A. No. They added -- they secured the doors in normal
14 fashion that they do, but we added a simple metal tab that
15 would act as a tamper-proof lock.

16 Q. And is that normal in evidence, if you are flying
17 evidence back somewhere?

18 A. No, ma'am. It was our best efforts to maintain
19 custody of the evidence.

20 Q. And why was that done in this instance and not in
21 some other? Was there a special circumstance or do you know
22 why?

23 A. I'm not aware of other instances.

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1 Q. Were you told of any reason why they might want to do
2 that specifically in this case?

3 A. No. You know, it's certainly -- it was a crime
4 against, you know, a U.S. warship in a noncombat environment
5 that the FBI was assigned to investigate. That's why we would
6 have made all efforts to maintain the security of the
7 evidence.

8 Q. And were you told that there was any sense of urgency
9 or secretive nature to this flight?

10 A. No.

11 Q. Okay.

12 DDC [LCDR POLLIO]: No other questions. Pass the witness.

13 MJ [Col SPATH]: Mr. Miller, any questions?

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

15 MJ [Col SPATH]: All right. Special Agent Cronin, I'm
16 going to give you a standard instruction. Don't discuss your
17 testimony that you provided with anybody until the matter is
18 resolved. I know you recognize that could be quite some time,
19 so just keep that in mind. The only exception to that,
20 though, is you can continue to talk with the prosecution and
21 the defense team, to the extent you want to, as they prepare
22 for additional testimony if they need to. Do you understand?

23 WIT: Yes, Your Honor, I do.

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1 MJ [Col SPATH]: All right. I've said this to everybody.
2 I appreciate you coming in person to provide testimony, and we
3 see a lot of VTC testimony. Thanks for taking the time to
4 come down here.

5 WIT: Thank you, Your Honor. You're welcome.

6 MJ [Col SPATH]: You're excused.

7 WIT: Thank you.

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

10 MJ [Col SPATH]: Call your next witness.

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

12 The government calls Special Agent Kevin Finnerty.
13 Special Agent, step forward to the witness stand,
14 please. Raise your right hand, please.

15 KEVIN D. FINNERTY, civilian, was called as a witness for the
16 prosecution, was sworn, and testified as follows:

17 **DIRECT EXAMINATION**

18 Questions by the Trial Counsel [MR. MILLER]:

19 Q. If you could, please, spell -- state your name and
20 spell it for the record, please.

21 A. My name is Kevin D. Finnerty. Last name is spelled
22 F, as in Frank, I-N-N-E-R-T-Y.

23 Q. How are you presently employed?

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1 A. Supervisory special agent with the FBI.

2 Q. How long have you been with the FBI?

3 A. 19 years, 10 months.

4 Q. I want to speak a little bit about your background.

5 Have you ever been a member of the United States armed
6 services?

7 A. Yes. I enlisted out of high school into the United
8 States Army. I did three years with the regular service, I
9 did some Reserve time, and that's when I was in the military.

10 Q. All right. After you left the Army, did you attend
11 University?

12 A. Yes, I did.

13 Q. Where did you go and, please, any degree you may have
14 obtained?

15 A. I attended Duquesne University, and there I obtained
16 a degree in criminal justice and nursing. And then afterwards
17 I went on and pursued a master's degree with the University of
18 Oklahoma.

19 Q. Did you receive a master's?

20 A. Yes, I did.

21 Q. In?

22 A. Sorry. Public administration.

23 Q. Did you obtain any employment as a police officer

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1 after your education?

2 A. Yes. It was kind of going on at the same time, but I
3 was employed as a police officer. First I was employed at
4 Kennywood Park Police, which is just outside the City of
5 Pittsburgh. After that I was employed by the City of
6 Pittsburgh Police Department.

7 Q. When were you employed by these police departments,
8 time frame?

9 A. Starting in 1992, I was employed by the Kennywood
10 Park Police Department. And then in early -- sorry, 1994, I
11 was employed by the City of Pittsburgh.

12 Q. The previous witness, Jeff Miller, was a member of
13 the Pittsburgh Police Department.

14 A. Yes.

15 Q. Did you work together?

16 A. Yes, we worked together. Different ----

17 Q. All right.

18 A. ---- different sections within the city, but we did
19 work together.

20 Q. But you were on the police department at the same
21 time?

22 A. Yes.

23 Q. Now, when you were a member -- a policeman with the

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1 Pittsburgh PD and the municipality, did you receive any
2 training in the collection of evidence and the processing of
3 crime scenes?

4 A. Yes. Part of your police academy is required, they
5 go over basic collection of evidence.

6 Q. All right. And did you receive any other specialized
7 training while you were there?

8 A. Not in evidence collection, not with the police
9 departments.

10 Q. How -- you said you remained with the PD for
11 approximately four years?

12 A. It was about -- a little bit over three years with
13 the City of Pittsburgh and about two years with the Park
14 Police Department.

15 Q. Did you join the FBI?

16 A. Yes. In 1997.

17 Q. All right. And did you go through New Agent School
18 at Quantico?

19 A. Yes. I went through the basic training of new agents
20 training at Quantico, Virginia.

21 Q. Did you receive any training there in the gathering
22 of evidence, collection of evidence, and processing of crime
23 scenes?

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1 A. Yes. Part of the curriculum is -- during your new
2 agents training is evidence collection. They have about a
3 week or so.

4 Q. After you graduated from New Agent School, what was
5 your first office?

6 A. I was assigned to the Washington, D.C. Field Office,
7 which is called WFO.

8 Q. And what sort of duties, responsibilities were you
9 given, sir?

10 A. First I was assigned to a Safe Streets Task Force,
11 which kind of worked in conjunction with the local police
12 department, which is MPD, and they worked on violent gangs
13 inside the city and drugs.

14 Q. How long did you remain in that position?

15 A. I was there about a year and a half, and then I was
16 transferred to a Joint Terrorism Task Force.

17 Q. How long did you remain with the Joint Terrorism Task
18 Force -- the JTTF?

19 A. That was from approximately late 1998 to probably
20 about 2005 -- late 2005 before I went down to the Laboratory
21 Division under the Explosives Unit.

22 Q. Did you receive any specialized training in the area
23 of bomb or blast scenes?

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1 A. Yes. I joined ERT as a member of the -- when I was
2 at the Washington Field Office, which is Evidence Response
3 Team. It was there that I went through an 80-hour course in
4 evidence collection, how to process it, properly bag it, get
5 it off to the laboratories. And also I attended a post-blast
6 investigator's course.

7 Q. Have you ever acted as an instructor in the area of
8 post-blast evidence processing?

9 A. Yes. After approximately 2003 I started acting as an
10 instructor.

11 Q. Okay. Are you still at the Washington Field Office?

12 A. No. I'm assigned to Division 7, which is the
13 laboratory, which is at Quantico, Virginia, and that's where
14 the Explosives Unit is located at.

15 Q. Now, prior to the COLE bombing, had you worked any
16 bombing scenes?

17 A. I was -- went over to Kosovo, but those weren't kind
18 of the -- determining cause of death there, part of the War
19 Crimes Tribunal, but it was not a full post-blast. But prior
20 to that, no, sir.

21 Q. What did you do in Kosovo?

22 A. Kosovo, we did -- exhumed a lot of bodies. We also
23 went to sites where the victims were killed and worked along

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1 with the Army Pathology Institute, Dr. Rodriguez, and helped
2 try to determine cause of death.

3 Q. Was evidence collection, I guess, mass graves,
4 correct?

5 A. Yes, mass graves.

6 Q. I want to direct your attention to October of 2000.
7 You were at the Washington Field -- working at the Washington
8 Field Office, correct?

9 A. That is correct.

10 Q. Did you receive information that there had been an
11 attack on a United States naval vessel in Yemen?

12 A. Yes. They sent out a page that there had been a
13 bombing that had happened, and that we should get our bags
14 prepared to deploy to Yemen to assist DoD in possible
15 investigation and evidence collection of the USS COLE.

16 Q. So they contacted you in particular and asked if you
17 wanted to go?

18 A. Yes. What they did is kind of sent out -- and you
19 have teams that are on call. We'd like to see who can attend,
20 because sometimes people have personal or court cases where
21 they can't go or deploy. So I said I could go, so I started
22 packing my bags.

23 Q. When you say pack your bags to go, what does that

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1 mean?

2 A. Well, what you're doing is packing your personal bag,
3 things that you feel you might need when you are deployed.
4 And that can change depending on where you go in the world.
5 And for this one, obviously, you're going to need your basic
6 undergarments. You know, you just got to put them in a bag
7 and kind of go from there; different pants that you will need,
8 clothes.

9 Q. So there's not like a prepacked bag that you just
10 sort of lift up and take with you, is there?

11 A. No.

12 Q. All right. So you have to pack your own gear?

13 A. That is correct.

14 Q. And how do you know what to pack, necessarily?

15 A. You kind of do an assessment, kind of where you are
16 headed in the world, what the temperature is going to be
17 there. So that's -- you pretty much know you are going to --
18 anything with bodies, a lot of bodies, that you are going to
19 be getting rid of a lot of clothing because it's going to be
20 destroyed. Even wearing Tyvek, the smell still permeates into
21 the clothing.

22 Q. As far as equipment is concerned, do you pack any
23 equipment or is the equipment provided to you once you get to

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1 the scene?

2 A. What we usually do is when the teams -- when I was at
3 WFO -- it might have changed now, but at that time if you were
4 being deployed overseas, people that are deployed go get your
5 passports, go get your bags packed and get ready to go. And
6 there will be other teams that will make sure the gear is
7 ready to go. The gear that will be deployed is obviously
8 dependent upon how you are getting there, if you are driving
9 there, going by boat, airplane; depends where it's at in the
10 world.

11 Q. All right. So you're not packing buckets and
12 shovels, the sorts of things you need to go through the
13 evidence, correct?

14 A. No. That depends on the -- like I said, once again,
15 the crime scene and then who's left behind. They're going to
16 pack those items.

17 Q. After you had packed your bag, so to speak, did you
18 travel to Yemen?

19 A. Yes.

20 Q. Did you travel with any other agents?

21 A. Yes.

22 Q. Did you take a military flight?

23 A. Took a C-17, yes, from Andrews Air Force Base.

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1 Q. And did anything unusual happen when you landed in
2 Aden?

3 A. First we kind of flew out of Andrews. We went to
4 Germany for a refueling stop, Ramstein. And then from there
5 we went to Yemen. And when we landed in Aden, we were getting
6 ready to get off the plane, and the local militia or military
7 rolled up, they had guns pointed at us and they refused to let
8 us off the plane. So it turned into a -- a standoff, kind of.

9 Q. Eventually you got off the plane?

10 A. Yes. Through negotiations, contacts, we were able to
11 get off the plane. And the agreement was that they would get
12 to go through all of our stuff. So we got off the plane, took
13 it, we put it through an x-ray that wasn't working, basically,
14 and they ran it through, they kind of ran all of our stuff
15 through, and then we repacked it.

16 Q. And all of that stuff you were talking about, other
17 than your personal stuff, it's not stuff that you brought
18 along, correct?

19 A. No.

20 Q. It was stuff that would have been stuff that had been
21 packed by, I guess, the team leads or that ----

22 A. Yes. Correct. That is correct.

23 Q. Now, was there a decision made when you reached the

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1 scene as to how -- or when you reached Yemen on how this
2 search would be conducted?

3 A. Yes. Obviously, when you get to a scene, once you
4 get in, the first thing you got to do is preliminary survey.
5 So your team leader is going to go out and do an assessment of
6 the area. They usually take along a photographer and possibly
7 someone to swab the scene. So that's -- the team leaders went
8 out first.

9 Q. And who was your team leader?

10 A. Our immediate team leader was Garrett McKenzie.

11 Q. Were there any other persons who were acting in a
12 supervisory role?

13 A. Jane Rhodes I know was there. I'm trying to think
14 who else. I can't recall off the top of my head.

15 Q. Agent, there were persons not only from the
16 Washington Field Office there, correct?

17 A. There was -- yes. There was an -- investigators that
18 were sent along, and there were also security elements. There
19 was also some NCIS personnel that were there.

20 Q. Now, when they first began the search, did they
21 search a particular area?

22 A. We first began the search -- what we decided was
23 because they were still doing an assessment on board the ship

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1 is that we would search the -- kind of like the outlying
2 shorelines to see if there was any evidence there that might
3 have been blown up there -- blown to that point or washed
4 ashore.

5 Q. All right. I'm going to show you Prosecution
6 Exhibit 168 for Identification and ask you if you can
7 recognize that particular photograph.

8 MJ [Col SPATH]: 168 has been admitted.

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

10 MJ [Col SPATH]: That's all right. It's just Prosecution
11 Exhibit 168.

12 Q. Take a look at it. Do you recognize that?

13 A. Yes. That's the harbor in Aden with the USS COLE,
14 kind of down there by the refueling dolphin.

15 Q. Now, was there a search of the shoreline conducted?

16 A. Yes.

17 Q. Did you participate in that?

18 A. Yes, I did.

19 Q. All right. If you could, using your finger, go ahead
20 and indicate to the court where that search was conducted.

21 A. It's an approximation, obviously, but kind of like
22 this whole area we searched. And there's actually an island
23 back here that's not in the picture that we searched over

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1 here.

2 MJ [Col SPATH]: All right. So for the first circle you
3 drew, that is middle left of the picture in front of those --
4 I don't know if they're oil tankers or oil refineries ----

5 WIT: Yes. Yes. Yes, Your Honor.

6 MJ [Col SPATH]: ---- there. Okay. So it's the beach to
7 the left and right of that along the shoreline there.

8 WIT: That's correct.

9 MJ [Col SPATH]: And the second circle, middle bottom of
10 the photo, there's an island area off to the -- off the
11 picture there?

12 A. That's correct, that we searched.

13 MJ [Col SPATH]: Perfect. Thanks.

14 Q. Was there anything that you noticed of evidentiary
15 value or that you thought might have potential evidentiary
16 value on the shoreline there?

17 A. Nothing I recall was -- the only thing I recall
18 was -- we didn't find much, but we did kind of find rope, so
19 we took it just in case it possibly -- rope or nylon rope.

20 Q. All right. Was a plan developed as to how the search
21 itself, after the survey was done, how the search itself was
22 going to be conducted?

23 A. Yes. The determination was made that onboard the

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1 ship, obviously, we would have to split the team up, and that
2 myself and Agent O'Connor and Agent John Adams, who is not
3 here, was basically assigned body recovery.

4 Q. And what about the search for evidence other than
5 bodies?

6 A. That was assigned out to the other team, the rest of
7 the team members.

8 Q. All right. Now, were there Navy divers assisting you
9 in the search?

10 A. Yes. What we brought in was we brought in some of
11 the diver team personnel from New York. But obviously the FBI
12 does not have enough divers to cover a scene like this, so we
13 brought in the Navy mud-suit divers and they were working
14 along with the New York dive team members. And they were kind
15 of searching this area for any possible evidence that might be
16 obviously on the bottom of the harbor.

17 Q. All right.

18 MJ [Col SPATH]: And that's the area between the two ships
19 in the photograph?

20 WIT: That's correct, sir. And once again, that's an
21 approximation, Your Honor.

22 MJ [Col SPATH]: Understand. Thank you.

23 Q. 168. Again, as His Honor has indicated, it would be

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1 the area between the two ships, correct?

2 A. That is correct.

3 Q. And you watched them go in, pull the evidence out?

4 A. I remember coming up from below deck and seeing them
5 going in and out. They'd have a small Zodiac that might be
6 out here, and there would be like three to four Navy divers
7 with one FBI personnel on board, and they would kind of gather
8 the evidence up and bring it back to the ship.

9 Q. And then what would happen to it?

10 A. It would go up to one point in the ship for the
11 sifting or the separation or collection of the evidence, and
12 it was put up onboard the deck.

13 Q. Now, did the Navy personnel in any way assist with
14 the search on the ship?

15 A. Yes. And what they did was, certain areas they were
16 assigned to another FBI agent or NCIS, some of those could
17 kind of take possession of the evidence. And they would
18 search the entire ship, sweep parts of the deck, and then
19 bring it back for final collection.

20 Q. I want to show you what has been admitted as
21 Government's Exhibit 221. I show you 221 and ask you if you
22 recognize this, sir.

23 A. Yes. This is some of the pieces of evidence that

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1 were being separated out from parts of the ship, and they
2 would kind of separate out the parts that did not belong on
3 board the ship. And what we would do was get ship's engineers
4 or people that worked in the -- that were very familiar with
5 this ship and say, is this part of your ship, yes or no? And
6 if they would say no, then we would collect it.

7 Q. Now, you indicated that you ----

8 MJ [Col SPATH]: Give me one second. For the parts that
9 didn't belong, the circle you drew was on the copper-colored
10 or rust-colored ----

11 WIT: That is correct. That's obviously an approximation,
12 I can't see the picture over here completely, but I remember
13 there was two piles that were being formed.

14 MJ [Col SPATH]: Okay. Thanks.

15 TC [MR. MILLER]: Briefly, Your Honor.

16 Q. I show you Government's Exhibit -- or Prosecution
17 Exhibit 220 and ask you, is that the other pile?

18 A. That looks like it, yes. Actually, looks like stuff
19 from inside the galley.

20 Q. All right. And it -- was the galley the area in
21 which you were recovering the bodies of the sailors?

22 A. Yes, that's where the sailors were trapped. Or I
23 shouldn't say -- deceased, killed, but we had to cut them out

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1 and pull them out piece by piece sometimes.

2 Q. Was this a difficult scene to work?

3 A. Probably the most difficult I've worked.

4 Q. And why?

5 A. Well, you're dealing with several things ongoing in
6 this one. One, you're going on board a ship where there's
7 active sailors. You know, the young sailors are somewhere
8 between the ages of 17 to maybe the low 20s, and first time
9 they've been away from home. They were sleeping up on board
10 the ship because they were using all of their electricity to
11 keep the ship afloat. So they -- the air conditioning was
12 nonexistent. You know, they were trying to get some of that
13 restored but, of course, that was a work in progress when we
14 got there. Also, the heat -- Yemen at that time was about
15 100 degrees with 100 percent humidity, and now you have
16 decaying flesh and maggots and everything else that you're
17 dealing with from anytime you go into a body -- area where
18 bodies are decomposing.

19 Q. What about the condition of the ship?

20 A. The ship obviously had a blast that went off and part
21 of the floor was folded up. And I believe, if I remember
22 right, it trapped -- it basically folded up three sailors
23 pretty severely. And then there was ----

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1 Am I allowed to say the name of the one sailor, Your
2 Honor, or no?

3 Okay. I remember one -- the one sailor, part of his
4 like lower torso was blown up into the ceiling and we had to
5 get that down. And we had to push somebody up into a small
6 crevice and pull the body pieces out from the sailors.

7 Q. What about -- I understand those conditions. The
8 ship itself, was it stable?

9 A. No. It was not. I mean, it had about approximately
10 a 20x20-foot hole with a 60-foot damage area which was letting
11 the water in. The pumps were constantly going to try to keep
12 the ship afloat. We -- several times the power went out or
13 the generators went out and the ship would start taking on
14 water. You can feel the entire ship start listing, you know,
15 to one side. They would try to kind of get everybody up on
16 board.

17 So you'd in be the middle of something and someone --
18 a couple of times they would come down and say, hey, the power
19 is out. We said, that's okay, we have flashlights, we are
20 good. We're moving along. No, you don't understand, the
21 power goes out, the ship is going to start sinking. Like, oh,
22 okay. We'll move up. We'll go up deck. So ----

23 Q. How often did the power go off?

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1 A. Maybe three, maybe four, five times; I can't recall,
2 but I remember it was several times.

3 Q. Do you remember any fires occurring?

4 A. I remember there was one time there was a fire, yes.

5 Q. Now, as you were doing your collection, do you
6 remember ever seeing Special Agent Miller?

7 A. Yes.

8 Q. What was he doing?

9 A. He was running buckets of debris up from the galley
10 area. He was taking them back up to the sifting area. He had
11 two kind of like those Homer -- like they call them Homer
12 buckets, but Home Depot buckets or buckets that you get at
13 Lowe's, and he would carry them up and take them back to the
14 sifting area.

15 Q. Now, you indicated the first day you did a search of
16 the shore and then you went the second day and did a -- or
17 then you did body collection -- body recovery. Sorry.

18 And did you then involve yourself or were you
19 involved in any way in the sifting activities?

20 A. No, I did not do any of the sifting activities.

21 Q. Did you seize any evidence other than the body --
22 things associated with the body recovery?

23 A. We -- yes. There were several items that --

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1 basically what happened is they would collect the items and
2 then we would go -- or I should say separate the items out and
3 we would go seal them and write collected from the areas of
4 the ship.

5 Q. Explain that process, if you could, for His Honor.

6 A. What they do is take it back to an area, they would
7 sift it, separate it out, and we wanted the people that
8 collected the evidence to be members from the Evidence
9 Response Team. So we would bag them and make sure we put --
10 sealed them up properly and then put our initials on them,
11 signed them, and then took them down to a temporary storage
12 area, which is like, I believe, if my memory serves me
13 correctly, Your Honor, is about one area -- one deck down. It
14 was a small room where we were putting all of the evidence
15 pieces that we were getting.

16 Q. I show you Prosecution Exhibit Number -- Prosecution
17 Exhibit for Identification -- Prosecution Exhibit 20A for
18 Identification, and ask you, is this the sort of evidence that
19 you were gathering when you began your evidence-collection
20 activities?

21 A. Yes.

22 Q. All right. And do you remember how you would come to
23 get those various pieces together?

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1 A. Well, those various pieces would be collected from
2 areas on each -- kind of each grid, and then they would -- we
3 always in bombing scenes -- post-bombing scenes, it's a little
4 bit different from the evidence process, but it's following
5 the same principles or guidelines where you group like items
6 together.

7 So you'd put some of the fiberglass pieces together
8 that they had collected from a certain area and then we
9 collect them.

10 Q. Is that consistent with your training?

11 A. Yes.

12 Q. And why is it not important to pick up each
13 individual piece and put it in an individual bag and
14 photograph it in its place where it was found?

15 A. Well, it's not like a murder scene or a bank robbery
16 or where you go in. Because in post-blast scenes there's
17 items that are everywhere, all over. They're not going to
18 exactly tell you that much as far as that. So you collect
19 them from each grid. Well, you take like certain cases where
20 let's say you have a bomb goes off that has ball bearings and
21 you have 2,000 ball bearings, you're not going to collect each
22 ball bearing separately so you kind of grid them in each grid.

23 Q. Now, that particular exhibit, Prosecution Exhibit 20A

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1 for Identification has a Q tag in it. You're familiar with
2 the Q tag?

3 A. Yes. That's the laboratory Q tag.

4 Q. And does it have a number?

5 A. Yes, it does. It's 571.

6 Q. If you would show the exhibit to the witness, please.
7 Sir, do you recognize Prosecution Exhibit 20?

8 A. Yes.

9 Q. And what do you recognize it to be, sir?

10 A. It's mixed fiberglass pieces -- miscellaneous
11 fiberglass pieces, I should say.

12 Q. And did you seize those items?

13 A. Yes, I did.

14 Q. I guess recover is a better ----

15 A. I say recovered.

16 Q. Let's say recovered. You recovered those items?

17 A. Yes, I did.

18 Q. And there's certain writing on the evidence bag
19 itself, correct?

20 A. That is correct.

21 Q. Is that your handwriting?

22 A. Yes, it is.

23 Q. All right. And does it provide a description of the

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1 evidence?

2 A. Yes, it does.

3 Q. And what is that?

4 A. It says miscellaneous fiberglass pieces.

5 Q. And the date and time of recovery?

6 A. It says 10/20/2000, 1600 hours.

7 Q. The location?

8 A. Grid 1 Aft.

9 Q. Recovered by?

10 A. Recovered by myself, SA Finnerty.

11 Q. And then it shows the chain of custody and you filled
12 that out; is that correct?

13 A. Yes.

14 Q. All right. And there's a signature that says
15 received from, and it says USS COLE, and it says by?

16 A. Yes.

17 Q. All right. Is that your signature?

18 A. Yes, it is.

19 Q. It gives the same date and time; is that correct?

20 A. That is correct.

21 Q. Then you signed it again underneath; is that correct?

22 A. That is correct.

23 Q. And do you know why you signed it again underneath?

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1 A. What you're doing at that point is you're preparing
2 this to go to the next person. So you're getting ready to
3 release that to whoever is going to be the seizing agent or
4 the custodian.

5 Q. All right. Oh, one other question. Do the items in
6 the bag appear to be the same items that are contained in the
7 picture, Prosecution Exhibit 20A for Identification?

8 A. I can see part of the items, so there's some
9 similarities, yes, it looks like it.

10 Q. All right.

11 A. Without cutting it open and laying them all out.

12 Q. The things in the bag are fiberglass pieces?

13 A. Yes, they are.

14 Q. The reason for seizing this evidence was?

15 A. It did not belong to part of the USS COLE, which told
16 us that it was probably part of the boat that came up
17 alongside and was blown up.

18 Q. Now, if you would pull the evidence -- the completed
19 evidence receipt, the 192 that's with the exhibit, if you
20 would, please.

21 A. Yes.

22 Q. I have placed on the ELM0 Prosecution Exhibit 20C for
23 Identification. I'm going to ask if you would look at the

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1 completed form and 20C. I would ask you, are the first four
2 entries on the completed form identical to those in
3 Prosecution 20C?

4 A. Yes, they are.

5 Q. All right. And are you able to associate that
6 particular 192, 20C, with the exhibit, Government 20?

7 A. Yes.

8 Q. How are you able to do that, sir?

9 A. We go down here and it's got the same numbers, this
10 W113 item, number on the bag and it's also on the item number.

11 Q. Okay.

12 A. Chain of custody.

13 Q. And it shows that you -- I guess, accepted or
14 collected the evidence on the 20th at 4:00 p.m., correct?

15 A. That's correct.

16 Q. And that's consistent with the information that you
17 placed on the chain of custody section of Prosecution 20?

18 A. Yes.

19 Q. All right. One last question -- couple last
20 questions. Does the evidence bag have a Q number on it, Q tag
21 number?

22 A. Yes, it does.

23 Q. What is it?

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1 A. It's 571.

2 Q. All right. So that would match the Q number in
3 Prosecution Number 20A, correct?

4 A. Correct.

5 Q. All right. Lastly, I'm going to show you, placed on
6 the ELM0, Prosecution Exhibit 20B for Identification and ask
7 you if that is an accurate depiction of the evidence bag
8 contained in Prosecution Exhibit 20?

9 A. Yes, it is.

10 Q. All right.

11 MJ [Col SPATH]: Can you leave that there for a second.
12 Let me -- I'm going to ask a couple of questions.

13 WIT: Okay.

14 MJ [Col SPATH]: At least for this one, for the evidence
15 foundation stuff, I want to make sure I get my facts right.

16 The location of recovery, it says Grid 1 ----

17 WIT: ---- Aft.

18 MJ [Col SPATH]: In between the Grid 1 and the Aft, can
19 you read that? Is that scratched out or is ----

20 WIT: Yes, it is.

21 MJ [Col SPATH]: Okay. So Grid 1 Aft. We've had some
22 testimony about kind of how the grids were laid out. Do you
23 know where you -- you got the information that that came from

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1 Grid 1?

2 WIT: Off the top of my head, no, Your Honor.

3 MJ [Col SPATH]: All right. For aft, is it -- are you
4 talking about down in the galley area, or were you seizing
5 this somewhere else? Or you don't know any more than that?

6 WIT: Right now I don't know any more than that, Your
7 Honor.

8 MJ [Col SPATH]: All right. Typically, if you had put
9 together -- and not you personally, whoever was overseeing the
10 grid setup -- if they had put together the grid layout ----

11 WIT: Yes.

12 MJ [Col SPATH]: ---- where would they maintain that?
13 Typically, after you leave the ship, you go back home station,
14 where does that document end up?

15 WIT: That should end up in the main file.

16 MJ [Col SPATH]: In the main case file?

17 WIT: That is correct, Your Honor.

18 MJ [Col SPATH]: All right. Thank you, Mr. Miller.

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

20 **Questions by the Trial Counsel [MR. MILLER]:**

21 Q. Show you Prosecution Exhibit 21A for Identification.
22 Again, same question I asked previously. Is this the same
23 type of evidence that you were seizing?

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1 A. Yes, it is.

2 Q. It appears to be?

3 A. Miscellaneous fiber pieces.

4 Q. Again the same reason for seizing it?

5 A. It's not part of the ship.

6 Q. There's a Q number associated with that particular
7 photograph and I'd ask you if you could read that into the
8 record.

9 A. Can you blow it up a little bit more, please.

10 Q. You bet you. A little bit more? A little bit more.
11 Let's try a little bit more.

12 A. Looks like Q545.

13 Q. All right. Okay. If you could hand the exhibit to
14 the witness, please. Do you recognize Prosecution Exhibit
15 Number 21?

16 A. Yes, I do.

17 Q. What do you recognize it to be?

18 A. Miscellaneous fiberglass pieces.

19 Q. All right. And now, there's a chain of custody
20 section down there, and there's a signature. Is that your
21 signature?

22 A. Yes, it is.

23 Q. All right. Let's go up to the top part and start

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1 there, if we could. There's a description of the evidence
2 written. Can you read that?

3 A. Yes. Description of evidence says miscellaneous
4 fiberglass pieces.

5 Q. Is that your handwriting?

6 A. This one is not my handwriting, miscellaneous
7 fiberglass pieces.

8 Q. And the date and time of recovery?

9 A. Oh, date and time. Sorry. 10/20/2000 at 3:00 p.m.

10 Q. And that again is not your handwriting?

11 A. No, that is not.

12 Q. Location of recovery?

13 A. Says Grid 1 Aft.

14 Q. All right. Same as the last one, correct?

15 A. Yes.

16 Q. All right. And then it says recovered by and it
17 shows your name, correct?

18 A. That is correct.

19 Q. Again, none of this section is in your handwriting?

20 A. Besides my signature.

21 Q. Right.

22 A. No.

23 Q. Nothing on this except your signature, correct?

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1 A. That is correct.

2 Q. All right. Now, let me ask you: Did you recover
3 this particular item in conjunction with some other
4 individual?

5 A. Yes. That's once again where I was explaining the
6 process where they would sift it, bring it back to us, and
7 then we would sign as being the collected by.

8 Q. And where was it being sifted?

9 A. I'd have to see a picture of the ship, but I could
10 show you, it's to the one side, they set up a sifting area on
11 one side of the deck.

12 Q. All right. If you would, please, look at the
13 complete chain of custody receipt attached to that exhibit.
14 I'd ask you to compare the completed sheet attached to the
15 exhibit with Prosecution Exhibit 21C for Identification which
16 is on the ELM0 and ask you if the first four entries on the
17 completed sheet are identical to the four entries on
18 Prosecution Exhibit 21C?

19 A. Yes, they are.

20 Q. All right. And are you able to associate that
21 particular chain of custody receipt with the Exhibit 21 --
22 Prosecution 21?

23 A. Yes.

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1 Q. And how are you able to do that, sir?

2 A. My signature.

3 Q. All right. Is there any other way that you associate
4 that particular one?

5 A. It has a W121, and that number is written also on the
6 evidence bag.

7 Q. All right. And it says, accepted by and it gives a
8 date of 10/20 at 3:00 p.m., your signature, correct?

9 A. That is correct.

10 Q. The name Finnerty is printed underneath. Is that
11 your handwriting or someone else's?

12 A. That is not my handwriting. The signature is; the
13 handwriting is not.

14 Q. All right. I'm going to show you what has been --
15 what is Prosecution Exhibit 21B for Identification and ask you
16 if that is an accurate depiction of the evidence bag in
17 Prosecution's 21.

18 A. Yes, it is.

19 Q. All right.

20 MJ [Col SPATH]: Do me a favor. Would you hand me that
21 evidence bag, please ----

22 WIT: Yes.

23 MJ [Col SPATH]: ---- Prosecution Exhibit 21 for

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1 Identification? Thanks. So down on the chain of custody
2 section, the lower part, those are your signatures? I'll give
3 it back to you.

4 WIT: I was -- okay. Yes. Yes, Your Honor.

5 MJ [Col SPATH]: Same process. You signed both lines
6 where you collected it and then were in the process of turning
7 it over.

8 WIT: Yes, Your Honor.

9 MJ [Col SPATH]: And then the handwriting up above that,
10 other than your name or -- or you didn't write your name,
11 either, on that?

12 WIT: On this one, no, that is not my hand -- that is not
13 my printing, I should say.

14 MJ [Col SPATH]: So your printing is not above where it
15 says chain of custody?

16 WIT: No.

17 MJ [Col SPATH]: Okay. Thank you.

18 **Questions by the Trial Counsel [MR. MILLER]:**

19 Q. Before we move on to the next exhibit, is that the
20 sifting station to which you refer? I have placed a
21 photograph on the ELM0, Prosecution 242. Is that the sifting
22 station to which you referred?

23 A. Yes, it is.

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1 Q. All right. And I'm placing Prosecution 239 on the
2 ELMO. Is this the general area of where the sifting was
3 taking place?

4 A. Yes, it was.

5 Q. All right. Showing you now, Agent, Prosecution
6 Exhibit 44A for Identification and ask you, again, is this the
7 sort of evidence that you were seizing?

8 A. Yes. Collecting.

9 Q. And why would you be seizing these particular sorts
10 of items?

11 A. They were items that were not from the USS COLE.

12 Q. Again, it has a Q number; is that correct?

13 A. That is correct.

14 Q. And can you read that?

15 A. Looks like 537 on this screen.

16 Q. All right. If you hand the exhibit to the witness,
17 please.

18 You've been handed Prosecution Exhibit Number 44, and
19 I'd ask you to take a look at that, if you would, sir.

20 A. Okay.

21 Q. Do you recognize that?

22 A. Yes.

23 Q. All right. What do you recognize that to be?

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1 A. It's miscellaneous metal pieces.

2 Q. All right. And did you recover that particular --
3 those particular items?

4 A. Yes. Or, yes, collected.

5 Q. Collected. And again, the process by which you
6 obtained them, is it the same as you described to His Honor
7 just a minute ago?

8 A. Yes, it is.

9 Q. All right. So that came from the sifting process?

10 A. Yes.

11 Q. All right. And as to the evidence bag itself, is the
12 handwriting on the evidence bag your handwriting?

13 A. The printing is not, but the signatures are mine.

14 Q. All right. And by signing it, you're acknowledging
15 that you, in fact, accepted it and brought it down to have it
16 processed, correct?

17 A. That is correct.

18 Q. All right. Do you provide the description of the
19 evidence as it appears on the evidence bag?

20 A. I can't see through the bag, but it -- it says
21 miscellaneous metal pieces. It's still sealed, so.

22 Q. All right. Date and time of recovery?

23 A. This one says 3:00 p.m. on 10/20.

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1 Q. Grid or location?

2 A. Oh, I'm sorry. Grid 1 Aft.

3 Q. And it shows it being recovered by you?

4 A. Yes.

5 Q. All right. Does that bag have a Q number?

6 A. Yes, it does.

7 Q. What is that Q number?

8 A. 537.

9 Q. All right. Is that the same -- that would be
10 identical, then, to the one contained in the photograph,
11 Prosecution Exhibit 44A?

12 A. Yes.

13 Q. If you would, please, take a look at the chain of
14 custody, the 192, completed 192. I've placed on the ELMO
15 Prosecution Exhibit numbered 44C.

16 A. Okay.

17 Q. Ask you if the first four entries on the completed
18 192 are identical to the first -- to the four entries on
19 Prosecution 44C. Do they match?

20 A. Yes, they do.

21 Q. And can you associate 44C, Prosecution Exhibit 44C,
22 with the Exhibit 44?

23 A. Yes.

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1 Q. All right. And it -- and how are you able to do
2 that?

3 A. The item number, which says W133 and then also my
4 signature, date and time are all the same.

5 Q. All right. It matches the information contained on
6 the evidence bag; is that correct?

7 A. Yes, it does.

8 Q. Again, it shows you collected it by your signature,
9 but the printed name underneath, Finnerty, is not your
10 handwriting, correct?

11 A. That is correct.

12 Q. I'm going to place on the ELMO Prosecution
13 Exhibit 44B for Identification, and ask you if that photograph
14 is a fair and accurate picture of the evidence bag contained
15 in Prosecution 44?

16 A. Yes, it is.

17 Q. All right. Sir, placed on the ELMO, if you would
18 take a look at it, please, Prosecution Exhibit -- a
19 photograph, Prosecution 44 -- excuse me, 48A, and ask you to
20 take a look at it. I'm going to zero in a little bit more.
21 And ask you if that again is the type of metal objects you
22 were seizing that day?

23 A. Yes, it is.

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1 Q. And again, the reason for that?

2 A. They did not belong on the USS COLE. They were not
3 part of that ship.

4 Q. When I say seize, I mean collect, correct?

5 A. Yes.

6 Q. Does it have a Q number?

7 A. Yes, it does. It says Q540.

8 Q. All right. I'm going to show you what has been -- or
9 what is identified as Prosecution Exhibit 48B for
10 Identification, excuse me, Prosecution Exhibit 48B for
11 Identification. I'm showing that to you. Again, type of --
12 is that -- the evidence pictured there the type of evidence
13 that you were seizing?

14 A. Yes, it was.

15 Q. And does it have a Q number?

16 A. Q540.

17 Q. If you would provide the exhibit to the witness.

18 Placing before you Prosecution Exhibit 48. Do you
19 recognize that, sir?

20 A. Piece of metal, but my name is not on this chain,
21 sir.

22 Q. I'm going to ask you, though: Could you identify --
23 looking at it, it is signed by Mr. O'Connor; is that correct?

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1 A. That is correct.

2 Q. All right. And it shows him as recovering agent; is
3 that correct?

4 A. That is correct.

5 Q. And it has him on the chain of custody, date and time
6 of the 19th at 3:00 p.m., correct?

7 A. That is correct.

8 Q. All right. Now, I ask you to take a look at
9 Prosecution Exhibit numbered 48B. Does that also contain your
10 signature?

11 A. Yes, it does.

12 Q. And if you could, please, explain why your signature
13 is there.

14 A. Sometimes we both signed it if we're both there and
15 present. So both Tom and I signed it. Obviously Tom signed
16 it first and then I signed it right after him.

17 Q. So that would be an indication that you were present
18 when he seized it or you seized it jointly?

19 A. That is correct.

20 Q. Thank you. 49, please. Excuse me. Forgot to give
21 me the information for 49.

22 Before you give it to him -- I'm sorry, Sergeant.

23 I show you what has been previously marked as -- or

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1 excuse me. I'm going to show you Prosecution Exhibit 49A for
2 Identification and ask you, sir, do you recognize that
3 photograph?

4 A. Yes, I do.

5 Q. Actually, do you remember that piece of evidence?

6 A. Yes, I do. I remember it because when they were
7 separating out the metal, I walked by the pile and I saw that
8 piece sitting there, and I -- I remember just thinking how
9 unique it was because of the teeth marks on it, almost like a
10 flywheel.

11 Q. What is a flywheel, for those of us who are ----

12 A. Basically it's part of the drive shaft for a motor.

13 Q. All right. And again, you remember seizing this
14 particular piece, correct, or collecting?

15 A. Collecting, yes.

16 Q. Was it in that pile that we showed previously?

17 A. Yes.

18 Q. Does it have a Q number?

19 A. Yes, it does. Q542.

20 Q. All right. If you would provide the Exhibit 49 to
21 the witness, please.

22 Sir, do you recognize Prosecution Exhibit 49?

23 A. Yes.

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1 Q. And what do you recognize it to be?

2 A. It's a metal part, you know, possible flywheel.

3 Q. Is it the same piece of evidence in the photograph of
4 49A?

5 A. Yes.

6 Q. All right. And is your signature contained on the
7 chain of custody?

8 A. Yes, it is.

9 Q. And it indicates that it was received from the
10 USS COLE by you on October 20 at 3:00 p.m., correct?

11 A. That is correct.

12 Q. Now, as far as the handwriting on that part of the
13 chain of custody, the only part that's your handwriting are
14 the signatures, correct?

15 A. Yes. The signatures are mine, the printing is not
16 mine.

17 Q. All right. Is there a description, date and time of
18 recovery, location of recovery, and recovered by, is that
19 information completed on the evidence bag?

20 A. Yes.

21 Q. All right. And if you could, please, read into the
22 record the description of that evidence.

23 A. It says, Grid 1 Forward.

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1 Q. Okay. That's the location. And the description of
2 it?

3 A. Yes. Location of recovery, Grid 1 Forward.

4 Q. Right. Now, but there's a description of evidence?

5 A. Oh, I'm sorry, sir. It says metal part, flywheel.

6 Q. All right. And recovered by?

7 A. Recovered by myself, Finnerty.

8 Q. All right. Now, was that piece of evidence then
9 taken to the evidence custodian?

10 A. Yes, after they were properly sealed and signed, yes,
11 they are taken.

12 Q. Before we get to that, just for the record, does that
13 particular exhibit, Prosecution 49, have a Q number on it?

14 A. Yes, it does.

15 Q. And what is that Q number?

16 A. Q542.

17 Q. All right. And so that would be identical to the one
18 contained in the photograph, Prosecution Exhibit 49A?

19 A. That is correct.

20 Q. I've placed on the ELM0 Prosecution Exhibit 49C for
21 Identification. I'd ask you to look at the completed chain of
22 custody Form 192, if you would, please.

23 A. Okay.

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1 Q. Do the -- are the first four entries on the completed
2 form identical to those contained on Prosecution Exhibit 49C?

3 A. Yes, they are.

4 Q. All right. And are you able to associate 49C,
5 Prosecution Exhibit 49C, with the Exhibit 49?

6 A. Yes.

7 Q. And how are you able to do that, sir?

8 A. The item number and the date and time, plus my
9 signature.

10 Q. All right. And it shows, again, that you collected
11 it at -- on what date there?

12 A. 20.

13 Q. All right?

14 A. 10/20/2000.

15 Q. At 3:00 p.m.?

16 A. That is correct.

17 Q. And that would be consistent with the information
18 contained on the evidence bag, correct?

19 A. Yes.

20 Q. Lastly, as far as this exhibit is concerned, the
21 series, I show you Prosecution Exhibit 49B. It's a
22 photograph. Is that Prosecution Exhibit 49B an accurate
23 photograph of the evidence bag contained in Exhibit 49?

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1 A. Yes, it is.

2 MJ [Col SPATH]: Leave that up for just a second. Can you
3 hand me the bag again? Thank you. 49. And it's okay if you
4 don't know, just because you work with some of these people.
5 Up in the corner where it says item number and it's W134 ----

6 WIT: Yes.

7 MJ [Col SPATH]: ---- do you recognize that handwriting?

8 WIT: No, I do not.

9 MJ [Col SPATH]: All right. How about the initials that
10 are on the bag? I'll show it to you. Underneath the item
11 number there's that blue mark of initials ----

12 WIT: Yes.

13 MJ [Col SPATH]: ---- on the bag. Do you recognize those?

14 WIT: No, I do not.

15 MJ [Col SPATH]: Okay. Thank you.

16 Q. I've placed on the ELMO Prosecution Exhibit 50A for
17 Identification.

18 A. Okay.

19 Q. Again, is that the type of evidence that you were
20 seizing on the United States -- on the USS COLE?

21 A. Yes.

22 Q. There is a Q number associated with that photograph,
23 contained in that photograph. Can you read that?

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1 A. Yes. Q -- can you blow it up a little more, please?

2 Looks like Q546.

3 Q. All right. Thank you. If you would hand the
4 exhibit, Sergeant, thank you, to the witness.

5 Sir, you've just been handed Prosecution Exhibit 50.
6 Do you recognize that, sir?

7 A. Yes.

8 Q. All right. What do you recognize it to be?

9 A. Miscellaneous fiberglass pieces.

10 Q. Again, the reason for seizing those was ----

11 A. They are not part of the USS COLE.

12 Q. All right. There's an evidence bag associated with
13 it. It's filled out and has a description, et cetera. Is any
14 of the handwriting on the evidence bag yours?

15 A. The printing is not; however, the signatures are
16 mine.

17 Q. And does that indicate that you in fact collected
18 this evidence?

19 A. Yes.

20 Q. As to the description of the evidence, could you read
21 that into the record, please.

22 A. It says fiberglass pieces.

23 Q. Date and time of recovery?

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1 A. 10/20/2000, 3:00 p.m.

2 Q. Location of recovery?

3 A. Grid 1 Forward.

4 Q. And shows that you were the person who recovered it,
5 correct?

6 A. That is correct.

7 Q. The date and time of recovery listed on the top of
8 the evidence bag is consistent -- or it matches identically
9 the one in the chain of custody, correct?

10 A. That is correct.

11 Q. Now, does that bag have a Q number on it?

12 A. Yes, it does.

13 Q. What is that Q number?

14 A. Q546.

15 Q. That would match the number contained on Prosecution
16 Exhibit 50A for Identification, correct?

17 A. That is correct.

18 Q. Are you able to see those items?

19 A. Not completely and neatly as displayed in the
20 picture, but I can see some of them.

21 Q. And are they the same as those contained in the
22 picture, at least the ones you can see?

23 A. Yes.

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1 Q. Now, if you would take a look at the completed chain
2 of custody form, 192. I've placed on the ELM0 Prosecution
3 Exhibit 50C for Identification. Now, if you would, please,
4 are the four -- the first four entries on the completed chain
5 of custody form, FD-192, are they identical to those contained
6 in Prosecution Exhibit 50C?

7 A. Yes.

8 Q. Are you able to associate 50C, Prosecution
9 Exhibit 50C, with the Exhibit 50?

10 A. Yes.

11 Q. And how are you able to do that, sir?

12 A. The item number, W130, and then the -- my signature,
13 date and time.

14 Q. Again, it shows you collected it on the 20th of
15 October 2000 at 3:00 p.m.?

16 A. That is correct.

17 Q. Your signature. But the name Finnerty underneath was
18 not your handwriting, correct?

19 A. That is correct.

20 Q. Again, the information also matches that contained on
21 the evidence bag?

22 A. Yes, it does.

23 Q. I placed on the ELM0 Prosecution Exhibit 50B. This

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1 photograph -- does that photograph accurately depict the
2 evidence bag in Prosecution Exhibit 50, sir?

3 A. Yes, it does.

4 Q. Thank you. Placing on the ELMO Prosecution
5 Exhibit 51A for Identification. Again, sir, are these the
6 type of items that you were seizing -- or collecting, excuse
7 me?

8 A. Yes, it is.

9 Q. And the purpose in collecting them?

10 A. They were not part of the USS COLE.

11 Q. I show you the photograph. Does it have a Q number?

12 A. Yes.

13 Q. What is that Q number?

14 A. Q549.

15 Q. If you would provide the exhibit to the witness,
16 please. Sir, I place before you what is Prosecution Exhibit
17 Number 51. Do you recognize that, sir?

18 A. Yes.

19 Q. What do you recognize it to be?

20 A. Miscellaneous metal pieces from the USS COLE.

21 Q. As with the other exhibits, the last couple of
22 exhibits, the handwriting on that evidence bag -- or the
23 printing is not yours, correct?

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1 A. That is correct, the printing is not mine.

2 Q. But you did sign it where it says received by and
3 received from, correct?

4 A. That is correct.

5 Q. All right. And by signing it, you're acknowledging
6 that you did, in fact, collect it, correct?

7 A. That is correct.

8 Q. Now, as to the evidence bag itself, it gives a
9 description, date and time of recovery and location, and who
10 it was recovered by. If you could read that into the record,
11 sir.

12 A. It says, collected from Grid 1 Forward, 10/20,
13 3:00 p.m. by myself.

14 Q. And the description is miscellaneous metal pieces?

15 A. That is correct.

16 Q. Is there a Q number on that particular bag?

17 A. Yes, there is.

18 Q. What is that number?

19 A. Q549.

20 Q. So it would match the Q number in Prosecution
21 Exhibit 51A, correct?

22 A. That is correct.

23 Q. All right. Was that evidence bag then taken to the

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1 evidence custodian?

2 A. Yes, it was, after it was sealed.

3 Q. I'd ask you if you would to look at the completed
4 chain of custody form, FD-192, sir. I am placing on the ELMO
5 Prosecution Exhibit 51C for Identification, and I'd ask you:
6 Are the first four entries on the completed 192 identical to
7 the four entries on Prosecution Exhibit 51C for
8 Identification?

9 A. Yes, they are.

10 Q. And are you able to associate that green sheet, that
11 FD-192, and Prosecution Exhibit 51C to the Exhibit 51?

12 A. Yes.

13 Q. And how are you able to do that, sir?

14 A. The number, once again, at the top, W123.

15 Q. All right.

16 A. Then my name, signature, date and time.

17 Q. All right. And again, it shows that you accepted or
18 collected it?

19 A. Yes, it does.

20 Q. 20th of October, 3:00 p.m.

21 A. That is correct.

22 Q. Does that match the information contained on the
23 evidence bag?

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1 A. Yes, it does.

2 Q. Again, the name Finnerty is printed underneath your
3 signature, but that is not your printing, correct?

4 A. That is correct.

5 Q. Placed on the ELMO Prosecution Exhibit 51B for
6 Identification. Take a look at that photograph, sir.

7 A. Yes.

8 Q. Is that an accurate photograph of the evidence bag
9 contained in Prosecution Exhibit 51?

10 A. Yes, it is.

11 MJ [Col SPATH]: All right, Mr. Miller, that is a good
12 place to stop. We have been in here for quite some time.

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

14 MJ [Col SPATH]: We're going to break for lunch. We'll
15 come back at 1315. Thanks. Carry on.

16 [The R.M.C. 803 session recessed at 1149, 15 March 2017.]

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