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1 [The R.M.C. 803 session was called to order at 1613, 15 March
2 2017.]

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

6 Defense counsel, may cross-examine.

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

8 **CROSS-EXAMINATION**

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

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

12 A. You are.

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

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

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

23 A. That is correct.

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1 Q. And you said you worked with dredging items?

2 A. Yes. So the Egypt Air plane went down off the coast
3 of Rhode Island into the ocean. So we had to go out on a ship
4 as a part of the collection duties, and the ship was a
5 dredging ship. I'm not familiar with Navy ships that well. I
6 think it was like an LPD type ship and they could dredge the
7 bottom and pull up items of the ship -- or of the plane, and
8 we would collect them from that.

9 Q. Okay. So you didn't do the actual dredging, you just
10 collected it from there?

11 A. We would collect it once it came up, yes. But that
12 was an ERT response, yes.

13 Q. Okay. I'm assume in that situation, you had the same
14 things, evidence bags and the other forms, the green sheets
15 with you, and you filled them out?

16 A. Same process. It's a very similar process as this
17 was, yes.

18 Q. And after you collected it, you -- in that situation,
19 you would hand it over to somebody else, correct? You weren't
20 the actual custodian the whole time?

21 A. No. I was not the custodian on that one, no.

22 Q. So you took the dredged items yourself and labeled
23 the bag that you collected yourself, correct?

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1 A. I don't recall my exact responsibility on that, but
2 yes, if I had collected it, then I would be the labeler and
3 the bagger and sealer, yes.

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

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

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

10 A. Uh-huh.

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

12 A. The bag.

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

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

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

22 Q. Okay. But for purposes of a general discussion, you
23 collected it and you were the actual originator on the chain

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1 of custody; is that fair to say? It began with you?

2 A. If I was the collector. The chain would begin with
3 the collector, yes. That's right.

4 Q. Okay. That's the general rule, correct?

5 A. The chain begins with the collector, yes.

6 Q. And why is that important to note who the initial
7 collector is?

8 A. Because that's the beginning of the chain. You need
9 to know where the evidence initiates.

10 Q. Okay. Thank you. Now focusing on the COLE incident,
11 when you boarded the plane, were there more of you on your
12 team than there were at the time they actually arrived in
13 Yemen? Did you have more people you wanted to use on your
14 team than the ones you actually got to use, let's say?

15 A. Yes. There was a limit on how many people were
16 allowed to come into the country, so we were not able to bring
17 our entire team into Yemen from New York. Part of the team
18 remained in Germany.

19 Q. And who was with you on your team?

20 A. Jane Rhodes.

21 Q. Are you the only two that made it?

22 A. Initially.

23 Q. Okay. And then others came later?

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1 A. Later.

2 Q. How much later, would you know?

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

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

6 A. They did, yes.

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

9 A. I believe it was two days, yes.

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

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

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

15 A. I don't recall the exact date.

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

18 A. I don't recall exactly.

19 Q. You don't recall the dates?

20 A. No.

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

23 A. Yes.

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

3 A. I did attend another scene, yes.

4 Q. And when did you go to another scene?

5 A. I don't remember the date.

6 Q. Where was the other scene?

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

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

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

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

14 A. The house processing?

15 Q. Yes.

16 A. I believe it was just a day.

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

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

20 Q. Okay. So you're not sure?

21 A. No.

22 Q. So your response earlier that you left in between,
23 you're saying now you're not sure if you left ----

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1 A. I left at some point ----

2 Q. ---- and returned?

3 A. ---- to go and process the house, and I don't recall
4 if it was the last thing I did or if I came back to the COLE
5 after.

6 Q. Okay. But once you arrived on the COLE, you were
7 responsible almost as the evidence room custodian; is that
8 fair to say?

9 A. Yes.

10 Q. And you chose the room that you would use for that
11 purpose, correct?

12 A. I did.

13 Q. And your description I noted told us that there
14 were suites in the room, separate rooms. It was one room with
15 different sections.

16 I wrote down suites, so I might have misheard you,
17 but ----

18 A. It was a suite of rooms.

19 Q. Suite of rooms, okay. I apologize. So when you say
20 rooms, are they divided with a door, a wall, glass, or nothing
21 at all?

22 A. The best of my recollection is there were just
23 separate areas, and I don't recall if the doors closed on them

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1 or not. I just remember separate areas. One was an office
2 area for me to use, one was a storage area, and I used one as
3 a drying area. I don't recall if they had closing doors or
4 didn't, but the main door closed.

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

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

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

14 A. Right. As far as I knew.

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

17 A. Yes.

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

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

21 Q. Okay. So at least one photograph was taken. Was
22 that by the photographer who took all of the pictures or is
23 that by a separate individual?

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1 A. I don't recall who took the photo.

2 Q. Did you see it being taken or did you see it
3 afterwards, if you ----

4 A. I'm in the photo.

5 Q. You're in the photo. Okay. Fair enough.

6 A. It's a photo of me working in the room.

7 Q. Of you working in the room?

8 A. Yes.

9 Q. And when did you see this photo?

10 A. At some point after we returned home.

11 Q. Is this while you were going through the file? Is
12 that fair to say?

13 A. No. Somebody just showed me the photo; said I have a
14 photo of you working in the room.

15 Q. Do you remember who showed you the photo?

16 A. No. Huh-uh.

17 Q. Okay. And do you remember if that photo was part of
18 the evidence in this case?

19 A. I don't.

20 Q. Now, you did not physically go collect any evidence,
21 did you?

22 A. No.

23 Q. You maintained the room?

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1 A. Yes.

2 Q. And there's -- was there ever a time when you used a
3 different place to store the evidence other than the room?

4 A. Aside from when it was removed from the ship, no.

5 Q. So while you were on the ship, was it ever removed
6 from the ship? Or was that done at the end when all -- I
7 guess I'm -- here's a simpler way to ask it: Did the evidence
8 stay in there overnight?

9 A. I believe there was -- it was there initially
10 overnight, and then it was brought off the ship periodically.

11 Q. Do you remember why it would be brought off the ship
12 periodically?

13 A. No. It could have been because the room was too full
14 or just to bring it off and secure it at the Marine area.

15 Q. Did you keep track of when it was taken off that
16 room -- or taken out from that room?

17 A. Keep track -- well, it just -- I didn't keep a record
18 of it, no. It just was -- the chain of custody was the
19 record.

20 Q. Okay. So there's no separate accounting for when the
21 evidence left the room, is what you're saying?

22 A. No.

23 Q. But you did mention there was a log of the evidence

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1 coming into the room, right?

2 A. Chain of custody.

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

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

9 Q. Is that something you maintained ----

10 A. Yes.

11 Q. ---- in your possession?

12 A. Yes.

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

15 A. No. No.

16 Q. What was the purpose of having it?

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

19 Q. So you ----

20 A. So evidence recovery log.

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

22 A. Yes.

23 Q. Okay. When is the last time you saw the evidence

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1 recovery log in this case?

2 A. In Yemen.

3 Q. In Yemen?

4 A. Yes.

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

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

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

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

11 A. Yes.

12 Q. And when did you do that?

13 A. Before we left.

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

16 A. I don't.

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

18 A. It was somebody from WFO, yes.

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

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

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

22 A. Yes.

23 Q. Now, when the evidence was taken off the ship, you

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1 said you weren't involved in that, correct?

2 A. I was there, yes, when it was transported. I was on
3 the trash barge with it.

4 Q. This would be -- is it fair to say this would be at
5 the end of the day ----

6 A. Yes.

7 Q. ---- when everyone was departing from the ship?

8 A. Right.

9 Q. Uh-huh. And were you there when it was placed in
10 another container once you got off the -- whatever mechanism
11 took you off -- back to shore?

12 A. The trash barge.

13 Q. The trash barge, thank you.

14 A. I don't recall.

15 Q. And I'm going to assume other members of the team
16 were carrying those boxes; is that fair to say?

17 A. Or myself. I just don't recall.

18 Q. Everybody was pitching in to ----

19 A. Yeah. Uh-huh.

20 Q. And they were secured in a place, but you don't know
21 any details about the place where they were secured?

22 A. It was -- it was, I believe, a CONEX box or something
23 similar at the Marine area. But I don't recall the details of

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1 it.

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

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

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

7 A. Again, I don't recall.

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

10 A. No.

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

13 A. Just the people who were bringing the evidence.

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

15 A. Majority, but no.

16 Q. What other types ----

17 A. Not necessarily.

18 Q. What other types of people?

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

21 Q. And how was he -- I'm going to call him Iggy because
22 I can't pronounce his last name, so I don't mean any

23 disrespect. But how did you get linked up with him? Who

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1 was -- who was he from? You said possibly he was a ----

2 A. I believe he was from the Explosives Unit, if I
3 recall, at the time. I mean, he -- I believe that's where he
4 was working.

5 Q. But you don't know if he was a federal agent, you
6 said, or ----

7 A. He's not an agent. He was not an agent, no, but he
8 was with the FBI.

9 Q. Did someone assign him to you?

10 A. Yes. Either he volunteered or he was assigned.
11 That's pretty much how all of the assignments were made.

12 Q. It's fair to say you worked very close together with
13 him?

14 A. Yes.

15 Q. Was he more your assistant or kind of partner in
16 doing this?

17 A. Kind of my assistant. I would say partner. I mean,
18 I don't look at him like an assistant; I looked at him like a
19 partner.

20 Q. Well, who was in charge?

21 A. I was.

22 Q. Okay. Did you -- or was there any way of documenting
23 anything he did on the case?

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1 A. The only documentation that we did in that room were
2 the evidence logs and the 192 chain of custodies. Now,
3 there's other documentation that was done for the scene as a
4 whole, which would be administrative paperwork, which would
5 be -- which the team leader would have done from WFO, and
6 there may have been documentation in that paperwork that would
7 indicate who had what roles on a scene. Because when you do
8 the initial paperwork, you fill out who has what roles. So
9 that documentation could indicate his role, my role, all of
10 the other roles, but I did not do that paperwork. I was
11 not -- that was not part of my role.

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

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

20 Q. Okay. Now, your evidence recovery log, is that
21 something that only you were allowed to make entries on, or
22 was that something that someone else would also have access
23 to?

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1 A. No, I completed those.

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

3 or ----

4 A. No.

5 Q. And other than handing it over to someone when you

6 got back, nothing -- no one else ever saw this?

7 A. Not that I'm aware of.

8 Q. I think I was asking you how many different types of

9 people actually came into the room and you mentioned there

10 were some agents, some of the other experts. Were there ever

11 any sailors that came into the room?

12 A. There were some, yes.

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

14 A. To see if I needed anything, if I needed paper, pens,

15 anything to assist me.

16 Q. Do you remember if they ever brought in any evidence

17 they recovered to the room or ----

18 A. No.

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

20 A. Yes.

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

22 A. Just checked on me.

23 Q. Do you -- how big would you say the room was in -- in

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1 its entirety, with all of the different sections? There's
2 three sections, so would it be -- one of the dimensions be
3 further than you -- where you are sitting to the wall?

4 A. I don't think I can give an accurate description of
5 exact size. It wasn't a very large area. My area that I sat
6 in was where I spent the most time and it was not very big.
7 It had a table sort of like this that I sat at most of the
8 time and it -- I mean, it wasn't any bigger than this area
9 here.

10 MJ [Col SPATH]: And this area being the witness stand and
11 the desk that I'm at?

12 WIT: Maybe a little bit more of your desk. I mean, not
13 even your whole area.

14 MJ [Col SPATH]: So approximately five, six feet or ----

15 WIT: Gosh.

16 MJ [Col SPATH]: ---- you can't even ----

17 WIT: I'm not great with that kind of stuff.

18 MJ [Col SPATH]: I understand.

19 WIT: It was not a large area where we worked. I would
20 hate to just wager a guess.

21 MJ [Col SPATH]: Don't.

22 WIT: Not huge. I mean, it was a ship, so nothing on the
23 ship is -- areas are huge, so ----

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1 Q. Okay. And just to be clear on the layout, you'd walk
2 in and I -- I believe there was a screen in the room, right,
3 you said?

4 A. A screen?

5 Q. Was there any kind of, yeah, a screen?

6 A. What kind of screen?

7 Q. Okay. So when you walk in the room as you stand in
8 the door, what do you see in front of you?

9 A. There's a table, as I said. There was -- I believe
10 there was some, like, cabinets on the left, but -- and a chair
11 and some open space.

12 Q. And your table was in the -- and the table there was
13 your desk, or was that for ----

14 A. That's where I sat, yes.

15 Q. So you're right near the door; is that fair to say?

16 A. I -- I really -- it was a small room. You walk in
17 and the table would be -- was off to the right, is the best I
18 recall. The chair where I sat, it was up against the wall.
19 It was against the wall. When you sat there -- when I sat
20 there, I was facing the wall.

21 Q. What else did you see in the room?

22 A. Evidence piled up.

23 Q. Okay. Were there tables?

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1 A. No, just the one and the chair that I sat in.

2 Q. Were there other chairs?

3 A. There was one other chair that Iggy would sit in.

4 Q. Were there any other chairs than those two chairs?

5 A. I don't recall how many chairs were in the room.

6 Q. Okay. So you don't remember if there were more than
7 two chairs?

8 A. No, I don't.

9 Q. Do you know if this room was used in the morning for
10 meetings sometimes?

11 A. That's a different -- that was not in my area. That
12 was a different room where there was -- are you talking about
13 the meeting room?

14 Q. Yeah.

15 A. That was a different room.

16 Q. When you say different room, what do you mean by
17 that?

18 A. There was another room where we held meetings that
19 had a whole bunch of chairs in it. That was a different room.
20 Not in my room.

21 Q. Your room was not connected in any way to the room
22 where the -- your room where you collected evidence was not
23 connected in any way to the room where the meetings were held

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1 is what you're saying?

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

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

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

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

10 A. Yes, we could secure it.

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

13 A. I don't recall.

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

15 A. Locked. We could lock it.

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

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

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

20 A. Yeah.

21 Q. ---- that you used?

22 A. I believe so, yes.

23 Q. And who would have access to those keys?

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1 A. That's why I said I'm not sure if there was crew
2 people that also did, but we did.

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

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

6 Q. But you had your own set?

7 A. Right.

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

10 A. Yes.

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

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

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

17 A. Right.

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

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

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

22 A. Within those rooms.

23 Q. Within those rooms. Okay. But you don't recall if

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1 it was behind you, next to you ----

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

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

5 A. Yes.

6 Q. Where would the drying area be?

7 If you don't remember, you can say.

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

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

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

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

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

16 Q. It's possible.

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

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

21 A. Right.

22 Q. Even if you didn't actually package them -- even if
23 you -- if it took a day or so, you wouldn't wait until a day

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1 to actually log it in, right?

2 A. When I received an item, it would be logged in, yes.
3 It would be put on the chain.

4 Q. Put on the chain and logged, right? Because you had
5 a log that was separate from the chain.

6 A. Put on the evidence log, right.

7 Q. Thank you. Now, there -- sometimes -- were you ever
8 the first person on an item of evidence as the initial chain
9 custodian? I don't know how to put it.

10 A. Not on the ship. I don't believe so on the ship, no.

11 Q. Not on the ship. Give me -- can you provide me the
12 best way to refer to the initial person?

13 A. The collector.

14 Q. The collector. Okay. So you never signed any item
15 as the collector?

16 A. I -- I'm not going to say never. There may be
17 something that I collected, but I don't -- that wasn't my
18 role.

19 Q. So you -- every -- most items that you signed would
20 have someone else's signature above your name?

21 A. Right.

22 Q. Okay.

23 A. Right.

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1 Q. And you -- that was your way of recording who brought
2 that item to you as well, correct?

3 A. What do you mean? Can you clarify that?

4 Q. You would record the collector's name or they would
5 record their name?

6 A. They would, right.

7 Q. Okay. That's fair.

8 A. Yeah.

9 Q. So they would record their name, but that was a way
10 to maintain a record?

11 A. The chain, yes.

12 Q. Okay. Now, you mentioned there was a little
13 discussion about the DK numbers. You did not assign the
14 DK numbers?

15 A. No.

16 Q. Okay. Do you know who did?

17 A. Generally, it's going to be the person collecting,
18 but I don't know what their setup was. So it could have
19 been -- there could have been one person assigning all the
20 number, but it's going to be done at the point of collection,
21 but not by me.

22 Q. Okay. So you're -- those numbers were assigned
23 before the item came to you, and you never ascribed -- wrote

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1 the actual number on anything, correct, on any of the bags?

2 A. No, not on the bags. I may have written them on the
3 green sheets when they came to me.

4 Q. You recorded them on the green sheets?

5 A. Right. But not on any bags. Unless, of course, I
6 noticed one where it wasn't on there, I may have then written
7 it on a bag.

8 Q. So as far as you know, you -- you are not familiar
9 with the process of assigning these DK numbers, right?

10 A. I don't know how they chose to do it there, no. But
11 it was at some point during the actual, initial collection.

12 Q. There were some items, and I think Mr. Miller
13 reviewed number 155 with you, and you noted that you actually
14 wrote some information on the evidence bags, correct?

15 A. On the chain portion, yes.

16 Q. On the chain portion of the evidence bag.

17 A. Yes.

18 Q. And looking at what's been marked as Prosecution
19 Exhibit 155B ----

20 A. I don't know if this is ----

21 MJ [Co1 SPATH]: It will show up in just a second. Don't
22 worry. There it is.

23 WIT: Uh-huh.

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1 Q. Okay. And it shows on there that you actually signed
2 for this item on the 18th at 4:00 p.m., correct?

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

5 Q. I'm sorry.

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

8 Q. Okay. And then when you compare it to the 192, that
9 date does not appear -- or that entry does not appear on the
10 192?

11 A. Right.

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

13 A. Uh-huh.

14 Q. Right?

15 A. **[Nods head]**.

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

18 A. Right. Yes.

19 Q. And it's -- they're all consistently dated on the
20 18th, you said, at the same time?

21 A. Yes.

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

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1 A. Yes.

2 Q. Did you document that anywhere?

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

9 Q. Did you ----

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

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

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

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

21 A. It doesn't indicate ----

22 Q. ---- is that fair?

23 A. ---- necessarily that anything was done to the item.

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

4 Q. What would you ----

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

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

10 A. Yes.

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

12 A. Right.

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

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

17 A. On what form?

18 Q. On the I92 -- 192.

19 A. I could have, yes. There's two pages to the form and
20 I could have printed someone's name on the front of the form.
21 As I explained earlier, we fill out different portions of the
22 form to assist one another so that's possible, but not the
23 signatures.

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1 Q. And what would be the purpose of you printing the
2 name on there?

3 A. I would have to see the circumstance.

4 Q. Fair enough. Did you ever sign anyone else's name on
5 these forms?

6 A. No. No.

7 Q. So if someone maintained that a document that was
8 signed with their name was not signed by them, you wouldn't
9 know how that came to be, correct?

10 A. No.

11 Q. No one ever gave you a document and said, I didn't
12 really sign this but it's me?

13 A. No.

14 Q. But it's me and, I mean, I'm the one who had custody
15 of it?

16 A. I don't understand what you're saying.

17 Q. Well, I know there were a lot of -- a lot of chaos
18 during this time, you said -- you referred to adjustments that
19 were made.

20 A. Not signing other people's names.

21 Q. Okay.

22 A. No. That's not an adjustment we would make.

23 Q. Can you give me an idea of what an adjustment was in

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1 this scenario?

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

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

16 A. In ----

17 Q. Help you fill out a form?

18 A. In my circumstance, yes.

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

21 A. Oh, there could have been other ones, too, with --
22 like I said, with that kind of scene, there may be other
23 things, but not in my area. Not that I could speak about.

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1 Q. If anything procedurally was done that was an
2 adjustment, it would make sense that you would record that,
3 correct?

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

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

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

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

16 Q. Okay.

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

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

22 A. No.

23 Q. ---- for collection of evidence?

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1 A. No.

2 Q. You have never heard of the 12-step program?

3 A. The 12-step process are not standard operating
4 procedures. They are guidelines to follow.

5 Q. The question was have you heard of it?

6 A. Of course, yes.

7 Q. Why are those 12 steps provided as guidelines?

8 A. Because they are best practices that you hope to be
9 able to follow if you are able to.

10 Q. So just to summarize, your basic duties, and your
11 main and only duty on the ship, was to keep track of the
12 evidence that people brought to you, correct, and be the
13 record -- be kind of the room custodian, correct?

14 A. It was to take in the evidence and complete the chain
15 of custodies and the evidence log.

16 Q. Did anyone else have that duty or assignment?

17 A. Like I said, Iggy shared that with me as my assistant
18 or ----

19 Q. Did you have anyone on your team who also would fill
20 in and take in forms as well, other than Iggy?

21 A. Well, Jane would help me periodically if I had to
22 step away. Jane Rhodes.

23 Q. Okay. So if she had filled out a form, it was

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1 because you were not able to; is that what you're saying?

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

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

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

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

8 A. Right.

9 Q. Okay.

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

12 MJ [Col SPATH]: Thank you.

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

14 **REDIRECT EXAMINATION**

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

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

18 A. No, absolutely not.

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

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

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

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1 audio].

2 **EXAMINATION BY THE MILITARY COMMISSION**

3 **Questions by the Military Judge [Col SPATH]:**

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

7 A. Yes.

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

10 A. Okay.

11 Q. Example.

12 A. Okay.

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

15 A. Yes.

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

19 A. Absolutely.

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

22 A. Right.

23 Q. And so you were trying to figure out, you, as owning

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1 that part of the process, kind of what -- what's the best way
2 to do it with the limitations here?

3 A. Exactly.

4 Q. Is that fair?

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

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

17 I don't believe anybody did anything with that
18 evidence; I don't believe touched it, tampered with it, went
19 in that room when they weren't supposed to. I believe it was
20 completely secure as best as we could secure it. So, yes,
21 you're exactly right. I mean, had we had the perfect
22 circumstances, I would have had it in the perfect
23 circumstances.

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1 But we were shown options and we said, this room
2 isn't flooded, this room isn't under water, this room is
3 lockable, and it worked for what we had offered to us.

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

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

8 Q. That helps.

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

18 It is just a running list of every piece of evidence
19 that's recovered at that scene. It's part of the ERT
20 paperwork, which includes the administrative log, the photo
21 log, latent print log, if you do latent prints, and the
22 evidence recovery log. So it really doesn't have anything to
23 do with the control of the evidence in the room. That's

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1 merely the chain of custody form. That's ----

2 Q. That's what you were doing was the chain of custody
3 forms?

4 A. Yes. And I also did the evidence logs because the --
5 the recovery logs ----

6 Q. Okay.

7 A. ---- because that information came from the bags. So
8 it's the same exact information that's on the bags. The two
9 people that recovered the evidence, that's what that is. It's
10 not a record of the evidence coming into that room, it's a
11 record of the evidence collected from the scene.

12 Q. All of the evidence.

13 A. All of the evidence as it came to me.

14 Q. Oh, sorry. So we've had some conversation here about
15 whether or not it's been able to be located.

16 A. Yes.

17 Q. I assume you had some knowledge of that.

18 A. I heard it was, yeah.

19 Q. So first from you, your recollection is you turned it
20 over to somebody from the Washington Field Office?

21 A. All of the documentation/paperwork from the scene
22 would go back to the original -- to the team running the
23 scene. New York was supplementing the Washington Field

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1 Office, so everything got turned over -- back over to the
2 Washington Field Office. And so that was their role to
3 maintain all of that.

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

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

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

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

12 MJ [Col SPATH]: Defense counsel?

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

15 MJ [Col SPATH]: Sure.

16 **RE-CROSS-EXAMINATION**

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

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

21 A. Confusion? Regarding?

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

23 A. Yes.

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1 Q. You heard there had been some discussion about the
2 evidence log; is that correct?

3 A. Not discussion. I heard that -- I haven't seen it.
4 I hadn't seen it so I -- my understanding was that it was not
5 able to be found, yes. Not current discussion. Discussion
6 back ----

7 Q. Okay.

8 A. ---- during prep.

9 Q. That's all I wanted to know.

10 A. Yeah.

11 Q. Okay.

12 ADC [MS. ELIADES]: Thank you.

13 MJ [Col SPATH]: Thank you. Let me make sure.

14 WIT: Anything else I can clarify?

15 MJ [Col SPATH]: I think I've got everything. Trial
16 Counsel, is Ms. Sepeck scheduled to come back to testify or
17 not?

18 TC [MR. MILLER]: She is not, Your Honor.

19 MJ [Col SPATH]: Not for this session. Ms. Sepeck, am I
20 saying it right?

21 WIT: Yes.

22 MJ [Col SPATH]: Standard order, I know you will recognize
23 this. I don't want you to discuss the substance of your

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1 testimony with anyone until this matter is resolved. However,
2 in this case, you recognize that could be a longer time than
3 normal.

4 WIT: Yes.

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

11 WIT: Yes.

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

17 WIT: Thank you.

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

19 WIT: Thank you.

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

22 MJ [Col SPATH]: Trial Counsel, tomorrow, how many
23 witnesses do you anticipate?

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1 TC [MR. MILLER]: For planning purposes, Your Honor, we
2 anticipate we will recall Ms. Rhodes. She was simply -- she
3 will testify as to chain of custody. She took these and
4 transported them from Germany.

5 MJ [Col SPATH]: Transport home.

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

10 MJ [Col SPATH]: For this part of the hearing. Okay.
11 That helps.

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

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

17 [END OF PAGE]

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