

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

DOCKET  
No. 88DA0269  
Entered by \_\_\_\_\_  
Date \_\_\_\_\_

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
 PLAINTIFF-RESPONDENT, )  
 )  
 VS. )  
 )  
 JOE HUNT, AKA JOSEPH HUNT, )  
 AKA JOSEPH HENRY GAMSKY, )  
 )  
 DEFENDANT-APPELLANT. )

SUPERIOR COURT  
NO. A-090435

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY  
HONORABLE LAURENCE J. RITTENBAND, JUDGE PRESIDING  
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: JOHN K. VAN DE KAMP  
STATE ATTORNEY GENERAL  
3580 WILSHIRE BOULEVARD  
ROOM 800  
LOS ANGELES, CALIFORNIA 90010

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 40 OF 101  
(PAGES 5802 TO 6000 , INCLUSIVE)

COPY

ROSEMARIE GOODBODY, CSR NO. 932  
SALLY YERGER, CSR NO. 2008  
OFFICIAL REPORTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RIITENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )

PLAINTIFF, )

VS. )

JOSEPH HUNT, )

DEFENDANT. )

NO. A-090435

REPORTERS' DAILY TRANSCRIPT

WEDNESDAY, JANUARY 28, 1987

VOLUME 40

PAGES 5802 TO 6000, INCL.

APPEARANCES:

FOR THE PLAINTIFF: IRA REINER, DISTRICT ATTORNEY  
BY: FREDERICK N. WAPNER, DEPUTY  
1725 MAIN STREET  
SANTA MONICA, CALIFORNIA 90401

FOR THE DEFENDANT: ARTHUR H. BARENS, ESQ.  
10209 SANTA MONICA BOULEVARD  
LOS ANGELES, CALIFORNIA 90067

AND

RICHARD C. CHIER, ESQ.  
10920 WILSHIRE BOULEVARD  
LOS ANGELES, CALIFORNIA 90024

ROSEMARIE GOODBODY, CSR NO. 932  
SALLY YERGER, CSR NO. 2008  
OFFICIAL REPORTERS

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1 SANTA MONICA, CALIFORNIA; WEDNESDAY, JANUARY 28, 1987; 10:40 A.M.  
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE

3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4  
5 (THE FOLLOWING PROCEEDINGS WERE HELD  
6 OUTSIDE THE PRESENCE AND HEARING OF  
7 THE JURY:)

8 THE COURT: THE DEFENDANT AND COUNSEL ARE PRESENT.

9 CALL YOUR NEXT WITNESS, PLEASE.

10 MR. WAPNER: YES, ANTONIO DIAZ.

11  
12 ANTONIO DIAZ,

13 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
14 AS FOLLOWS:

15 THE CLERK: IF YOU WOULD RAISE YOUR RIGHT HAND TO BE  
16 SWORN, PLEASE.

17 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU  
18 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL  
19 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,  
20 SO HELP YOU GOD.

21 THE WITNESS: I DO.

22 THE CLERK: PLEASE BE SEATED THERE ON THE WITNESS  
23 STAND.

24 IF YOU WOULD STATE AND SPELL YOUR NAME FOR THE  
25 RECORD, PLEASE.

26 THE WITNESS: ANTONIO DIAZ, A-N-T-O-N-I-O, LAST NAME  
27 DIAZ, D-I-A-Z.

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## EXAMINATION

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BY MR. WAPNER:

Q DETECTIVE DIAZ, BY WHOM ARE YOU EMPLOYED?

A BY THE CITY OF LOS ANGELES.

Q AND WHAT DEPARTMENT OF THE CITY DO YOU WORK FOR?

A DETECTIVE IN HOLLYWOOD HOMICIDE.

Q IN THE LOS ANGELES POLICE DEPARTMENT?

A YES.

Q AND ON JANUARY 8, 1987, DID YOU PARTICIPATE IN  
THE SERVICE OF A SEARCH WARRANT AT 10984 BELLAGIO ROAD IN  
THE CITY AND COUNTY OF LOS ANGELES?

A YES, SIR.

Q AND WHEN YOU PARTICIPATED IN THE SERVICE OF THAT  
WARRANT, WHEN YOU FIRST GOT TO THAT RESIDENCE WHERE DID YOU  
GO?

A I WENT TO THE REAR, I GUESS YOU WOULD CALL IT  
A GUEST HOUSE.

1 Q THAT IS THE BEDROOM ATTACHED TO THE GARAGE OF  
2 THE RESIDENCE?

3 A YES, SIR.

4 Q AND WHEN YOU -- DID YOU SEARCH THAT ROOM?

5 A YES, SIR.

6 Q AND IN SEARCHING THAT ROOM, DID YOU FIND ANY --  
7 DID YOU EXAMINE ANY PAPERS?

8 A REPEAT THE QUESTION, PLEASE.

9 Q ALL RIGHT. WHEN YOU SEARCHED THAT ROOM, DID YOU  
10 SEIZE ANY DOCUMENTS PURSUANT TO THE WARRANT?

11 A NO, SIR.

12 Q DID YOU LOOK AT ANY DOCUMENTS THAT YOU DECIDED  
13 NOT TO TAKE?

14 A NO, SIR.

15 Q AFTER YOU WERE IN THAT ROOM, WHERE DID YOU GO?

16 A I WENT UP TO THE MAIN HOUSE, SECOND FLOOR, AT  
17 WHICH TIME MY BEEPER WENT OFF.

18 I CONTACTED THE STATION AND I WAS ADVISED WE HAD  
19 A DOUBLE HOMICIDE AND I HAD TO RESPOND BACK TO THE STATION.

20 Q WHEN YOU WERE ON THE SECOND FLOOR, WHERE ON THE  
21 SECOND FLOOR WERE YOU, WHEN YOUR BEEPER WENT OFF?

22 A I WAS -- I BELIEVE THE ROOM ON THE SOUTH SIDE  
23 OF THE BUILDING, WHICH MAY HAVE BEEN OCCUPIED BY MR. HUNT.

24 Q FOR THE PURPOSES OF THIS HEARING, WE ARE  
25 DISTINGUISHING BETWEEN A ROOM THAT HAD A BED THAT APPARENTLY  
26 HAD BEEN SLEPT IN, WITH SOME COVERS THAT LOOKED LIKE IT HAD  
27 BEEN SLEPT IN AND ANOTHER ROOM THAT HAD A COMPUTER AND SOME  
28 BOXES. WE ARE CALLING THAT THE COMPUTER ROOM. WAS IT ONE

1 OF THOSE TWO ROOMS YOU WERE IN?

2 A YES.

3 Q DO YOU REMEMBER WHICH ONE?

4 A THE ONE WITH THE BED.

5 Q DO YOU KNOW HOW LONG YOU WERE IN THERE BEFORE  
6 YOUR BEEPER WENT OFF?

7 A MAYBE TEN MINUTES.

8 Q DID YOU EXAMINE ANY DOCUMENTS IN THAT ROOM?

9 A NO, SIR.

10 Q DID YOU SEIZE ANY ITEMS FROM THAT ROOM?

11 A NO, SIR.

12 Q REGARDLESS OF WHAT YOU DID DURING THE SEARCH,  
13 DID YOU COMMUNICATE TO ME ANY CONTENTS OF ANY DOCUMENTS YOU  
14 MAY HAVE SEEN?

15 A NO, SIR.

16 Q AFTER YOUR BEEPER WENT OFF, WHAT DID YOU DO?

17 A I INFORMED DETECTIVE ITO THAT WE HAD TO LEAVE  
18 FOR HOLLYWOOD AND WE DID SO.

19 MR. WAPNER: THANK YOU. NOTHING FURTHER.

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EXAMINATION

22 BY MR. BARENS:

23 Q DETECTIVE DIAZ, WHEN WERE YOU FIRST CONTACTED  
24 IN ANY RESPECT REFERABLE TO ASSISTING IN THE SEARCH WARRANT  
25 AT THAT LOCATION?

26 A I BELIEVE IT WAS PROBABLY TWO OR THREE DAYS BEFORE.

27 Q HOW WERE YOU CONTACTED, SIR?

28 A BY PHONE.

1 Q WHO CALLED YOU?

2 A DEPARTMENT OF JUSTICE INVESTIGATOR OSCAR BREILING.

3 Q HAD YOU MET OFFICER BREILING PRIOR TO THIS?

4 A YES, SIR, MANY OCCASIONS.

5 Q REFERABLE TO ANY MATTERS INVOLVING THE DEFENDANT,  
6 JOE HUNT?

7 A NO.

8 Q IN WHAT CONTEXT WERE YOU FAMILIAR WITH MR. BREILING?

9 A WE ARE INVESTIGATING ANOTHER CASE AND MR. BREILING  
10 WAS ASSISTING US IN THAT INVESTIGATION.

11 Q WAS THAT A CASE IN HOLLYWOOD IN WHICH AT ONE POINT  
12 IN TIME, DEAN KARNY HAD BEEN A SUSPECT?

13 A I AM NOT -- THAT CASE IS AN OPEN CASE AND I AM  
14 NOT ABOUT TO DISCUSS THAT CASE IN COURT.

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1 Q I AM NOT ASKING YOU TO DISCUSS THE CASE AT ALL  
2 WITH ME, SIR.

3 I AM SIMPLY ASKING YOU THE CONTEXT IN WHICH YOU  
4 AND BREILING --

5 IF YOUR HONOR FEELS IT IS INAPPROPRIATE TO PURSUE  
6 THE LINE OF INQUIRY?

7 THE COURT: I THINK IT IS INAPPROPRIATE FOR YOU TO  
8 PURSUE IT.

9 MR. BARENS: THEN I SHALL NOT.

10 THE COURT: IT IS AN ONGOING INVESTIGATION AND IT HAS  
11 NO RELEVANCY AT ALL TO THIS MOTION.

12 MR. BARENS: ONLY OBLIQUELY, YOUR HONOR?

13 THE COURT: EVEN OBLIQUELY, IT HAS NO REFERENCE TO  
14 THIS PARTICULAR MOTION.

15 Q BY MR. BARENS: DETECTIVE, YOU ARE PARTICIPATING  
16 ON A PERSONAL LEVEL IN ANOTHER HOMICIDE INVESTIGATION?

17 A YES, WHEN I FIRST MET MR. BREILING, YES.

18 Q ALL RIGHT, SIR, AT THE TIME MR. BREILING CONTACTED  
19 YOU, WHAT DID HE TELL YOU?

20 A HE REQUESTED OUR ASSISTANCE IN SERVING WARRANTS  
21 IN THE CITY OF LOS ANGELES.

22 Q DID YOU HAVE AN INTEREST IN COOPERATING IN THAT  
23 SEARCH WARRANT BECAUSE YOU FELT THAT IN SOME WAY IT MIGHT  
24 ASSIST YOU IN GAINING INFORMATION CONCERNING THE OTHER HOMICIDE  
25 INVESTIGATION YOU WERE INVOLVED IN?

26 A NO.

27 Q THAT NEVER CROSSED YOUR MIND, SIR?

28 A NO.

2

1 Q YOU DID NOT FEEL IN ANY RESPECT THAT AS SOME  
2 SORT OF A COLLATERAL BENEFIT THAT THE INVESTIGATION YOU WERE  
3 MAKING IN THE RESIDENCE WHERE MR. HUNT RESIDED MIGHT IN SOME  
4 FASHION THROW SOME LIGHT ON ANOTHER HOMICIDE YOU WERE  
5 INVESTIGATING?

6 A NO.

7 Q DID YOU EVER WONDER WHY MR. BREILING HAD ASKED  
8 YOU OF ALL OFFICERS TO GO WITH HIM ON THIS SEARCH?

9 A FROM WHAT I UNDERSTAND, WE WERE THE ONLY DETECTIVES  
10 THAT HE HAS WORKED WITH IN THE CITY OF LOS ANGELES AND WE  
11 WORKED WITH HIM FOR THE LAST TWO OR THREE MONTHS, SO HE  
12 ASSISTED US IN OUR CASE AND WE AGREED TO ASSIST HIM IN THIS  
13 CASE.

14 Q YOU STARTED WORKING WITH HIM IN ROUGHLY OCTOBER,  
15 NOVEMBER?

16 A YES, SIR.

17 Q AND IT IS YOUR HONEST AND TRUTHFUL STATE OF MIND  
18 THAT ALTHOUGH YOU WERE CERTAINLY INTERESTED IN ASSISTING MR.  
19 BREILING, THAT YOU DID NOT PERFORM THIS SEARCH IN ANY RESPECT  
20 WITH ANY ANTICIPATION THAT YOU MIGHT GAIN ACCESS TO MATERIALS  
21 THAT MIGHT HELP YOU ON THE HOLLYWOOD HOMICIDE?

22 A NO.

23 Q NOW, DID YOU HAVE ANY REASON DURING THE SEARCH  
24 TO BE SEEKING A TYPEWRITER BALL OR RIBBON AND/OR RIBBON DURING  
25 THE INVESTIGATION?

26 A NO.

27 Q YOU HAD NO INTEREST IN SUCH ITEMS?

28 A NO.

1 Q DID YOU EVER DISCUSS SUCH ITEMS WITH MR. BREILING?  
2 MR. WAPNER: YOUR HONOR, I DON'T THINK IT IS APPROPRIATE.  
3 HE CONTINUED AFTER THE COURT'S ADMONITION TO ASK QUESTIONS  
4 ABOUT THIS OTHER QUOTE, UNQUOTE INVESTIGATION.

5 MR. BARENS: I AM DISCUSSING THAT MR. BREILING TESTIFIED  
6 YESTERDAY HE REMOVED A TYPEWRITER BALL.

7 THE COURT: I KNOW.

8 MR. WAPNER: AND HE EXPLAINED WHY HE DID IT.

9 THE COURT: WHY DO YOU WANT TO GO FURTHER? DO  
10 YOU WANT TO ESTABLISH THAT IS IN CONNECTION WITH SOME OTHER  
11 INVESTIGATION, IS THAT WHY YOU ARE ASKING HIM?

12 MR. BARENS: I AM TRYING TO ESTABLISH THAT WE HAVE  
13 A SUBTERFUGE SEARCH WHICH ESTABLISHES BAD FAITH, YOUR HONOR,  
14 WHICH IS CERTAINLY RELEVANT.

15 THE COURT: DO YOU KNOW ANYTHING ABOUT ANY TYPEWRITER  
16 RIBBON OR BALL THAT WAS SEIZED?

17 THE WITNESS: NO, SIR.

18 Q BYMR. BARENS: AND YOU NEVER HAD ANY DISCUSSION  
19 ABOUT EITHER OF THE ITEMS?

20 A NO, SIR.

21 Q THANK YOU, SIR.

22 WHEN DID YOU FIRST MEET LES ZOELLER?

23 A I BELIEVE BACK IN OCTOBER OF '86.

24 Q OF 1986? ABOUT THE SAME TIME YOU HAD INITIAL  
25 CONTACT WITH MR. BREILING?

26 A YES.

27 Q AND WAS YOUR CONTACT WITH MR. ZOELLER ABOUT  
28 ANOTHER HOMICIDE OR DID IT HAVE TO DO WITH THE PENDING

1 PROSECUTION IN THIS COURT INVOLVING THE DEATH OF RON LEVIN,  
2 THE ALLEGED DEATH OF RON LEVIN?

3 A I CONTACTED HIM REGARDING A HOLLYWOOD HOMICIDE.

4 Q AND NOT IN THE CONTEXT OF THE CASE THAT IS BEFORE  
5 THE COURT HERE?

6 A NO.

7 Q SIR, DID YOU HAVE ANY PARTICIPATION IN ANY MATTERS  
8 INVOLVING THE CASE BEFORE THIS COURT IN TERMS OF THE HUNT-LEVIN  
9 MATTER?

10 A NO, SIR.

11 Q DID YOU READ ANY MATERIALS OR POLICE REPORTS  
12 OR INVESTIGATION MATERIALS REGARDING THE DISAPPEARANCE AND  
13 ALLEGED HOMICIDE INVOLVING RON LEVIN?

14 A NO, SIR.

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1 Q WERE YOU EVER BRIEFED ON THE FACT SETTING INVOLVING  
2 THE LEVIN SITUATION?

3 A YES.

4 Q WHEN WAS THAT, SIR?

5 A BACK IN OCTOBER.

6 Q BY WHOM, SIR?

7 A BY MR. ZOELLER BRIEFLY AND MR. BREILING.

8 Q MR. BREILING BRIEFED YOU ON THE LEVIN CASE?

9 A HE WENT OVER THE FACTS OF THE CASE SURROUNDING  
10 CERTAIN INDIVIDUALS IN THE CASE.

11 Q AND THAT ALL HAD TO DO WITH THIS OTHER HOMICIDE  
12 MATTER?

13 A NO.

14 Q WHAT DID IT HAVE TO DO WITH?

15 A WELL, IT IS A MATTER THAT I JUST -- IT IS REGARDING --  
16 REGARDS PEOPLE THAT I CANNOT GET INTO AT THIS POINT.

17 Q ALL RIGHT, SIR. AGAIN, I AM NOT SEEKING, BASED  
18 ON THE JUDGE'S ADMONITION -- I DON'T WANT TO ASK YOU ABOUT  
19 THAT HOLLYWOOD HOMICIDE.

20 AS I UNDERSTAND IT, YOU ARE CLAIMING A PRIVILEGE  
21 ON THAT, SIR?

22 A YES, SIR.

23 Q ALL RIGHT. THAT'S FINE. I ACCEPT THAT YOU ARE  
24 DOING THAT.

25 BUT NOW, I AM ASKING YOU A DIFFERENT QUESTION.  
26 THAT IS, WHY WAS BREILING BRIEFING YOU ABOUT THE RON LEVIN  
27 CASE THAT IS NOW PENDING IN THIS COURT?

28 A AGAIN, IT REFERS TO MY CASE.

1 Q ALL RIGHT. I DIDN'T UNDERSTAND THAT FROM YOUR  
2 LAST ANSWER. IF IT IS WITHIN THE PURVIEW OF PRIVILEGED  
3 MATERIALS, I ACCEPT THAT AS AN ANSWER, DETECTIVE DIAZ.

4 DETECTIVE, AFTER YOU WERE CONTACTED BY MR. BREILING  
5 REFERABLE TO THE JANUARY 8 SEARCH, DID YOU THEN GO SOMEWHERE  
6 TO HAVE A MEETING WITH SOME PEOPLE PRIOR TO THE SEARCH?

7 A YES, SIR.

8 Q AND WHERE WAS THAT, SIR?

9 A BEVERLY HILLS POLICE STATION.

10 Q WHAT OCCURRED ON THAT OCCASION, SIR?

11 A WE WERE BRIEFED ON THE LOCATION WHERE WE WERE  
12 GOING TO SEARCH. AND WE READ A SEARCH WARRANT AFFIDAVIT AND  
13 WE WERE INFORMED ON WHAT WE WERE LOOKING FOR.

14 AND THEN WE SIGNED THE DOCUMENT TO THE EFFECT  
15 THAT WE DID, IN FACT, SEE THESE DOCUMENTS AND WE KNEW WHAT  
16 WE WERE GOING UP THERE TO LOOK FOR.

17 Q WHAT WAS YOUR UNDERSTANDING YOU WERE GOING TO  
18 LOOK FOR, SIR?

19 A IT WAS MY UNDERSTANDING THEY WERE LOOKING FOR  
20 PAPERS THAT INVOLVED THE BBC MEMBERS DATING BACK FROM  
21 JANUARY 1ST, 1984 TO I BELIEVE, OCTOBER 22ND, 1984, RECORDS,  
22 PAPERS AND STUFF TO THAT EFFECT.

23 DID YOU HAVE AN UNDERSTANDING THAT RON LEVIN WAS  
24 INVOLVED WITH THE BBC?

25 A YES.

26 Q AND DID YOU HAVE AN UNDERSTANDING THAT SOME OF  
27 THE BBC MATERIALS YOU WERE LOOKING FOR, WOULD OVERLAP MATERIALS  
28 THAT COULD BE INVOLVED IN THIS TRIAL? I MEAN, I WILL CALL

1 IT THE LEVIN TRIAL?

2 A I DON'T THINK I UNDERSTAND WHAT YOU MEAN.

3 Q DID YOU UNDERSTAND THAT SOME OF THE MATERIALS  
4 YOU WERE SEARCHING FOR, COULD INVOLVE MATERIALS THAT WOULD  
5 BE A PART OF THE ISSUES INVOLVED IN THIS TRIAL?

6 A NO.

7 Q HOW DID YOU FEEL YOU COULD DISCRIMINATE OR  
8 DIFFERENTIATE IF YOU COULD, BETWEEN MATTERS THAT WERE THE  
9 SUBJECT OF THE SEARCH WARRANT AND MATTERS THAT WOULD  
10 NECESSARILY INVOLVE EVIDENCE IN THIS TRIAL? WERE YOU ABLE  
11 TO DO THAT?

12 A PROBABLY NOT, IF I HAD SEEN THEM, NO. BUT I WAS  
13 UNDER THE IMPRESSION IT WAS THE SAN MATEO CASE THAT WE WERE  
14 ASSISTING WITH THE SEARCH WARRANT ON.

15 Q BUT YOU ALSO HAD A STATE OF MIND THAT THE SEARCH  
16 COULD INVOLVE MATERIALS THAT WOULD BE RELEVANT TO THE LEVIN  
17 TRIAL, AS WELL?

18 A WELL, WE WEREN'T BRIEFED THAT WAY. WE WERE  
19 BRIEFED ON THE PAPERWORK FROM JANUARY 1ST, 1984 TO OCTOBER.  
20 AND IT WAS DOCUMENTS THAT INVOLVED MR. HUNT, MR. DOSTI,  
21 MR. ESLAMINIA AND ANOTHER INDIVIDUAL, I BELIEVE.

22 Q ALL RIGHT. NOW, HOW WERE YOU GOING TO GO ABOUT  
23 DIFFERENTIATING BETWEEN MATERIALS YOU WERE GOING TO SEIZE  
24 AND MATERIALS YOU WERE GOING TO LEAVE?

25 A BY THE DATES ON THE DOCUMENTS.

26 Q BY THE DATES ON THE DOCUMENTS?

27 A YES AND THE NAMES ON THE DOCUMENTS.

28 Q WHAT WERE YOU GOING TO DO IF THE DOCUMENT INVOLVED

1 MATTERS THAT WERE INVOLVED DURING THE TIME FRAME YOU ARE  
2 REFERENCING BUT DID NOT HAVE THE NAME OF ESLAMINIA, FOR  
3 INSTANCE, ON IT?

4 A WELL, I WOULD BRING --

5 THE COURT: THIS IS ALL HYPOTHETICAL STUFF. I DON'T  
6 THINK IT HAS ANYTHING TO DO WITH HIS KNOWLEDGE OF WHAT WENT  
7 ON THERE AND HIS HAVING READ ANYTHING THERE.

8 HE TESTIFIED CATEGORICALLY THAT HE READ NOTHING  
9 THERE. HE HAD TO LEAVE THE PREMISES. THAT IS THE END OF  
10 IT.

11 HE KNOWS NOTHING ABOUT WHAT THESE PAPERS WERE  
12 THAT WERE SEIZED OR READ ANY OF THEM. THAT IS WHAT HE SAID.

13 I DON'T KNOW WHY YOU ARE PROLONGING THIS  
14 EXAMINATION. IT IS ACCOMPLISHING NOTHING.

15 MR. BARENS: THE ONLY THING I AM TRYING TO POINT OUT  
16 FOR THE RECORD, IT WAS INHERENTLY IMPOSSIBLE FROM THE TYPE  
17 OF BRIEFING THAT WAS RECEIVED, FOR THE GENTLEMAN TO HAVE  
18 DIFFERENTIATED BETWEEN DEFENSE MATERIALS IN THIS CASE AND  
19 MATTERS INVOLVING THIS TRIAL AND MATTERS INVOLVING THE  
20 SEARCH WARRANT.

21 THE COURT: ASSUMING THAT IS TRUE, WHAT OF IT? SO IT  
22 COULD HAVE MADE HIS JOB A LITTLE HARDER.

23 MR. BARENS: IT MADE MY JOB A BIT HARDER, YOUR HONOR.

24 THE COURT: THAT IS MY UNDERSTANDING. BUT I DON'T THINK  
25 YOU ARE ACCOMPLISHING ANYTHING BY THIS TYPE OF EXAMINATION.

26 Q BY MR. BARENS: SIR, DURING THE BRIEFING, YOU  
27 WENT OVER THESE AFFIDAVITS AND YOU SIGNED A DOCUMENT INCLUDING  
28 AN ACKNOWLEDGEMENT THAT SAYS THAT YOU UNDERSTOOD THE SCOPE



1 OF THE SEARCH AUTHORIZED THEREIN?

2 A I BELIEVE SO, YES.

3 Q DID YOU FEEL YOU UNDERSTOOD THE SCOPE OF THE SEARCH?

4 A YES.

5 Q WHAT ELSE WERE YOU TOLD, SIR, DURING THAT BRIEFING?

6 A WE WERE SHOWN PHOTOGRAPHS OF THE PEOPLE INVOLVED,  
7 WHO MIGHT BE AT THE RESIDENCE AND STUFF LIKE THAT.

8 Q AND ANYTHING ELSE, SIR?

9 A I DON'T BELIEVE SO.

10 Q ALL RIGHT, SIR. WHEN YOU WENT TO THE RESIDENCE,  
11 YOU PREVIOUSLY TESTIFIED YOU SAW NO DOCUMENTS WHATSOEVER?

12 A YES, SIR, NONE.

13 Q AND WHEN YOU WENT TO THE SECOND FLOOR, YOU SAW  
14 NO DOCUMENTS WHATSOEVER?

15 A NONE.

16 Q WHAT TIME DID YOU LEAVE?

17 A I BELIEVE I LEFT ABOUT 12:30 OR 1 O'CLOCK, MAYBE.

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1 Q 12:30, 1:00 O'CLOCK?

2 A YES.

3 Q AND YOU ARRIVED THERE AT ROUGHLY 10:30?

4 A SOMEWHERE AROUND THAT TIME, 10:30, QUARTER TO  
5 11:00.

6 Q SO IF YOU WERE THERE FOR, ROUGHLY, TWO HOURS,  
7 WHAT DID YOU DO?

8 A SEARCHED THE REAR HOUSE, THE REAR UNIT.

9 Q I SEE. SO YOU DIDN'T DO ANY SEARCHING AT ALL  
10 IN THE MAIN HOUSE?

11 A JUST ABOUT TWO OR THREE MINUTES WORTH, I SEARCHED  
12 A CLOSET.

13 Q ALL RIGHT, SIR, WHEN YOU SAY "WE LEFT," I AM  
14 SORRY, I DIDN'T UNDERSTAND WHO YOU MEANT BY "WE".

15 A LEFT THE PREMISES?

16 Q YES, SIR.

17 A DETECTIVE ITO AND MYSELF.

18 Q YOU LEFT TOGETHER?

19 A YES.

20 Q OH, I SEE. I THOUGHT YOU TOLD -- I SEE, WHAT  
21 YOU MEANT EARLIER WHEN YOU SAID YOU GOT A BEEPER, THAT YOU  
22 TOLD HIM, YOU MEANT FOR HIM TO LEAVE WITH YOU?

23 A YES, SIR.

24 MR. BARENS: I UNDERSTAND. NOTHING FURTHER, YOUR HONOR.

25 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

26 THE WITNESS: THANK YOU.

27 THE COURT: YOU MAY STEP DOWN.

28 MR. WAPNER: DETECTIVE ITO.

1 RONALD Y. ITO,  
2 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
3 AS FOLLOWS:

4 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY  
5 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL  
6 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,  
7 SO HELP YOU GOD.

8 THE WITNESS: I WILL.

9 THE CLERK: IF YOU WOULD BE SEATED THERE AT THE WITNESS  
10 STAND.

11 WOULD YOU STATE YOUR NAME FOR THE RECORD, PLEASE?

12 THE WITNESS: RONALD Y. ITO, I-T-O.

13

14

#### EXAMINATION

15 BY MR. WAPNER:

16 Q DETECTIVE ITO, BY WHOM ARE YOU EMPLOYED?

17 A LOS ANGELES POLICE DEPARTMENT, CURRENTLY ASSIGNED  
18 TO HOLLYWOOD DETECTIVES.

19 Q DID YOU PARTICIPATE IN THE SEARCH OF A RESIDENCE  
20 AT 10984 BELLAGIO ROAD IN THE CITY AND COUNTY OF LOS ANGELES  
21 ON JANUARY 8, 1987?

22 A YES, I DID.

23 Q WHEN YOU GOT TO THAT RESIDENCE, WHAT PORTION  
24 OF IT DID YOU GO TO?

25 A I ORIGINALLY WENT TO THE FRONT ROOM, THE LIVING  
26 ROOM, YOU MIGHT CALL IT, AND THAT ROOM I SEARCHED BY MYSELF  
27 AND I BELIEVE I WENT UP TO THE SECOND FLOOR TO A BEDROOM AND  
28 ASSISTED ANOTHER DETECTIVE FOR A SHORT TIME IN THAT BEDROOM

1 AND THAT WAS DETECTIVE ROZZI, R-O-Z-Z-I.

2 Q AND THE ROOM THAT YOU WERE IN UPSTAIRS, DID THAT  
3 ROOM HAVE A COMPUTER IN IT, IF YOU REMEMBER?

4 A I BELIEVE THE ROOM THAT DETECTIVE ROZZI WAS IN  
5 HAD A COMPUTER.

6 Q AND DURING THE TIME THAT YOU WERE ASSISTING  
7 DETECTIVE ROZZI, DID YOU EXAMINE ANY DOCUMENTS THAT PERTAINED  
8 TO DEFENSE STRATEGY IN THE CASE THAT IS CURRENTLY PENDING  
9 IN THIS COURT?

10 A NO.

11 MR. BARENS: OBJECTION, THAT CALLS FOR A CONCLUSION  
12 AND ASSUMES FACTS NOT IN EVIDENCE, THAT THE GENTLEMAN WOULD  
13 UNDERSTAND WHAT DEFENSE MATERIALS CONSIST OF IN THIS CASE.

14 MR. WAPNER: I CAN BE MORE SPECIFIC IF YOU WANT.

15 THE COURT: ALL RIGHT. DID YOU UNDERSTAND THE QUESTION  
16 TO WHICH YOU ANSWERED NO?

17 THE WITNESS: YES, I DID.

18 MR. WAPNER: DID YOU READ ANY DOCUMENTS DURING THE  
19 TIME THAT YOU WERE THERE THAT REFERRED TO POSSIBLE CROSS-  
20 EXAMINATION, FOR EXAMPLE, OF WITNESSES IN THIS CASE?

21 A NO, I DIDN'T READ ANYTHING LIKE THAT.

22 Q DID YOU SEIZE ANY DOCUMENTS?

23 A NO, I DID NOT.

24 Q DID YOU READ ANY DOCUMENTS AT ALL WHILE YOU WERE  
25 THERE?

26 A I GLANCED AT SOME DOCUMENTS, YEAH.

27 Q WHAT WERE THEY, DO YOU REMEMBER?

28 A MOST OF THEM WERE TYPEWRITTEN LETTERS OF SOME SORT.

1 Q DO YOU REMEMBER NOW THE CONTENTS OF THEM?

2 A NO.

3 Q DID YOU COMMUNICATE TO ME THE CONTENTS OF ANYTHING  
4 THAT YOU MIGHT HAVE READ?

5 A NO.

6 Q ARE YOU AN INVESTIGATING OFFICER IN THIS CASE?

7 A NO.

8 Q HAVE YOU HAD ANY CONNECTION AT ALL WITH THE  
9 PROSECUTION OF JOE HUNT FOR THE MURDER OF RONALD LEVIN?

10 A NO.

11 Q HAD YOU MET ME BEFORE YOU CAME TO COURT TO TESTIFY  
12 IN THIS MATTER THIS MORNING?

13 A NO, I HAVE NOT.  
14  
15  
16  
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1 MR. WAPNER: I HAVE NO FURTHER QUESTIONS.

2 THE COURT: ALL RIGHT.

3

4

EXAMINATION

5 BY MR. BARENS:

6

7

8

Q DETECTIVE ITO, HOW WERE YOU ADVISED THAT YOU WERE BEING REQUESTED TO PARTICIPATE IN THE SEARCH AND SEIZURE AT THE BEL AIR RESIDENCE?

9

10

A I WAS ASKED TO PARTICIPATE BY DETECTIVES DIAZ AND ROZZI.

11

12

Q PRIOR TO THAT, HAD YOU EVER HEARD THE NAME JOE HUNT?

13

14

A PRIOR TO THAT, I READ THE NAME JOE HUNT IN THE NEWSPAPER.

15

16

17

18

Q ALL RIGHT, SIR. OTHER THAN THAT CONTEXT, SIR, HAD YOU ANY FAMILIARITY WITH JOE HUNT OR MATTERS INVOLVING JOE HUNT PRIOR TO THE TIME YOU READ SOMETHING IN THE NEWSPAPER, SIR?

19

20

21

22

23

A NO.

Q THUS, IT IS MY UNDERSTANDING THAT BEFORE YOU WERE CONTACTED RELATIVE TO THE SEARCH, YOU HAD NO FAMILIARITY WITH JOE HUNT OR A MURDER CASE INVOLVING THE BILLIONAIRE BOYS CLUB OR PEOPLE ASSOCIATED WITH THE BILLIONAIRE BOYS CLUB?

24

25

26

A THAT'S RIGHT, OUTSIDE OF THE PAPER.

Q ALL RIGHT, SIR, WHEN YOU WERE CONTACTED RELATIVE TO THIS SEARCH BY DETECTIVE ROZZI-AND WHO ELSE?

27

28

A DIAZ.

Q DIAZ?

1                   OTHER THAN BEING TOLD THAT YOU WERE GOING TO  
2 BE ASKED TO PARTICIPATE IN THE SEARCH, WERE YOU TOLD ABOUT  
3 ANY OTHER HOMICIDE?

4           A       NO.

5           Q       THE ONLY THING THAT WAS DISCUSSED WITH YOU WAS  
6 SIMPLY THE MECHANICS OF GOING FORWARD WITH THIS SEARCH?

7           A       THAT'S RIGHT.

8           Q       WERE YOU BRIEFED AT ALL ON ANY HOMICIDE MATTERS?

9           A       NO.

10          Q       WERE YOU TOLD THAT THE SEARCH INVOLVED A HOMICIDE?

11          A       NO.

12          Q       THEREFORE, WOULD IT BE A FAIR STATEMENT THAT  
13 YOU WEREN'T TOLD ANY CONTEXTUAL OR BACKGROUND INFORMATION  
14 ABOUT THIS MATER?

15          A       NO BACKGROUND INTO THE CASE, NO.

16          Q       SUBSEQUENT THERETO, DID YOU HAVE A MEETING AT  
17 THE BEVERLY HILLS POLICE DEPARTMENT WITH CERTAIN PEOPLE  
18 RELATIVE TO PROCEEDING WITH THIS SEARCH?

19          A       YES.

20          Q       AND DID THAT MEETING SEEM TO BE CONDUCTED BY  
21 ANY INDIVIDUAL?

22          A       YES.

23          Q       WHO WAS THAT, SIR?

24          A       IT WAS DETECTIVE --

25          Q       BREILING?

26          A       BREILING, IS IT?

27          Q       YES.

28          A       OSCAR BREILING FROM THE DEPARTMENT OF JUSTICE.

1 Q COULD YOU JUST TELL ME WHAT TRANSPIRED DURING  
2 THAT BRIEFING, AS YOU RECALL IT?

3 A HE PASSED OUT A COPY OF THE SEARCH WARRANT ITSELF  
4 AND THE AFFIDAVIT, HAD US READ IT AND MAKE SURE WE UNDERSTOOD  
5 IT AND HAD US CARRY A COPY OF IT IN THERE WITH US SO WE WOULD  
6 KNOW WHAT WE WERE LOOKING FOR, BASICALLY.

7 Q A COPY OF WHAT, SIR?

8 A THE SEARCH WARRANT FOR THE HOUSE.

9 Q AND THE AFFIDAVIT?

10 A YES. I HAVE IT RIGHT HERE.

11 Q WHAT ELSE HAPPENED?

12 HE HAD YOU READ THESE MATERIALS, ANYTHING ELSE?

13 A READ THE MATERIALS, HE DREW A DIAGRAM OF THE  
14 HOUSE, HOW THE STREET WAS LOCATED. JUST PROCEDURAL AS FAR  
15 AS SERVING A SEARCH WARRANT.

16 Q WAS THAT ABOUT IT?

17 A HAD US SIGN A PIECE OF PAPER THAT SAYS THAT WE  
18 READ THIS (WITNESS INDICATING).

19 MR. WAPNER: "THIS" REFERRING TO THE SEARCH WARRANT,  
20 YOUR HONOR?

21 THE COURT: YES.

22 THE WITNESS: YES.

23 Q BY MR. BARENS: ANYTHING ELSE?

24 A NOT THAT I CAN RECALL.

25 Q AND THEN YOU WENT TO DO THE SEARCH?

26 A YES, FROM THE BEVERLY HILLS POLICE DEPARTMENT  
27 STRAIGHT TO THE LOCATION.

28



-1  
1 Q AND HOW LONG DID THAT BRIEFING TAKE?

2 A PARDON ME?

3 Q HOW LONG DID THE BRIEFING TAKE IN TERMS OF TIME?

4 A PROBABLY AT LEAST AN HOUR.

5 Q ALL RIGHT, SIR. AND EVERYONE WAS PRESENT DURING  
6 THAT BRIEFING?

7 A I BELIEVE SO.

8 Q NOW, WHEN YOU WENT TO THE HOUSE, DID SOMEONE DIRECT  
9 YOU TO THE SECOND FLOOR?

10 A NO. WHEN I WENT TO THE HOUSE, I WENT TO THE FRONT  
11 ROOM FIRST. I WAS DIRECTED TO THE LIVING ROOM BY OSCAR.

12 Q BREILING?

13 A RIGHT.

14 Q AND THEN YOU EVENTUALLY WENT TO THE SECOND FLOOR?

15 A YES, AFTER I FINISHED THE FRONT ROOM, I ASKED  
16 HIM WHERE I SHOULD GO NEXT AND HE ASKED ME TO GO UPSTAIRS  
17 TO THE BEDROOM WITH DETECTIVE ROZZI.

18 Q AND ROZZI WAS IN THE BEDROOM WITH THE COMPUTER?

19 A I BELIEVE THERE WAS A COMPUTER, ONE COMPUTER  
20 AGAINST THE WALL.

21 I COULD REMEMBER NUMEROUS STEREO EQUIPMENT STACKED  
22 UP AGAINST THE WALL. THAT'S AS FAR AS ELECTRICAL EQUIPMENT --  
23 THAT'S WHAT I REMEMBER THE MOST, IS THE STEREO EQUIPMENT JUST  
24 STACKED AND NOT EVEN PLUGGED IN.

25 Q OKAY. WERE THERE A LOT OF PAPERWORK MATERIALS  
26 IN THAT ROOM?

27 A THERE WERE A LOT OF PAPERWORK AND IT WAS NOT REALLY  
28 ORGANIZED. IT WAS JUST PLACED ON TOP OF THE BED, A BED THAT

1 WAS THERE AND THEN SOME THE FLOOR.

2 Q RIGHT. SOME OF IT APPEARED TO BE IN PILES, SORT  
3 OF?

4 A YES, IN A PILE.

5 Q DID YOU NOTICE IF ANY OF THEM HAD YELLOW POST IT  
6 NOTES? DO YOU KNOW WHAT I MEAN THAT? A LITTLE, YELLOW  
7 STICKER YOU PUT ON THE EDGE OF A PIECE OF PAPER?

8 A YES. I SAW A COUPLE OF THINGS LIKE THAT.

9 Q DID ANY OF IT SEEM TO BE NUMBERED?

10 A I DON'T KNOW WHAT WAS ON IT. I NOTICED A LITTLE  
11 STICKER, MEMO-TYPE OF THING ON IT.

12 Q WHAT HAPPENED TO THOSE DOCUMENTS, IF YOU KNOW?

13 A I DON'T KNOW.

14 Q OKAY. WHEN YOU WERE LOOKING AT THINGS UPSTAIRS,  
15 WHAT DO YOU REMEMBER LOOKING AT IN THE BEDROOM WITH ROZZI  
16 THERE?

17 A I WAS MAINLY IN A PARTICULAR BOX, A WOODEN --  
18 LIKE A WOODEN, ORANGE CRATE BOX, LIKE. IT WAS ABOUT THAT  
19 SIZE (INDICATING). AND THAT WAS WHAT I WAS THUMBING THROUGH.

20 Q AND DID YOU EARLIER TESTIFY THAT ALL SEEMED TO  
21 BE TYPED CORRESPONDENCE?

22 A MOSTLY IT APPEARED TO BE TYPED.

23 Q IT WAS TYPED ABOUT WHAT?

24 A WELL, I DON'T KNOW. GENERAL FORMS, I COULD TELL  
25 YOU. JUST PAPERS WITH TYPEWRITING.

26 SOME OF IT APPEARED TO BE MEDICAL TYPES OF THINGS.

27 Q DID YOU SEIZE ANY OF THE MATERIALS?

28 A NO I DIDN'T.

1 Q DID YOU TURN ANY MATERIALS OVER TO ROZZI FOR HIM  
2 TO DETERMINE WHETHER THEY SHOULD BE SEIZED OR NOT?

3 A I THINK I HAD ONE MEDICAL REPORT THAT I DID POINT  
4 OUT TO ROZZI.

5 Q WAS THERE ANY PARTICULAR REASON WHY YOU SELECTED  
6 THAT ONE?

7 A IT HAD ONE OF THE NAMES OF THE PEOPLE WE WERE  
8 INTERESTERED IN, SOME PAPERWORK.

9 Q DO YOU RECALL WHICH NAME IT WAS, SIR?

10 A NO. WELL, I CAN'T SAY. I AM NOT SURE.

11 Q ALL RIGHT. WOULD THE NAME "DOSTI" RING A BELL?

12 A THAT IS THE FIRST ONE THAT COMES TO MIND, YES.  
13 BUT I COULDN'T BE POSITIVE THAT THAT WAS IT.

14 Q I APPRECIATE THAT, SIR.

15 OTHER THAN THAT SINGLE DOCUMENT YOU REFERENCED  
16 TO DETECTIVE ROZZI, WERE THERE ANY OTHER DOCUMENTS THAT YOU  
17 EITHER SEGREGATED OR TURNED OVER TO ANYONE OR TOOK YOURSELF?

18 A NO. THAT WAS THE ONLY ONE THAT I MADE MENTION  
19 OF IN THAT ROOM.

20 Q THEREFORE, YOU HAD A DETERMINATION IN YOUR OWN  
21 MIND THAT NONE OF THE OTHER MATERIALS YOU LOOKED AT OR HANDLED  
22 SHOULD WE SAY, WERE SUBJECT TO THE WARRANT?

23 A THAT I HANDLED, YES. THAT'S RIGHT. THAT'S  
24 CORRECT.

25 Q DID ANY OTHER OFFICER PRESENT DISCUSS WITH YOU  
26 OR INDICATE TO YOU ANY MATERIALS THEY WERE REMOVING?

27 A THEY MIGHT HAVE BEEN TALKING TO SOMEBODY ELSE.  
28 BUT NOTHING WAS REALLY DIRECTED TO ME, LIKE "I AM SAVING THIS"

1 OR "I AM NOT SAVING THAT."

2 Q DID YOU HEAR ANY DISCUSSIONS BETWEEN OTHER OFFICERS  
3 THERE, WHERE ANYONE SAID, "HEY, LOOK AT THIS," OR "HAVE YOU  
4 NOTICED THIS," OR "WOULD YOU LIKE TO TAKE A LOOK AT THIS"?  
5 DID YOU HEAR ANY OF THAT?

6 A YES. I HEARD -- I DON'T KNOW WHO SAID IT. BUT  
7 SOMEBODY SAID SOMETHING ABOUT LOOKING AT -- OSCAR LOOKING  
8 AT THAT. THAT IS THE DETECTIVE FROM D.O.J. BUT THERE WERE  
9 BY THAT TIME, THERE WERE INCLUDING MYSELF, I BELIEVE THERE  
10 WERE FOUR PEOPLE, INCLUDING THE OTHER COUNSEL, HERE THAT WAS  
11 THERE RIGHT BEHIND ME.

12 MR. WAPNER: INDICATING MR. CHIER FOR THE RECORD?

13 THE COURT: YES. YOU MEAN MR. CHIER, THE MAN RIGHT  
14 THERE?

15 THE WITNESS: YES. HE WAS RIGHT BEHIND ME. INCLUDING  
16 HIMSELF AND MYSELF, THERE MUST HAVE BEEN A COUPLE OF OTHER  
17 PEOPLE.

18

19

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21

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27

28

1 Q BY MR. BARENS: AND WAS HE LOOKING OVER YOUR  
2 SHOULDER?

3 A YES. HE WAS RIGHT BEHIND ME.

4 Q ALL RIGHT. WHAT TIME DID MR. CHIER APPEAR TO  
5 ARRIVE, SIR?

6 A BY THE CLOCK, I DON'T KNOW. I KNOW HE CAME UP  
7 TO THAT ROOM JUST SHORTLY AFTER I WAS IN THERE.

8 Q ABOUT WHAT TIME WAS THAT, SIR?

9 A I WOULD BE GUESSING. I WOULD PROBABLY HAVE TO  
10 SAY PRETTY CLOSE TO NOON.

11 Q NOON?

12 A PRETTY CLOSE TO IT, I AM SURE.

13 Q ALL RIGHT. AND YOU HAD GOTTEN THERE AT 10:20?

14 A I BELIEVE IT WAS ABOUT THAT TIME, 10:30 OR SO.

15 Q SO YOU HAD BEEN THERE ABOUT AN HOUR AND A HALF  
16 BEFORE MR. CHIER ARRIVED?

17 A PROBABLY ABOUT AN HOUR OR AN HOUR AND A HALF.  
18 YOU ARE PROBABLY RIGHT ABOUT THAT.

19 Q DID YOU SEE ANYBODY GOING THROUGH A TRASHCAN IN  
20 THAT COMPUTER ROOM?

21 A NO.

22 Q DID YOU SEE ANYONE GOING THROUGH THE PAPERS ON  
23 THE DESK IN THAT COMPUTER ROOM?

24 A NO. I DON'T REMEMBER A DESK.

25 Q DID YOU SEE THAT IN GENERAL, ALL OF THE PAPERS  
26 IN THAT ROOM WERE BEING LOOKED AT AND GONE THROUGH?

27 A NO. I CAN'T SAY THAT, EITHER, BECAUSE I WAS NOT  
28 IN THERE LONG ENOUGH TO SAY THAT ALL OF THEM WERE GONE THROUGH.

1 Q HOW LONG WERE YOU IN THE ROOM, SIR?

2 A I WAS PROBABLY IN THERE FOR BETWEEN 10 AND 15  
3 MINUTES.

4 Q DURING THAT 15 MINUTES, DID YOU HEAR ANYBODY SAY  
5 "YOU CAN'T LOOK AT THIS," OR "YOU CAN LOOK AT THIS," OR "YOU  
6 CAN LOOK AT THAT"? DID THAT OCCUR, SIR?

7 A I RECALL OSCAR MENTIONING SOMETHING ABOUT THE  
8 COURT DOCUMENTS.

9 Q DO YOU RECALL MORE SPECIFICALLY, WHAT HE SAID  
10 AT THE TIME?

11 A HE WAS REFERRING TO MR. HUNT'S CASE, SPECIFICALLY,  
12 HIS COURT DOCUMENTS NOW.

13 Q DO YOU KNOW WHAT HE MEANT BY THAT?

14 A WELL, I KNEW HE WAS REFERRING TO TRANSCRIPTS,  
15 COURT TRANSCRIPTS. THAT WOULD BE THE ONLY OBVIOUS THING THAT  
16 WE COULD SEE. BUT I DIDN'T SEE ANYTHING LIKE THAT.

17 Q YOU DIDN'T SEE ANY COURT TRANSCRIPTS?

18 A NOT WHERE I WAS, NO.

19 Q YOU DIDN'T SEE ANY ON THE BED?

20 A WELL, THERE COULD HAVE BEEN SOMETHING ON THE BED.  
21 BUT I WAS FOCUSING ON THAT BOX.

22 Q I SEE. DID MOST OF THE PEOPLE IN THAT ROOM APPEAR  
23 TO BE READING THINGS WHILE YOU WERE IN THAT ROOM?

24 A WELL, I WOULD SAY THEY WERE SKIMMING THROUGH THINGS  
25 EXCEPT FOR COUNSEL.

26 MR. BARENS: ALL RIGHT. THANK YOU, SIR. NOTHING FURTHER.

27 THE COURT: ALL RIGHT.

28 MR. WAPNER: JUST ONE QUESTION.

## EXAMINATION

1  
2 BY MR. WAPNER:

3 Q AFTER 10 OR 15 MINUTES THAT YOU WERE IN THAT ROOM,  
4 DID YOU LEAVE WITH DETECTIVE DIAZ?

5 A YES I DID.

6 MR. WAPNER: THANK YOU. NOTHING FURTHER.

7 THE COURT: ALL RIGHT. THANK YOU. YOU MAY STEP DOWN.

8 YOUR NEXT WITNESS?

9 MR. WAPNER: DETECTIVE ROZZI.

10 MR. BARENS: COULD WE APPROACH THE BENCH?

11 THE COURT: YES.  
12  
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1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 AT THE BENCH:)

3 THE COURT: YES?

4 MR. BARENS: YOUR HONOR, THIS DETECTIVE HAD EXTENSIVE  
5 KNOWLEDGE.

6 THE COURT: WHO ARE YOU TALKING ABOUT? ROZZI?

7 MR. BARENS: YES. HE IS A VERY IMPORTANT GUY IN THE  
8 COMPUTER ROOM, WHICH WE CONSIDER TO BE THE CENTRAL ROOM.

9 MR. CHIER HAD EXTENSIVE CONTACT WITH HIM AT THE  
10 SCENE. AND I AM RESPECTFULLY ASKING LEAVE OF THE COURT THAT  
11 MR. CHIER BE PERMITTED TO CROSS-EXAMINE THIS ONE WITNESS,  
12 YOUR HONOR. IN THE INTEREST OF --

13 THE COURT: WELL, YOU HAVE GOT A MOTION HERE. I THOUGHT  
14 I WAS GOING TO RULE ON THAT MOTION.

15 I MAY AS WELL -- I WILL TELL YOU THAT WE WILL  
16 DEAL WITH IT AT ANOTHER TIME. WE WILL DISCUSS THAT MOTION.

17 I WANT YOU TO BE CONDUCTING ALL OF THE  
18 INVESTIGATIONS, ALL OF THE QUESTIONING IN THIS PARTICULAR  
19 CASE.

20 MR. BARENS: I UNDERSTAND. I AM ASKING YOU, BECAUSE  
21 OF THE PECULIAR CIRCUMSTANCES INVOLVED WITH THIS ONE WITNESS,  
22 IS WHY I APPROACHED YOUR HONOR, THAT MR. CHIER IS PERCIPIENT.

23 THE COURT: I WOULD RATHER NOT HAVE HIM QUESTION  
24 ANYONE.

25 MR. BARENS: IT IS JUST YOUR HONOR, WE WOULD GET A MORE  
26 ACCURATE --

27 THE COURT: WELL, HE HAS BEEN DOING IT ALL OF THE TIME,  
28 ANYHOW. HE HAS BEEN GIVING YOU THE QUESTIONS. YOU ARE THE



1 ONE THAT HAS BEEN THE MOUTHPIECE, HERE.

2 MR. BARENS: NO. MR. HUNT HAS BEEN --

3 THE COURT: SO, IT AMOUNTS TO THE SAME THING.

4 MR. BARENS: MR. HUNT HAS BEEN PASSING QUESTIONS TO  
5 ME AND --

6 THE COURT: HE IS PASSING QUESTIONS. BUT I MEAN, HE  
7 HAS BEEN NUDGING YOU AND GIVING YOU THE QUESTIONS AND YOU  
8 HAVE BEEN ASKING THEM.

9 MR. BARENS: THERE IS NO QUESTION THAT --

10 THE COURT: HE HAS BEEN DOING IT CONSTANTLY. HE CONTINUES  
11 TO DO SO. HE CAN CONTINUE TO DO SO.

12 MR. WAPNER: WHILE WE ARE HERE, JUST BY WAY OF AN OFFER  
13 OF PROOF, I DON'T EXPECT THAT THERE WILL BE ANY TESTIMONY  
14 FROM THIS WITNESS ABOUT SPECIFIC CONTENTS OF DOCUMENTS.

15 BUT TO THE EXTENT THAT THE DEFENSE IS GOING TO  
16 TRY TO GET INTO THAT, I AM JUST WONDERING IF THAT -- IF THEY  
17 ARE GOING TO GET INTO THE SPECIFIC CONTENTS OF THINGS THAT  
18 WERE READ, THAT HE CLAIMS WERE PRIVILEGED, WHETHER THAT KIND  
19 OF AN INQUIRY SHOULDN'T BE DONE IN CAMERA, IN THE SENSE THAT  
20 I THINK IT MAY BE THE STRATEGY OF THE DEFENSE TO SAY WELL,  
21 IF THE PROSECUTOR DOESN'T KNOW THIS STUFF ALREADY, WE ARE  
22 GOING TO "POISON HIM" BY THE STUFF THAT HE WILL LEARN AND --

23 THE COURT: IS ROZZI GOING TO TESTIFY THAT HE KNOWS  
24 ANYTHING ABOUT ANY DEFENSE ORIENTED --

25 MR. WAPNER: I DON'T EXPECT HIM TO.

26 THE COURT: WELL, I DON'T THINK THERE IS ANY NECESSITY  
27 OF HAVING AN IN CAMERA HEARING. LET'S PROCEED THE WAY WE  
28 HAVE BEEN DOING IT.

1

1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 IN OPEN COURT:)

3  
4 ROBERT ROZZI,  
5 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
6 AS FOLLOWS:

7 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY  
8 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL  
9 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,  
10 SO HELP YOU GOD.

11 THE WITNESS: I DO.

12 THE CLERK: IF YOU WOULD BE SEATED THERE AT THE WITNESS  
13 STAND, PLEASE.

14 STATE AND SPELL YOUR NAME FOR THE RECORD, PLEASE.

15 THE WITNESS: MY NAME IS ROBERT ROZZI, LAST NAME  
16 SPELLING R-O-Z-Z-I.

17

18 EXAMINATION

19 BY MR. WAPNER:

20 Q DETECTIVE ROZZI, BY WHOM ARE YOU EMPLOYED?

21 A CITY OF LOS ANGELES, POLICE DEPARTMENT.

22 Q AND WHAT DO YOU DO FOR THEM?

23 A I AM A HOMICIDE INVESTIGATOR.

24 Q DID YOU PARTICIPATE IN THE SERVICE OF A SEARCH  
25 WARRANT AT 10984 BELLAGIO ROAD ON JANUARY THE 8TH, 1987?

26 A YES, I DID.

27 Q WHEN YOU FIRST WENT TO THAT RESIDENCE, WHAT  
28 PORTION OF THE RESIDENCE DID YOU GO TO?

2  
1 A I WENT TO THE MAIN HOUSE.

2 Q WHAT PART OF THE MAIN HOUSE DID YOU GO TO?

3 A INITIALLY, THE REAR KITCHEN DOOR, I BELIEVE IT  
4 IS, THAT IS WHERE I ENTERED.

5 Q AND AFTER YOU GOT INTO THE HOUSE, WHAT ROOM IN  
6 THE HOUSE DID YOU GO TO?

7 A WELL, I EVENTUALLY WOUND UP IN AN UPSTAIRS  
8 BEDROOM OF THE HOUSE.

9 Q WHEN YOU GOT INTO THE BEDROOM, WAS THAT A ROOM  
10 THAT HAD A COMPUTER IN IT, AMONG OTHER THINGS?

11 A YES, IT WAS.

12 Q AND DID YOU SEIZE ANY DOCUMENTS FROM THAT ROOM?

13 A I DID NOT PERSONALLY SEIZE ANY DOCUMENTS, NO.

14 Q DID YOU PUT ANY DOCUMENTS ASIDE AND GIVE AN  
15 INDICATION TO OFFICER BREILING THAT THEY SHOULD BE SEIZED?

16 A I SET SOME DOCUMENTS ASIDE TO BE EXAMINED BY  
17 OFFICER BREILING FOR HIM TO DETERMINE WHETHER OR NOT HE WANTED  
18 TO SEIZE THEM, YES, I DID.

19 Q DO YOU KNOW WHETHER HE SEIZED THOSE DOCUMENTS  
20 OR NOT?

21 A SOME OF THEM HE DID, YES.

22 Q AND OF THE DOCUMENTS THAT WERE NOT SEIZED, DID  
23 YOU READ ANYTHING THAT PERTAINED -- APPEAR TO YOU TO PERTAIN  
24 TO DEFENSE STRATEGY IN THE CASE THAT IS NOW PENDING BEFORE  
25 THIS COURT?

26 MR. BARENS: OBJECTION. CONCLUSION.

27 THE COURT: OVERRULED.

28 MR. BARENS: I WOULD FURTHER, FOR THE RECORD, LIKE

1 TO STATE THAT THERE HAS BEEN NO FOUNDATION LAID OR EVEN  
2 ATTEMPTED TO LAY A FOUNDATION BY THE PEOPLE TO ESTABLISH  
3 ANY KNOWLEDGE AS TO THE DEFENSE IN THIS CASE.

4 THE COURT: ALL RIGHT, YOU MAY LAY A FOUNDATION.

5 Q BY MR. WAPNER: YOU RECEIVED A BRIEFING FROM  
6 DETECTIVE BREILING BEFORE YOU WENT TO SERVE THE WARRANT; IS  
7 THAT RIGHT?

8 A THAT'S CORRECT.

9 Q THEN HE HAD YOU SIGN A FORM SAYING YOU HAD READ  
10 THE SEARCH WARRANT AND YOU UNDERSTOOD WHAT IT WAS YOU WERE  
11 SUPPOSED TO BE LOOKING FOR?

12 A YES, SIR.

13 Q AND WHEN YOU WENT TO THE HOUSE AND PARTICIPATED  
14 IN THE SEARCH, HOW DID YOU MAKE A DISTINCTION BETWEEN THINGS  
15 YOU THOUGHT DETECTIVE BREILING SHOULD TAKE AND THINGS THAT  
16 WERE NOT PROPERLY SEIZABLE UNDER THE WARRANT?

17 A AT THE BRIEFING, DETECTIVE BREILING HAD GIVEN  
18 US INSTRUCTIONS PERTAINING TO HIS CASE AND THE ITEMS HE WAS  
19 INTERESTED IN, BASED ACTUALLY ON A TIME PERIOD FROM JANUARY  
20 1ST, 1984 TO OCTOBER 22, 1984.

21 Q AND WHEN YOU WENT TO THE HOUSE AND LOOKED AT  
22 THE DOCUMENTS, WERE YOU LOOKING FOR THINGS THAT HAD DATES  
23 ON THEM DURING THAT TIME FRAME?

24 A YES, I WAS.

25 Q WAS THAT THE PRIMARY METHOD WHERE YOU DETERMINED  
26 WHERE SOMETHING SHOULD BE LOOKED AT FURTHER OR NOT LOOKED  
27 AT AT ALL?

28 A YES.

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HE ALSO INDICATED THAT HE ONLY WANTED DOCUMENTS  
IN THAT TIME PERIOD PERTAINING TO CERTAIN INDIVIDUALS AND  
THAT IS WHAT I USED AS A GUIDE.

Q AND DID THE DOCUMENTS THAT YOU PUT ASIDE FOR  
HIM TO LOOK AT AND MAKE A DETERMINATION WHETHER HE SHOULD  
TAKE, FALL INTO THOSE GUIDELINES?

A YES, SIR.

1 Q OF THE DOCUMENTS THAT DID NOT --  
2 DID YOU LOOK AT OTHER DOCUMENTS THAT YOU FELT  
3 DID NOT EITHER COME WITHIN THAT TIME FRAME OR FALL WITHIN  
4 THE GUIDELINES HE HAD GIVEN YOU?

5 A YES, I LOOKED AT A LOT OF THINGS THAT DIDN'T  
6 FALL WITHIN THAT TIME FRAME AND I IMMEDIATELY REPLACED THEM  
7 IN THE LOCATION THAT I ORIGINALLY EXAMINED THEM.

8 Q DID YOU KNOW THAT MR. HUNT HAD A CASE PRESENTLY  
9 GOING ON IN THIS COURT?

10 A YES, I DID.

11 Q AND DID DETECTIVE BREILING SAY ANYTHING TO YOU  
12 ABOUT THAT CASE AT THE BRIEFING THAT YOU HAD?

13 A WELL, HE INDICATED --  
14 I WAS UNDER THE IMPRESSION THAT WE WERE NOT  
15 INVOLVED IN THIS CASE.

16 WE WERE STRICTLY GIVEN INSTRUCTIONS REGARDING  
17 HIS CASE UP NORTH.

18 Q DID YOU LOOK AT ANY DOCUMENTS WHILE YOU WERE  
19 IN THE HOUSE THAT APPEARED TO SAY THINGS ABOUT, FOR EXAMPLE,  
20 THE STRATEGY OF CROSS-EXAMINATION OR QUESTIONING WITNESSES  
21 OR QUESTIONING THE DEFENDANT IN THIS CASE?

22 A NOT TO MY RECOLLECTION. I WAS TOLD BY MR. CHIER  
23 THAT SOME ITEMS I STARTED TO LOOK AT, THAT THEY BELONGED TO  
24 THE DEFENSE IN THIS CASE AND IMMEDIATELY, AFTER VERIFYING  
25 THAT, I PUT IT BACK IN ITS LOCATION.

26 Q ARE YOU AN INVESTIGATING OFFICER IN THIS CASE?

27 A NO, I AM NOT.

28 Q AT ANY TIME AFTER THE SEARCH, DID YOU COMMUNICATE

1 TO ME THE CONTENTS OF ANYTHING THAT YOU MAY HAVE READ?

2 A NO, I DID NOT.

3 Q DID YOU MAKE A REPORT OF IT -- DID YOU MAKE YOUR  
4 OWN REPORT OF YOUR PARTICIPATION IN THE SEARCH?

5 A NO, I DID NOT.

6 Q DID YOU TAKE ANY NOTES WHILE YOU WERE THERE OF  
7 ANYTHING THAT YOU MAY HAVE SEEN?

8 A NO, I DID NOT.

9 Q DID YOU REPORT TO ME OR ANYONE ELSE IN ANY DETAIL  
10 OR IN ANY WAY ABOUT THE CONTENTS OF ANYTHING THAT YOU MAY  
11 HAVE READ?

12 A NO, I DIDN'T.

13 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

14 THE COURT: ALL RIGHT.

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EXAMINATION

17 BY MR. BARENS:

18 Q WHEN WERE YOU FIRST CONTACTED, DETECTIVE ROZZI,  
19 TO PARTICIPATE IN THE SEARCH?

20 A I BELIEVE IT WAS THE EVENING BEFORE THE SEARCH.

21 Q AND WHO CONTACTED YOU, SIR?

22 A MR. BREILING.

23 Q AND HAD YOU HAD PREVIOUS CONTACT WITH MR. BREILING  
24 PRIOR TO THAT OCCASION?

25 A IN REGARDS TO WHAT?

26 Q IN REGARDS TO ANYTHING IN THE UNIVERSE, SIR?

27 A YES, I HAD SPOKEN TO MR. BREILING BEFORE.

28 Q AND HAD YOU FIRST MET MR. BREILING OCTOBER, NOVEMBER

1 OF 1986?

2 A YES, I BELIEVE THAT WAS THE TIME PERIOD.

3 Q AND THAT INVOLVED ANOTHER HOMICIDE YOU WERE  
4 INVESTIGATING?

5 A WHAT DOES THAT HAVE TO DO WITH THIS SEARCH  
6 WARRANT, SIR?

7 Q I AM ASKING THE QUESTIONS. IF THE JUDGE OBJECTS,  
8 IT WILL BE RULED ON.

9 A WELL, I AM NOT -- I AM NOT AT LIBERTY TO DISCUSS  
10 A CASE WHICH I AM INVESTIGATING WHICH IS STILL AN OPEN  
11 INVESTIGATION.

12 Q I AM NOT ASKING YOU TO DISCUSS THE CASE. I AM  
13 ASKING YOU IF YOU CLAIM A PRIVILEGE, SIR?

14 A I CLAIM A PRIVILEGE.

15 MR. BARENS: THANK YOU.

16 AND THE COURT MAKES AN ADVERSE FINDING? HE CLAIMS  
17 A PRIVILEGE. WE SAY THE PRIVILEGE SHOULD NOT BE HONORED.

18 THE COURT: IF IT HAS TO DO WITH AN INVESTIGATION THAT  
19 WE HAVE BEEN TALKING ABOUT, THIS HOLLYWOOD THING, THEN I THINK  
20 HE HAS A PROPER PRIVILEGE AND HE CAN EXERCISE IT.

21 THE WITNESS: THANK YOU, YOUR HONOR.

22 THE COURT: IT HAS NOTHING TO DO WITH THE SEARCH  
23 WARRANT.

24 MR. BARENS: I UNDERSTAND, YOUR HONOR. I AM GOING  
25 TO THAT NOW, YOUR HONOR.

26 Q DETECTIVE ROZZI, DID IT OCCUR TO YOU THAT IN  
27 SEARCHING THE BEL AIR RESIDENCE, YOU MIGHT ADDITIONALLY COME  
28 ACROSS ANYTHING THAT COULD IN ANY WAY ASSIST YOU IN THE



1 INVESTIGATION OF ANY OTHER HOMICIDE?

2 A ANY OTHER HOMICIDE? NO.

3 Q NEVER OCCURRED TO YOU THAT THE SEARCH OF THE  
4 BEL AIR RESIDENCE MIGHT PROVIDE SOME INFORMATION FOR YOU  
5 CONCERNING ANOTHER HOMICIDE IN HOLLYWOOD THAT YOU WERE  
6 INVESTIGATING?

7 A NO, I DIDN'T GO THERE WITH THAT INTENTION.

8 Q I UNDERSTAND THAT WAS NOT YOUR INTENTION.

9 I AM ASKING YOU IF IT OCCURRED TO YOU THAT THAT  
10 SEARCH MIGHT IN SOME WAY SHED LIGHT ON ANOTHER HOMICIDE YOU  
11 WERE INVESTIGATING.

12 MR. WAPNER: YOUR HONOR, AGAIN THE WITNESS HAS ALREADY  
13 CLAIMED THE PRIVILEGE ABOUT THAT AND I DON'T SEE WHAT THESE  
14 QUESTIONS HAVE TO DO WITH THAT.

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1 THE COURT: I WILL SUSTAIN THE OBJECTION.

2 MR. BARENS: AGAIN, THIS QUESTION DOES NOT ASK HIM  
3 TO TALK TO ME ABOUT THAT OTHER INVESTIGATION. I AM ASKING  
4 FOR HIS STATE OF MIND AS HE GOES INTO THE SEARCH AND SEIZURE.  
5 I AM NOT ASKING HIM TO TELL ME ONE FACT IN THE WORLD ABOUT  
6 THAT OTHER HOMICIDE.

7 MR. WAPNER: WITH ALL DUE RESPECT, YOUR HONOR, I AM  
8 NOT SURE THIS WITNESS' STATE OF MIND IS WHAT IS AT ISSUE HERE.

9 MR. BARENS: I BELIEVE IT IS AS FAR AS GOOD FAITH.

10 MR. WAPNER: HE IS THERE TO HELP SERVE A WARRANT.  
11 WHETHER OR NOT GOOD FAITH IS AN ISSUE IS BASICALLY IRRELEVANT  
12 TO THE INQUIRY OF THIS WITNESS. I DON'T THINK THE COURT  
13 EVEN HAS TO REACH THAT QUESTION, WHETHER THERE IS GOOD FAITH  
14 OR NOT. IT DOESN'T DEPEND ON WHAT WAS IN THIS WITNESS'  
15 MIND. HE WAS THERE ESSENTIALLY AS A TOOL OF THE PERSON SERVING  
16 THE WARRANT.

17 MR. BARENS: COULD I RESPOND?

18 THE COURT: I WILL SUSTAIN THE OBJECTION.

19 MR. BARENS: CAN I RESPOND TO THE LAST ARGUMENT?

20 THE COURT: I WILL SUSTAIN THE OBJECTION. LET'S GET  
21 ON TO SOMETHING ELSE, WILL YOU?

22 Q BY MR. BARENS: ALL RIGHT. DID YOU HAVE A  
23 BRIEFING WITH DETECTIVE BREILING PRIOR TO PROCEEDING TO THE  
24 RESIDENCE?

25 A YES, I DID.

26 Q AND WHEN DID THAT OCCUR?

27 A THAT OCCURRED THAT MORNING JUST PRIOR TO GOING  
28 TO THE RESIDENCE.

1 Q AND PRIOR TO THAT BRIEFING, HAD YOU HAD ANY  
2 FURTHER DISCUSSION WITH MR. BREILING CONCERNING THE HOMICIDE  
3 INVESTIGATION HE WAS INVOLVED IN?

4 A HIS HOMICIDE INVESTIGATION?

5 Q YES.

6 A YES, HE BRIEFED US ON HIS HOMICIDE INVESTIGATION  
7 AT THE BEVERLY HILLS POLICE STATION.

8 Q DID HE EVER BRIEF YOU, HE OR ANYONE ELSE BRIEF  
9 YOU CONCERNING THE DISAPPEARANCE AND ALLEGED MURDER OF RON  
10 LEVIN?

11 A NO.

12 Q NO?

13 A NO.

14 Q WHEN DID YOU FIRST MEET MR. WAPNER?

15 A MR. WAPNER?

16 Q YES.

17 A I BELIEVE IT WAS -- THE FIRST TIME I EVER MET  
18 MR. WAPNER, I CAN'T REMEMBER. IT IS PROBABLY AN INVESTIGATION  
19 OF A PREVIOUS CASE SOME YEARS BACK.

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1 Q DID YOU EVER TALK TO MR. WAPNER PRIOR TO COMING  
2 TO COURT TODAY AND DISCUSS ANYTHING THAT HAD ANY BEARING ON  
3 JOE HUNT?

4 A YES.

5 Q AND THAT WOULD HAVE BEEN IN OCTOBER OR NOVEMBER  
6 OF THIS YEAR?

7 A OCTOBER OR NOVEMBER OF THIS YEAR.

8 Q YOU SPOKE WITH MR. WAPNER AND YOU WERE AWARE  
9 MR. WAPNER WAS SOMEHOW INVOLVED IN THE PROSECUTION OF JOE  
10 HUNT FOR A MURDER CASE?

11 A YES. I ALSO READ ABOUT IT IN MANY NEWSPAPERS  
12 AND MAGAZINE ARTICLES.

13 Q ON HOW MANY OCCASIONS DID YOU SPEAK TO MR. WAPNER  
14 CONCERNING JOE HUNT, BACK IN OCTOBER OR NOVEMBER OF 1986?

15 A SORRY. WOULD YOU REPEAT THE QUESTION? I MISSED  
16 A PART OF IT.

17 Q ON HOW MANY OCCASIONS DID YOU EITHER SPEAK TO  
18 OR MEET WITH MR. WAPNER CONCERNING JOE HUNT OR MATTERS  
19 PERTAINING TO JOE HUNT?

20 A I DON'T KNOW.

21 Q A LOT?

22 A I WOULD SAY NO.

23 Q HALF A DOZEN?

24 A NO.

25 Q HOW MANY, SIR?

26 A I DON'T RECALL. BUT I DON'T BELIEVE THAT IT WAS  
27 HALF A DOZEN.

28 Q WERE THEY ALL IN PERSON OR BY PHONE OR BOTH?

1 A BOTH.

2 Q NOW, DURING THOSE DISCUSSIONS, WERE YOU BRIEFED  
3 ON THE NATURE OF THE CHARGES AND THE ALLEGED FACTUAL BACKGROUND  
4 SURROUNDING THE RON LEVIN MATTER?

5 A WHEN YOU SAY "BRIEFED", WHAT IS YOUR TERMINOLOGY  
6 OF BRIEFED?

7 Q TALKED TO ABOUT.

8 A I KNOW WHAT THE CASE WAS ABOUT, IF THAT IS WHAT  
9 YOU ARE ASKING ME. YES.

10 Q I AM ASKING YOU. AND WAS THAT WHY YOU WERE BEING  
11 TOLD THOSE THINGS, SIR?

12 MR. WAPNER: AGAIN, YOUR HONOR, I MEAN, THIS IS KIND  
13 OF AN OBLIQUE WAY. COUNSEL DOESN'T WANT TO GET AT IT  
14 DIRECTLY. WE ARE NOW TRYING TO GO AROUND THE BACK DOOR TO  
15 GET AT THE SAME THING.

16 MR. BARENS: I AM NOT A MINDREADER.

17 THE COURT: I AM NOT INTERESTED IN WHETHER HE DID OR  
18 DIDN'T TALK TO MR. WAPNER, EXCEPT TO DIVULGE TO HIM ANYTHING  
19 THAT HE MIGHT HAVE READ AT THIS HOME. THAT IS WHAT WE ARE  
20 CONCERNED ABOUT HERE.

21 MR. BARENS: WELL YOUR HONOR, I THINK THAT --

22 THE COURT: ASK THE QUESTION DIRECTLY.

23 MR. BARENS: YOUR HONOR, THE PRE-EXISTING RELATIONSHIP  
24 BETWEEN THE PROSECUTOR --

25 THE COURT: ASSUMING THAT THERE WAS A PRE-EXISTING  
26 RELATIONSHIP, WHAT DIFFERENCE DOES IT MAKE?

27 MR. BARENS: HE IS SAYING THAT THERE WAS. WAIT A MINUTE,  
28 YOUR HONOR, HE IS TELLING ME THAT IN OCTOBER AND NOVEMBER,

1 HE TALKS TO THE PROSECUTOR IN THIS CASE ABOUT MY CLIENT.

2 THE COURT: I DON'T KNOW WHAT YOU MEAN. DOES THAT  
3 ESTABLISH A RELATIONSHIP? THAT IS WHAT YOUR QUESTION IS.

4 MR. BARENS: WELL, IT IS A PROFESSIONAL RELATIONSHIP  
5 OF SOME KIND AT LEAST, YOUR HONOR. NOW HE ENDS UP SEARCHING  
6 MY CLIENT'S BEDROOM AND --

7 THE COURT: PLEASE. DON'T GO THROUGH THIS. DON'T MAKE  
8 ANY BIG SPEECHES TO ME ABOUT WHAT HE DID OR DIDN'T DO.

9 THE QUESTION WHICH IS PENDING AT THIS PARTICULAR  
10 TIME, IS THE COMMUNICATIONS BETWEEN MR. WAPNER AND HE.

11 AND HE TOLD YOU THAT BY TELEPHONE MAYBE SIX TIMES,  
12 SOMETHING LIKE THAT.

13 BUT WHAT IS IT YOU WANT TO FIND OUT, WHAT THEY  
14 TALKED ABOUT?

15 MR. BARENS: YES.

16 THE COURT: WELL, ASK HIM.

17 MR. BARENS: I JUST ASKED HIM THAT AND THAT IS WHAT  
18 LED TO THE OBJECTION.

19 THE COURT: DID YOU TALK TO HIM ABOUT -- AT ALL ABOUT  
20 ANYTHING THAT YOU FOUND OR READ ON THIS PARTICULAR SEARCH?

21 THE WITNESS: NO, SIR.

22 MR. BARENS: YOUR HONOR, I AM ASKING PRELIMINARILY --  
23 YOUR HONOR, I NEED TO KNOW WHAT THIS WITNESS'S KNOWLEDGE WAS  
24 ABOUT THIS CASE BEFORE HE MAKES THE SEARCH.

25 THE COURT: HE SAID THERE WAS SOME DISCUSSION ABOUT  
26 THIS CASE WITH MR. WAPNER AND HE READ A GREAT DEAL ABOUT IT  
27 IN THE NEWSPAPERS AND MAGAZINES.

28 THAT IS THE SOURCE OF HIS KNOWLEDGE. IS THAT

A-4

1 CORRECT?

2 THE WITNESS: THAT'S CORRECT, YOUR HONOR.

3 THE COURT: WHERE DO YOU WANT TO GO FROM THERE?

4 MR. BARENS: YOUR HONOR, THE OBJECTION IS OBVIOUSLY --  
5 A GUY, A PERSON WHO HAS BEEN BRIEFED -- AND I WILL USE THAT  
6 WORD COLLOQUIALLY -- ON THIS CASE AND WHAT THE DEFENSE WOULD  
7 OBVIOUSLY BE, WOULD KNOW SOMETHING OR BE ABLE TO ANTICIPATE  
8 SOMETHING ABOUT WHAT THE DEFENSE IN THIS CASE IS ABOUT OR  
9 APPARENTLY AND I NEED TO KNOW THE EXTENT OF THAT KNOWLEDGE  
10 BECAUSE OBVIOUSLY, THIS WITNESS WOULD BE MORE SENSITIZED TO  
11 THE DEFENSE OF THIS CASE THAN ANY OTHER WITNESS.

12 THE COURT: ALL RIGHT. ASSUMING HE KNEW EVERYTHING  
13 ABOUT THIS CASE. ASSUMING THAT, OKAY, WHAT HAS THAT GOT TO  
14 DO WITH WHAT HE FOUND OUT AT THE TIME HE WENT TO THIS HOUSE?

15 MR. BARENS: WELL, I FIRST HAD TO ESTABLISH THAT BEFORE  
16 I CAN ILLUSTRATE THE SECOND QUESTION.

17 THE COURT: DO YOU KNOW SOMETHING ABOUT THE CASE FROM  
18 WHAT YOU READ AND WHAT YOU TALKED ABOUT WITH OTHER PEOPLE?

19 THE WITNESS: SORRY?

20 THE COURT: DID YOU KNOW SOMETHING ABOUT THIS RON LEVIN  
21 CASE BEFORE YOU WENT TO THE HOME?

22 THE WITNESS: YES, SIR.

23 THE COURT: ALL RIGHT. WHAT YOU READ IN THE NEWSPAPER  
24 AND DISCUSSIONS WITH MR. WAPNER?

25 THE WITNESS: YES, SIR.

26 THE COURT: ALL RIGHT.

27 Q BY MR. BARENS: NOW WITH THAT KNOWLEDGE, WHEN  
28 DETECTIVE BREILING CALLED YOU, ARE YOU TELLING ME THAT YOU

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1 DIDN'T FEEL THAT YOUR SEARCH WOULD REVEAL ANY INFORMATION  
2 CONCERNING THE LEVIN CASE WHEN YOU WENT INTO THE HOUSE?

3 A I AM NOT INVOLVED IN THE LEVIN CASE, SIR.

4 Q I DIDN'T ASK YOU IF YOU WERE INVOLVED. I ASK  
5 YOU IF YOU FELT THAT YOUR SEARCH WOULD REVEAL ANY INFORMATION  
6 THAT MIGHT PERTAIN TO THE LEVIN CASE.

7 A NO.

8 Q YOU DIDN'T THINK THAT AT ALL?

9 A NO.

10 Q YOU DIDN'T THINK THAT THE DEFENDANT WOULD HAVE  
11 IN HIS POSSESSION, ANY MATERIALS INVOLVING THE LEVIN CASE?

12 A I DIDN'T KNOW WHETHER OR NOT THE DEFENDANT WOULD  
13 HAVE ANYTHING IN HIS POSSESSION REGARDING ANY CASE OR ANY  
14 TYPE OF CRIMINAL ACTIVITY.

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1 Q DID MR. BREILING EVER TELL YOU THAT THE DEFENDANT  
2 MIGHT HAVE MATERIALS IN HIS POSSESSION INVOLVING THE LEVIN  
3 CASE?

4 A NO HE DID NOT.

5 Q HE NEVER TOLD YOU THAT?

6 A NO. HE NEVER TOLD ME THAT.

7 MR. BARENS: JUST A MOMENT, YOUR HONOR.

8 (PAUSE.)

9 MR. WAPNER: MAY I HAVE A MOMENT, PLEASE?

10 THE COURT: YES.

11 (UNREPORTED COLLOQUY BETWEEN MR. WAPNER  
12 AND THE WITNESS ON THE STAND.)

13 MR. BARENS: THE RECORD WILL REFLECT THE DISTRICT ATTORNEY  
14 IS HAVING A CONFERENCE WITH THE WITNESS, WHILE THE WITNESS  
15 IS STILL ON THE STAND, OUTSIDE THE HEARING OF --

16 THE COURT: YES. THE RECORD WILL ALSO SHOW THAT HE  
17 ASKED THE COURT WHETHER OR NOT HE COULD TALK TO MR. WAPNER  
18 AND I SAID THAT HE COULD. ALL RIGHT?

19 MR. BARENS: YES. I JUST FEEL THAT IT IS A BIT UNUSUAL.

20 THE COURT: WELL, THAT'S RIGHT. THE RECORD WILL SHOW  
21 THAT, TOO.

22 MR. BARENS: IT IS A BIT UNUSUAL.

23 THE COURT: UNUSUAL? NO. IT IS NOT UNUSUAL.

24 MR. WAPNER: THE ONLY THING THAT THE WITNESS INDICATED  
25 TO ME IS WHETHER HE MIGHT ASK LEAVE OF COURT TO CLARIFY PART  
26 OF HIS LAST ANSWER.

27 I THINK PROBABLY THAT IF HE WOULD ASK THAT --

28 MR. BARENS: WELL, HIS LAST ANSWER WAS REAL IMPORTANT

1 TO THE DEFENSE, YOUR HONOR.

2 IN AN ATTEMPT TO REHABILITATE THE WITNESS NOW,  
3 AFTER THE DISTRICT ATTORNEY HAS SPOKEN TO HIM, WHY DON'T WE  
4 WAIT UNTIL WE GET INTO THE REDIRECT FOR THAT?

5 THE COURT: ALL RIGHT. FINISH, PLEASE.

6 MR. BARENS: THANK YOU, YOUR HONOR.

7 Q WHAT DID YOU UNDERSTAND THE SCOPE OF YOUR SEARCH  
8 TO INCLUDE, DETECTIVE ROZZI?

9 A I UNDERSTOOD THE SCOPE OF MY SEARCH TO INCLUDE  
10 DOCUMENTS, RECORDS, PAPERS, HANDWRITTEN NOTES, MAYBE EVEN  
11 IF THERE WERE ANY PHOTOGRAPHS PERTAINING TO THE ACTIVITIES  
12 OF JOE HUNT, DOSTI, REZA ESLAMINIA, JAMES GRAHAM AND ANY OF  
13 THE OTHER MEMBERS OF THE BBC IN THAT TIME PERIOD THAT I HAD  
14 MENTIONED EARLIER, JANUARY 1ST, 1984 TO OCTOBER 22ND, 1984.

15 Q DID YOU UNDERSTAND RON LEVIN HAD SOME INVOLVEMENT  
16 WITH THE BBC?

17 A I UNDERSTOOD RON LEVIN HAD SOME INVOLVEMENT WITH  
18 THE BBC FROM MY KNOWLEDGE OF THE ARTICLES THAT I READ, YES.

19 Q ALL RIGHT, SIR. NOW, AS YOU WENT IN THERE, DID  
20 YOU FIRST GO INTO THE LIVING ROOM? I THINK YOU SAID YOU  
21 WENT INTO THE KITCHEN INITIALLY?

22 A I WENT INTO THE HOUSE THROUGH THE KITCHEN. I  
23 HAD NEVER BEEN IN THE HOUSE BEFORE. I WENT THROUGH THE KITCHEN.

24 THEN THERE IS LIKE, A LITTLE ENTRYWAY JUST BEYOND  
25 THAT, PRIOR TO GOING INTO A DEN OR LIVING ROOM. AND IT IS  
26 ALSO ADJACENT TO THE FRONT DOOR.

27 AND OFF TO ONE SIDE, IS A STAIRWELL THAT LEADS  
28 UP TO THE SECOND FLOOR, UP TO THE BEDROOM AREAS. THAT IS

1 WHAT I DID.

2 Q AND WERE YOU THERE ROUGHLY FROM 10:20 A.M. TO  
3 1:30 P.M.? WOULD THAT BE A FAIR ESTIMATE?

4 A YES, SIR.

5 Q OF THAT TOTAL TIME FRAME, WHAT PERCENTAGE OF THAT  
6 TIME WOULD YOU HAVE SPENT IN THE UPSTAIRS BEDROOM?

7 A A GREAT MAJORITY OF IT.

8 Q 90 PERCENT?

9 A 85 TO 90 PERCENT.

10 Q NOW, IN THOSE UPSTAIRS BEDROOMS FOR THE PURPOSES  
11 OF FACILITATING OUR DISCUSSION SIR, ONE I WILL CALL A BEDROOM  
12 AND ONE ADJACENT, I WILL CALL A COMPUTER ROOM. DO YOU HAVE  
13 THOSE IN MIND?

14 A YEAH.

15 Q DO YOU KNOW WHAT I MEAN BY THOSE REFERENCES?

16 A I THINK YOU ARE TALKING ABOUT TWO BEDROOMS THAT  
17 ARE ADJOINED BY A BATH IN BETWEEN AND AT THE END OF ONE OF  
18 THE BEDROOMS WHERE THE COMPUTER WAS, THERE IS ALSO A LARGE,  
19 ATTIC STORAGE AREA.

20 Q YES, SIR. OF THE 85 TO 90 PERCENT OF YOUR GROSS  
21 TIME THAT WAS SPENT AT THE RESIDENCE THAT YOU SPENT UPSTAIRS  
22 THERE, HOW MUCH OF THAT TIME COULD YOU TELL US YOU SPENT IN  
23 THE COMPUTER ROOM?

24 A I JUST TOLD YOU, ABOUT 85 PERCENT OF THE TIME.

25 Q WAS IN THE COMPUTER ROOM?

26 A THE COMPUTER ROOM AND THE ADJACENT ATTIC STORAGE  
27 AREA.

28 Q ALL RIGHT. NOW, YOU LOOKED AT EVERYTHING, EVERY

1 DOCUMENT IN THAT ROOM, DID YOU NOT, SIR?

2 A I DON'T BELIEVE I LOOKED AT EVERY DOCUMENT IN  
3 THAT ROOM.

4 Q WELL, OF THE GROSS 100 PERCENT OF THE MATERIALS  
5 IN THAT ROOM THAT ARE DOCUMENTARY IN NATURE, MEANING NOT  
6 FURNITURE OR CLOTHING, HOW MUCH OF A PERCENTILE OF THOSE  
7 DID YOU LOOK AT?

8 A ABOUT 50 PERCENT.

9 Q WHY DID YOU ONLY LOOK AT 50 PERCENT?

10 A BECAUSE SOME ITEMS WERE BOOKS THAT WERE INDICATED  
11 TO ME BY MR. CHIER, TO BE DEFENSE MATERIALS AND THEY HAD  
12 NUMEROUS PAGES IN THEM. I DID NOT LOOK IN THOSE BOOKS.

13 I COULDN'T TELL YOU EXACTLY TO THE NUMBER, HOW  
14 MANY DIFFERENT DOCUMENTS, BECAUSE IF YOU WANT TO REFER TO  
15 EACH PAGE OR EACH PIECE OF PAPER THAT HAD SOMETHING WRITTEN  
16 ON IT AS A DOCUMENT, I HAVE NO IDEA HOW MANY THERE WERE.

17 THERE WERE NUMEROUS ONES, THOUSANDS. I DIDN'T  
18 LOOK AT EVERY, SINGLE ONE OF THEM.

19 Q NOW, WHAT TIME DID MR. CHIER ARRIVE?

20 A I DON'T KNOW. HE DID ARRIVE SHORTLY AFTER I  
21 INITIALLY GOT THERE.

22 Q SHORTLY AFTER 10:30?

23 A WELL, WE HAD NOT BEEN IN THE HOUSE EXECUTING THE  
24 WARRANT VERY LONG BEFORE MR. CHIER SHOWED UP. I DID NOT MAKE  
25 A NOTE OF THE TIME.

26 Q ARE YOU TELLING ME THAT MR. CHIER WAS PRESENT  
27 IN THAT UPSTAIRS BEDROOM WITH YOU MOST OF THE TIME YOU  
28 CONDUCTED YOUR SEARCH?

1           A        I KNOW THAT HE WAS PRESENT IN THE LOCATION FOR  
2        QUITE A BIT OF TIME.  WHETHER OR NOT HE WAS IN THAT ROOM ALL  
3        OF THE TIME, I DON'T KNOW.

4                    BUT I DO KNOW THAT HE WAS IN THE ROOM QUITE A  
5        WHILE.  I WAS NOT PAYING PARTICULAR ATTENTION TO HIM EVERY  
6        MINUTE THAT HE WAS IN THERE.  BUT I DID NOTICE THAT HE WAS  
7        IN THE ROOM FOR QUITE A WHILE.  WHAT HE DID IN THE REST OF  
8        THE TIME, I HAVE NO KNOWLEDGE.

9           Q        WELL, DID YOU HAPPEN TO LOOK IN A TRASHCAN IN  
10        THAT ROOM?

11          A        YES I DID.

12          Q        YOU LOOKED AT ALL OF THE MATERIAL IN THAT TRASHCAN,  
13        DIDN'T YOU?

14          A        YES I DID.

15          Q        PAGE BY PAGE?

16          A        PAGE BY PAGE.

17          Q        TELL ME WHAT YOU READ IN THOSE MATERIALS.

18          A        I DIDN'T READ ANYTHING.  I NOTED THAT THERE WAS  
19        NOTHING PERTAINING TO THE ITEMS I WAS SEARCHING FOR.

20                    I REPLACED THEM ALL BACK IN THAT PARTICULAR  
21        TRASHCAN, ALONG WITH THE DISCARDED FOOD THAT WAS ALSO IN THE  
22        TRASHCAN.

23          Q        AND YOU LOOKED AT THOSE PAGE BY PAGE?

24          A        I LOOKED AT EACH PAGE TO SEE IF THERE WAS ANYTHING  
25        PERTAINING TO WHAT I WAS LOOKING FOR, YES.

26          Q        IN ORDER TO MAKE A DETERMINATION, YOU HAD TO READ  
27        IT, DIDN'T YOU?

28          A        I HAD TO TAKE A LOOK TO SEE IF THERE WAS ANYTHING

1 THAT I WAS CONCERNED WITH. I DIDN'T HAVE TO READ IT, PER  
2 SE.

3 Q YOU HAD TO SCAN IT?

4 A IF THAT IS THE TERM YOU WANT TO USE, YOU CAN.

5 Q YOU TELL ME.

6 A I ALREADY DID, SIR.

7 Q ALL RIGHT. YOU WERE LOOKING THROUGH THAT TRASHCAN  
8 AND GOING THROUGH EACH PAGE. ISN'T IT A FAIR STATEMENT THAT  
9 THOSE WERE --

10 THE COURT: WAIT A MINUTE. YOU SAY THAT YOU WENT THROUGH  
11 EACH PAGE?

12 THE WITNESS: I GLANCED AT EACH PAGE, YES.

13 MR. BARENS: YES.

14 Q AND DID THOSE APPEAR LIKE THEY WERE PAPERS THAT  
15 HAD BEEN GENERATED BY A COMPUTER OR ON A COMPUTER?

16 A COMPUTER TYPED PAPER, YES, SIR.

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1 Q IS THAT THE TYPE OF THING THAT KIND OF FOLDS  
2 BACK UPON ITSELF, SO TO SPEAK?

3 (NO AUDIBLE REPLY.)

4 ISN'T IT A FAIR STATEMENT THAT THOSE PAPERS  
5 CONTAINED A NARRATIVE DESCRIPTION OF A FACT SETTING IN THIS  
6 CASE, IN THE RON LEVIN CASE?

7 A I DON'T RECALL WHAT THOSE -- WHAT WAS NOTED ON  
8 THAT PAPER OR EVEN THE OTHER PIECES OF PAPER THAT WERE IN  
9 THAT TRASH CAN.

10 I DO REMEMBER THAT THEY HAD NO DEALINGS WITH  
11 MY REASON FOR BEING THERE, WHICH WAS THE ASSISTANCE IN THE  
12 EXECUTION OF THAT WARRANT.

13 Q YOU MADE THAT DECISION BECAUSE AFTER YOU HAD  
14 READ THOSE PAPERS YOU COULDN'T FIND ANY OF THE NAMES OR DATES  
15 YOU WERE LOOKING FOR?

16 A WHEN I SCANNED THOSE PAPERS, I DIDN'T SEE ANYTHING  
17 RELATIVE TO WHAT I WAS THERE FOR.

18 Q IN OTHER WORDS, YOU DIDN'T SEE ANY OF THE NAMES  
19 OR DATES YOU WERE LOOKING FOR?

20 A YEAH, I DIDN'T SEE ANYTHING RELATIVE TO WHAT  
21 I INTERPRETED AS BEING MY PURPOSE OF BEING THERE.

22 Q NOW YOU WERE LOOKING FOR '84 DATED MATERIAL?

23 A YES, SIR.

24 Q DID YOU SEE ANYBODY ELSE LOOKING THROUGH THAT  
25 TRASH CAN?

26 A I DON'T REMEMBER.

27 Q ALL RIGHT, WHEN YOU LOOKED INTO THE TRASH CAN,  
28 WERE YOU THE FIRST ONE TO LOOK IN THERE?

2  
1 A I BELIEVE I WAS.

2 Q DID YOU SPREAD THE PAPERS OUT ON THE FLOOR TO  
3 LOOK AT THEM?

4 A NO.

5 Q DID MR. CHIER EVER ASK YOU IF YOU THOUGHT THOSE  
6 PAPERS HAD BEEN IN THE TRASH CAN SINCE 1984?

7 A HE ASKED ME SOMETHING ABOUT PAPERS IN THE TRASH  
8 CAN. I DON'T RECALL IF HE SAID ANYTHING ABOUT 1984, BUT I  
9 DID INDICATE TO HIM THAT I MYSELF PERSONALLY THROW AWAY A  
10 LOT OF OLD PAPERS SO I DIDN'T KNOW WHAT DATES THEY MIGHT  
11 CONTAIN ON THEM.

12 Q NOW, YOU LOOKED AT THE PAPERS ON THE DESK, DID  
13 YOU?

14 A YES, I DID.

15 Q DID YOU SEE ANYTHING ON THE DESK THAT LOOKED  
16 SIMILAR TO WHAT YOU SAW IN THE TRASH CAN?

17 A WHAT DO YOU MEAN BY SIMILAR?

18 Q SIMILAR --

19 THE COURT: COMPUTER PAPERS, YOU MEAN?

20 MR. BARENS: YES, SIR, TYPED PAPERS.

21 THE WITNESS: AT THIS POINT, I DON'T RECALL EXACTLY  
22 WHAT WAS ON THE DESK OR IN THE DRAWERS OR IN ENVELOPES.

23 I CAN ONLY TELL YOU THAT I WENT THERE TO ASSIST  
24 IN THE EXECUTION OF THE WARRANT AND HAD PARTICULAR INFORMATION  
25 THAT I WAS LOOKING FOR IN RELATION TO THE WARRANT AND IF I  
26 DID NOT SEE ANYTHING THAT RELATED TO THAT, I REPLACED IT  
27 EXACTLY WHERE IT WAS.

28 ANYTHING THAT I THOUGHT MIGHT BE RELATED, I SET



1 ASIDE FOR MR. BREILING TO EXAMINE TO SEE IF HE WANTED TO SEIZE  
2 IT.

3 Q BY MR. BARENS: COULD YOU TELL ME OR ARE YOU  
4 WILLING TO TELL ME WHAT YOU SET ASIDE FOR MR. BREILING?

5 A WELL, I DO RECALL AT THE END OF ONE BOX, THAT  
6 I WAS LOOKING BEHIND A FREE-STANDING DRESSER, THERE WAS A  
7 PARTIALLY UNUSED CHECKBOOK WITH CHECKS IN IT IN THE NAME OF  
8 HADAYET ESLAMINIA, WHO WAS THE VICTIM IN MR. BREILING'S MURDER  
9 CASE UP NORTH.

10 I ALSO RECALL SETTING ASIDE SOME CHECKS, BBC,  
11 I BELIEVE, WITH BBC ENGRAVING OR MARKING OR HEADING ON IT  
12 FOR THE TIME PERIOD THAT I WAS CONCERNED WITH.

13 Q AND DID YOU SET ASIDE ANY TYPED MATERIALS FOR  
14 MR. BREILING?

15 A TYPED MATERIALS?

16 Q YES.

17 A I DON'T RECALL NOW.

18 I WOULD HAVE TO REVIEW ALL OF IT TO SEE WHAT  
19 ONES I MIGHT HAVE SET ASIDE OUT OF THE ONES HE SEIZED.

20 I DIDN'T MAKE ANY NOTES.

21 Q OF WHAT YOU HAD SET ASIDE?

22 A NO.

23 Q DID YOU SEE IN ANYTHING THAT YOU GAVE HIM, THAT  
24 YOU SET ASIDE THAT MR. BREILING SAID YOU SHOULDN'T SEE?

25 A I MAY HAVE, I DON'T RECALL.

26 Q DURING THE SEARCH, DID YOU HAVE A DISCUSSION  
27 WITH ANYONE ABOUT THE MATERIALS YOU WERE LOOKING AT?

28 A WHAT TYPE OF DISCUSSIONS DO YOU INDICATE, COUNSEL?

1 Q I DON'T KNOW.

2 I AM ASKING YOU IF YOU HAD ANY DISCUSSION?

3 A THERE WAS A LOT OF DISCUSSION GOING ON WHILE  
4 WE WERE SEARCHING, IF THAT IS WHAT YOU MEAN, YES.

5 Q WHO DO YOU REMEMBER TALKING TO ABOUT THE MATERIALS  
6 YOU WERE LOOKING AT?

7 A I WAS TALKING TO MR. ROBERTS, WHO OWNS THE HOUSE.  
8 HE INDICATED THAT PARTICULAR ITEMS I WAS LOOKING THROUGH WERE  
9 BASICALLY HIS. HE POINTED OUT A POSTER ON ONE OF THE MOVIES  
10 THAT HE WAS INVOLVED WITH AND TOLD ME "TAKE A LOOK AT IT,"  
11 WHICH I DID.

12 I TALKED TO MR. CHIER, WHO INDICATED PARTICULAR --  
13 CERTAIN ITEMS WERE DEFENSE ITEMS.

14 I SPOKE WITH MRS. ROBERTS IN REGARDS TO WHAT  
15 PARTICULAR ITEMS IN ONE PORTION OF THE ROOM MIGHT BE HERS.  
16 SHE LOOKED AT THEM AND SAID THEY WEREN'T HERS.

17 I SPOKE WITH MR. BREILING. I SPOKE WITH MY  
18 PARTNERS. I SPOKE WITH THE CAMERAMAN FOR THE SID PERSONNEL  
19 FROM THE BEVERLY HILLS POLICE DEPARTMENT.

20 Q IN CONJUNCTION WITH YOUR CONVERSATIONS WITH  
21 MR. CHIER, AFTER YOU SPOKE TO MR. CHIER AND HE TOLD YOU THAT  
22 SOMETHING WAS DEFENSE MATERIAL, IS IT YOUR TESTIMONY THAT  
23 YOU IMMEDIATELY DID NOT TAKE ANY FURTHER LOOK AT IT?

24 A HE POINTED OUT THERE WAS A SET OF, I DON'T KNOW  
25 HOW MANY VOLUMES OF HARD BOUND BOOKS SIMILAR TO THE BLUE BOOK  
26 ON MR. WAPNER'S DESK, AND INDICATED THAT THAT WAS DEFENSE  
27 STUFF.

28 I RECALL OPENING IT UP, AND ON VERIFYING THAT

5  
1 IT WAS AND PUTTING IT BACK AND NOT GOING THROUGH ANY OF THAT  
2 STUFF.

3 HE ALSO INDICATED THAT HE DIDN'T WANT US TO TURN  
4 THE COMPUTER ON BECAUSE THERE WAS INFORMATION IN THE COMPUTER,  
5 IF IT GOT SHUT OFF WRONG, IT WOULD BE ERASED.

6 WE NEVER TURNED THE COMPUTER ON.

7 Q YOU HAD ALREADY LOOKED AT SOME COMPUTER PRINTOUT  
8 PRIOR TO THE TIME MR. CHIER HAD TOLD YOU THAT?

9 A YES. I DON'T RECALL IN WHAT ORDER IT WAS. BUT  
10 I DO RECALL HIM SAYING THAT.

11 WE HONORED HIS WISH.  
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1 Q AND DIDN'T HE TELL YOU THAT THOSE NOTEBOOKS WHICH  
2 WERE SIMILAR, THEY MAY HAVE BEEN BLACK IN COLOR, SIMILAR TO  
3 THOSE BEFORE MR. WAPNER WERE HIS NOTEBOOKS, IN FACT THEY WERE  
4 MR. CHIER'S NOTEBOOKS?

5 A I JUST ANSWERED THE QUESTION.

6 Q NO, YOU DIDN'T ANSWER THAT QUESTION, SIR.

7 A YES, HE POINTED OUT SOME BLACK HARD BOUND BOOKS,  
8 I DON'T RECALL HOW MANY VOLUMES, AND INDICATED THEY WERE DEFENSE  
9 MATERIAL.

10 Q DIDN'T HE ACTUALLY USE THE EXPRESSION "THOSE  
11 ARE MY NOTEBOOKS"?

12 A I DON'T RECALL EXACTLY WHAT HE SAID, COUNSEL.

13 ALL I CAN TELL YOU IS WHAT I SEEM TO RECALL NOW.  
14 THAT HE INDICATED THAT THEY WERE DEFENSE STUFF AND I VERIFIED  
15 IT AND DIDN'T TOUCH THEM ANYMORE.

16 Q HOW DID YOU VERIFY THAT?

17 A BASICALLY, I OPENED IT UP, SAW IT WAS TYPEWRITTEN  
18 MATERIAL THAT INDICATED IT WAS HIS STUFF AND I PUT IT BACK.

19 Q I UNDERSTAND, BUT MERELY SEEING THAT SOMETHING  
20 WAS TYPEWRITTEN AND IN A NOTEBOOK, HOW DOES THAT CONFIRM TO  
21 YOU THAT IT WAS DEFENSE MATERIAL?

22 A IT DIDN'T APPEAR TO HAVE ANYTHING IN IT THAT  
23 I WAS THERE FOR THE EXPRESS PURPOSE OF ATTEMPTING TO SEIZE  
24 AND SO I THEREFORE CONCLUDED THAT IT WAS EXACTLY WHAT HE SAID  
25 AND I REPLACED IT.

26 Q SO YOU SAW THE WORDS "BBC" ON THOSE MATERIALS,  
27 DIDN'T YOU?

28 A I DON'T RECALL WHAT I SAW, COUNSEL.

1 I LOOKED AT A LOT OF ITEMS THAT DAY. I CAN'T  
2 TELL YOU EVERY PARTICULAR NOTATION I SAW ON EVERY PARTICULAR  
3 PIECE OF PAPER.

4 Q WELL, JUST REFERRING TO THOSE NOTEBOOKS YOU OPENED  
5 TO VERIFY THAT MR. CHIER WAS TELLING YOU THE TRUTH, DID YOU  
6 SEE DATES IN THOSE NOTEBOOKS?

7 A I DON'T RECALL.

8 Q DID YOU SEE NAMES IN THOSE NOTEBOOKS?

9 A I DON'T RECALL.

10 Q DID YOU SEE WORDS IN THE ENGLISH LANGUAGE?

11 A I DO RECALL THAT, YES, SIR.

12 Q AND DO YOU REMEMBER WHAT ANY OF THOSE WORDS SAID?

13 A NO, I DON'T.

14 Q AFTER SPENDING TIME IN THAT BEDROOM OR IN THAT  
15 COMPUTER ROOM, WE WILL CALL IT, DID YOU SURMISE THAT YOU LOOKED  
16 AT EVERYTHING ON THE DESK?

17 A YES.

18 Q EVERYTHING ON THE BED?

19 A YES.

20 Q BY CHANCE, DID YOU SEE ANY MATERIALS THAT HAD  
21 YELLOW POST-IT STICKERS ON IT, LIKE MEMO STICKERS ON IT, YOU  
22 KNOW, THAT YOU MIGHT TAG SOMETHING WITH?

23 A YCUMEAN AN ADDRESSED LETTER?

24 Q NO, THAT YOU MIGHT USE FOR INDEX PURPOSES OR  
25 EXHIBIT PURPOSES.

26 A I AM NOT SURE I UNDERSTAND WHAT YOU ARE ASKING.

27 MR. BARENS: COULD WE HAVE A POST-IT, YOUR HONOR?

28 (POST-ITS WERE HANDED TO THE WITNESS BY

1 THE REPORTER.)

2 Q BY MR. BARENS: THAT SORT OF THING -- THANK YOU,  
3 MISS REPORTER -- DID YOU SEE ANY DOCUMENTATION THAT HAD  
4 AFFIXED TO IT ANY YELLOW POST-ITS RESEMBLING WHAT THE COURT  
5 REPORTER HAS THERE?

6 A WELL, I THINK I RECALL SOMETHING LIKE THIS MAYBE  
7 ON THE OUTSIDE OF A YELLOW ENVELOPE OR A LARGE ENVELOPE.

8 Q DID YOU SEE ANY DOCUMENTS ON THE BED THAT HAD  
9 POST-ITS AFFIXED TO IT LIKE THAT, SIR?

10 A WHAT DO YOU REFER TO THESE AS, POST-ITS?

11 Q I CALL THEM POST-ITS, P-O-S-T I-T-S.

12 A I RECALL -- I SEEM TO RECALL SEEING THOSE  
13 PARTICULAR ITEMS IN THE ROOM BUT I DON'T RECALL EXACTLY WHERE  
14 THEY WERE.

15 Q DID YOU LOOK AT DOCUMENTS ASSOCIATED WITH THE  
16 POST-ITS?

17 A I IMAGINE I DID, IF THERE WAS ANY DOCUMENT ON  
18 THAT PARTICULAR THING THAT INDICATED IT WAS WHAT I WAS THERE  
19 TO SEARCH FOR, THEN I MORE THAN LIKELY LOOKED AT THE DOCUMENT  
20 TO DETERMINE WHAT IT WAS AND PUT IT BACK.

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A-1

1 Q SURE. DID YOU PUT ALL OF THE THINGS THAT HAD  
2 THOSE LITTLE YELLOW, POST ITS ON THEM BACK OR DID YOU TURN  
3 SOME OF THEM OVER TO MR. BREILING FOR HIM TO TAKE?

4 A I DON'T RECALL.

5 Q YOU DON'T KNOW WHETHER OR NOT YOU HAD MR. BREILING  
6 TAKE DOCUMENTATION THAT HAD THESE LITTLE POST ITS ON THEM?

7 A AS I MENTIONED BEFORE, I SET SOME ITEMS ASIDE  
8 FOR MR. BREILING TO EXAMINE.

9 HE MADE THE DETERMINATION WHETHER OR NOT HE WANTED  
10 TO SEE THEM. I DIDN'T TELL MR. BREILING TO SEE ANY OF THEM.  
11 I DON'T RECALL EXACTLY WHAT HE --

12 Q I AM NOT ASKING YOU IF YOU TOLD HIM TO SEIZE  
13 SOMETHING. YOU TOLD ME EARLIER THAT YOU SEGREGATED MATERIALS  
14 FOR HIM TO DETERMINE WHETHER HE WANTED TO TAKE THEM OR NOT?

15 A THAT'S CORRECT.

16 Q AMONG THOSE MATERIALS, WERE THERE ITEMS THAT HAD  
17 THESE YELLOW, POST ITS ON THEM?

18 A I DON'T RECALL AT THIS TIME.

19 Q YOU DON'T RECALL WHETHER YOU DID OR DIDN'T?

20 A I DON'T RECALL.

21 Q ALL RIGHT. PRIOR TO MR. CHIER INDICATING TO YOU  
22 THAT CERTAIN NOTEBOOKS CONTAINED DEFENSE MATERIALS AND YOUR  
23 CONFIRMATION OF SAME, HOW WOULD YOU KNOW WHAT DEFENSE  
24 MATERIAL IN THIS CASE WOULD LOOK LIKE?

25 A I AM NOT SURE I WOULD EXCEPT THAT I DID KNOW WHAT  
26 I WAS GOING THERE TO LOOK FOR AND I WAS NOT CONCERNED WITH  
27 ANYTHING THAT DIDN'T FALL WITHIN THOSE GUIDELINES.

28 Q I SEE. BUT YOU HAD NOTHING IN PARTICULAR IN YOUR

1 MIND THAT WOULD OR WOULD NOT BE IDENTIFIED AS DEFENSE MATERIALS  
2 FOR YOU, DID YOU?

3 MR. WAPNER: OBJECTION, VAGUE. I DON'T KNOW WHAT THE  
4 TERM "DEFENSE MATERIALS" MEANS IN THIS CONTEXT.

5 THE COURT: I WILL SUSTAIN THE OBJECTION.

6 MR. WAPNER: THANK YOU.

7 Q BY MR. BARENS: YOU KNOW WHAT WAS INCLUDED IN  
8 THE SEARCH WARRANT, RIGHT?

9 A YES I DO.

10 Q THAT GIVES YOU -- LET'S CALL THAT A CRITERIA.  
11 IS THAT AGREED?

12 A IF THAT IS WHAT YOU WANT TO CALL IT, YES.

13 Q DID YOU HAVE ANY CRITERIA WHATSOEVER, FOR WHAT  
14 WAS NOT INCLUDED IN THE SEARCH WARRANT AND WHAT WAS EXCLUDED  
15 FROM THE SEARCH WARRANT? DID YOU GET ANY CRITERIA ON THAT?

16 A I DON'T RECALL NOW.

17 Q THE WARRANT APPEARED TO YOU TO BASICALLY INCLUDE  
18 YOUR ABILITY TO LOOK AT EVERYTHING THERE?

19 A SORRY. WOULD YOU REPEAT THAT QUESTION?

20 Q THE WARRANT SEEMED TO AUTHORIZE YOU IN YOUR STATE  
21 OF MIND, TO LOOK AT EVERYTHING THAT WAS THERE OF A DOCUMENTARY  
22 NATURE?

23 A THE WARRANT INDICATED TO ME, THAT BASED ON THE  
24 TYPES OF THINGS TO LOOK FOR WHICH WERE PAPERS, WHATEVER PAPERS  
25 I SAW, I COULD LOOK AT THEM TO DETERMINE WHETHER OR NOT THEY  
26 WERE INVOLVED IN THE SEARCH WARRANT. YES.

27 Q ALL RIGHT. IN OTHER WORDS, THERE IS A REFERENCE --  
28 AGAIN, YOUR HONOR, CITING A PARAGRAPH FROM YESTERDAY AT



A-3

1 PAGE W-1 OF THE WARRANT -- THERE IS A PARAGRAPH THAT INCLUDES  
2 IN ITS LANGUAGE, "ALL PAPERS, DOCUMENTS, PHOTOGRAPHS, RECORDS  
3 AND NOTES RELATING TO THE ACTIVITIES OF JOSEPH HUNT, DOSTI,  
4 JAMES GRAHAM, REZA ESLAMINIA AND OTHER MEMBERS OF THE STAFF  
5 OF THE BBC AND ALL RECORDS OF TRADING DONE AT E. F. HUTTON"  
6 AND ET CETERA, ET CETERA.

7 THAT SEEMED TO AUTHORIZE YOU TO LOOK AT ALL THE  
8 DOCUMENTS THERE?

9 A I WOULD SAY SO, YES.

10 Q GENERALLY SEARCH EVERYTHING TO MAKE A DETERMINATION  
11 AS TO WHAT YOU WOULD HAVE MR. BREILING DETERMINE WHETHER IT  
12 SHOULD BE SEIZED OR NOT?

13 A YES, SIR.

14 Q IT APPEARED TO BE A GENERAL WARRANT AT THAT POINT?

15 MR. WAPNER: OBJECTION. HE IS ASKING FOR A CONCLUSION.  
16 ALL HE HAS BEEN ASKED SO FAR, IS THE LAW REGARDING SEARCH  
17 WARRANTS WHICH THIS WITNESS DOESN'T HAVE TO PROVIDE TO THE  
18 COURT.

19 MR. BARENS: I DIDN'T ASK HIM ANY LAW, JUDGE.

20 THE COURT: I THINK YOU DID. BUT AT ANY RATE, I WILL  
21 LET HIM ANSWER THE QUESTION.

22 MR. BARENS: THANK YOU.

23 THE WITNESS: COULD I HAVE THAT QUESTION AGAIN?

24 THE COURT: WILL YOU REPEAT IT, PLEASE?

25 Q BY MR. BARENS: I ASKED YOU IF THIS APPEARED TO  
26 BE A GENERAL WARRANT. THAT KIND OF FOLLOWED MY LAST QUESTION.

27 A WHAT DO YOU TERM "GENERAL"? WHAT IS YOUR  
28 DEFINITION OF GENERAL?

1 Q WELL, THERE IS A SPECIFIC THING, LIKE I WILL TELL  
2 YOU TO LOOK AT THIS PEN OR I TELL YOU GENERALLY TO LOOK AT  
3 EVERYTHING ON THIS DESK.

4 MR. WAPNER: AGAIN, THE OBJECTION IS THAT HE IS ASKING  
5 THIS WITNESS FOR A LEGAL CONCLUSION. HE IS ASKING THIS  
6 WITNESS --

7 MR. BARENS: I ASKED HIM FOR HIS STATE OF MIND.  
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1 MR. WAPNER: MAY I FINISH?

2 THE COURT: STATE OF MIND DOESN'T JUSTIFY LEGAL QUESTIONS.

3 MR. WAPNER: HE IS ASKING THIS WITNESS TO DRAW A  
4 CONCLUSION BASED ON LANGUAGE OF THE SEARCH WARRANT AS TO  
5 WHETHER OR NOT THE WARRANT IS OVERBROAD.

6 THAT IS A QUESTION THAT THE COURT DETERMINES,  
7 AFTER READING THE WARRANT, NOT THIS WITNESS.

8 THE COURT: SUSTAINED.

9 MR. BARENS: I AM NOT ASKING THIS WITNESS IF THE WARRANT  
10 WAS OVERBROAD.

11 THE COURT: I SUSTAINED THE OBJECTION. GO ON, PLEASE.

12 Q BY MR. BARENS: WELL, THE WARRANT DID NOT EXCLUDE  
13 YOU READING ANYTHING, DID IT?

14 A NO.

15 Q ALL RIGHT. AND MR. BREILING DID NOT EXCLUDE YOU  
16 READING ANYTHING, DID HE?

17 A NO.

18 (PAUSE.)

19 MR. BARENS: NOTHING FURTHER OF THIS WITNESS.

20 THE COURT: ALL RIGHT.

21

22 FURTHER EXAMINATION

23 BY MR. WAPNER:

24 Q DETECTIVE ROZZI, DURING THE DIRECT EXAMINATION,  
25 YOU AND I HAD -- YOU ASKED ME TO COME TO THE WITNESS STAND.  
26 IS THAT RIGHT?

27 A THAT'S CORRECT.

28 Q DID YOU ASK ME IF YOU COULD CLARIFY ONE OF YOUR

1 ANSWERS?

2 A YES I DID.

3 Q ALL RIGHT. AND WOULD YOU CLARIFY THAT ANSWER  
4 AT THIS TIME?

5 MR. BARENS: OBJECTION. THERE IS NO QUESTION PENDING.

6 THE COURT: OVERRULED.

7 Q BY MR. WAPNER: DO YOU REMEMBER IT?

8 A I AM NOT SURE THAT I COMPLETELY REMEMBER IT NOW.  
9 TIME HAS PASSED.

10 Q LET ME SEE IF I CAN BE MORE SPECIFIC.

11 MR. BARENS: I WOULD LIKE TO HAVE -- IF I AM GETTING  
12 AN ANSWER TO THE QUESTION, I WOULD LIKE TO HAVE THE QUESTION.

13 THE COURT: HE CAN REFER TO IT NOW.

14 MR. WAPNER: THANK YOU, YOUR HONOR.

15 Q DETECTIVE ROZZI, DO YOU REMEMBER BEING ASKED A  
16 QUESTION ABOUT THE BRIEFING THAT YOU HAD RECEIVED AT THE  
17 BEVERLY HILLS POLICE DEPARTMENT?

18 A YES I DID.

19 Q AND SPECIFICALLY WITH REGARD TO DETECTIVE BREILING  
20 TALKING TO YOU ABOUT WHAT YOU SHOULD AND SHOULD NOT LOOK FOR,  
21 DID HE GIVE YOU ANY CAUTION OF ANY KIND?

22 A YES HE DID.

23 Q CAN YOU TELL ME WHAT HE SAID?

24 A HE SAID WE SHOULD NOT SEIZE OR WE SHOULD EXCLUDE  
25 ANY MATERIALS THAT WERE DEFENSE MATERIALS, ANY DEFENSE  
26 MATERIALS IN ANY CASE.

27 Q AND WERE YOU ATTEMPTING TO BE SENSITIVE TO THAT  
28 ADMONITION WHEN YOU WENT ABOUT YOUR SEARCH?

1 A YES I WAS.

2 Q AND OTHER THAN THE BOOKS, THE NOTEBOOKS THAT  
3 MR. CHIER POINTED OUT AND SAID NOT TO SEARCH BECAUSE THEY  
4 WERE DEFENSE MATERIALS, DID HE SAY ANYTHING ELSE TO YOU ABOUT  
5 NOT LOOKING AT OTHER DOCUMENTS?

6 A WELL, HE MENTIONED ABOUT NOT TURNING ON THE  
7 COMPUTER. AND I DO RECALL THOSE TWO THINGS. I DON'T RECALL  
8 IF THERE WAS ANYTHING ELSE.

9 Q DID HE SAY ANYTHING ABOUT THE GARBAGE CAN?

10 A INITIALLY, YES, WHEN I STARTED TO LOOK THROUGH  
11 IT.

12 Q WHAT DID HE SAY?

13 A SOMETHING TO THE EFFECT IF I RECALL, THE QUESTION  
14 THAT I ANSWERED BEFORE, SOMETHING TO THE EFFECT THAT THOSE  
15 CAN'T BE -- WHATEVER IS IN THE TRASHCAN CAN'T BE OLD.

16 I MADE A COMMENT ABOUT THAT, THAT PEOPLE ALWAYS  
17 THROW AWAY OLD STUFF OR OLD PAPERS. I DO THAT, MYSELF.

18 THEN I LOOKED THROUGH THE GARBAGE CAN.

19 MR. WAPNER: THANK YOU. NOTHING FURTHER.

20 MR. BARENS: THANK YOU.

21

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FURTHER EXAMINATION

23 BY MR. BARENS:

24 Q EARLIER ON, GOING BACK TO COUNSEL'S QUESTION WHICH  
25 HE SEEMS TO HAVE CLEANED UP A BIT HERE, YOU DID NOT TELL ME  
26 THAT OFFICER BREILING BRIEFED YOU AT ALL ABOUT BEING  
27 SENSITIVE TO DEFENSE MATERIALS. YOU DIDN'T TELL ME THAT,  
28 DID YOU?

1 A NO. IT WAS AN OVERSIGHT ON MY PART.

2 Q WELL, HOW DO YOU EXPLAIN YOUR ANSWER TO MY LAST  
3 QUESTION? I ASKED YOU BEFORE MR. WAPNER READDRESSSED YOU,  
4 I ASKED "MR. BREILING DID NOT EXCLUDE YOU FROM READING ANYTHING,  
5 DID HE" AND YOU SAID TO ME "NO HE DID NOT".

6 A I THINK --

7 Q IS THAT AN OVERSIGHT, TOO, SIR?

8 THE COURT: WELL, LET HIM ANSWER IT.

9 THE WITNESS: IF I COULD EXPLAIN.

10 THE COURT: GO AHEAD.

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1 THE COURT: GO AHEAD.

2 THE WITNESS: I THINK, FIRST OF ALL, MY OPINION WHEN  
3 I AM DEALING WITH DOCUMENTS, I HAVE TO INITIALLY LOOK AT IT  
4 TO SEE WHAT IT CONTAINS, OTHERWISE, I CAN'T TELL WHETHER IT  
5 PERTAINS TO THE SEARCH WARRANT I AM THERE FOR OR WHETHER IT  
6 WOULD PERTAIN TO ANY DEFENSE MATERIALS I AM EXCLUDED FROM  
7 TAKING.

8 I DON'T HAVE SOME KIND OF PSYCHIC POWER THAT  
9 I CAN JUST LOOK AT SOMETHING ON THE GROUND WITHOUT GLANCING  
10 AT IT AND DETERMINING WHETHER OR NOT IT IS OR IT ISN'T COVERED  
11 BY THE SEARCH WARRANT.

12 MR. BARENS: THAT IS PRECISELY MY POINT.

13 THE WITNESS: MY DEFINITION OF READING IS READING SOME-  
14 THING IN DEPTH AND TRYING TO GLEAN SOMETHING OUT OF IT AND  
15 I DIDN'T DO ANY OF THAT.

16 MR. BARENS: IT IS PRECISELY MY POINT, THAT ARMED WITH  
17 THE WARRANT YOU DID HAVE, YOU COULDN'T EXCLUDE READING ANYTHING  
18 FROM THAT UNTIL YOU HAD ACTUALLY READ IT.

19 MR. WAPNER: OBJECTION. THAT IS NOT A QUESTION. THAT  
20 IS ANOTHER SPEECH.

21 MR. BARENS: I AM ASKING A QUESTION.

22 MR. WAPNER: WELL, I DIDN'T HEAR A QUESTION AT THE  
23 END OF IT.

24 MR. BARENS: I ENDED WITH A QUESTION.

25 THE COURT: YOU MEAN YOU RAISED YOUR VOICE AT THE END,  
26 YOU MEAN?

27 MR. BARENS: I GAVE A VOCAL INFLECTION IN THE ENGLISH  
28 LANGUAGE AMOUNTING TO OR SUGGESTING A QUESTION IN THE ENGLISH

1 LANGUAGE.

2 THE COURT: ASSUMING IT IS A QUESTION, WOULD YOU ANSWER  
3 IT, PLEASE?

4 THE WITNESS: OKAY. COULD I HAVE IT READ BACK SO I  
5 CAN UNDERSTAND IT?

6 MR. BARENS: THANK YOU, BECAUSE I MIGHT NOT BE ABLE  
7 TO REPEAT THE INFLECTION.

8 THE COURT: ALL RIGHT, READ IT BACK, PLEASE?

9 (WHEREUPON, THE PENDING QUESTION WAS READ  
10 BY THE REPORTER.)

11 MR. BARENS: SOUNDS LIKE A QUESTION, JUDGE.

12 THE WITNESS: OKAY, I WOULDN'T SAY I HAD TO READ IT  
13 BUT I WOULD HAVE TO LOOK, GLANCE IT OVER AND LOOK AT IT, YES.

14 MR. BARENS: THANK YOU. NOTHING FURTHER OF THIS  
15 WITNESS.

16 THE COURT: ALL RIGHT, DETECTIVE ROZZI, IF AFTER YOU  
17 LEAVE THE WITNESS STAND YOU MIGHT RECALL SOMETHING THAT YOU  
18 READ WHICH MIGHT HAVE SOME APPLICATION OR ANY REFERENCE TO  
19 THIS PARTICULAR CASE, I AM ORDERING YOU NOT TO DISCUSS IT  
20 OR TELL MR. WAPNER OR ANYBODY CONNECTED WITH THE PROSECUTION  
21 IN THIS CASE ANYTHING ABOUT IT.

22 NOW I WOULD ALSO SUGGEST AND ORDER YOU TO TELL  
23 OFFICERS DIAZ AND ITO THE SAME THING, WILL YOU?

24 THE WITNESS: YES, YOUR HONOR.

25 THE COURT: AND UNDER NO CIRCUMSTANCES ARE THEY TO  
26 COMMUNICATE AT ALL WITH MR. WAPNER ON ANY MATTER RELATING  
27 TO WHAT THEY MIGHT HAVE SEEN OR READ OR ANYTHING THEY MIGHT  
28 RECALL THAT HAS ANY APPLICATION TO THE DEFENSE IN THIS CASE.



1 THE WITNESS: YES, YOUR HONOR.

2 THE COURT: ALL RIGHT.

3 MR. WAPNER: YOUR HONOR, I BELIEVE THAT DETECTIVES  
4 ITO AND DIAZ ARE PROBABLY STILL HERE. MAYBE THE COURT WILL  
5 JUST WANT TO ORDER THEM DIRECTLY?

6 THE COURT: IF THEY ARE STILL HERE.

7 THE WITNESS: THEY ARE.

8 THE COURT: ALL RIGHT, GET THEM IN AND I WILL DIRECT  
9 THEM.

10 (WHEREUPON, MR. WAPNER EXITS THE COURT-  
11 ROOM.)

12 (PAUSE IN PROCEEDINGS.)

13 MR. CHIER: OFF THE RECORD, IS THERE A TECHNIQUE THEY  
14 TEACH YOU AT THE POLICE ACADEMY CALLED NON-READING?

15 THE COURT: YOU DON'T HAVE TO ANSWER THAT. JUST IGNORE  
16 IT.

17 MR. DIAZ AND MR. ITO, IN CONNECTION WITH ANYTHING  
18 YOU DID AT THESE PREMISES REGARDING THESE PAPERS, ANYTHING  
19 YOU MIGHT HAVE READ, ANYTHING YOU MIGHT RECALL THAT YOU MIGHT  
20 HAVE READ THAT HAS ANY REFERENCE AT ALL TO ANYTHING ABOUT  
21 THIS CASE OR DEFENSE ORIENTED MATTERS THAT YOU MIGHT HAVE  
22 SEEN OR PAPERS OR RECORDS, YOU ARE NOT UNDER ANY CIRCUMSTANCES  
23 TO CALL MR. WAPNER OR ANYBODY CONNECTED WITH THE PROSECUTION  
24 AND TELL HIM WHAT YOU DO NOW RECALL OF WHAT YOU HAVE READ  
25 IN THOSE RECORDS; DO YOU UNDERSTAND THAT?

26 DETECTIVE DIAZ: YES, SIR.

27 DETECTIVE ITO: YES, SIR.

28 THE COURT: ALL RIGHT, THANK YOU.

1 THE WITNESS: MAY I BE EXCUSED, YOUR HONOR?

2 THE COURT: YES, YOU ARE EXCUSED.

3 THE WITNESS: THANK YOU.

4 MR. WAPNER: 1:30, 1:45?

5 THE COURT: 1:30.

6 MR. WAPNER: THANK YOU.

7 THE COURT: WHO IS YOUR NEXT WITNESS?

8 MR. WAPNER: DETECTIVE ZOELLER, YOUR HONOR, AND I WOULD  
9 TELL THE COURT I DON'T HAVE ANY OTHER PEOPLE TO CALL AFTER  
10 THAT SO IF THE DEFENSE HAS PEOPLE THEY WANT TO CALL --

11 THE COURT: WELL, YOU BE READY TO CALL THEM.

12 MR. WAPNER: I THINK IT WILL TAKE SOME TIME ANYWAY.

13 THE COURT: YOU CALL ANY WITNESSES THAT YOU MIGHT WANT  
14 TO CALL.

15 MR. BARENS: ALL RIGHT. I APPRECIATE THAT, YOUR HONOR.

16 THE COURT: ALL RIGHT, THANK YOU.

17 (AT 12:00 NOON AN ADJOURNMENT WAS TAKEN  
18 UNTIL 1:30 A.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; WEDNESDAY, JANUARY 28, 1987; 1:35 P.M.  
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE  
3 (APPEARANCES AS NOTED ON TITLE PAGE.)  
4

5 THE COURT: THE DEFENDANTS AND COUNSEL ARE PRESENT.  
6 CALL YOUR NEXT WITNESS, PLEASE.

7 MR. BARENS: YOUR HONOR, WE HAD A MOTION FOR 1:30.

8 THE COURT: I WILL HEAR THAT AFTER WE GET THROUGH HERE.

9 MR. BARENS: I SEE.

10 THE COURT: YOU MEAN THAT MOTION ON THE ASSOCIATION  
11 AND SO FORTH?

12 MR. BARENS: WELL, I ASKED FOR A DECLARATION OF YOUR  
13 HONOR THAT COULD GIVE ME SOME CLARIFICATION.

14 THE COURT: I WILL CLARIFY AT THE END OF THE HEARING.

15 MR. BARENS: THANK YOU, YOUR HONOR.

16 MR. WAPNER: WE CALL LES ZOELLER.  
17

18 LESLIE H. ZOELLER,  
19 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
20 AS FOLLOWS:

21 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY  
22 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL  
23 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,  
24 SO HELP YOU GOD.

25 THE WITNESS: I DO.

26 THE CLERK: PLEASE BE SEATED. STATE AND SPELL YOUR  
27 NAME FOR THE RECORD.

28 THE WITNESS: LESLIE H. ZOELLER, Z-O-E-L-L-E-R.

EXAMINATION

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BY MR. WAPNER:

Q DETECTIVE ZOELLER, BY WHOM ARE YOU EMPLOYED?

A THE CITY OF BEVERLY HILLS.

Q YOU WORK FOR THE BEVERLY HILLS POLICE DEPARTMENT?

A THAT'S CORRECT.

Q ARE YOU THE INVESTIGATING OFFICER IN THIS CASE?

A THAT'S CORRECT.

3

1 Q ON JANUARY 8TH, 1987, DID YOU PARTICIPATE IN  
2 A SEARCH OF THE RESIDENCE LOCATED AT 10984 BELLAGIO ROAD IN  
3 THE CITY AND COUNTY OF LOS ANGELES?

4 A YES.

5 Q WHO WAS THE LAW ENFORCEMENT OFFICER IN CHARGE  
6 OF THAT SEARCH?

7 A AGENT BREILING OF THE DEPARTMENT OF JUSTICE.

8 Q AND BEFORE YOU WENT TO THE RESIDENCE TO PARTICIPATE  
9 IN THE SEARCH, DID AGENT BREILING CONDUCT A BRIEFING?

10 A YES, HE DID.

11 Q DID HE PROVIDE YOU WITH A COPY OF THE SEARCH  
12 WARRANT THAT WAS GOING TO BE SERVED?

13 A AND THE AFFIDAVIT, THAT IS CORRECT.

14 Q DID YOU READ THE WARRANT AND AFFIDAVIT?

15 A YES, I DID.

16 Q DID HE THEN ASK YOU TO SIGN A DOCUMENT ACKNOWLEDG-  
17 ING THAT YOU HAD READ THE AFFIDAVIT AND UNDERSTOOD WHAT WAS  
18 TO BE SEARCHED FOR?

19 A YES.

20 Q AND AFTER THE BRIEFING AND HAVING READ THE  
21 AFFIDAVIT AND THE WARRANT, DID YOU GO WITH AGENT BREILING  
22 TO 10984 BELLAGIO ROAD?

23 A YES, I DID.

24 Q WHEN YOU ARRIVED AT THE RESIDENCE, WHAT PORTION  
25 OF THE RESIDENCE DID YOU GO TO?

26 A I, ALONG WITH DETECTIVE DIAZ FROM THE LOS ANGELES  
27 POLICE DEPARTMENT AND DETECTIVE ITO, PLUS IDENTIFICATION  
28 TECHNICIAN CLARK FOGG FROM THE BEVERLY HILLS POLICE DEPARTMENT,

1 WENT TO THE GUEST OR BACK HOUSE.

2 Q THAT IS A SEPARATE BUILDING FROM THE MAIN HOUSE?

3 A THAT'S CORRECT.

4 IT IS CONNECTED TO THE DETACHED GARAGE.

5 Q WHEN YOU GOT TO THAT LOCATION, WHAT DID YOU DO?

6 A KNOCKED ON THE DOOR AND STATED THAT IT IS THE  
7 POLICE, THAT WE HAVE A SEARCH WARRANT TO SEARCH THE LOCATION.

8 Q WAS THERE ANY IMMEDIATE RESPONSE?

9 A NO.

10 Q HOW LONG DID YOU WAIT BEFORE TAKING SOME OTHER  
11 ACTION?

12 A POSSIBLY A MINUTE OR TWO AND THEN AGAIN, I KNOCKED  
13 AND EXPLAINED WHO I WAS AND WHAT I WAS THERE FOR.

14 Q WAS THERE ANY RESPONSE AT THAT TIME?

15 A THERE WAS A RESPONSE. A FEMALE INSIDE, LATER  
16 DETERMINED TO BE BROOKEROBERTS, AND SHE STATED "JUST A MINUTE."

17 Q AND HOW LONG DID YOU --

18 WELL, AFTER SHE STATED, "JUST A MINUTE," WHAT  
19 HAPPENED?

20 A I CONTINUED TO WAIT AND KNOCKED AGAIN AND SHE  
21 SAID -- AND THIS IS ALL THROUGH THE WALLS, WINDOWS, DOORS,  
22 WHATEVER -- THAT SHE COULDN'T OPEN UNTIL HER FATHER SAID IT  
23 WAS OKAY.

24 Q WHAT WAS YOUR RESPONSE?

25 A I EXPLAINED TO HER THAT A SEARCH IS BEING CONDUCTED  
26 OF THE MAIN HOUSE ALSO AND THAT HER FATHER IS AWARE OF THE  
27 SEARCH WARRANT, TO OPEN THE DOOR.

28

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1 Q DID SHE OPEN THE DOOR AT THAT TIME?

2 A NO. SHE THEN STATED SHE HAD TO GET CLOTHES ON.

3 Q WHAT HAPPENED THEN?

4 A AND TIME WENT BY AGAIN. AND I KNOCKED AGAIN.

5 AND SHE DIDN'T OPEN THE DOOR.

6 AND I SAID, "OPEN THE DOOR OR WE ARE GOING TO  
7 HAVE TO FORCE IT."

8 Q WHAT HAPPENED AT THAT TIME?

9 A SHORTLY AFTER THAT, THE DOOR OPENED.

10 Q NOW, HOW LONG DID ALL OF THIS TAKE?

11 A IT SEEMED LIKE AN EXTREMELY LONG TIME. I WOULD  
12 SAY BETWEEN TEN AND FIFTEEN MINUTES.

13 Q AND AFTER THE DOOR WAS OPENED, HOW LONG DID YOU  
14 SPEND IN THAT ROOM EXAMINING IT?

15 A BEFORE WE EXAMINED IT, THE IDENTIFICATION  
16 TECHNICIAN FOGG, WENT INSIDE AND PHOTOGRAPHED THE ENTIRE  
17 LOCATION, WHICH WAS NOT THAT BIG.

18 HE PHOTOGRAPHED THE ENTIRE LOCATION PRIOR TO THE  
19 SEARCH WHICH TOOK, PROBABLY ANOTHER TEN MINUTES AT LEAST.

20 AND THEN WE WENT IN AND SEARCHED. IT WAS JUST  
21 DETECTIVE DIAZ AND MYSELF CONDUCTING THE SEARCH.

22 DETECTIVE ITO WENT INSIDE BECAUSE THE BACK HOUSE  
23 WAS NOT BIG ENOUGH. AND I WOULD SAY THE SEARCH TOOK  
24 APPROXIMATELY 45 MINUTES TO AN HOUR.

25 Q DID YOU SEE ANY DOCUMENTS IN THAT ROOM THAT  
26 PERTAINED TO THE DEFENSE IN THIS CASE, AS FAR AS THAT APPEARED  
27 TO BE PREPARATION FOR TRIAL OR EXAMINING OF WITNESSES OR  
28 THINGS LIKE THAT?

-2

1 MR. BARENS: OBJECTION, YOUR HONOR. THAT IS CALLING  
2 FOR A CONCLUSION.

3 THE COURT: OVERRULED.

4 MR. BARENS: OBJECTION SECONDARILY THAT THERE IS NO  
5 FOUNDATION. I PRESUME THEY CAN ESTABLISH ONE, HOWEVER, THAT  
6 THIS WITNESS WOULD BE FAMILIAR WITH DEFENSE MATERIALS.

7 THE COURT: THAT WOULD QUALIFY HIM TO EXPRESS AN  
8 OPINION?

9 MR. BARENS: YES, YOUR HONOR.

10 THE COURT: ALL RIGHT. THEN YOU WITHDRAW YOUR OBJECTION?

11 MR. BARENS: NO I DON'T. I AM ASKING THE PEOPLE IF  
12 THEY WOULD LAY A FOUNDATION.

13 THE COURT: WELL, HE JUST LAID IT, THE FACT THAT HE  
14 IS THOROUGHLY FAMILIAR WITH THE CASE, HE IS THE DETECTIVE  
15 IN CHARGE, HE IS FAMILIAR WITH ALL OF THE PROCEEDINGS AND  
16 ALL OF THE WITNESSES AND ALL OF THE DOCUMENTS SO FAR  
17 APPLICABLE TO THE CASE.

18 MR. BARENS: IF THE WITNESS WILL SAY YES TO WHAT YOUR  
19 HONOR JUST SAID, I WILL AGREE.

20 THE COURT: THE ANSWER IS YES?

21 THE WITNESS: YES.

22 MR. BARENS: THANK YOU, YOUR HONOR.

23 Q BY MR. WAPNER: DID YOU SEE ANY DOCUMENTS IN THAT  
24 OUTER BUILDING THAT LOOKED LIKE THEY HAD TO DO WITH THE  
25 PREPARATION OF THE DEFENSE IN THIS CASE?

26 A NO.

27 Q DID YOU SEIZE ANY DOCUMENTS FROM THAT ROOM?

28 A NO I DID NOT.



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1 Q WHILE YOU WERE STILL IN THERE, DID AGENT BREILING  
2 COME DOWN TO TALK TO YOU?

3 A TWICE HE DID, YES.

4 Q WHAT WAS THE FIRST TIME?

5 A THE FIRST TIME HE CAME DOWN, HE EXPLAINED THAT  
6 MR. CHIER HAD ARRIVED AND THAT THE DEFENDANT, JOE HUNT, WAS  
7 GOING IN PRO PER.

8 Q AFTER HE SAID THAT AND LEFT, WHEN DID HE COME  
9 BACK AGAIN?

10 A . PROBABLY 10 OR 15 MINUTES LATER, HE CAME DOWN  
11 AND STATED THAT HE HAD LOCATED JOE HUNT'S ROOM WITHIN THE  
12 MAIN HOUSE AND THAT HE HAD LOCATED THE ITEMS THAT WERE LISTED  
13 ON THE SEARCH WARRANT AND HE ASKED HOW LONG I WAS GOING TO  
14 BE IN THE GUEST HOUSE AND ASKED IF I WOULD ASSIST HIM.

15 THE COURT: BEFORE YOU GO ON, DID HE EXPLAIN TO YOU  
16 WHAT HE MEANT BY SAYING THAT JOE HUNT WAS GOING PRO PER?

17 THE WITNESS: NO, YOUR HONOR.

18 THE COURT: WHAT DID YOU THINK HE MEANT BY THAT, IF  
19 YOU HAVE ANY EXPLANATION? WHAT WAS YOUR IMPRESSION?

20 MR. BARENS: OBJECTION. I HAVE AN OBJECTION TO HIS  
21 IMPRESSION OR STATE OF MIND.

22 THE COURT: OVERRULED.

23 THE WITNESS: WELL, GOING PRO PER TO ME, YOUR HONOR,  
24 IS THAT THE DEFENDANT WOULD BE REPRESENTING HIMSELF.

25 THE COURT: ALL RIGHT.

26 Q BY MR. WAPNER: AND WHEN AGENT BREILING CAME DOWN  
27 THE SECOND TIME AND TOLD YOU THAT HE HAD LOCATED THE ROOM  
28 AND THE ITEMS THAT HE WANTED, WHAT DID YOU DO?

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1           A        I EXPLAINED TO HIM THAT I HAD JUST HAD A FEW MORE  
2 MINUTES INSIDE THE ROOM AND HE STATED, "WELL, CAN'T DIAZ HANDLE  
3 THAT?"

4                    I SAID YES AND SO I BROUGHT DIAZ OUT AND EXPLAINED  
5 THAT I WAS GOING TO GO HELP WITH THE SEARCH INSIDE AND HE  
6 SAID, "OKAY. I WILL TAKE CARE OF THIS."

7                    AND I WENT WITH OSCAR BREILING TO THE MAIN HOUSE.

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1 Q WHERE IN THE MAIN HOUSE DID YOU GO?

2 A FIRST, I WENT TO THE LIBRARY.

3 Q THAT IS DOWNSTAIRS?

4 A THAT IS DOWNSTAIRS.

5 Q DID YOU SEE ANY PAPERS -- DID YOU TAKE ANY PAPERS  
6 FROM THE LIBRARY?

7 A NO.

8 I JUST SAT ON THE COUCH NEXT TO OSCAR.

9 I DON'T RECALL--THAT HE WAS ON THE PHONE OR THAT  
10 HE WAS WAITING FOR SOMETHING. I DON'T RECALL WHAT TRANSPIRED  
11 THERE. IT WAS A SHORT TIME.

12 Q AFTER THAT, WHERE DID YOU GO?

13 A THEN I RESPONDED WITH OSCAR BREILING UPSTAIRS  
14 TO THE ROOM AT THE END OF THE HALL, WHICH IS ON THE WESTERN  
15 PORTION OF THE HOUSE, WHICH I THOUGHT WAS JOE HUNT'S ONLY  
16 ROOM BUT I LEARNED LATER THAT HE HAD TWO ROOMS.

17 Q IS THAT THE ROOM THAT HAD A COMPUTER IN IT?

18 A YES, THAT'S CORRECT.

19 Q WHEN YOU GOT TO THAT ROOM, DID YOU SEE MR.  
20 CHIER?

21 A I SAW MR. CHIER WHEN I WAS GOING UP -- EITHER  
22 UP THE STAIRS OR JUST AT THE TOP OF THE LANDING.

23 Q DID YOU ACKNOWLEDGE HIM OR DID HE ACKNOWLEDGE  
24 YOU?

25 A PROBABLY A MUTUAL ACKNOWLEDGEMENT.

26 Q WHAT WAS SAID, IF ANYTHING, IF YOU REMEMBER?

27 A MOSTLY SURPRISE ON MR. CHIER'S FACE, "OH, YOU  
28 ARE HERE, TOO? WHAT ARE YOU DOING HERE?"

1 Q WHAT DID YOU SAY?

2 A I STATED "I AM ASSISTING OSCAR BREILING ON THE  
3 SEARCH WARRANT."

4 Q AND AFTER THAT, DID YOU GO INTO MR. HUNT'S  
5 ROOM THAT HAD THE COMPUTER IN IT?

6 A YES.

7 Q WHEN YOU WENT INTO THIS ROOM THAT WE ARE NOW  
8 CALLING THE COMPUTER ROOM, WHERE WAS MR. CHIER?

9 A HE WAS RIGHT BEHIND ME AND AS I WENT INTO THE  
10 ROOM, HE STOOD BY THE DOORWAY.

11 Q WHAT DID YOU DO WHEN YOU WENT INTO THE ROOM?

12 A I WENT IN AND I JUST LOOKED, BASICALLY, AND  
13 DETECTIVE ITO WAS, I THINK, SITTING ON THE EDGE OF THE BED,  
14 THE END OF THE BED AND HE WAS GOING THROUGH A BOX OF PAPERS  
15 AND HE STATED THAT HE HAD TO LEAVE AND THAT I COULD TAKE OVER  
16 LOOKING THROUGH THE ITEMS THAT HE HADN'T LOOKED THROUGH YET,  
17 AND HE INDICATED A PILE OF FOLDERS ON THE FLOOR, NOT IN THE  
18 BOX, AND STATED, "THOSE, I HAVE NOT GONE THROUGH YET."

19 Q AFTER HE TOLD YOU THAT, WHAT DID YOU DO?

20 A I WENT TO THAT PILE AND STARTED TO GO THROUGH  
21 THE ITEMS.

22 Q AND AS YOU WENT THROUGH THE ITEMS, DID YOU  
23 DISTINGUISH BETWEEN ITEMS THAT YOU THOUGHT SHOULD BE TAKEN  
24 AND THINGS YOU THOUGHT SHOULD NOT BE TAKEN?

25 A THAT'S CORRECT.

26 Q AND DID YOU SEPARATE THEM INTO TWO DIFFERENT  
27 PILES?

28 A WHAT I WAS DOING, I WAS STANDING BEHIND THE PILE

1 AND I PULLED THE FOLDERS FORWARD TOWARDS ME, GOING THROUGH  
2 THEM, AND THE ITEMS THAT I WAS NOT TAKING, I WAS JUST LEAVING IN  
3 THE FORWARD POSITION. THE FOLDERS THAT I DID TAKE, I PUT  
4 IN A PILE.

5 SO, NO, I DIDN'T TAKE TWO PILES BUT I DID SEPARATE  
6 THEM, YES.

7 Q OF THE ITEMS THAT YOU EXAMINED, HOW MANY DID  
8 YOU DECIDE TO TAKE AND HOW MANY WERE LEFT?

9 A I WOULD ESTIMATE I WENT THROUGH PROBABLY SIX  
10 TO EIGHT FOLDERS AND OF THOSE EIGHT TO SIX FOLDERS, I SET  
11 ASIDE TO TAKE APPROXIMATELY FOUR OF THOSE.

12 Q AND DO YOU KNOW WHETHER THOSE WERE IN FACT TAKEN?

13 A I DON'T KNOW, NO.

14 I INDICATED TO OSCAR BREILING WHICH ITEMS THAT  
15 I HAD SET ASIDE.

16 NOW, WHAT ITEMS HE ACTUALLY TOOK I DON'T KNOW.

17 Q OF THE TWO ITEMS THAT YOU SET ASIDE AS NOT TO  
18 BE TAKEN, DO YOU REMEMBER WHAT WAS IN THOSE?

19 A THE ONLY THING I REMEMBER IN ONE OF THEM WAS --  
20 I DON'T REMEMBER THE COLOR OF THE PAPER -- IT COULD HAVE BEEN  
21 YELLOW BUT IT HAD FOUR DIGIT NUMBERS, PROBABLY A QUARTER OF  
22 THE WAY DOWN ON THE LEFT-HAND SIDE.

23 Q OTHER THAN THAT, WAS THERE ANYTHING ELSE ON THE  
24 PAPER?

25 A NO.

26 Q AND THAT PAPER WAS THE CONTENT OF ONE OF THE  
27 FOLDERS?

28 A THAT PAPER AND OTHER PAPERS, YES, OF SIMILAR

1 NATURE.

2 Q WHEN YOU SAY "SIMILAR NATURE," THE OTHER PAPERS  
3 WERE ALSO BLANK EXCEPT FOR NUMBERS ON THEM?

4 A YES.

5 Q IN THE SECOND FOLDER THAT YOU DECIDED NOT TO  
6 TAKE, WHAT WAS IN THERE, DO YOU REMEMBER?

7 A I DON'T RECALL.

8 Q DO YOU RECALL ANYTHING ABOUT THE CONTENTS OF  
9 THAT SECOND FOLDER?

10 A NO.

11 ONLY THAT IT WASN'T OF THE SCOPE OF THE SEARCH.

12 Q DO YOU RECALL WHETHER THERE WAS ANYTHING IN THERE  
13 ABOUT DEFENSE STRATEGY IN THIS CASE OR CROSS-EXAMINING  
14 WITNESSES OR ANYTHING LIKE THAT?

15 A I DON'T RECALL WHAT WAS IN IT BUT I DON'T BELIEVE  
16 IT WAS ANYTHING TO DO WITH THE DEFENSE.

17 THE COURT: IF YOU LAID IT ASIDE, WHAT MADE YOU THINK  
18 IT MIGHT BE MATERIAL TO THE SEARCH?

19 THE WITNESS: I DID NOT LAY THAT ASIDE. THAT WAS ONE  
20 OF THE TWO FOLDERS I DID NOT.

21 THE COURT: YOU DID NOT?

22 THE WITNESS: THAT'S CORRECT.

23 THE COURT: ALL RIGHT.

24 Q BY MR. WAPNER: OTHER THAN THOSE FOLDERS THAT  
25 YOU TOLD US ABOUT, DID YOU EXAMINE ANYTHING ELSE IN THE ROOM?

26 A NO.

27 Q WHAT HAPPENED AFTER YOU WENT THROUGH THOSE FOLDERS?

28 A THEN ALMOST SIMULTANEOUSLY TO PHONE CALLS, I

1 LEARNED THROUGH CONVERSATION WITH MR. CHIER AND MR. BREILING  
2 OF DEFENSE ITEMS IN THAT ROOM AND THEY WERE FOLDERS ON THE  
3 NORTHERN PORTION OF THE WALL IN A BOOKCASE.

4 Q WERE THOSE IN BLACK THREE-RING BINDERS?

5 A BLACK BINDERS.

6 WHETHER THEY ARE THREE-RING OR NOT, I AM NOT  
7 SURE.

8 Q DID YOU EXAMINE THE CONTENTS OF ANY OF THOSE?

9 A NO.

10 Q AND YOU SAID ALMOST SIMULTANEOUSLY WITH THE  
11 PHONE CALL, WHAT WERE YOU REFERRING TO?

12 A THAT WAS THE PHONE CALL FROM THE COURTHOUSE HERE  
13 AND SUBSEQUENT TO THAT, I SPOKE TO YOU ON THE PHONE.

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1 Q AND AFTER TALKING TO ME ON THE PHONE, WHAT DID  
2 YOU DO?

3 A I WENT BACK INTO THE ROOM TO TELL OSCAR THAT I  
4 WAS LEAVING.

5 Q AND DID YOU TELL OSCAR THAT?

6 A YES.

7 Q THAT'S OSCAR BREILING?

8 A THAT'S CORRECT.

9 Q AFTER TELLING OSCAR THAT, WHAT DID YOU DO?

10 A OSCAR AND I WENT OUT INTO THE HALL. I EXPLAINED  
11 WHY I WAS LEAVING AND THEN SHORTLY THEREAFTER, I LEFT.

12 Q WHERE DID YOU GO?

13 A I WENT OUT TO MY CAR IN THE DRIVEWAY, DUE TO THE  
14 FACT THAT I TRANSPORTED THE INDIVIDUALS TO THE LOCATION.

15 Q INDIVIDUALS TO THE LOCATION WHO WOULD HAVE NO  
16 OTHER WAY TO GET BACK, IF YOU DIDN'T WAIT THERE?

17 A THAT'S CORRECT.

18 Q WHAT DID YOU DO WHEN YOU WERE IN THE DRIVEWAY?

19 A FIRST OF ALL, I CALLED THE STATION AND RADIOED  
20 FOR A CADET, A BEVERLY HILLS CADET TO COME TO BASICALLY  
21 RELIEVE ME FOR TRANSPORTATION.

22 SO, AS I WAS WAITING IN THE DRIVEWAY, MR. ROBERTS  
23 CAME AND SPOKE WITH ME FOR A SHORT TIME.

24 Q WHAT HAPPENED AFTER THAT?

25 A AFTER APPROXIMATELY 20 MINUTES TO HALF AN HOUR,  
26 THE CADET ARRIVED AND THERE WAS ALSO A POLICE VAN AT THE  
27 BOTTOM OF THE DRIVEWAY.

28 AND I WENT WITH THE CADET BACK INTO THE HOUSE



A-2

1 TO NUMBER ONE, GIVE THE CADET TO THE PERSONNEL THERE AND TO  
2 SAY THAT I WAS LEAVING AND TO GET THE KEYS TO THE VAN.

3 AND AS I DID THAT, THEY WERE LEAVING. THEY,  
4 MEANING THE SEARCH PARTY, WERE LEAVING.

5 AND WE ULTIMATELY ALL WALKED OUT TOGETHER AND  
6 I TRANSPORTED DETECTIVE ROZZI BACK TO THE BEVERLY HILLS POLICE  
7 DEPARTMENT.

8 Q AS YOU WERE GOING THROUGH THE ITEMS IN THE FILE  
9 FOLDERS, COULD YOU SEE WHERE MR. CHIER WAS?

10 A YES.

11 Q HOW FAR AWAY FROM YOU WAS HE?

12 A APPROXIMATELY FOUR TO FIVE FEET DIRECTLY IN FRONT  
13 OF ME AND A LITTLE BIT TO MY RIGHT. HE WAS STANDING AT THE  
14 DOORWAY, LEANING UP AGAINST A DRESSER OF SOME SORT.

15 Q DID HE EXPRESS TO YOU AT THE TIME YOU WERE GOING  
16 THROUGH THESE THINGS, ANY OBJECTION TO YOUR GOING THROUGH  
17 ANY OF THESE ITEMS?

18 A THE ONLY THING THAT HE SPOKE ABOUT, WAS WHEN I  
19 FOUND A SMALL PIECE OF PAPER IN BETWEEN TWO FILES THAT HAD  
20 A 1984 DATE ON IT. AND IT HAD AN EIGHT-FIGURED NUMBER ON  
21 IT, NUMBERS ON THERE.

22 AND I BROUGHT IT TO OSCAR'S ATTENTION AND  
23 MR. CHIER PERKED UP AND SAID, "WHAT'S THAT? WHAT'S THAT?"

24 Q THAT WAS THE ONLY THING THAT HE DID NOT SAY --  
25 HE DID NOT SAY ANYTHING AS FAR AS THAT BEING DEFENSE STRATEGY  
26 OR ANYTHING ELSE?

27 A NO.

28 Q DID HE TELL YOU NOT TO GO THROUGH ANY OF THE FILES

1 THAT YOU WERE LOOKING THROUGH?

2 A NO HE DID NOT.

3 Q DID HE INDICATE TO YOU THAT THERE WERE ANY MATERIALS  
4 IN THERE RELATED TO THE STRATEGY OF THE DEFENSE IN THIS CASE?

5 A THAT WAS THE CONVERSATION LATER, WHICH I DON'T  
6 THINK WAS DIRECTLY RELATED TO ME BUT IT WAS A CONVERSATION  
7 HE AND OSCAR BREILING HAD.

8 Q AND THAT HAD TO DO WITH WHAT, IF YOU REMEMBER?

9 A THAT'S WHEN MR. CHIER STATED THAT -- I AM NOT  
10 SURE WHETHER IT WAS BECAUSE HE WAS GOING THROUGH THE TRASHCAN  
11 AND MR. CHIER STATED THERE WERE ITEMS IN THERE AND THEN THEY  
12 WERE TALKING BACK AND FORTH. THAT IS WHEN THE BOOKCASE CAME  
13 INTO LIGHT.

14 Q WITH THE BINDERS IN IT?

15 A WITH THE BINDERS IN IT.

16 Q DURING THE TIME THAT YOU WERE THERE IN THE COMPUTER  
17 ROOM, DID YOU READ ANYTHING THAT HAD TO DO WITH THE STRATEGY  
18 OF THE DEFENSE IN THIS CASE?

19 A NO.

20 Q DID YOU READ ANYTHING THAT HAD TO DO WITH HOW  
21 TO CROSS-EXAMINE WITNESSES, FOR EXAMPLE?

22 A NO.

23 Q DID YOU READ ANYTHING THAT HAD TO DO WITH QUESTIONS  
24 OR ANSWERS OR PROPOSED STRATEGY FOR THE EXAMINATION OF THE  
25 DEFENDANT, SHOULD HE TESTIFY?

26 A NO.

27 Q HAVE YOU COMMUNICATED ANYTHING THAT YOU MAY HAVE  
28 SEEN OR READ TO ANY OF THE WITNESSES IN THIS CASE?

A-4

1 A NO.

2 Q DID YOU GO THROUGH THE CONTENTS OF THE TRASHCAN?

3 A NO I DID NOT.

4 Q DID YOU SEE ANYTHING THAT HAD LITTLE, YELLOW  
5 STICK-UM TAGS ON IT?

6 A NO.

7 MR. WAPNER: I HAVE NO FURTHER QUESTIONS.

8 THE COURT: ALL RIGHT.

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## EXAMINATION

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2 BY MR. BARENS:

3 Q MR. ZOELLER, YOU HAVE THE RESPONSIBILITY OF BEING  
4 THE PRIMARY INVESTIGATING OFFICER ON THE DISAPPEARANCE AND  
5 ALLEGED HOMICIDE INVOLVING RON LEVIN?

6 A THAT'S CORRECT.

7 Q AND YOU HAVE BEEN INVOLVED IN IT FOR IN EXCESS  
8 OF TWO YEARS?

9 A THAT'S CORRECT.

10 Q AT ANY TIME DURING THAT TWO-YEAR PERIOD, DID YOU  
11 EVER SEEK AND/OR OBTAIN A SEARCH WARRANT FOR A PREMISES WHERE  
12 MR. HUNT RESIDED?

13 A YES.

14 Q SINCE MR. HUNT WAS RELEASED ON BAIL IN THIS MATTER  
15 IN NOVEMBER OF 1985, AS I RECALL, HAVE YOU EVER SOUGHT A  
16 SEARCH WARRANT FOR A PREMISES WHERE HE RESIDED SINCE THEN?

17 A NO.

18 Q WAS THIS BECAUSE YOU WERE NOT INTERESTED OR BECAUSE  
19 YOU LACKED PROBABLE CAUSE?

20 A BECAUSE I WAS NOT INTERESTED.

21 Q DID YOU HAVE AN ONGOING INTEREST IN GAINING EVIDENCE  
22 IN THE FURTHERANCE OF THE PROSECUTION OF THE LEVIN TRIAL?

23 A AT WHAT TIME?

24 Q AT ALL TIMES, EVEN AT THIS VERY MOMENT? DON'T  
25 YOU HAVE AN INTEREST IN OBTAINING ANY EVIDENCE THAT WOULD  
26 ASSIST THE PROSECUTION RELATIVE TO YOUR INVESTIGATION OF THE  
27 LEVIN HOMICIDE?

28 A YES.

1 Q AND IN FACT, YOU FILED AN ONGOING REPORT, AS YOU  
2 HAVE GONE ALONG, EVERY TIME YOU HAVE GAINED ADDITIONAL  
3 EVIDENCE?

4 A THAT'S CORRECT.

5 (MR. CHIER EXITS THE COURTROOM.)

6 MR. BARENS: WE HAVE AN ONGOING ORDER TO EXCLUDE  
7 WITNESSES. WE ARE TRYING TO ADHERE TO THAT, YOUR HONOR.

8 THE COURT: YES.

9 MR. BARENS: I HAD NOT FAMILIARIZED THE WITNESS WITH  
10 THAT PROCEDURE, YOUR HONOR.

11 Q IN ANY EVENT, RECONFIRMING MY LAST QUESTION, I  
12 BELIEVE IT WAS THAT YOU HAVE AN ONGOING INTEREST IN GAINING  
13 ANY EVIDENCE THAT YOU CAN, RELATIVE TO THE PROSECUTION OF  
14 MR. HUNT IN THE LEVIN MATTER?

15 A THAT'S CORRECT.

16 Q PRIOR TO THE TIME YOU WENT TO THE ROBERTS'  
17 RESIDENCE, DID IT OCCUR TO YOU THAT DURING THAT SEARCH, YOU  
18 MIGHT OBSERVE MATERIALS THAT WOULD BE RELEVANT TO THE LEVIN  
19 INVESTIGATION?

20 A POSSIBLY, YES.

21 Q DID IT OCCUR TO YOU THEREFORE, THAT AS A BYPRODUCT  
22 OF THAT SEARCH, THAT YOU COULD HAVE GAINED MATERIALS THAT  
23 WOULD HAVE ASSISTED YOU ON THE LEVIN MATTER?

24 (MR. CHIER RE-ENTERS THE COURTROOM.)

25 THE WITNESS: NO. THAT WAS NOT THE SCOPE OF THE SEARCH.

26 Q BY MR. BARENS: I DID NOT ASK YOU THAT. I WILL  
27 ASK YOU LATER AS TO THE SCOPE OF THE SEARCH, MR. ZOELLER.

28 MY SPECIFIC QUESTION IS, DID IT OCCUR TO YOU THAT

1 AS A RESULT OF THIS SEARCH OR DURING THAT SEARCH, THAT YOU  
2 MIGHT ACCESS OR OBSERVE MATERIALS THAT COULD IN SOME WAY,  
3 HAVE ASSISTED YOU IN THE LEVIN MATTER?

4 A NO.

5 Q IT NEVER OCCURRED TO YOU, SIR?

6 A NO.

7 Q EARLIER, YOU ANSWERED IN THE AFFIRMATIVE WHEN  
8 I ASKED YOU IF, DURING THAT SEARCH, YOU MIGHT HAVE OBSERVED  
9 MATERIALS RELATIVE TO THE LEVIN MATTER. AND I BELIEVE YOU  
10 SAID YES TO ME A MOMENT AGO, SIR.

11 A OKAY.

12 Q HOW CAN YOU SAY YES TO THE FIRST QUESTION AND  
13 NO TO THE SECOND QUESTION? BECAUSE IN SUBSTANCE, TO ME, THEY  
14 ARE ONE AND THE SAME, SIR.

15 MR. WAPNER: WELL, YOUR HONOR, I AM NOT SURE FIRST OF  
16 ALL, IF THAT IS TRUE, BASED ON THE QUESTIONS THAT HAVE BEEN  
17 ASKED.

18 SECOND OF ALL --

19 THE COURT: WELL, ASSUMING THAT, IS THERE ANY EXPLANATION  
20 YOU HAVE TO THE ANSWERS THAT YOU GAVE?

21 THE WITNESS: ONE THING, I DIDN'T THINK THERE WAS GOING  
22 TO BE ANYTHING AT THE LOCATION THAT I WOULD BE INTERESTED  
23 IN AS FAR AS FURTHERING MY INVESTIGATION.

24 MOST OF MY FURTHERING OF INVESTIGATION COMES FROM  
25 WITNESSES OR NEW INFORMATION.

26 Q BY MR. BARENS: BUT DID IT OCCUR TO YOU, AS YOU  
27 TOLD ME EARLIER SIR, THAT YOU MIGHT HAVE ENCOUNTERED MATERIALS  
28 SOMEWHAT BY WAY OF A WINDFALL, LET'S SAY, THAT COULD HAVE

1 ASSISTED YOU ON THE LEVIN MATTER? DID THIS OCCUR TO YOU?  
2 WERE YOU AWARE OF THAT IN ANY WAY?

3 A IT IS POSSIBLE, YES.

4 Q I MEAN, AFTER ALL, MR. ZOELLER, DETECTIVE ZOELLER,  
5 YOU HAD SPENT OVER TWO YEARS OF YOUR LIFE IN PREPARATION FOR  
6 THIS TRIAL AND PROSECUTION.

7 WOULD YOU REALLY TELL ME HONESTLY FOR THE FIRST  
8 TIME, YOU ARE ACCESSING THE BEDROOM OF THE TARGET OF YOUR  
9 PROSECUTION DURING ALL THIS TIME AND YOU DIDN'T HAVE ANY SENSE  
10 THAT PERHAPS YOU COULD COME ACROSS SOMETHING THAT WOULD HELP  
11 YOU IN THAT INVESTIGATION?

12 A WELL, TO EXPLAIN IT, I HAD ALREADY DONE A SEARCH  
13 BEFORE ANY ARREST OF MR. HUNT, OF MR. HUNT'S RESIDENCE --

14 THE COURT: LET HIM FINISH THE ANSWER.

15 MR. WAPNER: THANK YOU, YOUR HONOR.

16 THE WITNESS: AND BUSINESS. I DIDN'T THINK THROUGH  
17 GOING THROUGH ANY MORE OF HIS INFORMATION, WHERE IT COULD  
18 BENEFIT ME.

19 Q BY MR. BARENS: YOU HAD NEVER SEARCHED THE BEL  
20 AIR RESIDENCE WHERE HE WAS RESIDING FOR WELL OVER A YEAR?

21 A THAT'S CORRECT.

22 Q YOU HAD SEARCHED OTHER LOCATIONS?

23 A THAT'S CORRECT.

24 Q NOW, YOU DIDN'T FEEL THERE MIGHT HAVE BEEN ANY  
25 NEW MATERIALS OR MATERIALS THAT JUST HAD NOT BEEN PRESENT  
26 AT THOSE OTHER LOCATIONS THAT MIGHT HAVE BEEN PRESENT AT THE  
27 ROBERTS' RESIDENCE?

28 A NO.

1 Q YOU HAD NO INTEREST IN FINDING OUT WHETHER THERE  
2 WAS SUCH MATERIALS THERE?

3 A NO.

4 Q AND YOU SAY TO ME IN ALL GOOD FAITH, SIR, THAT  
5 IT NEVER OCCURRED TO YOU THAT THERE COULD BE SOME BENEFIT  
6 TO YOU FROM THE SEARCH OF THE ROBERTS RESIDENCE IN CONJUNCTION  
7 WITH THE LEVIN MATTER?

8 A NO.

9 Q WERE YOU AT LEAST CURIOUS IN THAT REGARD?

10 A NO.

11 Q IN OTHER WORDS, IT IS YOUR TESTIMONY THAT YOU  
12 WEREN'T EVEN IN THE LEAST CURIOUS TO SEE IF THERE WOULD BE  
13 ANYTHING IN THAT RESIDENCE THAT WOULD RELATE TO THE LEVIN  
14 MATTER?

15 A NO.

16 Q DID YOU HAVE ANY RESERVATIONS ABOUT THE PROPRIETY  
17 OF YOUR CONDUCTING THIS SEARCH WHEN YOU WERE FIRST ASKED TO  
18 DO SO BY MR. BREILING?

19 A NO.

20 Q YOU HAD NONE AT ALL?

21 A NO.

22 Q DID YOU EVER DISCUSS WITH MR. BREILING OR ANY  
23 OTHER PERSON THE PROPRIETY OF YOUR PARTICIPATION IN THIS  
24 ACTIVITY?

25 A NO.

26 Q WERE YOU AWARE OF THE FACT THAT MR. HUNT WAS  
27 PARTICIPATING IN THE PREPARATION OF HIS OWN DEFENSE?

28 A TO AN EXTENT, YES.



1 THE COURT: WHAT EXTENT WOULD THAT BE?

2 THE WITNESS: AT HIS BAIL HEARING WHEN HE WAS IN CUSTODY,  
3 MR. BARENS AS PART OF GETTING HIM OUT OF THE CASE, STATED  
4 THAT MR. HUNT WOULD BE HELPING IN THE PREPARATION OF HIS  
5 DEFENSE AT MR. BARENS' OFFICE.

6 THE COURT: AT MR. BARENS' OFFICE?

7 THE WITNESS: THAT IS CORRECT.

8 Q BY MR. BARENS: WAS IT YOUR STATE OF MIND THAT  
9 BECAUSE HE WOULD BE WORKING IN MY OFFICE IN THE PREPARATION  
10 OF HIS DEFENSE THAT THAT WOULD PRECLUDE HIM HAVING TAKEN PAPER  
11 WORK HOME TO WORK ON BY WAY OF HOMEWORK?

12 A YES.

13 Q YOU THOUGHT THAT WOULD BE VERY UNLIKELY?

14 A YES.

15 Q DO YOU TAKE HOMEWORK HOME, SIR?

16 A NO.

17 Q NEVER?

18 A NO.

19 Q WHEN YOU WENT TO SCHOOL, DID YOU TAKE HOMEWORK  
20 HOME?

21 MR. WAPNER: OBJECTION. RELEVANCE.

22 THE COURT: SUSTAINED.

23 MR. BARENS: WELL, YOUR HONOR --

24 THE COURT: NOW LOOK, DON'T ARGUE ABOUT IT, WILL YOU?  
25 THAT IS A STUPID QUESTION, DON'T ASK IT.

26 ONE CAN TAKE JUDICIAL NOTICE OF THE FACT THAT  
27 WHEN HE WAS A KID AND GOING TO SCHOOL, HE TOOK HOMEWORK HOME.  
28 WHY ASK THAT QUESTION?

1 MR. BARENS: WELL, WHY DO I ASK THAT QUESTION? I FIND  
2 IT --

3 THE COURT: IT IS A STUPID QUESTION.

4 MR. BARENS: YOU FIND IT STUPID AND I ACCEPT YOUR USE  
5 OF THE WORD STUPID FOR MY QUESTION AND YOU MAY FIND IT --

6 THE COURT: LET'S NOT MAKE ANY FURTHER ARGUMENTS ABOUT  
7 IT, WILL YOU? LET'S GET ON WITH THIS EXAMINATION.

8 MR. BARENS: I MERELY WISH TO SAY, YOUR HONOR, THAT  
9 I FIND IT INCREDIBLE --

10 THE COURT: NOW GO AHEAD WITH THE EXAMINATION, WON'T  
11 YOU, PLEASE? I HAVE CHARACTERIZED YOUR QUESTION AS BEING  
12 STUPID AND I MEAN IT, ASKING HIM WHETHER OR NOT WHEN HE WAS  
13 A BOY, WHETHER HE DIDN'T BRING HOMEWORK WITH HIM; THAT IS  
14 A STUPID QUESTION.

15 MR. BARENS: WELL, AS AN ADULT HE DOESN'T, YOUR HONOR.

16 Q MR. ZOELLER, ALTHOUGH YOU DO NOT BRING HOMEWORK  
17 HOME, DID IT SEEM UNBELIEVABLE TO YOU THAT WHILE MR. HUNT  
18 WAS ON TRIAL FOR HIS LIFE AND PARTICIPATING IN THE PREPARATION  
19 OF HIS DEFENSE WITH HIS COUNSEL THAT HE WOULD NOT HAVE TAKEN  
20 HOMEWORK HOME IN THAT REGARD?

21 A I DIDN'T THINK THAT HE WOULD HAVE ANYTHING THERE,  
22 IT NEVER CROSSED MY MIND.

23 Q DID YOU EVER SPEAK TO MR. WAPNER BEFORE YOU  
24 PROCEEDED WITH THE SEARCH AS RELATIVE TO THE FACT THAT YOU  
25 WERE GOING FORWARD IN THAT REGARD?

26 A NO.

27 Q DID IT EVER CROSS YOUR MIND THAT SINCE -- STRIKE  
28 THAT.

1                    WERE YOU AWARE AT THE TIME THAT MR. WAPNER WAS  
2                    ENGAGED IN TRIAL FOR THE LEVIN MATTER?

3                    A            IN JURY SELECTION, YES.

4                    Q            DID IT EVER CROSS YOUR MIND THAT PERHAPS IT MIGHT  
5                    BE APPROPRIATE FOR YOU TO SPEAK TO MR. WAPNER ABOUT THE REQUEST  
6                    THAT YOU PROCEED WITH A SEARCH OF THE ROBERTS RESIDENCE?

7                    A            YES.

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1 Q AT WHAT POINT DID IT CROSS YOUR MIND?

2 A AT THE POINT I WAS ASKED TO ASSIST.

3 Q AND WHEN THAT CROSSED YOUR MIND, DID YOU DO  
4 ANYTHING ABOUT IT?

5 A NO.

6 Q DID YOU DISCUSS IT WITH ANYONE?

7 A I DISCUSSED IT WITH AGENT BREILING.

8 Q DURING THE INITIAL CONVERSATION?

9 A YES.

10 Q AND WHAT DID YOU SAY IN THAT REGARD, MR. ZOELLER?

11 A WE DISCUSSED MUTUALLY DISCUSSING IT WITH MR.  
12 WAPNER.

13 Q WHAT DID YOU SAY, SIR?

14 A VERBATIM, I CAN'T TELL YOU.

15 Q TELL ME YOUR BEST RECOLLECTION AT THIS POINT  
16 IN TIME, SIR.

17 A THE DISCUSSION, THE SUBSTANCE OF THE DISCUSSION  
18 WAS IF MR. WAPNER KNEW ABOUT IT, THEN HE WOULD BE OBLIGATED  
19 TO TELL THE DEFENSE.

20 Q DID YOU SAY THAT OR DID MR. BREILING SAY THAT?

21 A IT WAS THE SUBSTANCE OF THE CONVERSATION.

22 Q I UNDERSTAND THAT.

23 BUT WHEN YOU FIRST DISCUSSED YOUR CONCERN TO  
24 TELL MR. WAPNER, WHAT DID YOU SAY?

25 IF I MIGHT SAY, DETECTIVE ZOELLER, DID YOU SAY  
26 TO HIM, "LISTEN, OSCAR , PERHAPS I OUGHT TO MENTION THIS  
27 TO MR. WAPNER," OR WORDS TO THAT EFFECT?

28 A THE WAY IT WAS STATED WAS, "WE WOULD LIKE TO

1 HAVE YOU," MR. BREILING IS SAYING TO ME, "TO ASSIST ON THE  
2 SEARCH WARRANT, DUE TO THE FACT THAT YOU HAVE JUST ABOUT AS  
3 MUCH KNOWLEDGE ON THEIR CASE AS HE DID."

4 AND THAT HE WAS -- HE STATED THAT HE WOULD  
5 APPRECIATE IT IF I DID NOT SAY ANYTHING TO MR. WAPNER AND  
6 I SAID, "HE IS THE D.A., I THINK HE SHOULD KNOW."

7 AND HE SAID, "WELL, HERE IS THE REASON WHY" AND  
8 THAT IS WHAT I EXPLAINED TO YOU.

9 Q AND YOU SAID TO HIM, "I THINK HE OUGHT TO KNOW  
10 ABOUT THIS"?

11 A WORDS TO THAT EFFECT, YES.

12 Q WHY DID YOU SAY THAT, SIR?

13 A BECAUSE HE IS THE DISTRICT ATTORNEY ON THE CASE.

14 Q WHY DID YOU THINK HE SHOULD KNOW?

15 THE COURT: HE JUST TOLD YOU, BECAUSE HE IS THE DISTRICT  
16 ATTORNEY ON THE CASE. ISN'T THAT WHAT YOU SAID?

17 THE WITNESS: THAT IS CORRECT, YOUR HONOR.

18 Q BY MR. BARENS: WHY, MR. ZOELLER, IF YOU COULD,  
19 FOR THE RECORD, PLEASE INDICATE BY THE FACT THAT HE WAS THE  
20 DISTRICT ATTORNEY ON THE CASE, WHY DID YOU THINK IT WAS  
21 IMPORTANT OR WORTHWHILE THAT HE KNEW THAT YOU WERE GOING TO  
22 ENGAGE IN THE SEARCH?

23 A BECAUSE ANYTHING THAT I AM DOING ON THE CASE,  
24 I FEEL THAT MR. WAPNER SHOULD KNOW ABOUT IT.

25 Q INDEED SO.

26 AND IN ALL OTHER INSTANCES, YOU HAVE COMMUNICATED,  
27 HAVE YOU NOT, EVERYTHING YOU HAVE DONE TO MR. WAPNER?

28 A THAT'S CORRECT.

1 Q WAS THIS THE ONLY EXCEPTION TO THAT INFORMATION?

2 A EXCEPT FOR MAYBE MINOR THINGS, YES.

3 Q NOW, TO YOUR RESPONSE THAT YOU WERE CONCERNED  
4 THAT MR. WAPNER SHOULD BE ADVISED ABOUT THIS, WERE YOU  
5 CONCERNED IN YOUR OWN MIND THAT PERHAPS YOUR PARTICIPATION  
6 IN THIS ACTIVITY COULD IN SOME WAY COMPROMISE THE PROSECUTION  
7 OF THIS CASE?

8 A NO.

9 Q IT NEVER HAS OCCURRED TO YOU THAT IF YOU WERE  
10 TO SEE OR HANDLE OR ACCESS MATERIALS THAT WERE IMPROPER FOR  
11 YOU TO SEE, THAT IT COULD POSSIBLY COMPROMISE THE PROSECUTION  
12 OF THIS CASE?

13 A I DIDN'T THINK I WOULD SEE ANYTHING THAT WOULD  
14 BE IMPROPER OR THAT WOULD COMPROMISE THE CASE.

15 Q THAT HAS NEVER OCCURRED TO YOU UP TO THIS MOMENT?

16 A NOT UNTIL THE SEARCH, NO.

17 Q DID SOMETHING CHANGE YOUR ATTITUDE ABOUT THAT  
18 SUBJECT DURING THE SEARCH?

19 A ONCE I LEARNED THAT THERE WAS DEFENSE MATERIAL  
20 THERE, YES.

21 Q WHO TOLD YOU THERE WAS DEFENSE MATERIAL THERE?

22 A IT WAS A CONVERSATION FROM MR. CHIER TO AGENT  
23 BREILING WHERE I FIRST LEARNED THERE WAS ITEMS THERE IN  
24 REFERENCE TO THE DEFENSE.

25 Q BY THE BY, BEFORE YOU WENT TO THE HOUSE, DID  
26 IT EVER OCCUR TO YOU THAT MR. HUNT MIGHT BE IN POSSESSION  
27 OF MAILED MATERIALS FROM HIS COUNSEL TO THAT HOUSE?

28 A NO.

1 Q IT NEVER OCCURRED TO YOU THAT I MIGHT HAVE WRITTEN  
2 HIM A LETTER?

3 A NO.

4 Q DID YOU THINK I MIGHT NOT HAVE WRITTEN HIM A  
5 LETTER?

6 MR. WAPNER: OBJECTION. ARGUMENTATIVE.

7 THE COURT: HE CAN ANSWER. YOU CAN ANSWER THAT.

8 THE WITNESS: I THOUGHT SEEING HIM EVERY DAY, IT DIDN'T  
9 EVEN CROSS MY MIND. WHY WOULD YOU WRITE HIM A LETTER?

10 Q BY MR. BARENS: IT NEVER OCCURRED TO YOU THAT  
11 WE MIGHT HAVE MIMEOGRAPHIC MATERIALS THAT WE HAD MESSENGERED  
12 OVER THERE OR SENT TO THAT RESIDENCE, THINGS FOR HIM TO LOOK  
13 AT OR FOLLOW UP ON?

14 A NO.

15 Q IT NEVER OCCURRED TO YOU THAT WE MIGHT HAVE SENT  
16 HIM COPIES OF WORK PRODUCT THAT WE HAD PRODUCED AND SENT TO  
17 HIM?

18 A NO.

19 Q IN ANY EVENT, AFTER YOU SAID TO MR. BREILING,  
20 YOU SAID THAT YOU THOUGHT MR. WAPNER OUGHT TO BE APPRISED  
21 OF THE SITUATION WHAT, AS BEST YOU CAN REMEMBER, DID MR.  
22 BREILING SAY TO YOU?

23 A HE STATED THAT HE WOULD RATHER NOT THAT HE KNOW  
24 BECAUSE HE MIGHT BE OBLIGATED TO TELL THE DEFENSE AND HE  
25 DIDN'T WANT THE DEFENSE TO KNOW AHEAD OF TIME OF A SEARCH  
26 GOING TO BE CONDUCTED AT JOE HUNT'S RESIDENCE.

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1 Q AND WHY WOULD MR. WAPNER HAVE BEEN OBLIGATED TO  
2 ADVISE THE DEFENSE OR THE COURT ABOUT THE EXERCISE OF A  
3 WARRANT?

4 A IT WAS JUST THAT HE MAY HAVE TO, AS A PART OF  
5 DISCOVERY OR THAT YOU SHOULD KNOW ABOUT IT.

6 Q THAT SOMEHOW, YOU FELT THAT MR. WAPNER WOULD HAVE  
7 AN OBLIGATION TO ADVISE DEFENSE COUNSEL ABOUT AN ONGOING  
8 INVESTIGATION?

9 A IT WAS NOT PART OF MY INVESTIGATION. ARE YOU  
10 SAYING AN ONGOING INVESTIGATION OF THE DEPARTMENT OF JUSTICE?

11 Q YES, SIR.

12 A NO.

13 Q YOU DIDN'T BELIEVE THAT, DID YOU?

14 A I DIDN'T BELIEVE WHAT?

15 Q THAT MR. WAPNER WOULD HAVE AN INCUMBENT OBLIGATION  
16 TO ADVISE DEFENSE COUNSEL ABOUT AN ONGOING INVESTIGATION OF  
17 THE DEPARTMENT OF JUSTICE? THAT WAS NOT YOUR UNDERSTANDING,  
18 WAS IT, MR. ZOELLER?

19 A NO.

20 Q WELL, IF HE DIDN'T HAVE AN OBLIGATION TO TELL  
21 DEFENSE COUNSEL ABOUT AN ONGOING INVESTIGATION BY THE  
22 DEPARTMENT OF JUSTICE, WHAT WERE YOU CONCERNED ABOUT HIM HAVING  
23 AN OBLIGATION TO TELL US ABOUT?

24 A THAT IT WAS A SEARCH OF THE DEFENDANT'S IN THIS  
25 CASE, HOUSE.

26 Q THEN WHAT YOU ARE SAYING IS -- DID YOU HAVE SOME  
27 UNDERSTANDING THAT IF YOU TOLD MR. WAPNER, HE WOULD TELL ME  
28 AND MR. CHIER OR HIS HONOR AND THEN WE WOULD GO AND TELL HIM



1 AND JOE HUNT WOULD PROBABLY, YOU KNOW, GET RID OF THINGS?  
2 IS THAT KIND OF WHAT YOUR STATE OF MIND WAS?

3 A YES.

4 Q OKAY. NOW, LET ME TRY TO UNDERSTAND YOUR BELIEF  
5 SYSTEM ON THIS. WHY DID YOU BELIEVE IF YOU DID IN FACT, THAT  
6 MR. WAPNER WOULD TELL THE DEFENSE ABOUT THE EXERCISE OF A  
7 SEARCH WARRANT? WHY DID YOU BELIEVE THAT?

8 YOU HAD NEVER HEARD OF ANYTHING LIKE THAT IN YOUR  
9 CAREER, HAD YOU? YOU HAD NEVER HEARD ABOUT A DISTRICT ATTORNEY  
10 TELLING A DEFENSE LAWYER IN ADVANCE, OF THE EXERCISE OF A  
11 SEARCH WARRANT IN YOUR CAREER, HAVE YOU?

12 A NO.

13 Q NEVER HEARD ANYTHING CLOSE TO THAT, HAVE YOU?

14 A NO.

15 Q WHY IN THE WORLD WOULD YOU THINK THAT IT WOULD  
16 HAPPEN IN THIS INSTANCE?

17 A I HAVE NO IDEA THAT IT WOULD OR WOULD NOT HAPPEN.

18 Q BUT WHAT I POINT TO, SIR, YOU HAD NO BASIS IN  
19 FACT OR IN EXPERIENCE, THAT WOULD MAKE YOU BELIEVE SUCH A  
20 THING COULD BE POSSIBLE OR PROBABLE, DID YOU?

21 A YES.

22 Q WHAT DID YOU HAVE THAT WOULD SUPPORT SUCH A BELIEF  
23 SYSTEM?

24 A JUST THE FACT THAT IT MIGHT HAVE.

25 Q RIGHT. BUT IT WAS TOTALLY UNPRECEDENTED AS FAR  
26 AS YOU KNEW?

27 MR. WAPNER: OBJECTION, ARGUMENTATIVE. WHAT DIFFERENCE  
28 DOES IT MAKE?

1-3 1 THE COURT: YOU HAVE MADE YOUR POINT ALREADY.

2 MR. BARENS: I AM ASKING HIM, YOUR HONOR, AS FAR AS  
3 HE KNEW.

4 THE COURT: YOU MADE YOUR POINT. HE SAID THAT HE KNEW  
5 OF NO INSTANCE WHERE A DISTRICT ATTORNEY TOLD THE OPPOSITION  
6 ABOUT THE IMMINENT ISSUANCE OF A SEARCH WARRANT.

7 Q BY MR. BARENS: NOW, IF YOU WERE TO TELL MR. ZOELLER,  
8 SUCH A THING, THAT A D.A. IS GOING TO TELL DEFENSE COUNSEL  
9 ABOUT THE ISSUANCE OF A SEARCH WARRANT AND THE EXERCISE OF  
10 A SEARCH WARRANT FOR DEFENSE COUNSEL'S CLIENT, WOULD YOU  
11 BELIEVE THAT TO BE TRUE, THAT A D.A. WOULD ACTUALLY GO AND  
12 DO THAT?

13 MR. WAPNER: OBJECTION. ARGUMENTATIVE. RELEVANCE.

14 MR. BARENS: I CAN GO INTO HIS STATE OF MIND. THIS  
15 IS REALLY IMPORTANT.

16 THE COURT: WELL, THAT COVERS A MULTITUDE, STATE OF  
17 MIND. THAT DOESN'T MEAN BECAUSE IT IS STATE OF MIND, YOU  
18 CAN ASK ANY QUESTION YOU WANT TO.

19 I WILL SUSTAIN THE OBJECTION. I THINK WE HAVE  
20 EXHAUSTED THIS PARTICULAR PART OF THIS SUBJECT.

21 Q BY MR. BARENS: DID YOU FEEL THAT THERE WAS A  
22 POSSIBILITY THAT IF YOU TOLD MR. WAPNER ABOUT THE PLANNED  
23 SEARCH, THAT HE WOULD NOT LET YOU PROCEED WITH YOUR  
24 PARTICIPATION?

25 A NO.

26 Q YOU THOUGHT THAT IF YOU TOLD HIM ABOUT IT, HE  
27 WOULD HAVE NO OBJECTION OR CAUTION WHATSOEVER TO YOU?

28 MR. WAPNER: OBJECTION, IRRELEVANT. WHAT DIFFERENCE

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1 DOES IT MAKE WHAT HE THOUGHT I MIGHT DO? HE NEVER TALKED  
2 TO ME. SO, WHAT IS THE POINT?

3 THE COURT: WELL, LET HIM ANSWER THE QUESTION. YOU  
4 WANT TO HAVE THE QUESTION READ TO YOU?

5 THE WITNESS: PLEASE.

6 THE COURT: READ THE QUESTION.

7 (THE RECORD WAS READ BY THE REPORTER.)

8 THE WITNESS: NO.

9 Q BY MR. BARENS: DID YOU FEEL THAT THERE WAS ANY  
10 POSSIBILITY OF AN IMPROPRIETY? I WILL WITHDRAW THAT AS BEING  
11 JUST RHETORICAL UNDER THE CIRCUMSTANCES.

12 THE COURT: WHAT?

13 Q BY MR. BARENS: WELL, GETTING BACK TO WHAT OSCAR  
14 TOLD YOU, MR. BREILING TOLD YOU -- WHAT DID HE TELL YOU WHEN  
15 YOU TOLD HIM YOU THOUGHT YOU SHOULD TELL MR. WAPNER?

16 A THIS WAS JUST ALL IN A DISCUSSION. IT WAS NOT  
17 WHERE I TOLD HIM AND HE TOLD ME. WE WERE DISCUSSING IT AND --

18 Q WELL, FIRST -- SORRY. GO AHEAD.

19 A AND IN THE CONVERSATION, IT WAS DISCUSSED WHETHER  
20 TO TELL MR. WAPNER, THAT HE WOULD BE EITHER OBLIGATED TO TELL  
21 THE DEFENSE OR YOUR HONOR AND THAT BECAUSE OF THAT, THAT IT  
22 WOULD GET BACK TO THE DEFENSE AND HENCE, THE SEARCH WARRANT  
23 WOULD BE VOID.

24 Q DID BREILING EVER SUGGEST TO YOU THAT PERHAPS  
25 MR. WAPNER WAS OVERLY ETHICAL IN THE DISPATCH OF HIS DUTIES  
26 AS AN OFFICER OF THE COURT?

27 A NO.

28 THE COURT: DO YOU KNOW THAT HE IS ETHICAL? DON'T YOU?

1 THE WITNESS: YES.

2 MR. BARENS: I MADE NO IMPLICATION TO THE CONTRARY.

3 THE COURT: YOU SAID "OVERLY ETHICAL".

4 MR. BARENS: I MEANT ANY MEASURE BEYOND NORMAL.

5 Q IN ANY EVENT, WHEN BREILING SUGGESTED THAT WAPNER  
6 MIGHT GO AND TELL THE DEFENSE ABOUT THE ANTICIPATED ISSUANCE  
7 OF THE SEARCH WARRANT, DID YOU SAY ANYTHING TO HIM, LIKE HE  
8 COULD BE KICKED OUT OF THE D.A.'S OFFICE FOR DOING SOMETHING  
9 LIKE THAT OR IT WOULD BE A REAL IMPROPER THING FOR MR. WAPNER  
10 TO DO WITH DEFENSE COUNSEL?

11 A NO.

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1 Q DID EITHER OF YOU SAY ANYTHING LIKE, THAT IT WOULD  
2 BE A REAL IMPROPER THING FOR MR. WAPNER TO DO IF HE WERE TO  
3 TIP OFF DEFENSE COUNSEL ABOUT THE ANTICIPATED SERVICE OF A  
4 WARRANT?

5 A NO. IT WAS MORE OF TELLING THE COURT WHAT WAS  
6 GOING ON AND THEN THE COURT ADVISING THE DEFENSE.

7 Q WELL, YOU GENTLEMEN WERE CONCERNED THAT THE JUDGE  
8 WAS GOING TO TIP THE DEFENSE OFF TO THE EXERCISE OF A SEARCH  
9 WARRANT?

10 A WE DIDN'T KNOW WHAT WAS GOING TO HAPPEN. THAT  
11 IS WHY WE DIDN'T --

12 THE COURT: WELL, LET HIM FINISH. DON'T INTERRUPT HIM.

13 MR. BARENS: SORRY.

14 THE WITNESS: THAT'S WHY IT WAS HELD, THE INFORMATION  
15 WAS HELD.

16 Q BY MR. BARENS: YOU MEAN WITHHELD, DON'T YOU?

17 A IT WAS HELD BY US.

18 Q ALL RIGHT. WITHHELD FROM THE JUDGE, ACTUALLY?

19 A THAT'S CORRECT.

20 Q NOW, HAVE YOU IN YOUR EXPERIENCE, EVER HEARD  
21 OF A JUDGE TIPPING OFF THE DEFENSE TO THE EXERCISE OF A SEARCH  
22 WARRANT?

23 A NO.

24 Q DID YOU HAVE ANY REASON TO BELIEVE THAT THE JUDGE  
25 IN THIS INSTANCE, WOULD TIP OFF THE DEFENSE AS TO THE  
26 EXERCISE OF A SEARCH WARRANT?

27 A IT OBVIOUSLY CROSSED MY MIND. THAT IS WHY IT  
28 WAS NOT MENTIONED TO MR. WAPNER.

1 Q IT CROSSED YOUR MIND THAT THE JUDGE WOULD TIP  
2 OFF THE DEFENSE TO THE EXERCISE OF THE WARRANT BEFORE IT WAS  
3 ACTUALLY -- THE SEARCH WAS ACTUALLY DONE? YOU THOUGHT THAT  
4 THIS PARTICULAR JUDGE RITTENBAND, WOULD DO THAT?

5 THE COURT: ME? I HAVE NOTHING TO DO WITH THE SEARCH  
6 WARRANT.

7 MR. BARENS: I AM ASKING HIM. HE IS TELLING ME NOW  
8 THAT HE THOUGHT THAT IF YOU KNEW ABOUT THE ANTICIPATED  
9 EXERCISE OF THE WARRANT, YOU WOULD COME AND TELL THE DEFENSE.

10 THE COURT: HOW WOULD I HAVE ANY KNOWLEDGE OF THAT?

11 MR. BARENS: I AM ASKING HIM THAT, JUDGE. HE IS TELLING  
12 ME NOW, JUDGE, AND -- HE HAS JUST GOT THROUGH TELLING ME THAT  
13 HE AND BREILING --

14 THE COURT: YOU MEAN THE JUDGE UP THERE?

15 MR. BARENS: NO. NO, WE ARE TALKING ABOUT YOU, YOUR  
16 HONOR.

17 THE COURT: NO. HE HAS REFERENCE TO THE JUDGE UP THERE.

18 MR. BARENS: NO. WAIT A MINUTE.

19 Q MR. ZOELLER, DIDN'T YOU JUST INDICATE TO ME, THAT  
20 YOU AND MR. BREILING HAD SOME CONCERN ABOUT EITHER FRED OR  
21 THE JUDGE IN THIS COURTROOM --

22 MR. WAPNER: IS THAT A REFERENCE TO THE DISTRICT ATTORNEY,  
23 MR. WAPNER?

24 MR. BARENS: NO DISRESPECT, MR. WAPNER. THAT THE  
25 DISTRICT ATTORNEY OR HIS HONOR, JUDGE RITTENBAND, IF THEY  
26 WERE AWARE OF THE PENDENCY OF THE SEARCH WARRANT, THEY WOULD  
27 DIVULGE THAT INFORMATION TO DEFENSE COUNSEL?

28 THE WITNESS: AS I EXPLAINED, AS IT WAS EXPLAINED TO

1 ME AND WAS DISCUSSED THAT IF MR. WAPNER AND THE COURT KNEW  
2 ABOUT IT, IT MIGHT HAVE BEEN.

3 Q BY MR. BARENS: YOU MEAN THE COURT BEING  
4 JUDGE RITTENBAND?

5 A THAT'S CORRECT.

6 Q THAT IS WHAT I THOUGHT YOU MEANT.

7 A THAT IT MIGHT HAVE BEEN DECIDED TO BE DISCLOSED.  
8 YES.

9 Q WELL --  
10 THE COURT: REQUIRING IT TO BE DISCLOSED TO THE DEFENSE  
11 COUNSEL? IS THAT WHAT YOU MEAN?

12 THE WITNESS: YES.

13 Q BY MR. BARENS: DID YOU HAVE SOME SENSE THAT  
14 JUDGE RITTENBAND HAD A DEFENSE ORIENTATION, THAT HE WAS LIKELY  
15 TO GO AND TELL THE DEFENSE ABOUT IT?

16 MR. WAPNER: OBJECTION, ARGUMENTATIVE.

17 MR. BARENS: I AM JUST ASKING HIS INFORMATION.

18 THE COURT: SUSTAINED.

19 Q BY MR. BARENS: WELL, WHAT MADE YOU BELIEVE THAT  
20 JUDGE RITTENBAND WOULD COME AND TELL THE DEFENSE ABOUT THE  
21 ANTICIPATED EXERCISE OF A SEARCH WARRANT?

22 MR. WAPNER: OBJECTION, IT MISSTATES THE EVIDENCE. HE  
23 NEVER SAID HE BELIEVED THAT.

24 MR. BARENS: HE JUST SAID THAT THAT IS WHAT THEY  
25 DISCUSSED.

26 Q DID YOU DISCUSS THAT?

27 THE COURT: WELL, LET'S GO ON TO SOMETHING WORTHWHILE.

28 MR. BARENS: WELL, I THINK THAT THIS IS WORTHWHILE.

1 THE COURT: I DON'T THINK SO. LET'S GO ON, PLEASE.

2 MR. BARENS: IF I MAY MAKE AN OFFER, PLEASE --

3 THE COURT: OF PROOF?

4 MR. BARENS: I WOULD LIKE TO CLARIFY WHAT IS GOING ON  
5 HERE.

6 THE COURT: WHAT IS YOUR OFFER OF PROOF?

7 MR. BARENS: I AM NOT MAKING AN OFFER OF PROOF. I AM  
8 TRYING TO CLARIFY WHAT IS REPRESENTATIVE AT THIS JUNCTURE  
9 OF THESE PROCEEDINGS.

10 WHAT WE ARE TOLD IS THAT THEY DON'T TELL THE  
11 DISTRICT ATTORNEY OR YOUR HONOR ABOUT THIS ANTICIPATED --

12 THE COURT: DID YOU FEEL THAT IF THE JUDGE HEARD ABOUT  
13 THIS THING, THAT HE MIGHT THINK IN THE INTEREST OF JUSTICE,  
14 THAT THE DEFENSE SHOULD BE ADVISED OF WHAT WAS GOING ON?  
15 WAS THAT YOUR STATE OF MIND?

16 THE WITNESS: YES.

17 THE COURT: YOU DIDN'T MEAN BY THE WAY, THAT THE JUDGE  
18 WAS GOING TO SNITCH TO THE DEFENSE COUNSEL ABOUT WHAT WAS  
19 GOING ON, WITHOUT ADVISING ANYBODY ELSE?

20 THE WITNESS: NO.

21 MR. BARENS: I DIDN'T MEAN TO SUGGEST THAT AT ALL.

22 THE COURT: WELL, THAT IS THE IMPLICATION OF THE  
23 QUESTION.

24 MR. BARENS: I DIDN'T MEAN TO SUGGEST IT AT ALL. I  
25 WILL GO BACK TO THE INTEREST OF JUSTICE, WHICH IS EXACTLY  
26 WHAT I THINK IS GOING ON HERE.

27 THE COURT: GO AHEAD. GO AHEAD.

28 Q BY MR. BARENS: WE ARE TALKING ABOUT, ARE WE NOT,



1 THE PERCEPTION YOU AND MR. BREILING ANTICIPATED THAT THE  
2 DISTRICT ATTORNEY AND THE JUDGE MIGHT HAVE ABOUT WHAT BEST  
3 SERVED THE INTERESTS OF JUSTICE, ISN'T THAT WHAT WE ARE  
4 TALKING ABOUT?

5 A YES.

6 Q AND THAT IN THAT REGARD, THERE WAS SOME POSSIBILITY  
7 AT LEAST EXISTING IN YOUR MIND, AND IN MR. BREILING'S MIND  
8 THAT EITHER MR. WAPNER OR JUDGE RITTENBAND MIGHT DETERMINE  
9 THAT THE INTERESTS OF JUSTICE WOULD REQUIRE YOUR ADVISING  
10 THE DEFENSE COUNSEL AS TO YOUR ANTICIPATED ACTIVITIES IN THE  
11 SEARCH WARRANT?

12 A YES.

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1 Q AND FURTHER, THAT THERE MIGHT HAVE BEEN A LAW  
2 THAT REQUIRED SUCH DISCLOSURE?

3 A NO.

4 Q THEN IF IT WASN'T A LAW OPERATIVE, RATHER, IT  
5 WOULD HAVE BEEN SOLELY IN THE INTERESTS OF JUSTICE OR SOME  
6 SENSE OF FAIR PLAY OR EQUITY?

7 MR. WAPNER: OBJECTION. CUMULATIVE. WE HAVE NOW BEEN  
8 GOING OVER THIS FOR ABOUT 15 MINUTES. HE HAS ASKED THAT  
9 QUESTION FIVE TIMES.

10 THE COURT: OBJECTION SUSTAINED. YOU HAVE ASKED THAT  
11 QUESTION FIVE TIMES, YOU HAVE MADE YOUR POINT AND I WILL  
12 CONSIDER IT.

13 Q BY MR. BARENS: ALL RIGHT. AFTER HE VOICED THAT  
14 OBJECTION TO TELLING EITHER THE COURT OR MR. WAPNER, DID HE  
15 SAY ANYTHING ELSE IN REGARD TO THIS SUBJECT MATTER THAT WE  
16 HAVE BEEN OVER?

17 MR. WAPNER: SAME OBJECTION. CUMULATIVE. WE JUST  
18 SPENT 15 MINUTES TALKING ABOUT THIS SUBJECT MATTER.

19 IT IS ALSO VAGUE.

20 MR. BARENS: I AM ASKING HIM, WE HAVE HAD VERY DETAILED  
21 SEQUENCING: HE SAID SOMETHING, MR. BREILING SAID SOMETHING  
22 AND I AM NOW ASKING HIM WHAT WAS SAID ABOUT THIS SUBJECT,  
23 WAS THERE ANYTHING FURTHER DISCUSSED?

24 THE COURT: WAS THERE ANYTHING FURTHER SAID ABOUT THIS  
25 SAME SUBJECT?

26 THE WITNESS: I DON'T BELIEVE SO, NO.

27 Q BY MR. BARENS: BY THE SINGLE REMARK THAT YOU  
28 ARE TELLING US MR. BREILING MADE, YOU WERE THEN SATISFIED

1 THAT YOU HAD NO INCUMBENCY TO TELL MR. WAPNER ABOUT YOUR  
2 DECISION OR ABOUT THE ADVICE THAT MR. BREILING HAD GIVEN YOU?

3 MR. WAPNER: OBJECTION. THAT MISSTATES THE EVIDENCE  
4 AND VAGUE. I DON'T KNOW WHAT HE IS REFERRING TO ABOUT THE  
5 SINGLE REMARK.

6 THE WITNESS HAS TALKED ABOUT A CONVERSATION THAT  
7 HE HAD WITH MR. BREILING SO I THINK THAT MISSTATES THE EVIDENCE.

8 MR. BARENS: THE ONLY REMARK THAT THE WITNESS HAS  
9 INDICATED IS A REMARK BY MR. BREILING, THAT HE ATTRIBUTED  
10 TO BREILING A SINGULAR REMARK, SAYING "IF WE TELL MR. WAPNER  
11 ABOUT THIS, HE MAY HAVE TO TELL THE JUDGE OR DEFENSE COUNSEL."

12 THE COURT: AND YOU WANT TO KNOW WHAT ELSE WAS SAID?

13 MR. BARENS: THAT IS WHAT I ASKED HIM.

14 THE COURT: YOU WANT HIM TO TELL WHAT ELSE WAS SAID --

15 MR. BARENS: WHAT ELSE WAS SAID, RIGHT.

16 THE COURT: -- IF ANYTHING, ON THE QUESTION OF TELLING  
17 MR. WAPNER OR THE COURT.

18 THE WITNESS: THE ONLY THING THAT WAS SAID WAS THAT  
19 OSCAR BREILING EXPLAINED TO ME THAT IT HAD GONE THROUGH THE  
20 ATTORNEY GENERAL'S OFFICE AND THERE WAS NO PROBLEM WITH SERVING  
21 THE SEARCH WARRANT.

22 Q BY MR. BARENS: WELL, SO YOU WERE SATISFIED THAT  
23 EVERYTHING YOU WERE DOING WAS QUITE PROPER?

24 A THAT'S CORRECT.

25 Q WELL, DID YOU HAVE A CONVERSATION THAT DAY, DURING  
26 YOUR SEARCH, WITH MR. WAPNER?

27 A YES.

28 Q WHO CALLED WHO?

1 A I DON'T KNOW.

2 I WAS CALLED TO THE PHONE.

3 Q RIGHT.

4 A MR. WAPNER WAS ON THE PHONE.

5 Q AND YOU CERTAINLY HADN'T CALLED MR. WAPNER, HAD  
6 YOU?

7 A NO.

8 Q NOW, WHAT DID MR. WAPNER SAY TO YOU, SIR?

9 A HE STATED THAT "IS THERE DEFENSE MATERIAL THERE?"  
10 AND I STATED, "YES, WHICH I HAD JUST LEARNED."

11 Q DID HE TELL YOU THAT I WAS STANDING NEXT TO HIM  
12 OR ACROSS THE DESK FROM HIM DURING THIS CONVERSATION?

13 A I DON'T KNOW WHETHER HE TOLD ME OR NOT. I DON'T  
14 RECALL.

15 Q ALL RIGHT. YOU ARE SAYING THAT THE FIRST THING --  
16 THE COURT: HAVE YOU FINISHED THE CONVERSATION THAT  
17 YOU HAD WITH MR. WAPNER?

18 THE WITNESS: NO.

19 THE COURT: LET'S HEAR THE REST OF IT.

20 Q BY MR. BARENS: ALL RIGHT. ARE YOU SAYING THAT  
21 SEQUENTIALLY THE FIRST THING MR. WAPNER SAID TO YOU IN THAT  
22 CONVERSATION WAS "HELLO, LES, IS THERE DEFENSE MATERIAL THERE?"

23 A BASICALLY, "HELLO, I UNDERSTAND THERE IS DEFENSE  
24 MATERIAL THERE".

25 Q HE SAID THAT?

26 A YES.

27 Q AND YOU SAID?

28 A I SAID "YES, I JUST LEARNED THAT."

1 Q AND WHAT ELSE DID HE SAY TO YOU?

2 A HE SAID "IF THERE IS DEFENSE MATERIAL, I THINK  
3 YOU SHOULD LEAVE."

4 Q WHAT DID YOU SAY TO HIM?

5 A I AGREED WITH HIM.

6 Q WELL, DIDN'T YOU TELL HIM, "WELL, LISTEN, MR.  
7 BREILLING TOLD ME IT IS QUITE ALL RIGHT TO BE HERE BECAUSE  
8 THE ATTORNEY GENERAL'S OFFICE HAS SAID IT IS ALL RIGHT FOR  
9 ME TO BE HERE"?

10 A NO.

11 Q YOU DIDN'T TELL HIM THAT?

12 A NO.

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1 Q YOU DIDN'T TELL HIM YOU HAD A CONVERSATION WITH  
2 MR. BREILING IN WHICH HE AGREED THAT IT WAS FINE FOR YOU TO  
3 BE THERE?

4 A NO.

5 Q WHY DID YOU IMMEDIATELY WITHDRAW WHEN MR. WAPNER  
6 EXPRESSED THAT YOU SHOULD LEAVE?

7 A BECAUSE I AGREED WITH HIM.

8 Q WHY DID YOU AGREE, SIR?

9 A BECAUSE THERE WAS DEFENSE MATERIAL THERE AND  
10 I DIDN'T WANT ANY PART OF IT.

11 Q DID YOU ASK HIM WHY HE ASKED YOU TO LEAVE?

12 A NO.

13 Q PARENTHETICAL TO THAT, DID NOT MR. WAPNER ASK  
14 YOU INITIALLY WHAT YOU WERE DOING THERE, WHAT YOUR ACTIVITIES  
15 CONSISTED OF?

16 A POSSIBLY.

17 I RECALL SOME TIME IN MY CONVERSATION WITH MR.  
18 WAPNER, YES, BUT WHETHER IT WAS THAT PHONE CALL, I DON'T  
19 RECALL.

20 Q DID MR. WAPNER SEEM A BIT SURPRISED --

21 A YES.

22 Q -- THAT YOU WERE THERE?

23 DID HE EVER SUBSEQUENTLY TELL YOU HE WAS SURPRISED  
24 YOU WERE THERE?

25 A YES.

26 Q DID HE EVER ASK YOU WHY YOU HAD NEVER TOLD HIM  
27 YOU WERE GOING THERE?

28 A YES.

1 Q AND WHEN WERE YOU ASKED THAT INFORMATION?

2 A I DON'T RECALL -- SUBSEQUENT TO THAT, YES.

3 Q WERE YOU ASKED THIS ON MORE THAN ONE OCCASION?

4 A I DON'T BELIEVE SO, NO.

5 IT WAS -- WHEN IT WAS STATED, IT WAS UNDERSTOOD.

6 Q AND WHEN HE ASKED YOU WHY YOU HAD NOT TOLD HIM  
7 WHAT YOU WERE DOING, WHAT DID YOU SAY TO HIM?

8 A AS I EXPLAINED TO YOU EARLIER --

9 Q PLEASE TELL ME, SIR.

10 A -- THAT OSCAR BREILING ASKED ME NOT TO SAY  
11 ANYTHING FOR THE REASONS STATED.

12 Q I DON'T THINK THAT IS WHAT YOU SAID AT ALL.

13 I THINK YOU GAVE HIM SOME REASONS, DIDN'T YOU?

14 A THAT MR. BREILING ASKED ME NOT TO SAY ANYTHING  
15 BECAUSE, FOR THE FACT THAT MR. WAPNER WOULD FEEL OBLIGATED  
16 TO DISCLOSE IT TO THE COURT OR THE DEFENSE.

17 Q AND DID YOU TELL HIM YOU AGREED WITH MR. BREILING  
18 IN THAT REGARD?

19 A I DIDN'T STATE WHETHER I AGREED OR DISAGREED.

20 Q WHAT DID MR. WAPNER SAY TO YOU?

21 A HE SHOWED DISPLEASURE. HE DIDN'T AGREE WITH  
22 IT.

23 Q HE TOLD YOU THAT IN FACT HE WOULDN'T HAVE TOLD  
24 THE DEFENSE AT ALL, THAT HE HAD NO OBLIGATION TO TELL THE  
25 DEFENSE?

26 A HE DIDN'T SAY ONE WAY OR THE OTHER.

27 Q WASN'T HE A BIT MIFFED OR ANGRY THAT YOU HAD  
28 GONE AT THAT TIME?

1 MR. WAPNER: OBJECTION. IRRELEVANT. WHAT DIFFERENCE  
2 DOES THAT MAKE?

3 THIS IS WAY AFTER THE FACT.

4 THE COURT: THIS CAN GO ON HOUR AFTER HOUR AND NOT  
5 HELP ME IN THE SLIGHTEST IN DETERMINING THE ISSUE IN THIS  
6 CASE.

7 MR. BARENS: I THINK, BASED ON ALL OF THE CASES THAT  
8 ARE CALLED INTO ISSUE, WE BEST MAKE A RECORD ON THE POINT,  
9 YOUR HONOR.

10 THE COURT: YOU HAVE MADE A SUFFICIENT RECORD FOR MY  
11 PURPOSES.

12 MR. BARENS: I KNOW, BUT --

13 THE COURT: AND FOR THE PURPOSES OF APPEAL, IF THERE  
14 IS GOING TO BE ANY, OR ANOTHER WRIT THAT MIGHT BE TAKEN OUT  
15 BY YOUR ASSOCIATE. I HAVEN'T ANY IDEA WHAT YOU ARE GOING  
16 TO DO.

17 MR. BARENS: I AM NOT TALKING ABOUT A WRIT, YOUR HONOR,  
18 OTHER THAN THESE CASES CITED TO THE COURT BY MR. WAPNER  
19 EITHER YESTERDAY OR THE DAY BEFORE REQUIRE THAT THE DEFENSE  
20 TAKE APPELLATE STEPS, THEY ARE CERTAINLY MANDATED IN THOSE  
21 CASES.

22 THE COURT: WHAT DO YOU MEAN TAKE APPELLATE STEPS?

23 MR. BARENS: WRITS, YOUR HONOR, BECAUSE OF THE LANGUAGE  
24 IN GLOVER --

25 THE COURT: THERE IS NO REQUIREMENT THAT YOU TAKE A  
26 WRIT AT THIS TIME. YOU CAN BE HEARD ON APPEAL, IF THERE IS  
27 ONE.

28 MR. BARENS: YOUR HONOR, THEY MANDATE THAT THE WRIT



1 EITHER BE TAKEN PRETRIAL OR IT IS DEEMED WAIVED BY THE DEFENSE.

2 THE COURT: ALL RIGHT, THEN LET'S RESERVE THE RIGHT  
3 THAT YOU MIGHT HAVE IT ON THE APPEAL AND IT WILL BE UNDERSTOOD  
4 YOU DON'T WAIVE YOUR RIGHTS WITH RESPECT TO IT, ALL RIGHT?

5 MR. BARENS: I VERY, VERY MUCH APPRECIATE THAT, YOUR  
6 HONOR, BUT I AM NOT JUST SAYING THAT IT IS IN THE CASES BUT --

7 THE COURT: I UNDERSTAND IT PERFECTLY. IT WILL BE  
8 DISTINCTLY UNDERSTOOD THAT THE WHOLE INQUIRY WITH RESPECT  
9 TO THE PROPRIETY OF THE SEARCH WARRANT, THE EXERCISE OF IT  
10 BY THE MEMBERS OF THE LOS ANGELES AND BEVERLY HILLS POLICE  
11 DEPARTMENT, IF DECIDED ADVERSELY TO YOU ON YOUR MOTION TO  
12 SUPPRESS OR TO DISMISS, OR ANY OTHER MOTION YOU MIGHT HAVE,  
13 CAN BE RESERVED FOR APPEAL IF THERE IS ONE IN THE CASE.

14 MR. BARENS: ALL RIGHT, ALTHOUGH FOR THE RECORD, NEITHER  
15 THE COURT NOR THE PARTIES CAN STIPULATE TO JURISDICTION ON  
16 APPEAL.

17 THIS DIALOGUE THAT IS CURRENTLY BETWEEN HIS  
18 HONOR AND MYSELF IS IN SPECIFIC REFERENCE TO THE DEFENSE'S  
19 ATTEMPT TO FOLLOW THE GUIDELINES SET OUT IN THREE CASES, WHICH  
20 I WOULD LIKE TO CITE AT THIS TIME.

21 THE COURT: I THOUGHT THAT ONE CASE, IF I REMEMBER,  
22 WHICH IS FROM THE SUPREME COURT, THERE WAS NO RESERVATION  
23 AT THE TIME THE FACTS WERE GLEANED AND ADDUCED, THAT THEY  
24 HAD NO RESERVATION AT THAT PARTICULAR TIME TO -- THERE WAS  
25 NO MOTION TO SUPPRESS AND THERE WAS NO MOTION TO DISMISS AND  
26 THAT IS ONE OF THE THINGS THAT THE SUPREME COURT HAD  
27 CONSIDERED. THAT IS THE ONLY RELEVANCY IN THIS PARTICULAR  
28 INSTANCE.

1                    BUT YOU MADE THE MOTION, IT IS NOW BEING HEARD  
2                    SO THERE IS NO POSSIBLE WAIVER ON YOUR PART OF THAT PARTICULAR  
3                    POINT.

4                    MR. BARENS: I WOULD JUST LIKE TO TELL THE PEOPLE,  
5                    FOR THE RECORD, YOUR HONOR, WHAT I AM TALKING ABOUT SO THERE  
6                    WILL BE NO MISUNDERSTANDING OF WHAT I AM TRYING TO ACCOMPLISH  
7                    WITH THE WITNESS.

8                    THE COURT: I UNDERSTAND.

9                    MR. BARENS: IF I MIGHT, YOUR HONOR. THE DEFENSE IS  
10                    MAKING SPECIFIC REFERENCE TO AN ATTEMPT TO CONFORM WITH THE  
11                    REQUIREMENTS AS EXPRESSED IN PEOPLE V. GLOVER, 129 CAL.APP.3RD,  
12                    69, ETC. PEOPLE V. TOWLER, AT 31 CAL.3D, 105, ETC., AND  
13                    WILSON V. SUPERIOR COURT, AT 70 CAL.3D, 751, ETC.

14                    THE COURT: NONE OF THOSE CASES SAY YOU HAVE GOT TO,  
15                    AFTER THE CONCLUSION OF THE HEARING, SUE OUT A WRIT.  
16                    YOU CAN RESERVE THAT FOR THE APPEAL.

17                    MR. BARENS: NOT EXACTLY, YOUR HONOR.

18                    THE COURT: YES, EXACTLY. I HAVE READ THOSE CASES  
19                    AND THEY HARDLY SUPPORT WHAT YOU ARE SAYING NOW.

20                    LET'S GO ON, WILL YOU, PLEASE? I HAVE MADE THE  
21                    RESERVATION FOR YOU AND EVERYBODY UNDERSTANDS THAT YOU HAVE  
22                    MADE THE MOTION AT THE PROPER TIME.

23                    MR. BARENS: WELL, THANK YOU, YOUR HONOR, FOR YOUR  
24                    ASSISTANCE IN THAT REGARD.

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A-1

1 Q BY MR. BARENS: ALL RIGHT. IN ANY EVENT, ASIDE  
2 FROM TALKING TO OSCAR BREILING BEFORE YOU PROCEEDED, DID YOU  
3 SPEAK TO ANY OTHER PERSON BY WAY OF AN ATTORNEY, BEFORE YOU  
4 WENT TO EXERCISE THE WRIT -- THE WARRANT?

5 A NO.

6 Q ALL RIGHT. NOW, YOU ARE SAYING THAT THE FIRST  
7 KNOWLEDGE YOU EVER HAD THAT DEFENSE MATERIAL WAS THERE, WAS  
8 BASED ON SOMETHING YOU OVERHEARD BEING DISCUSSED BY MR. CHIER  
9 AND MR. BREILING AT THE SCENE?

10 A THAT'S CORRECT.

11 Q WAS THAT PRIOR TO THE TIME YOU ENTERED THE COMPUTER  
12 ROOM OR AFTER?

13 A IT WAS WHEN I WAS IN THE COMPUTER ROOM, ALREADY  
14 HAVING GONE THROUGH THE MATERIALS.

15 Q ALL RIGHT. YOU WERE FOR A BIT, ON YOUR HANDS  
16 AND KNEES DOING THAT, WERE YOU?

17 A I WAS STOOPING, YES.

18 Q AND HAD YOU DURING THAT PERIOD OF TIME, READ ANY  
19 MATERIALS THAT LOOKED LIKE THEY HAD BEEN PRODUCED ON A  
20 COMPUTER?

21 A NONE, NO.

22 Q HAD YOU SEEN ANY OF THE MATERIALS THAT MR. ROZZI  
23 WAS LOOKING AT?

24 A NO.

25 Q DID YOU EVER USE AN EXPRESSION DURING THE  
26 CONVERSATION WITH MR. BREILING, WHILE YOU WERE ON THAT  
27 PREMISES, THAT YOU MIGHT HAVE DONE SOMETHING ILLEGAL?

28 A NO.

A-2  
1 Q YOU NEVER USED THAT WORD IN FRONT OF ANYBODY?

2 A NO.

3 THE COURT: WAS MRS. ROBERTS PRESENT DURING ANY OF YOUR  
4 DISCUSSIONS WITH MR. BREILING?

5 THE WITNESS: NOT THAT I AM AWARE OF.

6 THE COURT: ALL RIGHT. I WILL ASK YOU AFTER COUNSEL  
7 HAS FINISHED SOME QUESTIONS WHICH HAVE COME UP IN CONNECTION  
8 WITH THAT.

9 Q BY MR. BARENS: YOU ARE NOT SURE, ARE YOU SIR,  
10 AS TO THE WHEREABOUTS OF MRS. ROBERTS AT EVERY MOMENT WHILE  
11 YOU WERE THERE, ARE YOU?

12 A NO.

13 Q YOU ARE NOT SURE, ARE YOU SIR, AS TO WHO COULD  
14 HEAR YOUR CONVERSATIONS WITH MR. BREILING AND WHO COULD NOT?

15 A NO.

16 Q YOU MADE NO ATTEMPT TO BE SECRETIVE IN YOUR  
17 CONVERSATIONS WITH MR. BREILING, DID YOU?

18 A NO.

19 Q NO NEED TO, IN YOUR MIND, WAS THERE?

20 A NO.

21 Q AND YOUR REPORT CONCERNING YOUR ROLE IN THIS SEARCH,  
22 IN IT YOU REMARKED I BELIEVE AT A POINT, THAT YOU READ  
23 CORRESPONDENCE IN REGARD TO THE BROWNING ATTRITION MILL FROM  
24 MR. BILL KILPATRICK AND MR. BILL MORTON. IS THAT TRUE?

25 A THAT'S CORRECT.

B  
26 Q YOU ALSO READ INFORMATION ON INVESTORS OF  
27 FINANCIAL FUTURES AND THE BBC MANAGEMENT COMPANY?

28 A I DIDN'T READ THEM. I IDENTIFIED THEM TO HAVE

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1 THAT INFORMATION IN IT, YES.

2 Q HAD YOU EVER SEEN THOSE NAMES DURING YOUR  
3 INVESTIGATION OF THE LEVIN HOMICIDE?

4 A YES.

5 Q THE FACT IS, YOU HAD HEARD ALL OF THOSE NAMES  
6 AND ENTITIES DURING YOUR INVESTIGATION OF THE LEVIN HOMICIDE?

7 A YES.

8 Q THAT IS HOW YOU ARE FAMILIAR WITH IT, WEREN'T  
9 YOU?

10 A YES.

11 Q NOW, WHEN I USED THE EXPRESSION OR ANYONE SAYS  
12 THE EXPRESSION "DEFENSE MATERIALS" WHAT DO YOU CONSIDER TO  
13 BE DEFENSE MATERIALS?

14 A MATERIALS USED FOR THE DEFENSE.

15 Q FOR INSTANCE, SIR? WHAT WOULD BE DEFENSE  
16 MATERIALS?

17 A ANYTHING THAT WOULD HELP THE DEFENSE, MATERIALS  
18 THAT WOULD HELP THE DEFENSE.

19 Q NOW, FOR SURE THAT WOULD INCLUDE THINGS LIKE  
20 MR. WAPNER ASKED YOU ABOUT, DIALOGUES PREPARED BY COUNSEL  
21 OR THE DEFENDANT BY WAY OF CROSS-EXAMINATION MATERIALS. WE  
22 CAN PROBABLY AGREE ON THAT?

23 A YES.

24 Q IT WOULD PROBABLY INCLUDE ANY FACTUAL SCENARIO  
25 SUMMARIES CONSTRUED BY DEFENSE COUNSEL OR THE DEFENSE THAT  
26 WOULD APPEAR TO SUMMARIZE DEFENSE POSITIONS ON ISSUES OR  
27 EVENTS?

28 A YES.

1 Q COMPILATIONS OR SUMMARIES PREPARED BY COUNSEL  
2 OF THE DEFENDANT?

3 A YES.

4 Q HOW ABOUT EXHIBITS? WOULD IT INCLUDE EXHIBITS?

5 A POSSIBLY, YES.

6 Q EXHIBITS THAT COULD BE OF A FINANCIAL NATURE?

7 A IT COULD.

8 Q IT COULD BE EXHIBITS THAT WOULD INVOLVE  
9 CONTRACTUAL APPEARING MATERIALS, SIR?

10 A IT COULD.

11 Q IT COULD BE CHECKS?

12 MR. WAPNER: YOUR HONOR, THIS CALLS FOR SPECULATION.

13 MR. BARENS: BUT YOUR HONOR --

14 MR. WAPNER: EXCUSE ME. MAY I FINISH MY OBJECTION?  
15 IT CALLS FOR SPECULATION ON THE PART OF THIS WITNESS.

16 HE IS ASKING THE DETECTIVE TO SPECULATE AS TO  
17 WHAT THE DEFENSE IS AND THEN, BASED ON THAT SPECULATION, COME  
18 TO SOME CONCLUSION ABOUT WHETHER OR NOT CERTAIN DOCUMENTS  
19 MIGHT BE USED OR MIGHT NOT.

20 THE COURT: WELL, THE FACT OF THE MATTER IS, HE TESTIFIED  
21 CATEGORICALLY THAT ANYTHING HE EXAMINED HAD NOTHING TO DO  
22 WITH ANY DEFENSE MATERIALS.

23 MR. BARENS: WELL, YOU SEE, MR. WAPNER IN THE --

24 THE COURT: WHY DON'T YOU WAIT UNTIL YOUR ASSOCIATE  
25 TELLS YOU WHAT TO SAY?

26 MR. BARENS: I ACCEPT THAT.

27 MR. CHIER: I DIDN'T WANT TO TALK TO YOU. I CAN'T.  
28 SO I WILL TALK TO HIM.

1 MR. BARENS: YOUR HONOR, NOW I ACCEPT YOUR HONOR'S SAYING  
2 THAT HE IS TELLING ME WHAT TO SAY.

3 THE COURT: I DON'T WANT HIM WHISPERING TO YOU SO YOU  
4 CAN'T HEAR WHAT I AM SAYING AND I CAN'T HEAR WHAT YOU SAY.

5 MR. BARENS: WELL, YOUR HONOR --

6 THE COURT: THAT IS WHAT HE IS DOING --

7 MR. BARENS: I HAVE BEEN DOING THIS 18 YEARS, JUDGE.  
8 I KNOW WHAT TO SAY. IF HE HAS A POINT, I WOULD LIKE TO HEAR  
9 IT.

10 THE COURT: IT IS JUST A COURTESY. WHEN I AM TALKING  
11 TO YOU, HE HAS NO BUSINESS TALKING TO YOU AT THE SAME TIME.  
12 YOU DON'T HEAR ME AND YOU DON'T HEAR HIM.

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1 MR. BARENS: I AGREE THAT THE COURTESY SHOULD BE  
2 RESPECTED.

3 THE COURT: THAT IS ALL I AM TRYING TO TELL YOU.

4 MR. BARENS: THANK YOU, YOUR HONOR.

5 (THERE WAS A BRIEF PAUSE.)

6 MR. BARENS: I AM ASKING MY VERY OWN QUESTION, YOUR  
7 HONOR.

8 THE COURT: ALL RIGHT.

9 MR. BARENS: I MADE IT UP ALL BY MYSELF.

10 THE COURT: YOU CAN ANSWER IT YOURSELF, TOO.

11 MR. BARENS: NO. I NEED HIM TO ANSWER IT, YOUR HONOR.

12 THE COURT: GO AHEAD.

13 Q BY MR. BARENS: MR. ZOELLER, WOULD IT BE A FAIR  
14 STATEMENT TO SAY THAT AS MR. WAPNER POINTED OUT JUST A MOMENT  
15 AGO, SINCE YOU DON'T KNOW WHAT THE DEFENSE IN THIS CASE IS,  
16 HOW COULD YOU KNOW WHAT THE DEFENSE MATERIALS WOULD CONSIST  
17 OF?

18 MR. WAPNER: WELL YOUR HONOR, I WANT TO OBJECT AS VAGUE.  
19 THE TERM "DEFENSE MATERIALS" IS TOO GENERAL TO BE USED FOR  
20 PURPOSES OF THIS, HERE.

21 IF HE WANTS TO ASK A SPECIFIC QUESTION, HE CAN  
22 ASK IT.

23 MR. BARENS: YOUR HONOR, DURING THE DIRECT EXAMINATION,  
24 MR. WAPNER OPENED THE --

25 THE COURT: HE WANTS HIS IMPRESSION OF WHAT HE CONSTRUED  
26 DEFENSE MATERIALS TO BE SO HE WOULDN'T BE EXAMINING THEM OR  
27 LOOKING AT THEM AND DIVULGING THEM. IS THAT RIGHT?

28 MR. BARENS: YOUR HONOR, WE HAVE A SINGLE STANDARD IN



1 THIS COURTROOM. DURING DIRECT, MR. WAPNER SAID TO THE  
2 WITNESS, "DID YOU LOOK AT DEFENSE MATERIALS?"

3 THE COURT: I OVERRULED THE OBJECTION.

4 MR. BARENS: COULD YOU ANSWER MY QUESTION?

5 THE WITNESS: WOULD YOU REPEAT IT, PLEASE?

6 MR. BARENS: COULD WE HAVE IT READ?

7 THE COURT: WHAT IS YOUR UNDERSTANDING OF WHAT DEFENSE  
8 MATERIALS ARE? COUNSEL BEGAN ENUMERATING ANY NUMBER OF THINGS.

9 AND YOU SAID YES OR POSSIBLY. ANYTHING FURTHER  
10 THAT YOU WANT TO ASK ABOUT THAT?

11 Q BY MR. BARENS: SINCE YOU DON'T KNOW WHAT THE  
12 DEFENSE IS IN THIS MATTER, YOU DON'T KNOW, DO YOU, SIR, WHAT  
13 MATERIALS ARE DEFENSE MATERIALS AND WHAT AREN'T DEFENSE  
14 MATERIALS?

15 A AT THE TIME, FOR ONE THING, I WAS LOOKING FOR  
16 NOTHING MORE THAN WHAT WAS STATED IN THE WARRANT.

17 Q I UNDERSTAND THAT, SIR. BUT I AM ASKING YOU IF  
18 YOU CAN TELL ME WHETHER OR NOT YOU KNOW WHAT THE DEFENSE IS  
19 IN THIS MATTER?

20 A I DO NOT KNOW. NO.

21 Q SINCE YOU DO NOT KNOW WHAT THE DEFENSE IS, HOW  
22 COULD YOU RECOGNIZE WHAT DEFENSE MATERIALS WERE OR NOT?

23 A I WAS NOT THERE TO RECOGNIZE DEFENSE MATERIALS.

24 Q I AM NOT ASKING YOU IF YOU WERE THERE TO RECOGNIZE  
25 DEFENSE MATERIALS. I AM ASKING YOU HOW COULD YOU RECOGNIZE  
26 DEFENSE MATERIALS, IF YOU DIDN'T KNOW WHAT THE DEFENSE WAS.

27 A I COULDN'T.

28 Q NO, YOU COULD NOT, COULD YOU, SIR?

1 .A NO.

2 Q AND IF YOU LOOKED AT THINGS THAT COULD BE EXHIBITS  
3 FOR THE DEFENSE, YOU WOULDN'T KNOW THAT, WOULD YOU, SIR?

4 A NO.

5 Q ALL RIGHT.

6 THE COURT: NOW, YOU WERE ADMONISHED, WEREN'T YOU, BY  
7 MR. BREILING? HE SAID THAT HE ADMONISHED EVERYONE TO BE  
8 ALERT TO DEFENSE-RELATED ATTORNEY/CLIENT PRIVILEGED DOCUMENTS  
9 AND WRITTEN COMMUNICATIONS. IS THAT WHAT HE TOLD YOU?

10 THE WITNESS: THAT'S CORRECT.

11 THE COURT: THAT IS WHAT YOU WERE ALERTED TO AT THE  
12 TIME?

13 THE WITNESS: THAT'S CORRECT.

14 THE COURT: ALL RIGHT. THAT IS WHAT YOU MEANT BY  
15 DEFENSE-RELATED MATTERS?

16 THE WITNESS: THAT'S CORRECT.

17 Q BY MR. BARENS: NOTHING IN THE ADMONITION THAT  
18 MR. BREILING GAVE YOU MADE ANY REFERENCE TO EXHIBITS THAT  
19 THE DEFENSE MIGHT BE UTILIZING AT THE TIME OF THE TRIAL, DID  
20 IT, SIR?

21 THE COURT: WELL, HE DIDN'T KNOW WHAT MIGHT BE UTILIZED  
22 AT THE TIME OF THE TRIAL. WHY ASK THAT QUESTION? HOW COULD  
23 HE POSSIBLY?

24 MR. BARENS: THAT IS PRECISELY MY POINT. I THANK YOUR  
25 HONOR FOR MAKING IT.

26 Q NOW, DID YOU RECALL THAT THE MILLION-FIVE-HUNDRED-  
27 THOUSAND-DOLLAR CHECK WHICH IS ONE OF THE ISSUES IN THE  
28 LEVIN MATTER WAS MADE OUT TO MICROGENESIS?

1 A YES.

2 Q DO YOU RECALL BILL KILPATRICK AS HAVING BEEN A  
3 SIGNATORY ON A CONTRACT YOU FOUND IN THE LEVIN RESIDENCE?

4 THE COURT: THE LEVIN RESIDENCE?

5 MR. BARENS: YES, SIR.

6 THE WITNESS: IN THE LEVIN RESIDENCE? I DON'T KNOW.

7 Q BY MR. BARENS: IN A FOLDER THERE?

8 A I DON'T KNOW. I DON'T RECALL.

9 Q YOU ARE NOT AS YOU SIT HERE TODAY -- YOU DON'T  
10 RECALL?

11 A THAT'S CORRECT.

12 Q DO YOU RECALL BILL MORTON AS BEING A SIGNATORY  
13 ON A CONTRACT FOUND IN THE LEVIN HOME?

14 A IN THE LEVIN HOME? I JUST DON'T RECALL.

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1 Q IS IT POSSIBLE?

2 A IT IS POSSIBLE, YES.

3 Q THOSE NAMES I AM GIVING YOU ARE NOT NEW TO YOU  
4 TODAY, ARE THEY?

5 A NO, NOT AT ALL, NO.

6 Q DID YOU FIND PAPERS INVOLVING THE BROWNING  
7 ATTRITION MILL IN THE LEVIN RESIDENCE?

8 A YES.

9 Q IS IT A FAIR STATEMENT THAT MATERIALS YOU REVIEWED  
10 AT THE ROBERTS RESIDENCE SPECIFICALLY INVOLVED BOTH SUBJECT  
11 MATTERS AND PERSONS THAT WERE INVOLVED IN YOUR INVESTIGATION  
12 OF THE LEVIN ALLEGED HOMICIDE?

13 A YES, AND IN THE OTHER HOMICIDE.

14 Q IN THE OTHER HOMICIDE?

15 A THE NORTHERN CALIFORNIA HOMICIDE OF MR. ESLAMINIA,  
16 WHICH IS THE PURPOSE OF THE SEARCH WARRANT.

17 Q RIGHT.

18 SO THERE WAS INEXTRICABLY SOMEWHAT OF AN OVERLAP,  
19 WOULD YOU SAY?

20 A YES.

21 Q NOW, DID YOU CONSIDER YOURSELF WHETHER ANY OF  
22 THE MATERIALS I MENTIONED TO YOU OF THE NATURE THAT I JUST  
23 ASKED YOU ABOUT, MIGHT HAVE CONSTITUTED EXHIBITS FOR THE  
24 DEFENSE IN THE PREPARATION OF THE TRIAL IN THIS COURTROOM?

25 A NO.

26 Q IT DID NOT CROSS YOUR MIND?

27 A NO.

28 Q DID YOU EVER ASK MR. BREILING ANYTHING ABOUT

1 IF HIS REFERENCE TO THE DEFENSE MATERIALS MIGHT HAVE ENCOMPASSED  
2 ANY OF THOSE MATERIALS?

3 A NO.

4 Q NOW, DURING YOUR ACTIVITIES THERE, DID ANYONE  
5 PRESENT EVER ASK YOU TO LOOK AT ANYTHING THEY HAD LOOKED AT  
6 OR DISCOVERED?

7 A NO.

8 Q WAS THERE EVER AN OCCASION WHEN OSCAR BREILING  
9 MIGHT HAVE SAID TO YOU, "LES, YOU OUGHT TO SEE THIS," INDICATING  
10 SOME MATERIAL; DID THAT EVER OCCUR?

11 A NO.

12 Q DID YOU EVER SEE ANY MATERIALS WITH YELLOW POST-ITS  
13 THAT WERE LAYING ON THE BED IN THE COMPUTER ROOM?

14 A NO.

15 Q DID YOU EVER SEE ANY MATERIALS THAT HAD --  
16 YOU KNOW WHAT I MEAN BY THIS REFERENCE?

17 A YES.

18 Q DID YOU EVER SEE ANYTHING THAT HAD THAT TYPE  
19 OF A PAPER OR INDICATOR AFFIXED TO IT?

20 A NO.

21 Q DID YOU LOOK AT EVERYTHING IN THE COMPUTER ROOM?

22 A NO.

23 Q HOW LONG IN POINT OF TIME WERE YOU IN THE COMPUTER  
24 ROOM?

25 A TOTALLY IN THE COMPUTER ROOM, PROBABLY NO MORE  
26 THAN A HALF AN HOUR.

27 SEARCHING, NO MORE THAN TEN OR FIFTEEN MINUTES.

28 Q DID SOMEONE TELL YOU THAT THE ONLY DEFENSE

1 MATERIALS IN THE COMPUTER ROOM WERE CONTAINED IN THE THREE-  
2 RING BINDERS?

3 A NO.

4 THAT IS JUST WHAT WAS CENTERED ON.

5 Q ALL RIGHT. BUT NO ONE EVER TOLD YOU THAT THE  
6 DEFENSE MATERIALS WERE LIMITED TO JUST THOSE THREE-RING BINDERS,  
7 DID THEY?

8 A NO.

9 Q SIR, IF YOU HAD LOOKED AT THE DEFENSE MATERIALS  
10 IN THE ROBERTS RESIDENCE THAT DAY AND THAT ACTIVITY, YOU  
11 UNDERSTAND AS YOU SIT HERE TODAY AS A WITNESS COULD RESULT  
12 IN THE POSSIBLE DISMISSAL OF THIS CASE AGAINST MR. HUNT, WOULD  
13 YOU TELL ME THE TRUTH ABOUT IT?

14 A YES, I WOULD.

15 Q EVEN THOUGH YOU REALIZE THAT IT WOULD RESULT  
16 POSSIBLY IN THE FRUSTRATION OF THE PROSECUTION?

17 A YES.

18 MR. BARENS: THANK YOU, SIR.

19 MR. WAPNER: YOUR HONOR, I HAVE JUST A COUPLE OF  
20 QUESTIONS, IF THE COURT WILL PERMIT.

21 THE COURT: GO AHEAD.

22

23 EXAMINATION

24 BY MR. WAPNER:

25 Q DETECTIVE ZOELLER, AT THE TIME YOU WERE DOING  
26 THE SEARCH, DID YOU KNOW WHETHER ANY ITEMS THAT YOU LOOKED  
27 THROUGH WERE IN FACT EARMARKED AS EXHIBITS TO BE PRESENTED  
28 BY THE DEFENSE IN THIS CASE?

1           A       NO.

2           Q       SINCE YOU HAVE DONE THE SEARCH, AT ANY TIME BETWEEN  
3 THE TIME YOU SEARCHED AND NOW WHEN YOU ARE TESTIFYING, HAVE  
4 YOU DISCOVERED THAT ANY SPECIFIC ITEM THAT YOU LOOKED AT WAS  
5 EARMARKED AS AN EXHIBIT TO BE PRESENTED BY THE DEFENSE IN  
6 THIS CASE?

7           A       NO.

8           Q       SO YOU DON'T KNOW WHETHER OR NOT YOU SAW ITEMS  
9 THAT WERE TO BE PRESENTED BY THE DEFENSE IN THIS CASE OR NOT,  
10 CORRECT?

11          A       THAT'S CORRECT.

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1 Q AND WHEN YOU AND I SPOKE ON THE TELEPHONE, THE  
2 DAY THAT THE SEARCH WAS BEING CONDUCTED AND YOU WERE STILL  
3 AT THE HOUSE, DID I TELL YOU IN ESSENCE THAT OUT OF AN  
4 ABUNDANCE OF CAUTION I THOUGHT YOU SHOULD LEAVE?

5 A THAT IS CORRECT.

6 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

7 THE COURT: ANYTHING FURTHER?

8 MR. BARENS: NOTHING. THANK YOU, YOUR HONOR.

9 THE COURT: JUST A MINUTE. I HAVE A FEW QUESTIONS  
10 I WANT TO ASK YOU.

11 THE WITNESS: SURE.

12 THE COURT: TO ANTICIPATE ANY POSSIBLE REBUTTAL.

13 IN AN AFFIDAVIT IN THIS PARTICULAR MATTER IN  
14 SUPPORT OF THIS MOTION TO DISMISS, THERE IS AN AFFIDAVIT BY  
15 LYNNE ROBERTS. ON PAGE 2 OF THAT AFFIDAVIT, THE FOLLOWING  
16 IS STATED: "AFTER MR. CHIER FORCED DETECTIVE ZOELLER TO  
17 TALK TO MR. WAPNER ON THE TELEPHONE" --

18 DID HE, WERE YOU FORCED TO TALK ON THE TELEPHONE?

19 THE WITNESS: NO.

20 HE SAID, "FRED WAPNER WANTS TO TALK TO YOU ON  
21 THE PHONE."

22 THE COURT: THIS IS WHAT SHE SAID, "AFTER MR. CHIER  
23 FORCED DETECTIVE ZOELLER TO TALK TO MR. WAPNER ON THE PHONE,  
24 I OVERHEARD A CONVERSATION IN THE HALLWAY BETWEEN AGENT  
25 BREILING AND DETECTIVE ZOELLER, WHO WERE UNAWARE OF MY  
26 PRESENCE AROUND THE CORNER IN MY BEDROOM. THE CONTENTS OF  
27 THIS CONVERSATION WILL BE REVEALED BY MYSELF ON EXAMINATION  
28 AT THE TIME OF THE HEARING HEREOF.



1 "MOREOVER, SUFFICE IT TO SAY THAT THE CONVERSATION  
2 OVERHEARD BY MYSELF WAS MOST DISTURBING TO ME BECAUSE OF ITS  
3 CYNICAL NATURE."

4 DO YOU KNOW WHAT SHE IS TALKING ABOUT?

5 THE WITNESS: I- HAVE NO IDEA, YOUR HONOR.

6 THE COURT: DID YOU HAVE A CONVERSATION WITH MR. BREILING?

7 THE WITNESS: I HAD TWO CONVERSATIONS IN THE HALL.

8 THE COURT: ARE THEY IN ANY WAY TO BE CHARACTERIZED  
9 AS CYNICAL IN NATURE?

10 THE WITNESS: NO, YOUR HONOR.

11 THE COURT: TELL US WHAT THOSE CONVERSATIONS WERE.

12 THE WITNESS: THE FIRST CONVERSATION WAS AFTER I GOT  
13 OFF THE PHONE WITH MR. WAPNER AND I HAD ASKED MR. BREILING  
14 TO COME OUT INTO THE HALLWAY AND I TOLD HIM THAT I AM LEAVING,  
15 THAT MR. WAPNER ASKED ME TO LEAVE AND BECAUSE OF DEFENSE  
16 MATERIALS, I AM LEAVING.

17 AND FROM THERE, HE WENT AND SPOKE TO, I BELIEVE,  
18 MR. WAPNER ON THE PHONE AND HE CAME BACK AND IN THE HALL AGAIN,  
19 IT WAS DISCUSSED THAT MR. WAPNER HAD CHANGED HIS MIND: "THAT  
20 HE WANTS YOU TO CONTINUE."

21 AND AT THAT POINT, I MADE A DECISION TO LEAVE  
22 ANYWAY, WITHOUT SPEAKING TO MR. WAPNER ON THE PHONE.

23 TO MY RECOLLECTION, THAT IS ALL THAT WAS SAID  
24 IN THE HALLWAY.

25 THE COURT: DID YOU EVER RUMMAGE AROUND IN THE PERSONAL  
26 EFFECTS OF BROOKE ROBERTS?

27 THE WITNESS: YES.

28 THE COURT: AND YOU FOUND NOTHING THERE, DID YOU?

1 THE WITNESS: THE ONLY THING I FOUND IN REFERENCE TO  
2 MR. JOE HUNT THERE OR THE BBC OR ANYBODY -- IT WAS JUST JOE  
3 HUNT -- WAS TWO PHOTOGRAPHS. ONE WAS JUST JOE HUNT AND/WITH <sup>ONE</sup>  
4 JOE HUNT AND BROOKE, AND A LETTER FROM JOE HUNT TO BROOKE  
5 ROBERTS AND A HAND DRAWN MAP AND I THINK IT WAS WITH DIRECTIONS  
6 TO A LOCATION IN SAN FERNANDO VALLEY TO A FRANK'S HOUSE.

7 THAT WAS ALL THAT I SAW THERE, WHICH WERE NOT  
8 SEIZED.

9 THE COURT: ALL RIGHT.

10 MR. BARENS: FOR THE RECORD, AS YOU KNOW, A DEFENSE  
11 WITNESS, OR I AM ADVISING THE COURT, A DEFENSE WITNESS IN  
12 THIS MATTER WOULD BE LYNNE ROBERTS, WHO HAS NOT TESTIFIED  
13 IN THIS COURTROOM YET. YOUR HONOR, I TRUST THAT I DO NOT  
14 SENSE ANY PREJUDGMENT.

15 THE COURT: NOT AT ALL.

16 WHY I WAS ASKING HIM, INSTEAD OF HAVING HIM  
17 CALLED BACK AGAIN AFTER LYNNE ROBERTS HAS TESTIFIED, I WAS  
18 ASKING HIM TO MAKE AN EXPLANATION AS TO WHAT THAT CONVERSATION,  
19 IF ANY, WAS. I AM JUST ANTICIPATING SO AS NOT TO WASTE TIME  
20 AND HAVE HIM CALLED BACK AGAIN.

21 MR. BARENS: SO THERE IS NO REASON FOR THE DEFENSE  
22 TO BELIEVE THAT YOUR HONOR WOULD BE LESS WILLING TO BELIEVE  
23 THE CREDIBILITY OF THAT WITNESS WHEN CALLED?

24 THE COURT: NO, NO. I JUST WANT TO GET HIS VERSION  
25 OF THAT BECAUSE HE MIGHT NOT BE HERE AT THE TIME AND THERE  
26 IS NO SENSE IN GETTING HIM BACK AGAIN IF IT CAN BE ANTICIPATED.  
27 THAT IS THE REASON I DID THAT.

28 MR. BARENS: SO I SHOULD NOT FEEL ANY PREJUDGMENT AT

1 ALL BY THE COURT?

2 THE COURT: NOT AT ALL. I AM SURPRISED YOU SHOULD  
3 SAY I HAVE ANY.

4 MR. BARENS: IT GOES BACK, YOUR HONOR, TO A COLLOQUY  
5 WE HAD LAST WEEK ABOUT A GRAIN OF SALT, ACTUALLY, YOUR HONOR,  
6 THAT I AM VERY CONCERNED ABOUT.

7 THE COURT: DON'T BE CONCERNED ABOUT IT, WILL YOU?  
8 YOU KNOW EXACTLY HOW I THINK AND HOW I FEEL AND THERE WON'T  
9 BE ANYTHING HIDDEN FROM YOU.

10 MR. BARENS: ALL RIGHT. THANK YOU, YOUR HONOR.

11 NOTHING FURTHER.

12 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
13 BE EXCUSED.

14 THE WITNESS: THANK YOU.

15 THE COURT: SHALL WE TAKE A RECESS AT THIS TIME?

16 MR. BARENS: IF YOU WOULD, YOUR HONOR.

17 THE COURT: ALL RIGHT.

18 (RECESS.)

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1 THE COURT: ALL RIGHT. IT WILL BE STIPULATED THE  
2 DEFENDANT AND COUNSEL ARE PRESENT. I WANT TO ADMONISH  
3 MR. ZOELLER. IS HE AROUND?

4 MR. WAPNER: NO.

5 THE COURT: YOU CONVEY TO HIM AND TELL HIM UNDER NO  
6 CIRCUMSTANCES, IS HE TO TALK TO ANY WITNESSES, IF THERE IS  
7 ANYTHING AT ALL THAT HE KNOWS OR RECOLLECTS, NOT TO TALK TO  
8 ANY OF THE WITNESSES OR TO YOU ABOUT ANYTHING THAT HE MIGHT  
9 HAVE READ.

10 MR. WAPNER: I HAVE ALREADY DONE THAT AT THE COURT'S  
11 DIRECTION, YOUR HONOR.

12 THE COURT: VERY GOOD.

13 ANY FURTHER WITNESSES, MR. WAPNER?

14 MR. WAPNER: NO, YOUR HONOR. I WOULD SAY THAT THE PEOPLE  
15 REST BUT AS THE COURT UNDERSTOOD WHEN WE STARTED, IT WAS MORE  
16 AN ACCOMMODATION TO THE DEFENSE, SINCE IT IS THEIR BURDEN.

17 THE COURT: YOU HAVE NO FURTHER WITNESSES AT THIS TIME?

18 MR. WAPNER: CORRECT.

19 THE COURT: HAVE YOU ANY WITNESSES?

20 MR. BARENS: YES. WE CALL MR. CHIER.

21  
22 RICHARD C. CHIER,  
23 CALLED AS A WITNESS BY THE DEFENDANT, WAS SWORN AND TESTIFIED  
24 AS FOLLOWS:

25 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY  
26 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL  
27 BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO  
28 HELP YOU GOD.

1 THE WITNESS: I DO.

2 THE CLERK: STATE YOUR NAME FOR THE RECORD.

3 THE WITNESS: RICHARD C. CHIER, C-H-I-E-R.

4  
5 EXAMINATION

6 BY MR. BARENS:

7 Q MR. CHIER, HOW ARE YOU EMPLOYED?

8 A I AM AN ATTORNEY AT LAW.

9 Q AND ARE YOU CO-COUNSEL WITH MYSELF IN THE MATTER  
10 OF THE PEOPLE VERSUS HUNT, PENDING BEFORE THIS COURT?

11 A THERE ARE THOSE WHO DISAGREE. BUT YES, I CONSIDER  
12 MYSELF CO-COUNSEL.

13 Q MR. CHIER, WERE YOU PRESENT IN THE COURTROOM ON  
14 JANUARY 8, 1986?

15 A YES. WHEN?

16 Q IN THE MORNING PRIOR TO 11 A.M.?

17 A YES.

18 Q AND DID YOU RECEIVE A PHONE CALL FROM SOMEONE  
19 ADVISING YOU ABOUT CERTAIN ACTIVITIES TRANSPILING AT THE  
20 ROBERTS' RESIDENCE?

21 A NO. I RECEIVED A NOTE FROM THE BAILIFF THAT THERE  
22 WAS AN EMERGENCY.

23 AND I WENT OUT AND PLACED A CALL TO YOUR OFFICE,  
24 TO DETERMINE THE NATURE OF IT.

25 Q AND WHAT WERE YOU TOLD?

26 A I WAS TOLD THAT THERE WAS A SEARCH TAKING PLACE  
27 AT THE RESIDENCE OF MR. AND MRS. BOBBY ROBERTS AND THAT THERE  
28 WERE APPROXIMATELY 15 TO 20 POLICE OFFICERS AT THE RESIDENCE.

1 THE RESIDENCE WAS SURROUNDED AND THAT THERE WERE OFFICERS  
2 MILLING ABOUT AND SWARMING ABOUT THE HOUSE, CONDUCTING SEARCHES  
3 OF THE PREMISES.

4 Q AND WHAT DID YOU DO IN RESPONSE TO RECEIVING THAT  
5 INFORMATION, SIR?

6 A I CAME BACK INTO COURT. THERE WAS A NOTE EXCHANGE  
7 I GUESS WITH YOU, SOME DISCUSSIONS AND I THINK THAT THE  
8 MATTER WAS BROUGHT TO THE COURT'S ATTENTION, AS I RECALL.

9 THEN THE COURT SUGGESTED THAT I GO THERE, SINCE  
10 IT WOULDN'T RECESS FOR BOTH OF US TO GO.

11 Q AND APPROXIMATELY WHAT TIME DID YOU LEAVE THE  
12 COURTROOM?

13 A MY BEST ESTIMATE IS ABOUT 11:45, ARRIVING THERE  
14 AT APPROXIMATELY NOON.

15 Q AND WAS IT YOUR INTENT TO GO TO THE ROBERTS'  
16 PREMISES TO OBSERVE WHAT WAS OCCURRING?

17 A TO OBSERVE AND TO DO WHAT I COULD TO PREVENT THE  
18 DAMAGE FROM OCCURRING, IF I WERE ABLE.

19 WHILE EN ROUTE, I PLACED A CALL FROM MY CAR TO  
20 YOU.

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1 Q WOULD YOU PLEASE TELL THE COURT ABOUT --  
2 DID YOU CALL ME AND I MADE AN INQUIRY TO YOU ABOUT  
3 WHETHER OR NOT YOU HAD ANY SUGGESTIONS AS TO ANY PROCEDURE  
4 YOU MIGHT BE ABLE TO SUGGEST DURING THESE SOMEWHAT NOVEL  
5 CIRCUMSTANCES?

6 A YES.  
7 YOU SAID, "WHAT SHOULD WE DO" AND I SAID, "HERE  
8 IS WHAT I THINK SHOULD BE DONE."

9 Q SOUNDS LIKE ME.  
10 YES, MR. CHIER.

11 A I SAID, "I THINK YOU SHOULD MAKE IMMEDIATELY A  
12 MOTION TO HAVE JOE HUNT BE GIVEN TEMPORARY PRO PER STATUS,  
13 WHICH WOULD THEN CONVERT HIS QUARTERS INTO AN OFFICE, IN MY  
14 JUDGMENT, WHICH WOULD THEN, THEREFORE, REQUIRE THAT THE  
15 SEARCH BE CONDUCTED WITH THE AID OF A SPECIAL MASTER," WHICH  
16 IS PROVIDED FOR IN THE PENAL CODE WHICH, IN MY JUDGMENT,  
17 WOULD HAVE OBTIATED MUCH OF THIS WHOLE THING HAD IT BEEN DONE  
18 THAT WAY IN THE FIRST PLACE.

19 BUT I SUGGESTED THAT TO YOU AND YOU REPRESENTED  
20 TO ME YOU WOULD TAKE CARE OF IT IMMEDIATELY.

21 Q NOW, MR. CHIER, WAS IT OUR DISCUSSION THAT WE  
22 WERE TRYING TO FIND A WAY TO KEEP THE MATERIALS THAT WERE  
23 TAKEN FROM THE ROBERTS' RESIDENCE FROM LEAVING THE  
24 JURISDICTION UNTIL A JUDGE OR REFEREE COULD MAKE CERTAIN  
25 DETERMINATIONS ABOUT THEIR NATURE, COMPOSITION AND THE IMPACT  
26 THEY COULD HAVE ON THE DEFENSE IN THIS MATTER?

27 A WELL, BEING SEEN IN THE FIRST PLACE, AND IN THE  
28 SECOND PLACE, BEING REMOVED FROM THE JURISDICTION.

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1 Q DID I LATER TELL YOU, AND I BELIEVE THE JUDGE  
2 WILL TAKE NOTICE, THAT I IN FACT MADE SUCH A MOTION TO THE  
3 COURT?

4 A WHEN I ARRIVED AT THE RESIDENCE AND AFTER BEING  
5 ALLOWED GRUDGING ENTRANCE TO THE RESIDENCE, I WENT IMMEDIATELY  
6 UPSTAIRS TO MEET BOBBY ROBERTS.

7 I SAW THE PLACE SWARMING WITH OFFICERS, SOME WHOM  
8 I RECOGNIZED, SOME WHOM I DIDN'T, AND I WENT TO THE PHONE  
9 TO CONTACT YOU TO SEE WHAT WAS THE STATUS OF THE MOTION, THE  
10 PRO PER MOTION.

11 MR. WAPNER: OBJECTION. THERE IS NO QUESTION PENDING.  
12 I CAN'T EVEN REMEMBER WHAT IT WAS BUT WE ARE GETTING INTO  
13 A NARRATIVE HERE.

14 Q BY MR. BARENS: THE QUESTION WAS ASKED, DID I  
15 EVER TELL YOU THAT I HAD MADE THE MOTION TO THE COURT?

16 A WELL, I WAS JUST GETTING THERE.

17 I WAS THEN, LIKE, PUT ON HOLD OR SOMETHING WHEN  
18 I CALLED IN TO SEE WHAT WAS GOING ON, AND SO IN THE MEANTIME,  
19 I TOLD BREILING --

20 MR. WAPNER: WAIT A SECOND. I WILL OBJECT TO ALL OF  
21 THIS AS NONRESPONSIVE. THAT QUESTION COULD HAVE BEEN ANSWERED  
22 YES OR NO, "DID I TELL YOU?"

23 THE WITNESS: NOT AT THIS POINT, I ATTEMPTED TO FIND  
24 OUT AND I WAS PUT ON HOLD.

25 Q BY MR. BARENS: ALL RIGHT, BEFORE I TOLD YOU AS  
26 TO THE OUTCOME OR WHETHER OR NOT I HAD ARTICULATED THE MOTION  
27 TO HIS HONOR, DID YOU HAVE A CONVERSATION REGARDING THE  
28 SUBJECT OF THE PURPORTED MOTION WITH ANYONE PRESENT AT THE



1 HOUSE?

2 A I TOLD BREILING WHAT WE WERE DOING, THAT THERE  
3 WAS A MOTION PENDING FOR HUNT TO BE PRO PER, WHICH WOULD MAKE  
4 HIM AN ATTORNEY AND THAT IT WOULD MAKE THE SEARCH, THE SEARCH  
5 OF AN ATTORNEY'S OFFICE WHICH REQUIRED A SPECIAL MASTER, AND  
6 I TOLD HIM I THOUGHT HE SHOULD STOP IT FOR THAT AND FOR OTHER  
7 REASONS.

8 Q WHAT WAS HIS RESPONSE?

9 A HIS RESPONSE WAS THAT HE HAD A SEARCH WARRANT  
10 AND HE WAS GOING TO SEARCH THE HOUSE AND THAT HE WAS GOING  
11 TO CONTINUE SEARCHING THE HOUSE UNLESS AND UNTIL HE HAD SOME  
12 ORDER IN WRITING TO THE CONTRARY FROM SOME COURT OF EQUAL  
13 OR GREATER DIGNITY.

14 THE COURT: PARDON ME. BEFORE YOU GO ON. WHAT SECTION,  
15 DID YOU SAY, OF THE PENAL CODE WHICH PROVIDES FOR THE  
16 APPOINTMENT OF A SPECIAL MASTER?

17 THE WITNESS: I DON'T KNOW. IT IS JUST IN THERE, JUDGE.

18 THE COURT: YOU MADE REFERENCE TO IT.

19 THE WITNESS: BUT I DON'T HAVE ALL OF THE NUMBERS  
20 MEMORIZED.

21 MR. BARENS: WELL, PERHAPS I THINK MR. WAPNER MIGHT  
22 KNOW THAT.

23 MR. WAPNER: I DON'T HAVE THE SECTION OFF THE TOP OF  
24 MY HEAD.

25 THE WITNESS: IT IS IN THE 1500 SECTION OF THE SEARCH  
26 SECTION.

27 THE COURT: ALL RIGHT, I JUST WANTED TO KNOW WHAT IT  
28 WAS. I AM CURIOUS ABOUT IT. GO AHEAD.

1 THE WITNESS: I DON'T KNOW.

2 MR. BARENS: OFF THE RECORD, WAS THAT 1504?

3 THE COURT: GO AHEAD.

4 MR. BARENS: I COULD WELL BE WRONG, YOUR HONOR. BUT  
5 ONE TIME THAT DAY WHEN I MADE THE MOTION, WE HAD THE NUMBER.

6 THE WITNESS: IT IS IN THE 1530-SOMETHING SECTION.

7 I DON'T KNOW THE PRECISE NUMBER.  
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1 MR. BARENS: ALL RIGHT. IN ANY EVENT --

2 THE WITNESS: LISTED UNDER SPECIAL MASTER IN THE INDEX,  
3 YOUR HONOR.

4 MR. BARENS: IN ANY EVENT YOUR HONOR, WHEN WE MADE  
5 THE MOTION, I BELIEVE I HAD THE SECTION THAT I INDICATED TO  
6 YOU.

7 THE COURT: YOU MEAN ABOUT THIS SPECIAL MASTER? ALL  
8 RIGHT. GO AHEAD.

9 MR. BARENS: I THINK THE RECORD WOULD SHOW THAT WE  
10 HAD SOME MORE SPECIFIC DISCUSSIONS, YOUR HONOR.

11 Q IN ANY EVENT, DID YOU EVER AT ANY TIME, TELL  
12 MR. BREILING OR ANY PERSON PRESENT, THAT THE COURT HAD RULED  
13 AND DETERMINED MR. HUNT TO BE IN A PRO PER STATUS?

14 A I NEVER REPRESENTED THAT AS A FACT. I SAID THAT  
15 IT WAS SOMETHING THAT WAS HAPPENING OR ABOUT TO HAPPEN.

16 I DON'T REMEMBER HOW I PUT IT. BUT WHAT I  
17 ACTUALLY SAID IS THAT IT WAS HAPPENING OR ABOUT TO HAPPEN  
18 AND THAT HE SHOULD CALL WAPNER.

19 HE SAID HE DIDN'T HAVE TO CALL ANYBODY, THAT  
20 HE WAS GOING TO KEEP ON KEEPING ON UNTIL HE HAD AN ORDER FROM  
21 SOME COURT OF EQUAL OR GREATER DIGNITY.

22 THAT WAS IT. THEN THE VOICE RAISED A FEW OCTAVES  
23 OR AN OCTAVE OR TWO. AND MR. BREILING PUT HIS FACE RIGHT UP  
24 AGAINST MINE, ABOUT AN INCH AWAY AND HIS CHEST WAS TOUCHING  
25 ME IN HIS RAID JACKET.

26 HE SAID, "LISTEN, YOU CAN BE AN OBSERVER," OR  
27 WORDS TO THAT EFFECT BUT DO NOT INTERFERE WITH US OR WE ARE  
28 GOING TO PUT YOU OUTSIDE.

1 I THINK THE VEILED THREAT WAS THAT I WOULD BE  
2 ARRESTED FOR OBSTRUCTION OF AN OFFICER IN THE PERFORMANCE  
3 OF HIS DUTY.

4 AND SINCE ABOUT TWO YEARS AGO, I WAS PROSECUTED  
5 BY MR. WAPNER'S OWN OFFICE FOR THAT SAME OFFENSE, I WAS  
6 PROPERLY CHASTENED UNDER THE CIRCUMSTANCES AND I BACKED OFF  
7 AS DIRECTED.

8 Q ALL RIGHT. DID YOU HAVE OCCASION TO GO TO THE  
9 SECOND FLOOR OF THE ROBERTS' RESIDENCE?

10 A RIGHT. I WENT TO THE SECOND FLOOR. SHORTLY  
11 AFTER ARRIVAL, I WAS MET BY --

12 MR. WAPNER: OBJECTION. AGAIN, YOUR HONOR, THIS IS  
13 A NARRATIVE. HE ASKED A QUESTION IF HE WENT TO THE SECOND  
14 FLOOR AND HE SAID YES AND THEN STARTS --

15 MR. BARENS: I AM TRYING TO LET HIM TALK TO GET IT  
16 OVER WITH. JUDGE, I WOULD ASK LEAVE TO JUST LET HIM NARRATE  
17 IT AND THEN WE CAN BE DONE WITH THE WITNESS. IT WILL MAKE  
18 IT GO FASTER, JUDGE.

19 THE COURT: ALL RIGHT. GO AHEAD.

20 Q BY MR. BARENS: MR. CHIER, WHAT DID YOU DO WHEN  
21 YOU WENT UP TO THE SECOND FLOOR? WHAT HAPPENED? BE AS BRIEF  
22 AS YOU CAN BE.

23 MR. WAPNER: YOUR HONOR, I ASSUME THAT I CAN INTERPOSE  
24 THE APPROPRIATE OBJECTIONS, AS I SEE FIT.

25 THE COURT: YES.

26 THE WITNESS: WHEN WE GOT THERE, FINALLY I HAD TO SHOW  
27 MY I.D. AND I WAS LIKE, ESCORTED TO -- FIRST THE BACK DOOR  
28 AND THEN TO THE FRONT DOOR AND THEN FINALLY, WE WAITED FOR

1       SOMEBODY FROM THE INSIDE TO COME TO THE FRONT DOOR TO ESCORT  
2       ME UPSTAIRS.

3                       UPSTAIRS, I WAS THEN -- I SAW --

4               MR. WAPNER:   EXCUSE ME, MR. CHIER.   I NEED TO  
5       INTERRUPT YOU FOR ONE SECOND.   COULD I HAVE LEAVE OF THE COURT  
6       FOR JUST ONE MOMENT?   I HAVE SOME DOCUMENTS THAT I NEED TO  
7       GET OUT IN THE MAIL.   I NEED TO SIGN THEM NOW AND RETURN THEM  
8       TO SOMEONE.   THANK YOU.

9                       (PAUSE.)

10              MR. BARENS:   IF THERE ARE ANY FOR ME, FRED, I WILL  
11      TAKE THEM RIGHT HERE.

12              MR. WAPNER:   I APOLOGIZE, YOUR HONOR.   THANK YOU.

13              Q           BY MR. BARENS:   MR. CHIER, HAVE YOU EVER BEEN  
14      IN THAT HOUSE BEFORE?

15              A           I HAD NOT PREVIOUSLY BEEN IN THAT HOUSE OR EVEN  
16      BEEN BY IT.   AND SO, THIS WAS AN EXPERIENCE OF FIRST IMPRESSION  
17      FOR ME.

18              Q           THANK YOU.   GO AHEAD WITH YOUR STATEMENT.

19              A           WELL FINALLY, AFTER SOMEBODY, ONE OF THE OFFICERS  
20      FROM INSIDE CAME TO THE FRONT DOOR, I WAS ADMITTED INTO THE  
21      RESIDENCE AND I BELIEVE ESCORTED UPSTAIRS WHERE I WAS MET  
22      BY MR. BOBBY ROBERTS.

23                       AT WHICH TIME I SAW MR. BREILING AND I HAD THIS  
24      INITIAL CONVERSATION WITH MR. BREILING, WHICH WAS IN MY  
25      JUDGMENT, THE BEST THING THAT I COULD DO UNDER THE CIRCUMSTANCES,  
26      TO KIND OF KEEP THE STATUS QUO BEFORE THE DAMAGE WAS YOU KNOW,  
27      OUT OF CONTROL.

28                       THEN I WENT TO I GUESS, THE MASTER BEDROOM AND

1 GOT ON THE PHONE TO CHECK HERE, CHECK BACK HERE TO SEE WHAT  
2 WAS HAPPENING AND TO REPORT BACK TO YOU WHAT WAS GOING ON  
3 THERE.

4 AND IN THE MEANTIME, I WAS LIKE PUT ON HOLD OR  
5 SOMETHING. AND I WENT BACK AND I SAW MR. ROBERTS AGAIN. THERE  
6 WERE TWO ROOMS THAT WERE UNDER THE MOST INTENSIVE SCRUTINY.

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1                   THERE WAS ONE ROOM WHICH I GUESS WE COULD CALL  
2 THE COMPUTER ROOM. THE OTHER ROOM WOULD BE TO THE SOUTH,  
3 WHICH WAS --

4           Q        AND WHO DID YOU FIND PRESENT IN THOSE ROOMS?

5           A        WELL, FIRST I WENT TO THE BEDROOM. IN THE BED-  
6 ROOM WERE BREILING AND OTHER PEOPLE I DIDN'T RECOGNIZE. AND  
7 THEY WERE OBVIOUSLY, CONDUCTING A SEARCH.

8                   IN THE COMPUTER BEDROOM, WAS OFFICER OR  
9 DETECTIVE ROZZI, KURT KUHN -- NO. KURT KUHN WAS KIND OF LIKE,  
10 MILLING ABOUT. HE HAD ANOTHER SID PERSON NAMED FOGG, I GUESS,  
11 LIKE A MUTT AND JEFF TEAM. KUHN WAS BIG, THE TALL ONE. THE  
12 OTHER ONE WAS A SHORT ONE. I SAW THEM THERE.

13                   AND THAT SORT OF SURPRISED ME BECAUSE I KNEW  
14 KUHN TO BE BEVERLY HILLS P.D. AND I SAID, "WHAT ARE YOU DOING  
15 HERE?" AND HE SAID, "THEY ASKED ME TO COME UP AND HELP."

16                   AND I HAD SOME CONVERSATION WITH BREILING ABOUT  
17 THAT. AND THAT IS WHEN I GOT A LITTLE EXCITED. AND THEN  
18 I SAW LES ZOELLER THERE, SHORTLY AFTER THAT.

19           Q        WHERE WAS MR. ZOELLER WHEN YOU SAW HIM?

20           A        MR. ZOELLER WAS IN THE COMPUTER ROOM.

21           Q        NOW, IN THE COMPUTER ROOM, DID YOU RECOGNIZE  
22 ANY MATERIALS THAT YOU CONSIDERED OR KNEW TO BE DEFENSE  
23 MATERIALS?

24           A        WELL, OUR ENTIRE FILES WERE THERE, YOU KNOW,  
25 FOR ONE THING. I THINK ABOUT EIGHT OR TEN VOLUMES OF TRIAL  
26 NOTEBOOKS, THOSE FOUR-INCH WIDE, SPINED, THREE-RING BINDERS  
27 WHICH HAD YOU KNOW, ON THEM LABELS THAT SAID EITHER "KARNY  
28 TESTIMONY" OR "BBC RECORDS" OR WHATEVER.

1 I MEAN, WHATEVER THEY WERE DENOMINATED. THEY  
2 HAD LIKE, INDEX TABS.

3 Q MR. CHIER, DID YOU SEE ANY DEFENSE MATERIALS  
4 THAT WOULD HAVE BEEN IN PLAIN VIEW, ASIDE FROM THOSE NOTEBOOKS?

5 A WELL, THE ROOM WAS LITTERED WITH THINGS. THEY  
6 WERE STREWN ALL OVER. PILES WERE EVERYWHERE.

7 THE COURT: WELL, TELL US WHAT THEY WERE. HE WANTS  
8 TO KNOW THAT.

9 THE WITNESS: WHAT DO YOU MEAN? TELL YOU THE CONTENTS  
10 OF THEM?

11 THE COURT: DEFENSE MATTERS YOU ARE TALKING ABOUT?  
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1 Q WELL, I WILL ASK YOU, MR. CHIER, CAN YOU TELL  
2 ME IN A GENERALIZED SENSE, DID YOU SEE --

3 A ALL RIGHT, I WILL TELL YOU.

4 Q -- DID YOU SEE PAPERWORK PRODUCED FROM A COMPUTER,  
5 FOR INSTANCE, THAT WOULD BE CONSIDERED COMPUTER MATERIAL?

6 A I SAW ABOUT A HALF OF A REAM.

7 THE COURT: WHAT DO YOU MEAN, BECAUSE IT COMES OUT OF  
8 THE COMPUTER, IT IS DEFENSE MATERIAL, IS THAT WHAT YOU ARE  
9 SAYING?

10 MR. BARENS: I ASKED, YOUR HONOR, IF THAT WOULD BE  
11 CONSIDERED DEFENSE MATERIALS. I AM ASKING HIM IF HE  
12 RECOGNIZED IT.

13 THE COURT: IF THERE IS ANYTHING IN THE COMPUTER MATERIALS  
14 THAT WOULD BE DEFENSE-RELATED?

15 MR. BARENS: YES.

16 THE COURT: ALL RIGHT, THEN ASK HIM THAT.

17 MR. BARENS: I AM SORRY, YOUR HONOR. I THOUGHT I PUT  
18 IT THAT WAY.

19 THE COURT: YES.

20 Q BY MR. BARENS: ANSWER HIS HONOR'S QUESTION, PLEASE.

21 A WHAT WAS IT? .

22 THE COURT: THE COMPUTER MATERIALS THAT YOU SAW, IN  
23 WHAT MANNER WERE THEY DEFENSE RELATED?

24 THE WITNESS: WHAT WERE THE CONTENTS?

25 THE COURT: YES.

26 THE WITNESS: I REFUSE TO ANSWER THAT.

27 MR. BARENS: I DON'T BELIEVE COUNSEL CAN ANSWER UNDER  
28 ANY CIRCUMSTANCES.

1 THE COURT: HOW DO WE KNOW THEY ARE DEFENSE RELATED?

2 THE WITNESS: THAT IS THE CONUNDRUM WE ARE IN.

3 MR. BARENS: WELL, THAT IS THE --

4 THE COURT: IN GENERAL TERMS, WHAT WAS IT THAT WAS DEFENSE  
5 RELATED?

6 THE WITNESS: IN GENERAL TERMS, IT WAS A COMPLETE TIME  
7 LINE AND CROSS-INDEXING OF PERSONS, PLACES, THINGS AND EVENTS  
8 THAT HAD BEEN PREPARED BY MR. HUNT AT THE DIRECTION OF  
9 MR. BARENS AND MYSELF, TO TRY TO BRING SOME ORDER OUT OF THIS  
10 OTHERWISE CHAOTIC MOUNTAIN OF DISCOVERY AND ALL OF HUNT'S --  
11 ALL OF THE DOZENS OF WITNESSES IN THIS CASE, THE DRAFT OF  
12 WHICH HAD BEEN DELIVERED TO MR. BARENS IN COURT BY MR. HUNT  
13 THE DAY OR ONE OR TWO DAYS PRECEDING THIS INCIDENT ON THE  
14 8TH.

15 AND I HAD NOT ACTUALLY GONE THROUGH IT WHEN  
16 MR. HUNT BROUGHT IT TO COURT, OTHER THAN TO KIND OF SCAN THROUGH  
17 IT, AND I SAW WHAT IT WAS AND THAT IT WAS PRECISELY THE THING  
18 THAT WE HAD ASKED AND TALKED WITH MR. HUNT ABOUT PUTTING  
19 TOGETHER.

20 THERE WERE, IN ADDITION TO THAT, SOME COMPUTER-  
21 GENERATED PAPER IN THE WASTE RECEPTACLE WHICH --

22 THE COURT: ALL RIGHT, BEFORE YOU GO ON. WERE THESE  
23 COMPUTER PRODUCTS, WERE THEY SEIZED?

24 THE WITNESS: THEY WERE BEING READ BY TWO OFFICERS.

25 THE COURT: WERE THEY SEIZED, I ASKED YOU.

26 THE WITNESS: I DON'T KNOW WHAT WAS SEIZED, JUDGE.

27 THE COURT: I THOUGHT YOU LOOKED OVER EVERYTHING BEFORE  
28 IT WAS SEIZED.

1 THE WITNESS: THAT IS NOT CORRECT, NO, I DIDN'T.

2 I LOOKED OVER SOME OF THE THINGS.

3 SOME OF THE THINGS, I DIDN'T.

4 THE COURT: ALL RIGHT, I WILL SEE WHETHER OR NOT THEY  
5 WERE SEIZED WHEN I GET THE PACKAGE.

6 MR. BARENS: FOR THE RECORD, YOUR HONOR, WE WOULD OBJECT  
7 TO YOUR HONOR READING THOSE MATERIALS.

8 THE COURT: YOU HAVE MADE YOUR OBJECTION KNOWN BEFORE  
9 AND I MADE IT A POINT TO TELL YOU THAT IT IS IMPOSSIBLE FOR  
10 ME TO KNOW WHETHER OR NOT ANYTHING IS CONFIDENTIAL IN THAT  
11 WHICH WAS TAKEN AND DEFENSE RELATED UNTIL I ACTUALLY LOOK  
12 AT IT.

13 MR. BARENS: I UNDERSTAND YOUR HONOR'S POINT OF VIEW,  
14 YOUR HONOR.

15 THE COURT: ALL RIGHT.

16 Q BY MR. BARENS: IN ANY EVENT, THE COMPUTER-PRODUCED  
17 AND TYPED MATERIALS YOU JUST MADE REFERENCE TO, MR. CHIER,  
18 WERE THEY IN PLAIN VIEW?

19 A THEY WERE IN PLAIN VIEW IN AT LEAST THREE  
20 DIFFERENT LOCATIONS ADJACENT TO THE COMPUTER.

21 ONE WAS THE TRASH RECEPTACLE. ONE WAS THE  
22 TABLE ON WHICH THE COMPUTER WAS RESTING AND ONE WAS THE FLOOR  
23 IMMEDIATELY UNDERNEATH THE TABLE OR THE STAND, THE COMPUTER  
24 STAND, WHATEVER YOU CALL IT.

25 Q WAS ANYONE HANDLING OR READING THOSE MATERIALS,  
26 SIR?

27 A THERE WERE TWO PEOPLE, AND THIS IS THE THING THAT  
28 WAS LIKE DISTURBING ME THE MOST, THERE WAS A PERSON THAT I

1 DIDN'T KNOW FROM ANY PRIOR MEETING, WHO I DETERMINED TO BE  
2 DETECTIVE ROZZI, SITTING OR KNEELING AND GOING PAGE BY PAGE  
3 BY PAGE THROUGH THE MATTER IN THE TRASH AND THE MATTER NEXT  
4 TO THE COMPUTER STAND.

5 I HAD, BY THAT TIME, MANAGED TO GET A COPY OF  
6 THE SEARCH WARRANT ITSELF, WHICH AUTHORIZED IN VERY GENERAL  
7 TERMS THE SEIZURE OF ALMOST ANYTHING THAT WAS PAPER.

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1 Q MR. CHIER, IF I MIGHT, DID WE CAUSE THE DEFENDANT  
2 TO PRODUCE SOMETHING FOR US CALLED A MASTER CONTROL FILE?

3 THE COURT: MASTER CONTROL FILE?

4 MR. BARENS: YES, SIR.

5 THE WITNESS: THAT WAS -- THAT WAS THE COMPUTER-GENERATED  
6 DOCUMENT.

7 Q BY MR. BARENS: THAT IS THE DOCUMENT THAT CONSISTED  
8 OF A COMPREHENSIVE SUMMARY AND ANALYSIS OF THE DEFENSE  
9 POSITION IN A CHRONOLOGICAL ORDER AS TO ALL ISSUES THAT WE  
10 CAN ANTICIPATE IN THIS CASE?

11 A AMONG OTHER THINGS.

12 Q IS THAT CORRECT, SIR?

13 A YES.

14 Q IS THAT THE DOCUMENT THAT YOU SAW MR. ROZZI  
15 READING PAGE BY PAGE?

16 A I SAW HIM READING WHAT WAS A DRAFT OF THAT, WHICH  
17 WOULD HAVE BEEN LIKE, YOU KNOW, IT WAS A FIRST RUN OR  
18 SOMETHING OR SECOND OR THIRD RUN. I DON'T KNOW WHICH RUN  
19 IT WAS.

20 Q DID YOU SEE --

21 A COULD I JUST SAY THAT BY THIS TIME I HAD ACTUALLY  
22 GOTTEN A COPY OF THE WARRANT.

23 I SAW THAT THERE WERE SOME DATES AT LEAST ON THERE,  
24 DATING BACK TO ABOUT 1984 AND I REMARKED TO MR. ROZZI, WHO  
25 WAS LIKE STUDYING THE MATERIALS IN THE TRASH RECEPTACLE, I  
26 ASKED HIM, I SAID, "DO YOU THINK THESE THINGS HAVE BEEN IN  
27 THE TRASH SINCE 1984?"

28 AND HE SAID, "WELL, SOMETIMES I KEEP STUFF AROUND

1 MY HOUSE THAT I THROW OUT, YOU KNOW."

2 MR. WAPNER: COULD WE HAVE THIS DONE WITHOUT THE  
3 PEJORATIVE?

4 THE COURT: IT IS PART OF HIS NATURE, HE CAN'T HELP  
5 IT.

6 MR. BARENS: I DIDN'T FIND ANYTHING PEJORATIVE ABOUT  
7 THAT.

8 THE COURT: I WILL PERMIT HIM TO GO AHEAD.

9 MR. BARENS: ON THE RECORD, IT WOULDN'T COME OUT  
10 PEJORATIVE.

11 Q BY MR. BARENS: MR. CHIER, ASIDE FROM MR. ROZZI  
12 LOOKING AT THE MASTER CONTROL FILE -- I AM IDENTIFYING IT  
13 AS, YOUR HONOR, AND I REPRESENT TO YOUR HONOR THAT I HAD IN  
14 FACT TWO DAYS PRIOR TO THIS EVENT RECEIVED --

15 MR. WAPNER: WAIT A SECOND. WHO IS TESTIFYING HERE?  
16 WE HAVE ONE WITNESS ON THE STAND WHO IS ALLOWED TO GIVE A  
17 NARRATIVE AND NOW WE HAVE THE ATTORNEY TESTIFYING.

18 THE COURT: WE WILL GET YOU ON THE STAND LATER ON.

19 MR. BARENS: IN ORDER TO AVOID TAKING UP TIME, I WAS  
20 TRYING TO IDENTIFY THE DOCUMENT AND CONFIRM THAT I HAD  
21 RECEIVED IT TWO DAYS EARLIER IN THIS COURTROOM, YOUR HONOR.  
22 THAT IS ALL I AM SAYING, YOUR HONOR.

23 THE COURT: ALL RIGHT, GO AHEAD.

24 Q BY MR. BARENS: ASIDE FROM SEEING MR. ROZZI, AS  
25 YOU INDICATED, READING PAGE BY PAGE, DID YOU SEE ANY OTHER  
26 OFFICERS READING ANY OTHER MATERIALS THAT YOU FELT OR KNEW  
27 TO BE DEFENSE MATERIALS?

28 A WELL, OTHER THAN MY TRIAL NOTEBOOKS, I SAW THEM

1 READING EVERYTHING AND I KNEW WHAT WAS GOING ON UP THERE  
2 BECAUSE WE HAD BEEN WORKING WITH MR. HUNT AND I -- I FELT  
3 THAT WHATEVER THEY WERE READING WAS RELATIVE TO THIS CASE  
4 AND WAS IN CONNECTION WITH OUR PREPARATION OF THIS CASE SO --

5 Q COULD YOU OBSERVE THEIR READING ANYTHING ELSE  
6 RELATIVE TO THE DEFENSE OF THIS MATTER?

7 A WELL, THEY WERE -- IT WAS -- IT WAS HARD TO  
8 WATCH THEM, WATCH IN BOTH ROOMS AND THEN BE ON THE PHONE.  
9 BUT EVERY CHANCE I GOT, I WAS IN THERE TRYING TO SEE WHAT  
10 WAS GOING ON TO SEE WHAT THEY WERE LOOKING AT AND THEY WERE  
11 LOOKING AT EVERYTHING, I MEAN EVERY PIECE OF PAPER IN A  
12 MANILA ENVELOPE, THEY WERE LEAFING THROUGH ITEM BY ITEM.

13 THERE WAS A BOOKCASE IN THE COMPUTER ROOM, THE  
14 BOOKCASE HAD ON TOP OF IT BOOKS, BETWEEN THE TOP OF THE BOOKS  
15 AND THE BOTTOM OF THE SHELF ABOVE IT, THERE WERE LIKE LITTLE  
16 BOXES OR TRAYS THAT HAD DOCUMENTS IN THEM AND THEY WERE --

17 Q MR. CHIER, DID YOU EVER SEE ANY OFFICER LOOK AT  
18 OR HANDLE ANY OF THE TRIAL NOTEBOOKS?

19 A YES.

20 Q WHO DID THAT?

21 A AND THERE WERE TWO OF THEM. BREILING WAS ONE  
22 OF THEM AND I SAID TO HIM, I SAID, "YOU ARE GOING TO TAKE  
23 OUR TRIAL NOTEBOOKS, TOO?"

24 HE SAID, "ARE THESE YOUR TRIAL BOOKS?"

25 AND I SAID, "YEAH."

26 AND HE SORT -- HE LOOKED THROUGH THEM AND SAW  
27 THAT THEY WERE, THEY CONTAINED, I GUESS, DOCUMENTS THAT HAD  
28 ORIGINATED IN HIS OFFICE AND THEN LOOKED AT THE OTHER ONES

1 TO SEE IF THEY WERE SIMILAR TO THE ONES THAT HE WAS LOOKING  
2 AT AND HE LEFT THOSE ALONE.

3 Q DID THE DEFENDANT HAVE THOSE DEFENSE MATERIALS  
4 ORGANIZED IN A FORMAT WHERE THEY HAD CERTAIN CAPTIONS LEADING  
5 INTO THE MATERIAL?

6 A WELL, I DON'T KNOW. I MEAN --  
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1 Q IN OTHER WORDS, FROM WHAT YOU COULD READ IN  
2 THE -- FOR INSTANCE, YOU ARE TALKING ABOUT THE STUFF, THE  
3 COMPUTER --

4 A YES. THAT HAD YOU KNOW, HEADNOTES AND STUFF  
5 THAT COULD OBVIOUSLY --

6 Q WERE THE HEADNOTES PREPARED IN BOLD FACE CAPS?

7 A YES.

8 Q AND AS A DEFENDANT'S LAWYER OF SOME STANDING AND  
9 EXPERIENCE, IF YOU HAD MERELY READ THE HEADNOTES, WOULD JUST  
10 GLANCING AT THOSE HEADNOTES GIVE YOU INFORMATION AS TO THE  
11 DEFENSE TACTICS AND STRATEGY?

12 MR. WAPNER: OBJECTION, IRRELEVANT. HE MAY BE A DEFENSE  
13 LAWYER OF SOME NOTE, BUT CERTAINLY, MR. ROZZI ISN'T. CERTAINLY,  
14 MR. ZOELLER OR ANYBODY ELSE ISN'T.

15 MR. BARENS: WELL, YOUR HONOR, WE ARE INTO ONE OF THOSE  
16 REAL, FUNDAMENTAL THINGS HERE. YOUR HONOR, I AM SUBMITTING  
17 TO YOUR HONOR, AN OFFER OF PROOF THAT --

18 THE COURT: TELL US WHAT IT IS YOU SAW. DESCRIBE IT,  
19 SO WE CAN TELL WHETHER OR NOT IT HAS --

20 MR. BARENS: YOUR HONOR, THE MASTER CONTROL FILE HAS  
21 HEADNOTES ON IT, AS YOU GO TO EACH SECTION, WHICH MR. HUNT  
22 DID TO FACILITATE MY FINDING THINGS THAT WERE LIKE, ONE WORD  
23 KEYS OR BUZZ WORDS OR LIKE A SHORT PHRASE MAYBE OF THREE OR  
24 FOUR WORDS THAT ANYBODY, LAWYER OR LAYMEN, BY A MERE  
25 INSTANT GLANCE AT THAT PHRASE, WHICH YOU COULD SEE IN A SINGLE  
26 GLANCE, WOULD BE HIGHLY INDICATIVE IN A SUMMARY FASHION AS  
27 TO WHERE THE DEFENSE IS COMING FROM ON THIS SPECIFIC POINT.

28 THE COURT: GIVE ME AN EXAMPLE OF THOSE BUZZ WORDS.

1 COULD YOU TELL ME ONE?

2 MR. BARENS: NOT WITHOUT VIOLATING MY OATH.

3 THE COURT: WELL, MAKE ONE UP, THEN.

4 MR. BARENS: MAKE ONE UP, YOUR HONOR?

5 THE COURT: YES. MAKE UP ONE BUZZ WORD WHICH WILL TELL  
6 THE WHOLE STORY.

7 MR. BARENS: I WILL GIVE YOU A BUZZ WORD, YOUR HONOR.

8 THE COURT: GO AHEAD.

9 MR. BARENS: THE WORD "ALIBI."

10 THE COURT: IS THAT ONE OF THE BUZZ WORDS?

11 MR. BARENS: I CANNOT ANSWER YOUR QUESTION, YOUR HONOR.  
12 YOUR HONOR KNOWS WELL --

13 THE COURT: ALL RIGHT. YOU GAVE ME A GOOD ONE.

14 MR. BARENS: YOUR HONOR ALSO KNOWS --

15 THE COURT: YOU HAVE GIVEN ME A GOOD ONE.

16 MR. BARENS: YOUR HONOR ALSO INDICATED TO ME BEFORE  
17 I ASKED THE QUESTION, THAT YOU WOULD NOT ASK ME TO TELL YOU  
18 WHAT ONE OF THEM WAS.

19 BUT, I WAS MAKING ONE UP. AND THE ONE I GAVE  
20 YOU WAS FOR PURPOSES OF ANSWERING YOUR HONOR'S QUESTION ONLY.

21 THE COURT: YOU MADE IT UP. IS THAT RIGHT?

22 MR. BARENS: YES.

23 MR. WAPNER: IT WAS HYPOTHETICAL?

24 MR. BARENS: YES.

25 MR. WAPNER: IT WAS HYPOTHETICAL?

26 MR. BARENS: YES. I THINK THAT WE MADE IT CLEAR. I  
27 DON'T WANT TO CREATE SOMETHING THAT LATER ON, I AM GOING TO  
28 BE PENALIZED FOR.

1 THE COURT: NO. I ASKED YOU TO MAKE IT UP. YOU HAD  
2 MADE IT UP. I AM SATISFIED THAT THAT COULD BE A BUZZ WORD.

3 MR. BARENS: SO, I WOULD LIKE TO --

4 THE COURT: WITHOUT TELLING US WHAT THE ALIBI IS.

5 MR. BARENS: WAIT A MINUTE, YOUR HONOR. I WOULD LIKE  
6 AN ORDER OF THE COURT AT THIS TIME OR A FINDING OF THE COURT  
7 MADE, THAT IN NO WAY, SHOULD THE PROSECUTION SAY THAT AT ANY  
8 TIME, THAT THE DEFENSE SUGGESTED THAT WE WERE GOING TO PRODUCE  
9 AN ALIBI IN THIS CASE.

10 THE COURT: NO. THAT IS TRUE.

11 MR. BARENS: THE PEOPLE ACKNOWLEDGE THAT THEY UNDERSTAND  
12 THAT?

13 MR. WAPNER: WELL YOUR HONOR, FRANKLY, I WAS DISTRACTED  
14 SOMEWHAT. I WILL HAVE TO READ THE TRANSCRIPT. ONE OF MY  
15 SECRETARIES CAME IN AND INTERRUPTED ME.

16 THE COURT: I ASKED COUNSEL WHEN HE WAS TALKING ABOUT  
17 BUZZ WORDS, ANYBODY WHO WAS A LAWYER WOULD BE FAMILIAR WITH  
18 THE MATTER OF THE USE OF THE BUZZ WORD THAT COULD TELL THE  
19 WHOLE STORY.

20 I ASKED HIM TO GIVE ME AN EXAMPLE OF A BUZZ WORD  
21 AND HE GAVE ME THE EXAMPLE OF AN ALIBI, WHICH COULD BE A BUZZ  
22 WORD, INDICATING THAT THERE WOULD BE AN ALIBI IN THE CASE.  
23 RIGHT?

24 MR. BARENS: YES. I AM SIMPLY ASKING THAT THE PROSECUTION  
25 NOT BE ABLE TO COMMENT ON THAT TO A JURY.

26 THE COURT: NO. THEY WON'T DO THAT. I WILL SEE THAT  
27 THEY DON'T DO IT.

28 MR. BARENS: THAT IS ALL I AM ASKING YOUR HONOR, BECAUSE

1 WE DO NOT MEAN TO --

2 THE COURT: HOWEVER, IF THERE IS AN ALIBI, THEY HAVE  
3 THE RIGHT TO --

4 MR. BARENS: IF I PRODUCE ONE, I WAS DOING THIS AS  
5 A HYPOTHETICAL, TO ANSWER YOUR HONOR'S QUESTION AND --

6 THE COURT: GO AHEAD. I HAVE ADMONISHED COUNSEL THAT  
7 HE IS NOT TO REFER TO COUNSEL SAYING THAT THERE IS AN ALIBI.

8 ALL RIGHT. GO AHEAD.

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1 MR. BARENS: THANK YOU, YOUR HONOR.

2 Q MR. CHIER, WOULD IT BE A FAIR STATEMENT THAT  
3 THE MASTER CONTROL FILE WAS ORGANIZED WITH THOSE TYPES OF  
4 CAPTIONS?

5 A YES.

6 Q AND WOULD EVEN A GLANCE AT THOSE TYPES OF CAPTIONS,  
7 HAVE BEEN REVEALING AND GIVEN AN INSIGHT INTO THE DEFENSE  
8 ORIENTATION ON MAJOR ISSUES IN THIS CASE?

9 A YES.

10 Q NOW, AFTER BEING IN THE COMPUTER ROOM AND SEEING  
11 THE PEOPLE PRESENT THERE, DID YOU EVER SEE MR. ZOELLER,  
12 DETECTIVE ZOELLER, HANDLING ANY DEFENSE MATERIALS?

13 A I SAW HIM HANDLING PAPERS, YES.

14 Q COULD YOU TELL US WHAT THOSE WERE?

15 A NO.

16 Q DID YOU SEE PRESENT IN THAT COMPUTER ROOM, ANY  
17 DOCUMENTATION TO WHICH WERE AFFIXED YELLOW, POST-IT STICKER  
18 SLIPS?

19 A HE HAD SOME MANILA FOLDERS.

20 Q WHO DO YOU MEAN?

21 A MR. ZOELLER. AND HE WAS LEAFING THROUGH,  
22 DOCUMENT BY DOCUMENT, EACH PAGE OR EACH PIECE OF PAPER IN  
23 THE MANILA FOLDERS.

24 SOME OF THE DOCUMENTS IN THE MANILA FOLDERS HAD  
25 SEQUENTIAL NUMBERS ON THEM, ON THOSE REMOVABLE STICKERS.

26 Q HAD YOU EVER DIRECTED THE DEFENDANT TO PREPARE  
27 DEFENSE EXHIBITS IN A FORMAT INVOLVING PLACING AN EASY  
28 IDENTIFICATION REFERENCE BY A POST-IT ON IT, FOR FORMATTING?

1           A           I NEVER GAVE HIM SPECIFIC DIRECTIONS AS TO HOW  
2 TO DO IT. I SAID THAT WE HAD TO ORGANIZE THE STUFF AND THAT  
3 HE HAD INDICATED THAT THERE WERE CERTAIN DOCUMENTS IN  
4 EXISTENCE, WHICH HAD A TENDENCY TO IMPEACH CERTAIN WITNESSES.

5           I SAID THAT THEY HAD TO BE ORGANIZED IN A FASHION  
6 IN WHICH THEY COULD BE USED, REFERENCED AND USED.

7           Q           SO, COULD YOU ESTIMATE THE NUMBER OF ITEMS THAT  
8 COULD BE CLASSIFIED AS DEFENSE EXHIBITS THAT APPEARED TO BE  
9 PRESENT IN THE COMPUTER ROOM?

10          A           NOT BY WHAT I SAW, ONLY ON THE BASIS OF INFORMATION  
11 LATER.

12          Q           LATER OBTAINED?

13          A           YES.

14          Q           ALL RIGHT. LET'S LIMIT THIS TO WHAT YOU SAW  
15 AT THE SCENE, PER SE.

16                    DID YOU SEE ANYTHING THAT LOOKED TO YOU TO BE  
17 DEFENSE EXHIBIT MATERIALS, AS OPPOSED TO DEFENSE-AUTHORED  
18 MATERIALS?

19          A           WHEN YOU SAY DEFENSE EXHIBITS, NOTHING IS AN  
20 EXHIBIT UNTIL IT IS ORDERED INTO COURT.

21          Q           WELL, THINGS THAT --

22          A           THEY WERE DOCUMENTS WE INTENDED TO USE ON CROSS-  
23 EXAMINATION AND TO EXAMINE WITNESSES.

24          Q           ALL RIGHT. DID YOU SEE THOSE DOCUMENTS BEING  
25 HANDLED BY ANYONE?

26          A           I SAW THEM BEING HANDLED BY A GUY NAMED ROZZI.  
27 I SAW THEM BEING HANDLED BY BREILING. I SAW THEM BEING  
28 HANDLED BY ZOELLER AND OTHER PEOPLE WHOSE IDENTITY I DIDN'T  
29 KNOW AT THAT TIME.

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1 Q ALL RIGHT. DID THERE COME A TIME WHEN OFFICER  
2 ZOELLER APPEARED TO OR TOLD YOU THAT HE HAD A CONVERSATION --  
3 STRIKE THAT.

4 DID THERE COME A TIME WHEN OFFICER ZOELLER TOLD  
5 ANYONE THAT HE HAD A CONFERENCE WITH MR. WAPNER OR A TELEPHONE  
6 CONVERSATION WITH MR. WAPNER?

7 A WELL, I SORT OF CAUSED IT. I GOT -- I WAS TALKING  
8 TO YOU. YOU THEN WERE ON THE PHONE, ON THE EXTENSION PHONE  
9 OR SOMETHING WITH MR. WAPNER OR NEARBY.

10 MR. WAPNER WANTED TO TALK TO MR. ZOELLER. I THEN  
11 SUMMONED MR. ZOELLER TO THE PHONE TO TALK TO MR. WAPNER.

12 Q AND SUBSEQUENT TO MR. WAPNER'S CONVERSATION WITH  
13 MR. ZOELLER, DID MR. ZOELLER SAY ANYTHING TO YOU?

14 A TO ME?

15 Q YES, SIR.

16 A NO.

17 Q DID YOU OVERHEAR HIM SAY SOMETHING IN A HALLWAY  
18 TO MR. BREILING?

19 A NO.

20 Q ALL RIGHT. ASIDE FROM WHAT YOU HAVE TOLD US,  
21 FOR THE SAKE OF BREVITY, I AM GOING TO ASK YOU, IS THERE  
22 ANYTHING ELSE YOU OBSERVED OR NOTED OF VALUE TO THE COURT?

23 A WELL, EARLY ON, WHEN I WAS LOOKING AT THE SEARCH  
24 OF THE COMPUTER ROOM, I SAW MR. ZOELLER AND MR. BREILING KIND  
25 OF HUDDLING OVER A PIECE OF PAPER THAT WAS DATED 1987.

26 AND WHEN I SAW THAT, I BECAME A LITTLE  
27 ARGUMENTATIVE AND SAYING THAT IT DIDN'T SEEM TO ME THERE WAS  
28 ANYTHING DESCRIBED IN THE WARRANT. I DIDN'T KNOW WHAT IT

R-2  
1 WAS, EXACTLY. BUT IT SEEMED TO ME THAT IT WAS NOTHING THAT  
2 I COULD AT LEAST DETERMINE FROM MY EXAMINATION, THAT WAS  
3 DESCRIBED IN THE WARRANT AND IT SHOULD NOT HAVE BEEN TAKEN.

4 I REMONSTRATED WITH BREILING AND ZOELLER ABOUT  
5 IT. AND THAT IS WHEN MR. BREILING MADE IT QUITE OBVIOUS TO  
6 ME THAT I HAD NOTHING TO SAY ABOUT THE MATTER AT ALL.

7 AND I JUST BACKED OFF. THERE WAS NOT ANYTHING  
8 I COULD DO. IT WAS GOING TO HAPPEN WITH OR WITHOUT MY BEING  
9 ARRESTED.

10 Q QUITE SO, MR. CHIER.

11 YOU WERE PRESENT IN THE COURTROOM HERE YESTERDAY  
12 WHEN MR. BREILING TESTIFIED THAT PRIOR TO HIS DEPARTURE, HE  
13 ACCESSED ALL THE MATERIALS TO YOU AND GAVE YOU AN OPPORTUNITY  
14 TO REVIEW THEM?

15 A THEY HAD A BUNCH OF STUFF IN BOXES AND IN  
16 ENVELOPES IN A STAGING AREA ON THE LANDING. I THINK THERE  
17 ARE TWO SETS OF STAIRS. THERE IS A LANDING WHERE YOU CAN  
18 GO DOWN EITHER SET OF STAIRS. AND THEY HAD STUFF THERE.

19 IT WAS GETTING AROUND 1:15. THEY HAD BOXES OF  
20 MATERIALS AND STUFF. AND YOU KNOW, THEY ASKED ME -- THEY  
21 MADE IT POSSIBLE FOR ME TO LOOK AT THEM.

22 BUT THEY DIDN'T GIVE ME ANY RIGHT TO OBJECT TO  
23 THEIR BEING TAKEN. AND SO, THERE WAS NO POINT AT THAT POINT.  
24 I TALKED TO YOU AND WE AGREED --

25 THE COURT: DID YOU OBJECT TO IT?

26 THE WITNESS: DID I WHAT?

27 THE COURT: DID YOU OBJECT TO THEIR TAKING ANYTHING?

28 THE WITNESS: DID I? NO I DIDN'T, YOUR HONOR.



R-3  
1 THE COURT: ALL RIGHT.

2 THE WITNESS: I DID IT ONE TIME AND MR. BREILING TOLD  
3 ME TO BACK OFF, TO STAY OUT OF THE WAY, THAT THEY WERE GOING  
4 TO TAKE WHAT THEY WERE GOING TO TAKE.

5 SO, I DIDN'T FEEL, HAVING BEEN PROSECUTED ONCE  
6 BY MR. WAPNER'S OFFICE FOR OBSTRUCTION OF AN OFFICER IN THE  
7 PERFORMANCE OF HIS DUTY, I WAS NOT LOOKING FOR SECONDS.

8 Q BY MR. BARENS: MR. CHIER, YOU HAD A BELIEF, DID  
9 YOU NOT, THAT ANY OBJECTION ON YOUR PART AT THAT JUNCTURE,  
10 COULD HAVE JEOPARDIZED YOU AS TO BEING A DEFENDANT IN A LEGAL  
11 PROCEEDINGS?

12 A IT WOULD HAVE BEEN FUTILE AND I COULD HAVE GOTTEN  
13 ARRESTED. AND I DIDN'T FEEL IT WAS UP TO ME TO EXPLAIN TO  
14 THEM WHAT WAS BEING TAKEN AND TO MAKE MATTERS EVEN WORSE BY  
15 SAYING THAT THIS IS THIS AND THAT IS THAT. THIS IS WHY YOU  
16 CAN'T TAKE THIS.

17 THE COURT: YOU TOLD THEM THOUGH --

18 THE WITNESS: I DIDN'T SAY THEY COULDN'T TAKE THOSE  
19 BECAUSE THEY WERE CONFIDENTIAL AND THEY WERE OURS. THAT WAS  
20 SELF-EVIDENT IN LOOKING AT THE BOOKS.

21 THE COURT: I AM ASKING. YOU TOLD THEM ABOUT IT AND  
22 THEY DIDN'T TAKE IT. IS THAT RIGHT? THE NOTEBOOKS?

23 MR. BARENS: NOT THE NOTEBOOKS I BELIEVE. YOUR HONOR  
24 IS RIGHT.

25 THE WITNESS: AS I SAID, I SAID THAT ALSO ABOUT THE  
26 PIECE OF PAPER AND THEY SAID, "TOUGH."

27 THE COURT: ALL RIGHT.

28 Q BY MR. BARENS: SORRY, MR. CHIER. YOU DID NOT

1 WISH TO EDUCATE THESE POLICE OFFICERS --

2 MR. WAPNER: OBJECTION, LEADING.

3 MR. BARENS: GOOD GRIEF, WHO CARES?

4 THE COURT: ALL RIGHT. YOU DIDN'T WANT TO EDUCATE THE  
5 POLICE OFFICERS THAT CERTAIN OF THE DOCUMENTS WERE DEFENSE-  
6 RELATED?

7 Q BY MR. BARENS: DEFENSE EXHIBITS AND IDENTIFY  
8 THEM TO THE POLICE OFFICERS?

9 A ABSOLUTELY NOT.

10 Q DIDN'T YOU FEEL THAT YOU WERE PRECLUDED IN YOUR  
11 CAPACITY AS CO-COUNSEL IN THIS MATTER, FROM SAYING TO THESE  
12 POLICE OFFICERS, "LISTEN, THIS IS A DEFENSE EXHIBIT AND THAT  
13 ISN'T?"

14 A I THOUGHT IT WOULD HAVE BEEN A STUPID THING ON  
15 MY PART TO DO IT. IT WOULD BE IRONED OUT IN COURT, WHERE  
16 WE ARE NOW. THAT IS HOW I LEFT IT.

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1 Q DID YOU MAKE A LIST OR INVENTORY OF WHAT WAS  
2 REMOVED?

3 A NO.

4 THE COURT: DID BROOKE ROBERTS DO THAT WHEN YOU WERE  
5 PRESENT?

6 MR. BARENS: THAT IS MY NEXT QUESTION, JUDGE.

7 THE COURT: ALL RIGHT.

8 MR. BARENS: THANK YOU.

9 THE COURT: ALL RIGHT, GO AHEAD.

10 Q BY MR. BARENS: THANK YOU, YOUR HONOR.

11 DID YOU SEE BROOKE ROBERTS, WAS SHE STANDING  
12 NEAR WHERE YOU WERE --

13 A YES.

14 Q -- WHERE THIS DOCUMENT, THIS STAGING AREA WAS?  
15 DID SHE MAKE A LIST OF WHAT WAS REMOVED?

16 A SHE MADE A MINISCULE LIST IN A MOST GENERIC  
17 FASHION OF STUFF THAT JUST -- TO WHAT END, I DON'T KNOW.  
18 BECAUSE IT WAS LIKE TOTALLY USELESS.

19 Q WERE YOU EVER SHOWN THAT LIST?

20 A YES.

21 MR. BARENS: TO SAVE EVERYBODY'S TIME HERE, I HAVE  
22 THAT LIST, SUCH AS IT IS.

23 THE COURT: YES.

24 MR. BARENS: I WOULD LIKE TO SHOW TO MR. WAPNER AND  
25 THE WITNESS, THE LIST AND ASK YOUR HONOR --

26 JUST A MOMENT.

27 (UNREPORTED COLOQUY BETWEEN MR. BARENS  
28 AND THE DEFENDANT.)

1 MR. BARENS: WHEN HE IS NOT HERE, I HAVE GOT  
2 MR. HUNT, YOUR HONOR.

3 (FURTHER UNREPORTED COLLOQUY BETWEEN  
4 MR. BARENS AND THE DEFENDANT.)

5 MR. BARENS: OH, LORD, YES, YES.

6 Q WELL, LET ME ASK YOU THIS, MR. CHIER, WAS THE  
7 LIST IN ANY WAY COMPREHENSIVE?

8 A NO.

9 Q IN FACT, THE LIST IS COMPOSED IN A SOMEWHAT  
10 GENERIC MANNER?

11 A IT WAS --

12 Q RATHER THAN IDENTIFYING SPECIFIC THINGS?

13 A IT WAS LIKE TOPICAL, AT BEST.

14 Q AND YOU HAVE HAD A RECENT OPPORTUNITY TO LOOK  
15 AT THAT LIST AND RECONFIRM THAT IT WAS TOPICAL AT BEST?  
16 SIR?

17 A YES.

18 THE COURT: DO YOU WANT TO SHOW IT TO COUNSEL?

19 MR. BARENS: I CANNOT, YOUR HONOR.

20 MR. WAPNER: YOUR HONOR, I HAVE NO OBJECTION TO IT,  
21 IF THE COURT EXAMINES THAT IN CAMERA IN THE SAME FASHION THAT  
22 IT INTENDS TO EXAMINE THE ITEMS THAT WERE TAKEN.

23 MR. BARENS: FOR THE RECORD, RESPECTFULLY, THE DEFENSE  
24 MUST OBJECT TO YOUR HONOR READING THIS LIST BECAUSE THE LIST  
25 DOES MAKE SPECIFIC REFERENCE TO CERTAIN DEFENSE MATERIALS  
26 THAT COUNSEL HAS ALREADY DETERMINED THAT UNDER THE CASES,  
27 THE COURT IS NOT SUPPOSED TO LOOK AT IN THE FIRST INSTANCE.

28 WELL, I AM CONVINCED THAT YOUR HONOR SHOULD NOT --

1 THE COURT: FOR ME TO DECIDE A MOTION OF THE KIND THAT  
2 YOU HAVE HERE, I AM FORBIDDEN TO LOOK AT ANY OF THE DOCUMENTS  
3 WHICH WERE SEIZED; IS THAT WHAT YOU ARE SAYING?

4 THE WITNESS: YES.

5 MR. BARENS: WELL, WE KEEP ROLLING AROUND AND I AM  
6 TRYING TO BE AS --

7 THE COURT: YOU HAVE ASSOCIATE COUNSEL SAYING YES.  
8 BUT I WANT TO GET JUST YOUR OPINION BECAUSE I ADDRESSED MY  
9 REMARK TO YOU, NOT TO HIM.

10 MR. BARENS: WELL, YOUR HONOR, I SAY THAT YOUR HONOR  
11 SHOULD NOT LOOK AT THESE MATERIALS BECAUSE OF THE FACT THEY  
12 ARE DEFENSE MATERIALS.

13 YOUR HONOR HAS AN INCUMBENT OBLIGATION --

14 THE COURT: YOU WERE GOING TO SHOW IT TO COUNSEL, WEREN'T  
15 YOU?

16 THE WITNESS: THAT IS MY WORK PRODUCT.

17 MR. BARENS: I WAS ABOUT TO, YOUR HONOR, UNTIL MR.  
18 HUNT CAUTIONED ME, YOUR HONOR.

19 THE COURT: NOW WE HAVE A THIRD ASSOCIATE COUNSEL,  
20 HAVEN'T WE?

21 MR. BARENS: I CONSIDER MR. HUNT AS HAVING BEEN  
22 EXTREMELY INSTRUMENTAL IN A RATHER ACUTE AND HELPFUL SENSE  
23 IN THE PREPARATION OF THIS CASE.

24 THE COURT: ALL RIGHT, OF COURSE.

25 MR. BARENS: OF COURSE, YOUR HONOR, I TOLD YOU BACK  
26 AT THE BAIL MOTION THAT I THOUGHT HE WOULD BE AND HE TURNED  
27 OUT TO BE A GOOD KIND OF LAWYER.

28 THE COURT: SURE.

1 MR. BARENS: IN ANY EVENT, WITH THAT IN MIND, I AM  
2 CONSTRAINED NOT TO SHOW THIS DOCUMENT TO YOUR HONOR.

3 THE COURT: SUIT YOURSELF.

4 MR. BARENS: I WILL SAY, HOWEVER --

5 THE COURT: SUIT YOURSELF. IT IS YOUR MOTION. IF  
6 THERE IS ANYTHING IN THERE WHICH WOULD INDICATE THEY WERE  
7 DEFENSE RELATED MATTERS AND YOU DON'T WANT ME TO LOOK AT THAT,  
8 IT IS PERFECTLY ALL RIGHT WITH ME.

9 MR. BARENS: I WILL SAY TO YOUR HONOR, AS AN OFFICER  
10 OF THIS COURT, THAT TWO PAGES ARE TOPICAL IN NATURE AND ALL  
11 I AM TRYING TO SAY IS THAT YESTERDAY THERE WAS TESTIMONY TO  
12 YOUR HONOR THAT A DETAILED INVENTORY WAS PREPARED.

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1 THE COURT: I CAN'T EVEN CHARACTERIZE IT UNLESS I LOOK  
2 AT IT AND UNLESS COUNSEL LOOKS AT IT; THEREFORE, YOUR  
3 CHARACTERIZATION OF IT DOESN'T MEAN ANYTHING TO ME BECAUSE  
4 YOU WON'T SHOW IT.

7A 5 MR. BARENS: OTHERWISE -- AND I WOULDN'T LIE TO YOUR  
6 HONOR THAT IT IS TOPICAL IN NATURE.

7 THE COURT: WELL, YOU MIGHT BE SLIGHTLY PREJUDICED  
8 IN FAVOR OF YOUR CLIENT OR BIASED IN HIS FAVOR, WOULDN'T YOU?

9 MR. BARENS: I WOULDN'T MISREPRESENT TO THE COURT, EVEN  
10 THOUGH I AM BIASED.

11 THE COURT: OH, NO, NO. I NEVER EVER HAVE ACCUSED  
12 YOU OF THAT.

13 MR. BARENS: IF IT WASN'T TOPICAL, I WOULDN'T SAY THAT.

14 THE COURT: ALL RIGHT.

15 MR. BARENS: JUST A MOMENT, PLEASE, YOUR HONOR.

16 (UNREPORTED COLLOQUY BETWEEN MR. BARENS  
17 AND THE DEFENDANT.)

18 MR. BARENS: LET ME JUST ASK MR. CHIER A QUESTION,  
19 IF I MIGHT, YOUR HONOR. I WANT TO MAKE SURE I DON'T UPSET  
20 ANYBODY, JUDGE.

21 THE COURT: RIGHT.

22 (UNREPORTED COLLOQUY BETWEEN MR. BARENS  
23 AND MR. CHIER.)

24 MR. BARENS: ALL RIGHT, YOUR HONOR, AS IT IS, THE  
25 NAYS HAVE IT, I CAN'T SHOW IT.

26 THE COURT: YOU CAN'T SHOW IT?

27 MR. BARENS: NO, I CAN'T SHOW IT, YOUR HONOR, BASED  
28 ON THIS WHOLE BUSINESS ABOUT WORK PRODUCT AND DEFENSE MATERIALS

1 AND THIS BARBER ISSUE THAT WE HAVE TO DISCUSS.

2 THE COURT: I JUST WANT TO ASK ONE QUESTION OF MR.  
3 CHIER: WHEN SHE WAS TAKING THIS DOWN, WERE YOU TELLING HER  
4 WHAT TO PUT DOWN?

5 THE WITNESS: YES.

6 THE COURT: DESCRIBING IT?

7 THE WITNESS: YES.

8 THE COURT: ALL RIGHT.

9 Q BY MR. BARENS: AND DID YOU DESCRIBE IT IN A  
10 SPECIFIC DOCUMENT MANNER OR IN A TOPICAL MANNER, MR. CHIER?

11 A BOTH.

12 MR. BARENS: PRECISELY.

13 THE COURT: ALL RIGHT. THEN IT IS A LAWYER'S WORK  
14 PRODUCT, ISN'T IT?

15 MR. BARENS: IT IS INDEED, YOUR HONOR.

16 THE COURT: ALL RIGHT, THAT IS ALL YOU HAVE OF HIM?

17 MR. BARENS: PARDON?

18 THE COURT: HAVE YOU FINISHED?

19 Q BY MR. BARENS: THEREFORE, MR. CHIER, TO YOUR  
20 KNOWLEDGE, NEITHER YOURSELF NOR MISS ROBERTS, NOR ANYONE ELSE  
21 THAT WOULD BE ASSOCIATED WITH THE DEFENSE, PREPARED A SPECIFIC  
22 INVENTORY OR INDEX OF THE MATERIALS REMOVED FROM THE RESIDENCE  
23 AT THAT TIME?

24 A IT WOULD HAVE BEEN IMPOSSIBLE, GIVEN THE LIMITATIONS  
25 OF TIME AND SPACE.

26 Q YOU THEN RETURNED TO THIS COURTROOM AS YOU WERE  
27 OBLIGED TO DO AT 1:45 THAT AFTERNOON?

28 A THAT IS CORRECT.



1 MR. BARENS: THANK YOU.

2 THE COURT: ALL RIGHT, MR. WAPNER.

3 MR. WAPNER: THANK YOU, YOUR HONOR.

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EXAMINATION

6 BY MR. WAPNER:

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A WHEN YOU WERE PREPARING THIS LIST OF WHAT WAS  
8 TAKEN, WAS THAT DONE BEFORE OR AFTER THE OFFICERS LEFT?

9

A IT WAS -- I WASN'T PREPARING IT. I WAS, LIKE,  
10 CALLING OUT A FEW THINGS TO -- OR NOT CALLING OUT BUT SAYING,  
11 "THERE IS THIS, THERE IS THAT".

12

Q HOW WERE YOU DOING THAT?

13

A I WAS LIKE RIFFLING THROUGH -- EVERYTHING HAD  
14 BEEN ON THE --

15

IT WAS JUST IMMEDIATELY PRIOR TO THEIR UNLOADING  
16 IT INTO A VAN OR WHEREVER THEY WERE GOING TO PUT IT.

17

Q EXCUSE ME FOR A SECOND.

18

THIS IS WHILE THE BOXES WERE STILL ON THE LANDING  
19 IN THE HOUSE?

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A SOME OF THEM WERE.

21

I MEAN THERE WERE SOME BOXES THERE. THERE WERE  
22 LIKE THREE BOXES THERE OR FOUR BOXES.

23

Q THEY ONLY TOOK TWO BOXES WORTH OF MATERIALS,  
24 IS THAT RIGHT, IN TOTAL?

25

A I DON'T KNOW. I DON'T KNOW.

26

THE COURT: DIDN'T YOU SEE?

27

YOU WERE THERE.

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THE WITNESS: I DON'T KNOW, JUDGE.

1 THE COURT: HE WANTED TO KNOW IF TWO BOXES WERE TAKEN.

2 THE WITNESS: I DIDN'T SEE THEM SPECIFICALLY CARRY  
3 OUT THE ITEMS FROM THE HOUSE. I DON'T KNOW WHAT WAS TAKEN.

4 I SAW MANILA ENVELOPES THAT WERE -- THEY WERE --  
5 THEY WERE -- THERE WERE A BUNCH OF MANILA ENVELOPES IN BOXES  
6 THERE.

7 Q BY MR. WAPNER: AND THOSE BOXES WERE ON THE  
8 LANDING ON THE SECOND FLOOR, RIGHT?

9 A YES.

10 Q AND IT WAS AT THE TIME YOU WERE LOOKING AT THEM,  
11 IT WAS THE TIME WHEN AGENT BREILING HAD GIVEN YOU THE  
12 OPPORTUNITY TO LOOK THROUGH THOSE BOXES, RIGHT?

13 A HE MADE -- YEAH, HE MADE IT.

14 Q AND AS YOU WERE LOOKING THROUGH THOSE BOXES,  
15 WAS IT AT THAT TIME THAT YOU WERE CALLING OUT TO MISS ROBERTS  
16 WHAT WAS CONTAINED IN THOSE BOXES?

17 A I WASN'T LIKE YELLING IT OUT.

18 SHE WAS LIKE RIGHT NEXT TO ME AND I WAS LIKE  
19 SAYING --

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1 Q DID YOU FEEL SOME TIME CONSTRAINT BY THE AGENTS?

2 A YEAH. IT WAS ABOUT 1:30. AND I HAD TO BE BACK  
3 IN COURT. I WAS CO-COUNSEL IN A CASE AT A CRITICAL MASS  
4 PERIOD OF JURY SELECTION.

5 Q WELL, YOU HAD ALREADY LEFT THE COURTROOM EARLIER  
6 THAT MORNING TO BE PRESENT DURING THE SEARCH, IS THAT RIGHT?

7 A BY ABOUT 15 MINUTES, YES.

8 Q ALL RIGHT. WAS THERE SOME REASON THAT YOU FELT  
9 THAT YOU COULDN'T TAKE ANOTHER 15 MINUTES OR 20 MINUTES TO  
10 CATALOG EXACTLY WHAT IT WAS THAT WAS THERE?

11 A IT WOULD HAVE TAKEN HOURS.

12 Q ALL RIGHT.

13 A THERE WERE HUNDREDS OF PIECES OF PAPER.

14 Q DID AGENT BREILING TELL YOU THAT HE WOULD MAKE  
15 COPIES OF EVERYTHING THAT WAS TAKEN FOR YOU?

16 A DID HE SAY HE WOULD MAKE COPIES OF EVERYTHING  
17 THAT WAS TAKEN?

18 THE COURT: HE SAID IN HIS REPORT THAT HE SAID HE WOULD  
19 GIVE COPIES TO YOU OF EVERYTHING THAT WAS TAKEN. DID HE SAY  
20 THAT TO YOU?

21 THE WITNESS: I DON'T REMEMBER THAT.

22 Q BY MR. WAPNER: WAS THERE A TIME WHEN YOU WERE  
23 CO-COUNSEL WITH MR. BARENS REPRESENTING MR. HUNT IN THE  
24 SAN MATEO COUNTY CASE?

25 A WELL, FOR A PRELIMINARY HEARING ONLY. YES.

26 Q ALL RIGHT. AND WAS IT YOUR EXPERIENCE IN THAT  
27 CASE, DURING THE TIME THAT YOU WERE REPRESENTING MR. HUNT  
28 IN THAT CASE, THAT WHENEVER MR. BREILING OR MR. VANCE CAME

A-2  
1 INTO POSSESSION OF MATERIALS, THAT THEY WOULD MAKE COPIES  
2 OF THEM AND PROVIDE THEM TO YOU?

3 A WELL, I CAN'T SPEAK FOR WHEN. ALL I CAN SAY IS  
4 THAT THEY PROVIDED A LOT OF MATERIALS. I DON'T KNOW WHETHER  
5 THEY ALWAYS DID IT OR SOMETIMES DID IT OR NEVER DID IT.

6 Q THE MATERIALS THAT YOU SAW --

7 THE COURT: YOU SAY YOU DIDN'T KNOW WHETHER THEY NEVER  
8 DID IT? IS THAT WHAT YOU ARE TELLING ME?

9 THE WITNESS: WELL, CERTAINLY I DON'T KNOW WHETHER THEY  
10 ALWAYS DID IT.

11 THE COURT: NO. YOU SAID THEY NEVER DID IT.

12 THE WITNESS: WELL, I MISSPOKE MYSELF.

13 MR. BARENS: LET ME SAY YOUR HONOR, THAT TO THIS DATE,  
14 THERE ARE MATERIALS WHICH I WAS SEEKING UP THERE THAT I NEVER  
15 GOT.

16 THE COURT: ARE YOU GOING TO TESTIFY?

17 MR. BARENS: NO. I AM JUST SAYING THAT.

18 MR. WAPNER: IT IS HARD ENOUGH TO CROSS-EXAMINE ONE  
19 LAWYER ON THE WITNESS STAND WITHOUT TRYING TO CROSS-EXAMINE  
20 ONE THAT HAS NOT BEEN SWORN.

21 THE COURT: WE HAVE NOW GOT THREE. WE HAVE THE  
22 DEFENDANT, ALSO.

23 MR. BARENS: PARDON ME. BEGGING YOUR PARDON ON THAT  
24 POINT, YOUR HONOR.

25 THE COURT: ALL RIGHT.

26 Q BY MR. WAPNER: AND DID YOU REGISTER ANY OBJECTION  
27 TO AGENT BREILING OR ANYONE ELSE ABOUT ANY OF THE ITEMS THAT  
28 WERE IN THE BOXES THAT WERE NOW GOING TO BE REMOVED FROM THE

1 RESIDENCE?

2 A I HAD DONE SO PREVIOUSLY, YEAH.

3 Q YOU HAD OBJECTED? WHAT WAS IT THAT YOU HAD  
4 OBJECTED TO?

5 A WHEN I SAW THE SEARCH WARRANT AND I SAW THAT IT  
6 WAS -- THE ONLY SPECIFIC THINGS ON THE SEARCH WARRANT WERE  
7 1984, I THEN IN THE BEDROOM WHEN I SAW THAT THEY WERE ABOUT  
8 TO REMOVE THIS 1987 PIECE OF PAPER, WHEN I REMONSTRATED WITH  
9 AGENT BREILING ABOUT IT, THAT IS WHEN HE TOLD ME TO JUST YOU  
10 KNOW, BUZZ OFF, THAT HE WAS DOING THE SEARCH AND I COULD BE  
11 AN OBSERVER BUT NOT TO INTERFERE.

12 AND THAT IS WHEN I STOPPED PROTESTING ABOUT WHAT  
13 THEY WERE TAKING.

14 Q WELL, HE GAVE YOU THE OPPORTUNITY TO LOOK OVER  
15 WHAT WAS BEING TAKEN. DID YOU VOICE ANY OBJECTION TO HIM  
16 AT THAT TIME?

17 A NO. I FELT THAT I WOULD CALL ATTENTION TO IT,  
18 IF I SAID, "DON'T TAKE THIS. DON'T TAKE THIS. DON'T TAKE  
19 THAT."

20 I WAS GOING TO CALL ATTENTION TO CERTAIN THINGS  
21 THAT WOULD HAVE BEEN -- SINCE HE WAS NOT GOING TO LEAVE IT  
22 BEHIND ANYWAY, IF I SAID THAT, WHAT WAS THE POINT?

23 Q WELL, ASIDE FROM CALLING ATTENTION TO IT, YOU  
24 KNEW THAT HE WAS GOING TO TAKE IT, REGARDLESS OF WHAT YOU  
25 SAID, RIGHT?

26 A I WAS PRETTY SURE OF THAT.

27 Q WELL, YOU HAD ALREADY OBJECTED TO ONE THING AND  
28 HE TOOK IT ANYWAY, RIGHT?

-4  
1 A THAT'S RIGHT.

2 Q WHETHER YOU CALLED ATTENTION TO IT OR NOT, YOU  
3 KNEW THAT HE WAS GOING TO TAKE IT AND READ EVERYTHING THERE.  
4 IS THAT RIGHT?

5 A YES.

6 Q ALL RIGHT. SO, WHETHER OR NOT YOU CALLED  
7 ATTENTION TO IT, YOU STILL HAD THE RIGHT TO MAKE THE  
8 OBJECTIONS, RIGHT?

9 A WHAT OBJECTION? TO WHAT END? IT WAS STUPID,  
10 FUTILE.

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1 Q WELL --

2 A IN MY MIND, IT WOULD HAVE BEEN A WASTE OF TIME.  
3 THEY WEREN'T GOING TO LEAVE IT. AND THERE WAS NO POINT IN  
4 GOING THROUGH AND OBJECTING TO IT. THERE WAS NO RECORD.  
5 THERE WAS NO JUDGE. THERE WAS NO ANYTHING.

6 Q AT THE TIME THAT YOU TOLD MR. BREILING ABOUT THE  
7 TRIAL NOTEBOOKS, HE LOOKED INTO THE FIRST PAGE OF THE BOOK,  
8 RIGHT? HE OPENED THE BOOK?

9 A HE LOOKED, RIFLED THROUGH THE BOOK.

10 Q WOULD YOU SAY THAT HE DID BASICALLY, A CURSORY  
11 EXAMINATION OF THE BOOK? WAS THAT DONE TO CONFIRM WHAT YOU  
12 TOLD HIM WAS ACCURATE?

13 A YES.

14 Q HE DIDN'T STAY AND READ THROUGH THE WHOLE BOOK,  
15 DID HE?

16 A NO.

17 Q ALL RIGHT. AND WHEN HE CONFIRMED IN HIS MIND,  
18 THAT THAT WAS SO, THAT WAS AS TO ONE BOOK, RIGHT?

19 A THERE WERE SEVERAL BOOKS THAT WERE ALL IDENTICAL.

20 Q RIGHT. BUT THE POINT IS, THAT HE ONLY LOOKED  
21 AT ONE OF THEM, RIGHT?

22 A HE CHECKED, HE SPOT CHECKED TO SEE THAT THE OTHER  
23 ONES WERE SIMILAR TO THE ONE, YES.

24 Q WHEN YOU SAY "SPOT CHECKED" IS THAT BY LOOKING  
25 TO SEE THAT THEY WERE ALL BLACK BINDERS?

26 A I WOULD SAY A GROSS INSPECTION, AS OPPOSED TO  
27 A SPECIFIC ONE.

28 Q BASICALLY, HE TOOK YOUR WORD FOR THE FACT THAT

-6  
1           THEY WERE WHAT YOU REPRESENTED THEM TO BE?

2           A           IT APPEARED THAT WAY, YES.

3           Q           WAS THERE SOME REASON FOR YOU TO BELIEVE THAT  
4           HAD YOU DONE THAT, HAD YOU DONE THAT AT THE END OF THE SEARCH,  
5           THAT HE WOULDN'T HAVE COME TO THE SAME CONCLUSION?

6           A           I ALREADY TOLD YOU. THE REASON TO BELIEVE THAT  
7           AND I WILL SAY IT AGAIN, IF YOU WISH, IS BECAUSE WHEN I  
8           OBJECTED TO THIS PIECE OF PAPER WHICH I THOUGHT UNDER  
9           ANYBODY'S CONSTRUCTION OF THE WARRANT, WAS SOMETHING NOT  
10          SPECIFICALLY DESCRIBED AND HE SAID, "TOUGH", I HAD REASON  
11          TO BELIEVE THAT IT DIDN'T MATTER WHAT I SAID AT THAT PARTICULAR  
12          TIME.

13          Q           AND YOU HAVE PRACTICED CRIMINAL LAW FOR A LONG  
14          TIME, HAVE YOU NOT?

15          A           YES.

16          Q           YOU HAVE READ LOTS OF SEARCH WARRANTS?

17          A           UNFORTUNATELY, YES.

18          Q           YOU HAVE LITIGATED LOTS OF SEARCH WARRANTS?

19          A           YES.

20          Q           YOU HAD MANY OCCASIONS TO EXAMINE OFFICERS WHO  
21          WERE SERVING SEARCH WARRANTS AND IT TURNS OUT THAT DURING  
22          THE SERVICE OF THE WARRANT, THEY DISCOVER IN PLAIN VIEW,  
23          EVIDENCE OF OTHER CRIMES AND THEY SEE IT AND EVEN THOUGH IT  
24          IS NOT NAMED IN THE SEARCH WARRANT, THEY SEIZE IT, ISN'T THAT  
25          RIGHT?

26          A           WELL, ARE YOU ASKING ME IF I AM AWARE OF  
27          SITUATIONS WHERE THAT HAPPENED?

28          Q           THAT IS WHAT I AM ASKING YOU.



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1 A YES. I AM AWARE OF THOSE SITUATIONS.

2 Q ALL RIGHT.

3 A IT IS VERY BAD LITERATURE, BY THE WAY.

4 Q THE DOCUMENTS --

5 THE COURT: WHAT WAS THAT PROFOUND REMARK?

6 MR. BARENS: HE SAID THAT HE CONSIDERED IT VERY BAD  
7 LITERATURE, AS LITERATURE.

8 THE COURT: OKAY.

9 Q BY MR. WAPNER: THE DOCUMENTS THAT YOU SAW  
10 DETECTIVE ZOELLER LOOKING AT IN THAT MANILA FOLDER, HAVE YOU  
11 EVER SEEN THOSE BEFORE YOU WERE UP THERE THAT DAY?

12 A THERE WERE SO MANY OF THEM, IT IS HARD TO SAY.  
13 SOME OF THEM I FEEL THAT I HAD SEEN BEFORE. SOME, I THINK  
14 THEY HAD BEEN DISCUSSED AND DESCRIBED TO ME.

15 THERE WERE JUST TOO MANY.  
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1 Q HOW DID YOU KNOW WHAT IT WAS HE WAS LOOKING AT?

2 A WHO?

3 Q DETECTIVE ZOELLER, WHEN HE WAS LOOKING THROUGH  
4 THE MANILA FOLDER.

5 A I WAS STANDING THERE. I DON'T KNOW WHAT HE WAS  
6 LOOKING AT. I JUST SAW THAT HE WAS LOOKING AT IT ITEM BY  
7 ITEM. I WAS CLOSE ENOUGH TO SEE THAT.

8 Q HAD YOU PLACED YOURSELF, ANY OF THE YELLOW TAGS  
9 ON THE ITEMS?

10 A NO.

11 Q WHEN YOU LEFT COURT, YOU KNEW THAT THE OFFICERS  
12 THAT WERE THERE, WERE IN THE PROCESS OF SERVING A SEARCH  
13 WARRANT, RIGHT?

14 A I KNEW THAT. I HAD HEARD THAT, YES.

15 Q AND WHEN YOU GOT TO THE HOUSE AND THERE WERE LOTS  
16 OF POLICE OFFICERS THERE, DID YOU BELIEVE IN YOUR MIND, THEY  
17 WERE THERE SEARCHING, SERVING A SEARCH WARRANT AS OPPOSED  
18 TO JUST CONDUCTING A SEARCH WITH PROBABLE CAUSE BUT WITHOUT  
19 A WARRANT?

20 A CAN I ANSWER THAT?

21 Q YES.

22 A IT SEEMED TO ME THAT A LOT OF THINGS WERE GOING  
23 ON. I SAW PEOPLE THAT I HAD NEVER SEEN BEFORE BUT LATER  
24 DISCOVERED WERE FROM ANOTHER DIVISION THAT HAD NOTHING TO  
25 DO WITH THIS -- FROM HOLLYWOOD, LAPD DIVISION WHICH WERE  
26 CONDUCTING A COMPLETELY UNSUPERVISED SEARCH OF A CRITICAL  
27 AREA OF THE HOUSE, THE COMPUTER ROOM AND THE ROOM ADJACENT  
28 TO THE COMPUTER ROOM.

1 Q THE QUESTION WAS THOUGH, DID YOU BELIEVE THAT  
2 THE PEOPLE THAT WERE THERE, WERE THERE PURSUANT TO THE  
3 AUTHORITY OF THE SEARCH WARRANT, REGARDLESS OF WHAT YOU MIGHT  
4 HAVE THOUGHT WERE THEIR MOTIVES? DID YOU BELIEVE THAT THE  
5 PEOPLE WERE THERE PURSUANT TO A SEARCH WARRANT?

6 A I MEAN, I HAD MY -- I KNEW THAT THEY HAD A SEARCH  
7 WARRANT AND THEY WERE THERE WITH THE SEARCH WARRANT.

8 Q OKAY. THAT IS WHAT I AM ASKING YOU. AND WHEN  
9 YOU GOT THERE, DID YOU CONTACT BOBBY ROBERTS?

10 A YES.

11 Q ONE OF THE FIRST THINGS THAT YOU WOULD WANT TO  
12 DO WHEN YOU GOT THERE WOULD BE TO READ THAT WARRANT, ISN'T  
13 IT?

14 MR. BARENS: OBJECTION, ARGUMENTATIVE. THAT IS THE  
15 KIND OF QUESTION THAT HE CAN ASK BUT WHEN I DID, HE OBJECTED.

16 THE COURT: I THINK HE SAID -- DID HE ANSWER THE  
17 QUESTION?

18 MR. BARENS: BUT OBVIOUSLY YOUR HONOR WOULD SEE WHY  
19 I WOULD OBJECT. BECAUSE WHEN I ASK IT, IT GETS OBJECTED TO.

20 THE COURT: THERE IS A DIFFERENCE BETWEEN DIRECT  
21 EXAMINATION AND CROSS-EXAMINATION. THERE ARE DIFFERENT RULES  
22 FOR IT.

23 MR. BARENS: IT IS STILL ARGUMENTATIVE, EVEN THOUGH  
24 IT IS CROSS-EXAMINATION.

25 THE COURT: GO AHEAD.

26 Q BY MR. WAPNER: AND SO, THE FIRST THING YOU DID  
27 WHEN YOU GOT THERE, WAS TO LOOK AT THE WARRANT?

28 A LET'S SAY IT WAS ONE OF THE FIRST THREE THINGS

A-10

1 I DID.

2 Q ALL RIGHT. AND WHERE DID YOU FIRST SEE  
3 DETECTIVE ZOELLER?

4 A I THINK I FIRST SAW HIM IN THE HALLWAY OUTSIDE  
5 THE COMPUTER ROOM. HE WAS LOOKING INTO THE COMPUTER ROOM.

6 Q SO, BEFORE HE STARTED TO ACTUALLY LOOK AT  
7 ANYTHING --

8 MR. BARENS: OBJECTION. THAT IS ASSUMING FACTS NOT  
9 IN EVIDENCE, THAT MR. CHIER HAS KNOWLEDGE OF WHEN HE FIRST SAW  
10 ANYTHING AND WHEN HE LOOKED AT SOMETHING.

11 THE WITNESS: BEFORE I HAD EVER SEEN HIM IN THAT PLACE  
12 BEFORE, YES.

13 Q BY MR. WAPNER: AND WHEN YOU WERE STANDING FOUR  
14 TO FIVE FEET FROM DETECTIVE ZOELLER, WHEN HE WAS GOING THROUGH  
15 THE MANILA FOLDER, DID YOU EVER TELL HIM, "DON'T DO THAT"?

16 A DID I EVER TELL HIM "DON'T DO THAT"? NO. I DIDN'T  
17 EVER TELL HIM, "DON'T DO THAT."

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1 Q YOU HAVE MET DETECTIVE ZOELLER ON SEVERAL  
2 OCCASIONS IN CONNECTION WITH THIS CASE; IS THAT TRUE?

3 A YES.

4 AND IF YOU ARE GOING TO ASK ME IF I KNOW HE IS  
5 A NICE GUY AND HE WOULD HAVE STOPPED DOING IT WHEN I ASKED  
6 HIM TO STOP HIM, NO, I DON'T KNOW WHETHER HE WOULD HAVE  
7 STOPPED IT.

8 THE COURT: DO YOU MOVE TO STRIKE THAT ENTIRE --

9 MR. WAPNER: YES, I AM.

10 THE COURT: -- STATEMENT?

11 I WILL GRANT YOUR MOTION.

12 MR. WAPNER: THANK YOU.

13 THE WITNESS: YES -- I AM SORRY -- I DO KNOW MR.  
14 ZOELLER, YOU KNOW.

15 Q BY MR. WAPNER: MR. CHIER, UNFORTUNATELY, I AM  
16 NOT MR. BARENS AND I LIKE TO DO IT BY QUESTION AND ANSWER  
17 RATHER THAN A NARRATIVE FORM.

18 AND DURING THE PENDENCY OF THIS CASE, YOU HAVE  
19 OCCASIONALLY KNOWN MR. ZOELLER ON A FIRST NAME BASIS, RIGHT,  
20 IF YOU SEE HIM IN THE HALLWAY, FOR EXAMPLE?

21 A I CALL HIM LES, YES.

22 Q AND AS YOU WERE STANDING THERE HE WAS GOING  
23 THROUGH THESE DOCUMENTS, YOU DIDN'T SAY TO HIM, "LES, DON'T  
24 LOOK AT THAT, DON'T LOOK AT THAT, THAT IS STUFF THAT IS GOING  
25 TO GET YOU IN TROUBLE," ANYTHING LIKE THAT?

26 A NO.

27 Q AND IN FACT, WASN'T IT YOUR STATE OF MIND AT  
28 THE TIME THAT YOU WERE UP THERE THAT PERHAPS THIS WAS A GREAT

1 WINDFALL TO THE DEFENSE THAT MIGHT IN FACT RESULT IN GETTING  
2 THE CASE DISMISSED AND THAT YOU DIDN'T WANT TO VOICE ANY  
3 OBJECTION TO ANYTHING HE WAS DOING?

4 A I WANTED TO STOP IT AND WHEN I FOUND OUT I  
5 COULDN'T STOP IT, I FIGURED LET THE CARDS FALL WHERE THEY  
6 MAY.

7 YEAH, IT COULD RESULT IN THAT, YES, YOU ARE  
8 ABSOLUTELY RIGHT.

9 Q AND WHEN YOU TALKED TO MR. BARENS BACK IN MY  
10 OFFICE DIDN'T HE SAY SOMETHING TO YOU TO THAT EXACT EFFECT?

11 A WELL, YES AND NO.

12 AFTER WE GOT THROUGH, YOU KNOW, KIND OF  
13 COMMISERATING WITH WHAT AN AWFUL KIND OF THING IT WAS, WE  
14 SAID MAYBE ON REFLECTION, MAYBE THIS IS LIKE A BENEFIT. MAYBE  
15 THEY OVER-REACHED.

16 Q AND DIDN'T MR. BARENS SAY TO YOU, "IN FACT,  
17 RICHARD, THIS COULD BE THE BEST THING THAT EVER HAPPENED TO  
18 US"?

19 A THAT WOULDN'T SURPRISE ME.

20 Q DO YOU REMEMBER WHAT YOUR RESPONSE WAS TO THAT,  
21 IF ANYTHING?

22 A I PROBABLY WOULD HAVE AGREED WITH HIM.

23 Q THE DOCUMENT THAT YOU HAVE REFERRED US TO AS  
24 THE MASTER CONTROL FILE, IS WHAT IS GENERATED ON COMPUTER  
25 PAPER; IS THAT RIGHT?

26 A YES.

27 Q DID YOU EVER SEE DETECTIVE ZOELLER LOOKING AT  
28 THAT?

1           A           HE WAS LOOKING AT A PORTION OF IT WHICH WAS --  
2                       HE WAS KNEELING DOWN AT THE FOOT OF THE BED IN  
3 THE COMPUTER ROOM. I THINK IT WAS A BED. I DON'T KNOW WHAT  
4 IT WAS.

5           THE COURT: YOU MEAN HE WAS LOOKING AT A PORTION OF  
6 IT, WHAT DO YOU MEAN BY THAT?

7           THE WITNESS: WELL, THERE WAS SOME OF IT --

8           THE COURT: YOU SAW HIM LOOKING AT THIS COMPUTER PAPER,  
9 DID YOU?

10          THE WITNESS: YES. SOME OF IT WAS IN THE TRASH CAN AND  
11 SOME OF IT WAS IN A FILE THAT HAD NOT BEEN --

12          THE COURT: GO AHEAD.

13          THE WITNESS: DO I HAVE BAD BREATH?

14          THE COURT: GO AHEAD. NO. THE WHOLE THING STINKS,  
15 NOT YOUR BREATH.

16          MR. BARENS: I BEG YOUR PARDON, YOUR HONOR?

17          THE COURT: NOTHING. LET'S GO ON.

18          MR. BARENS: THE COMPUTER THING, I WOULD LIKE TO SAY,  
19 YOUR HONOR, IS AN EXTREMELY LENGTHY DOCUMENT THAT I COULD  
20 STRETCH FROM THE OTHER END OF THE ROOM OVER TO THERE, YOUR  
21 HONOR.

22          THE COURT: WELL, HE SAID HE SAW HIM LOOKING AT A  
23 PORTION OF IT.

24          MR. BARENS: YOUR HONOR, I COULD BE LOOKING AT A  
25 PORTION OF IT --

26          MR. WAPNER: COULD I EXAMINE THE WITNESS WITHOUT  
27 COUNSEL INTERRUPTING AND TESTIFYING HERE --

28          THE WITNESS: PART OF IT WAS IN THE TRASH CAN AND PART

1 OF IT HAD NOT BEEN THROWN AWAY.

2 Q BY MR. WAPNER: DID YOU SEE MR. ZOELLER ACTUALLY  
3 READING PIECES OF THAT PAPER?

4 A I SAW HIM FLIPPING THROUGH IT, YES.

5 Q HOW MANY PIECES OF THIS PAPER DID YOU SEE HIM  
6 LOOK THROUGH?

7 A MAYBE A DOZEN OR HALF A DOZEN, I DON'T KNOW.

8 Q WHAT DID HE DO AFTER THAT?

9 A I DON'T KNOW. I LEFT THE ROOM AT THAT POINT  
10 TO GO BACK ON THE PHONE IN THE MASTER BEDROOM.

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1 Q WAIT A SECOND.

2 YOU KNEW WHAT WAS ON THAT PAPER, DIDN'T YOU?

3 A I BELIEVED I KNEW.

4 I COULDN'T GET CLOSE ENOUGH TO ACTUALLY TAKE  
5 IT FROM HIM AND --

6 Q WHAT DID YOU THINK WAS ON THERE?

7 A I BELIEVE THAT IT WAS PART OF THE THING THAT  
8 HE HAD DELIVERED TO COURT.

9 THE NEXT DAY, HAVING NOT BEEN ABLE TO TALK TO  
10 MR. HUNT BETWEEN THE TIME THAT I ARRIVED THERE AND THE TIME  
11 THAT THIS WAS GOING ON, I COULD ONLY ACT ON ASSUMPTIONS. I  
12 DIDN'T KNOW --

13 I HAD NOT BEEN IN THE HOUSE BEFORE. I HAD NOT  
14 SEEN THAT SPECIFIC THING BEFORE, BUT IT LOOKED LIKE THE THING  
15 THAT WE -- THAT HE DELIVERED TO COURT A DAY OR TWO PREVIOUSLY.

16 Q WHERE WAS THIS COMPUTER PAPER IN RELATION TO  
17 THE FILES THAT DETECTIVE ZOELLER WAS GOING THROUGH?

18 A RIGHT NEXT -- I MEAN THEY WERE WITHIN A FOOT  
19 OR TWO OF EACH OTHER.

20 Q AND THERE IS NO QUESTION IN YOUR MIND THAT HE  
21 WAS LOOKING AT THE COMPUTER PAPER AS OPPOSED TO SITTING AND  
22 LOOKING AT THE FILES WHILE HE WAS SITTING NEAR THE COMPUTER  
23 PAPER?

24 A THERE IS NO QUESTION IN MY MIND THAT HE HAD THEM  
25 IN HIS HANDS.

26 Q AND THIS IS COMPUTER PAPER THAT IS STILL ATTACHED  
27 TOGETHER IN A LONG SHEET?

28 A IN FOLIO FORM AFTER -- IT IS LIKE PAGES. IT

1 IS NOT LIKE A LONG STRING OF SAUSAGE. IT IS LIKE THIS COURT  
2 REPORTER PAPER WHICH IT FOLDS BACK SO IT LOOKS LIKE JUST A  
3 STACK OF PAPER AND YOU JUST PICK IT UP AND READ IT PAGE BY  
4 PAGE.

5 Q HOW MANY PAGES WERE THERE CONTAINED IN THE ITEM  
6 THAT HE LOOKED AT?

7 A I DON'T KNOW.

8 Q DID HE LOOK AT THE WHOLE THING?

9 A I DON'T KNOW.

10 Q WELL, HOW THICK WAS IT?

11 A BETWEEN AN EIGHTH AND A QUARTER OF AN INCH.

12 Q AND WHEN YOU FIRST SAW HIM, WAS THAT WHAT HE  
13 WAS DOING?

14 A I DON'T REMEMBER IF THAT WAS WHEN I FIRST SAW  
15 HIM OR SECOND SAW HIM.

16 I SAW HIM ON TWO DIFFERENT OCCASIONS, LOOKING  
17 AT TWO DIFFERENT THINGS. I DON'T -- I DON'T KNOW.

18 Q YOU MADE NO EFFORT TO SAY TO HIM "THAT IS NOT  
19 SOMETHING YOU SHOULD BE READING."

20 A I WASN'T SURE EXACTLY AT THAT POINT WHAT IT WAS  
21 UNTIL I TALKED TO MR. HUNT.

22 Q WHAT ABOUT THE DOCUMENTS THAT WERE IN THE MANILA  
23 FILE FOLDERS THAT DETECTIVE ZOELLER WAS LOOKING AT, DID YOU  
24 KNOW WHAT THESE WERE UNTIL YOU TALKED TO MR. HUNT LATER THAT  
25 DAY?

26 A I TOLD YOU, SOME OF THE THINGS I BELIEVED THAT  
27 I HAD SEEN BEFORE.

28 SOME OF THE THINGS, I BELIEVED HAD BEEN DESCRIBED

1 TO ME AND I MEAN I KNEW WHAT HE WAS WORKING ON AND THAT IS  
2 WHERE THEY WERE.

3 AND I MADE CERTAIN ASSUMPTIONS ABOUT WHAT WAS  
4 HAPPENING THERE.

5 Q THE ITEMS THAT YOU BELIEVED THAT DETECTIVE ZOELLER  
6 WAS LOOKING AT, WERE THOSE SEIZED OR DID THEY REMAIN BEHIND?

7 A I AM NOT SURE. I DON'T KNOW WHAT WAS SEIZED.

8 Q DID YOU SEE THEM IN THE BOX THAT YOU LOOKED  
9 THROUGH BEFORE THEY LEFT?

10 A NO.

11 Q IF YOUR STATE OF MIND WAS SUCH THAT THERE WAS  
12 SOMETHING IN THAT, POSSIBLY EVEN IN THAT BOX, THAT CONTAINED  
13 THE STRATEGY OF THE DEFENSE IN THIS CASE, WOULDN'T YOU THINK  
14 IT WOULD HAVE BEEN IMPORTANT FOR YOU TO LOOK AT IT AND ATTEMPT  
15 TO REGISTER AN OBJECTION TO IT?

16 A I WAS THROUGH REGISTERING OBJECTIONS.

17 Q OF THE ITEMS THAT WERE IN THAT ROOM THAT WERE  
18 NOT SEIZED, HAVE THEY BEEN PRESERVED?

19 A THEY WERE. THEY WERE SEALED IN ENVELOPES THAT  
20 EVENING UPON MR. HUNT'S RETURN.

21 Q AND DO THEY REMAIN IN THAT CONDITION?

22 A THEY DO.

23 Q AND WILL THEY BE PROVIDED TO THE COURT FOR IN  
24 CAMERA INSPECTION?

25 A NO.

26 Q AND YOU ARE STILL IN POSSESSION OF THOSE?

27 A YES.

28 THE COURT: YOU ARE TALKING ABOUT THAT WHICH WAS LEFT

1 BEHIND?

2 THE WITNESS: YES.

3 THE COURT: ALL RIGHT.

4 MR. WAPNER: NOTHING FURTHER.

5 MR. BARENS: A MOMENT, YOUR HONOR?

6 THE COURT: GO AHEAD.

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## EXAMINATION

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2 BY MR. BARENS:

3 Q MR. CHIER, THE MASTER CONTROL FILE THAT I  
4 REFERRED TO EARLIER, HAD YOU EVER SEEN THAT PRIOR TO THE TIME  
5 YOU WENT TO THE ROBERTS HOUSE?

6 A I HAD GLANCED AT IT.

7 Q HAD YOU EVER KNOWINGLY GONE THROUGH IT AND READ  
8 IT?

9 A I HAD GONE THROUGH IT BUT I HADN'T, LIKE, YOU  
10 KNOW, ABSORBED IT.

11 I KNEW WHAT IT WAS.

12 Q DID YOU INDICATE EARLIER THAT IF YOU WOULD HAVE  
13 PROTESTED THE ITEMS BEING REMOVED, THAT IT COULD HAVE  
14 IDENTIFIED DEFENSE EXHIBITS WITH GREATER SPECIFICITY AS FAR  
15 AS THE ONES WE HAD PLANNED TO USE, TO THE OFFICERS?

16 A IN MY JUDGMENT, IT IS LIKE THE PROBLEM OF SOME-  
17 TIMES OBJECTING OR GETTING A CAUTIONARY INSTRUCTION, SOMETIMES  
18 YOU CALL MORE ATTENTION TO THINGS THAN YOU REALLY WANT TO,  
19 AND IT WAS JUST A JUDGMENT CALL ON MY PART AND I DECIDED JUST,

20 I DIDN'T HAVE ANY CONTROL OVER IT SO WHAT COULD  
21 I DO?

22 Q IF ELEMENTS OF THE POLICE DEPARTMENT ASSOCIATED  
23 WITH THE PROSECUTION WERE IN FACT ENGAGED IN ACTIVITIES THAT  
24 YOU BELIEVED COULD COMPROMISE THE PROSECUTION'S ABILITY TO  
25 GO FORWARD WITH THEIR CASE OR MIGHT RESULT IN SOME COURT  
26 DEEMING IT PROSECUTORIAL MISCONDUCT, DID YOU FEEL YOU HAD  
27 AN OBLIGATION TO PROTEST THAT OR, RATHER, WAS IT IN YOUR  
28 CLIENT'S INTERESTS TO SAY NOTHING?

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A           OBVIOUSLY, IN MY CLIENT'S INTERESTS TO LET THEM  
OVER-REACH.

MR. BARENS:   THANK YOU, MR. CHIER.

1 THE COURT: I JUST WANT TO TALK ABOUT THIS CONCEPT OF  
2 THE SPECIAL MASTER.

3 MR. BARENS: FEEL FREE TO INQUIRE, YOUR HONOR.

4 THE COURT: ALL RIGHT. I WILL.

5 MR. BARENS: I THOUGHT YOU WOULD.

6 THE COURT: 1524 THAT YOU HAD MADE REFERENCE TO,  
7 RELATING TO SEARCH WARRANTS, READS AS FOLLOWS --

8 THE WITNESS: COULD I SAY SOMETHING, JUDGE?

9 THE COURT: WHAT?

10 THE WITNESS: I WAS AWARE OF THE EXISTENCE OF THIS  
11 SECTION. I HAVE NEVER HAD A CASE IN WHICH I HAVE EVER  
12 LITIGATED --

13 THE COURT: WEREN'T YOU AWARE OF THE SECTION AT THE  
14 TIME YOU WENT OUT THERE AND YOU CALLED AND SPOKE TO MR. BARENS  
15 AND TOLD HIM ABOUT THIS SPECIAL MASTER?

16 THE WITNESS: OF COURSE.

17 THE COURT: ALL RIGHT. THEN I WANT TO READ THIS TO  
18 YOU.

19 "(C) NOTWITHSTANDING THE SUBDIVISION (A)  
20 OR (B) ..."

21 . THAT IS NOT RELEVANT AT THE MOMENT.

22 "NO SEARCH WARRANT SHALL BE ISSUED FOR  
23 ANY DOCUMENTARY EVIDENCE IN THE POSSESSION OF OR  
24 UNDER THE CONTROL OF ANY PERSON WHO IS A LAWYER  
25 AS DEFINED IN SECTION 950 OF THE EVIDENCE CODE."

26 950 PARENTHETICALLY, OF THE EVIDENCE CODE, SAYS:

27 "LAWYER AS USED IN THIS ARTICLE,  
28 MEANS ANY PERSON AUTHORIZED OR REASONABLY BELIEVED

-2 | 1 BY THE CLIENT TO BE AUTHORIZED TO PRACTICE LAW  
2 IN ANY STATE OR NATION."

3 NOW I WILL RESUME QUOTING:

4 "A PHYSICIAN AS DEFINED IN SECTION 990  
5 OF THE EVIDENCE CODE, A PSYCHOTHERAPIST AS DEFINED  
6 IN SECTION 1010 OF THE EVIDENCE CODE, OR A CLERGYMAN  
7 AS DEFINED IN SECTION 1030 OF THE EVIDENCE CODE  
8 AND IT WAS NOT REASONABLY SUSPECTED TO HAVE BEEN  
9 ENGAGING OR HAVING ENGAGED IN CRIMINAL ACTIVITY  
10 RELATED TO THE DOCUMENTARY EVIDENCE FOR WHICH A  
11 WARRANT IS REQUESTED."

12 DO YOU THINK THAT THAT SECTION IS APPLICABLE TO  
13 THIS SITUATION WHERE YOU HAVE A DEFENDANT WHO IS A CRIMINALLY  
14 ACCUSED IN AN ACTION -- CRIMINALLY ACCUSED IN AN ACTION AND  
15 YOU MADE HIM A LAWYER BY SAYING THAT HE IS ACTING IN PRO PER?  
16 IS THAT WHAT YOU ARE TELLING ME?

17 THE WITNESS: I SAID I HAD NOT ACTUALLY READ THAT  
18 SECTION. I WAS AWARE OF THE EXISTENCE OF IT.

19 THE COURT: BUT YOU TOLD IT TO COUNSEL, THAT HE SHOULD  
20 MAKE THE PLEA BEFORE ME. YOU ASKED HIM TO ASK ME TO HAVE  
21 HIM TO BE DEEMED TO BE IN PRO PER, SO YOU COULD INVOKE THE  
22 SECTION RELATING TO A SPECIAL MASTER.

23 THE WITNESS: I THOUGHT IT WOULD AT LEAST PUT THE BRAKES  
24 ON THE SITUATION AND --

25 THE COURT: DO YOU THINK THAT? THAT IS NONSENSICAL.

26 THE WITNESS: NONSENSICAL?

27 THE COURT: YES.

28 THE WITNESS: WELL, OBVIOUSLY --



1 THE COURT: FROM READING THIS, IT IS.

2 THE WITNESS: WELL, IT PROBABLY WOULDN'T HAVE WORKED  
3 ULTIMATELY. BUT IT WOULD HAVE AT LEAST IN MY JUDGMENT,  
4 STOPPED WHAT WAS GOING ON, WHICH I THOUGHT WAS BAD.

5 THE COURT: YOU MEAN, YOU WOULD USE A SUBTERFUGE TO  
6 GET PEOPLE IN THE EXERCISE OF A SEARCH WARRANT, A DULY ISSUED  
7 SEARCH WARRANT BY THE COURT, TO GET THEM TO STOP DOING IT  
8 BECAUSE YOU SAID A SPECIAL MASTER SHOULD BE APPOINTED UNDER  
9 THE CIRCUMSTANCES?

10 THE WITNESS: I WAS NOT AWARE THAT IT CONTAINED THE  
11 QUALIFICATIONS THAT YOU HAVE REFERRED TO, YOUR HONOR. I JUST  
12 THOUGHT THAT IT WAS A LAWYER'S OFFICE.

13 THE COURT: ALL RIGHT. I HAVE NO FURTHER QUESTIONS.

14 MR. BARENS: I JUST WANT TO COMMENT FOR THE RECORD YOUR  
15 HONOR, THAT YOU MIGHT RECALL, THAT WHEN I MADE THE MOTION  
16 TO THE COURT, I ADVISED YOUR HONOR SPECIFICALLY ON THE RECORD,  
17 THAT I HAD NO FAMILIARITY WITH THIS AT ALL, BUT RATHER, THAT  
18 IT WAS AN EXTREMELY UNUSUAL SITUATION I THOUGHT.

19 THE COURT: YOU MADE A MOTION -- YOU ASKED ME TO GRANT  
20 A MOTION THAT HE WOULD BE APPEARING IN PRO PER FOR THE  
21 PURPOSE OF HAVING A SPECIAL MASTER.

22 AND MY FRIEND RIGHT HERE, THE DISTRICT ATTORNEY,  
23 THOUGHT THAT A SPECIAL MASTER SHOULD BE APPOINTED.

24 MR. BARENS: WELL, MR. WAPNER THOUGHT IT WAS A GOOD  
25 IDEA THAT --

26 THE COURT: BECAUSE HE DIDN'T KNOW ANYTHING ABOUT IT.

27 MR. BARENS: WELL, I DIDN'T KNOW ANYTHING ABOUT IT.  
28 WE WERE ALL DOING A SEAT-OF-OUR-PANTS THING. IT WAS SOMETHING

)-4  
1 THAT NEVER OCCURRED BEFORE --

2 THE COURT: I JUST THOUGHT I WOULD LET YOU KNOW.

3 MR. BARENS: YOUR HONOR, IF AN ELEPHANT WALKED INTO  
4 THIS COURT, I WOULDN'T KNOW HOW TO DEAL WITH IT, BUT I  
5 WOULD NEGOTIATE. THAT IS ALL I CAN SAY.

6 THANK YOU, YOUR HONOR.

7 THE COURT: ALL RIGHT. WE'LL TAKE A RECESS NOW, SHALL  
8 WE? THAT IS, UNLESS YOU WANT TO TALK TO ME ABOUT THE --

9 MR. BARENS: WELL, WE HAD THIS OTHER MATTER TO DEAL  
10 WITH. I WOULD LIKE TO FIND OUT WHERE WE ARE ON THAT MOTION.

11 THE COURT: WELL, DO YOU WANT TO DO IT HERE IN FRONT  
12 OF EVERYBODY ON THE RECORD? BECAUSE, THERE ARE CERTAIN  
13 OBSERVATIONS THAT I MIGHT MAKE THAT I AM SURE YOU WOULDN'T  
14 WANT ME TO --

15 MR. WAPNER: YOUR HONOR, CAN WE PUT THIS OVER UNTIL  
16 TOMORROW MORNING BEFORE THE TESTIMONY?

17 THE COURT: SURE.

18 MR. WAPNER: THANK YOU.

19 THE COURT: ALL RIGHT. WE'LL HAVE THAT IN CHAMBERS.

20 MR. BARENS: AS YOU WISH, YOUR HONOR.

21 THE COURT: ALL RIGHT.

22 (AT 4:25 P.M. AN ADJOURNMENT WAS TAKEN  
23 UNTIL THURSDAY, JANUARY 29, 1987, AT  
24 10:30 A.M.)  
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