

Danielle Wieland

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

JAMES OCHOA,)	
)	
Plaintiff,)	
)	
vs.)	Case No.
)	SACV07-443 JVS (MLGx)
THE CITY OF BUENA PARK,)	
CORPORAL STEVE CRAIG,)	
individually and as an officer)	
of the Buena Park Police)	
Department, OFFICER KEVIN GANO,)	
individually and as an officer)	
of the Buena Park Police)	
Department, DOES 1-10,)	
)	
Defendants.)	
)	

DEPOSITION OF DANIELLE WIELAND
Irvine, California
Tuesday, February 5, 2008

REPORTED BY:
CHERYL SLETTA
CSR No. 7354
Job No. 926659

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 SOUTHERN DIVISION

4 JAMES OCHOA,)
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6 Plaintiff,)
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10 CORPORAL STEVE CRAIG,)
11 individually and as an officer)
12 of the Buena Park Police)
13 Department, OFFICER KEVIN GANO,)
14 individually and as an officer)
15 of the Buena Park Police)
16 Department, DOES 1-10,)
17)
18 Defendants.)

19 Deposition of DANIELLE WIELAND,
20 taken on behalf of Plaintiff, at 19900
21 MacArthur Boulevard, 12th Floor,
22 Irvine, California, beginning at 1:24
23 p.m. and ending at 5:49 p.m. on
24 Tuesday, February 5, 2008, before
25 CHERYL SLETTA, Certified Shorthand
Reporter No. 7354.

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1 Irvine, California, Tuesday, February 5, 2008
2 1:24 p.m. - 5:49 p.m.
3
4 DANIELLE WIELAND,
5 having been first duly placed under oath, was examined
6 and testified as follows:
7
8 EXAMINATION
9 BY MR. MARQUEZ:
10 Q Good afternoon, Ms. Wieland. How are you
11 today?
12 A Good afternoon. Good.
13 Q Could you please state and spell your full
14 name for the record.
15 A Danielle Wieland. D-A-N-I-E-L-L-E, last name,
16 Wieland, W-I-E-L-A-N-D.
17 Q And who is your current employer?
18 A Orange County Sheriff-Coroner.
19 Q How long have you been employed with the
20 Orange County Sheriff-Coroner's office?
21 A Six years.
22 Q And what title do you currently hold?
23 A I'm a forensic scientist.
24 Q And has that been your title ever since you
25 started with the Orange County Sheriff-Coroner's office?
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1 A Yes.
2 Q Prior to your time at the Orange County
3 Sheriff-Coroner's office, were you also a forensic
4 scientist or did you have a different profession?
5 A No, I was a student before.
6 Q Okay. So you've been a forensic scientist for
7 about six years now?
8 A Yes.
9 Q Could you please state the business address of
10 the Orange County Sheriff-Coroner's office, please?
11 A It's 320 North Flower Street, Santa Ana,
12 California 92703.
13 Q And what is your direct line there?
14 A My direct line is (714)834-6389.
15 Q Okay. Have you ever been deposed before,
16 Ms. Wieland?
17 A Yes.
18 Q How many times?
19 A Once.
20 Q Okay. Well, you've got a little bit of
21 experience. Just a couple of ground rules. The most
22 important thing is we've got a court reporter here
23 today. And when I talk and you talk, we kind of talk on
24 top of one another and I'm sometimes bad about this.
25 So please correct me, Madam Court Reporter, if
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1 I mess up on this.
2 But it makes it hard for her to take
3 everything down. So if you can allow me to finish my
4 question before you respond, and I'll try to allow you
5 to finish your response before I ask the next question,
6 that will facilitate the process.
7 Is that clear?
8 A Yes.
9 Q And as far as my questions, if I ask unclear
10 questions, which I have also been known to do, please
11 feel free to ask me to clarify if you don't understand
12 something. The last thing I would want you to do is to
13 speculate or guess. Instead, I'd prefer your best
14 estimate if that's all you have to give me here today.
15 Is that fair?
16 A Yes.
17 Q Okay. If you need to take a break for any
18 reason; to go to the bathroom or just to clear your
19 mind, grab a sip of water, just let me know. The only
20 time I might ask you to wait for a little while longer
21 is if there's a question pending, and just get the
22 response and then we can go ahead and take a break.
23 Fair enough?
24 A Yes.
25 Q At the end of this process, you will have 30
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1 days upon receipt of the transcript to look it over and
2 make sure that all of your testimony is accurate.
3 You'll have the opportunity to make any changes if you
4 feel necessary or anything is inaccurate or if you
5 didn't remember something at the time of testimony.
6 Both myself and opposing counsel will have the
7 opportunity, if you so choose to do that, to comment,
8 adversely, possibly, on any changes made and we just
9 wanted you to be aware of that. That would be in case
10 you testify at trial and probably to question your
11 credibility.
12 Is that understood?
13 A Yes.
14 Q So you're here today because I represent James
15 Ochoa in a lawsuit that he's filed in the Federal Court
16 against the City of Buena Park arising out of an arrest
17 that took place on May 23rd, 2005 in Buena Park for a
18 carjacking. It later turned out that Mr. Ochoa was not
19 in fact the person who committed the carjacking.
20 It's my understanding that you were involved
21 in the investigation with respect to analyzing -- doing
22 a DNA analysis on several items that were recovered from
23 the stolen car, as well as I believe some objects or at
24 least DNA samples taken from the car itself; is that
25 accurate? More or less a general description? We'll
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1 get into the specifics later.

2 A Yes.

3 Q Fair summary?

4 A Yes, it is.

5 Q So I'm going to start actually with the
6 subpoena and I'm going to mark this document Exhibit 63.
7 (Exhibit 63 marked.)

8 BY MR. MARQUEZ:

9 Q I just want to hand you a copy of the subpoena
10 that we served pursuant to which you're here today. If
11 you can just take a quick look at this document and let
12 me know if this looks like a subpoena that we served
13 upon you.

14 A Yes, it does.

15 Q And I actually -- we didn't make a extra copy
16 for you.

17 Do you mind if I borrow your copy? Thank you.

18 This is Exhibit 63. If you'll note about
19 halfway down the page where it says, "You are commanded
20 to produce and permit inspection and copying of the
21 following documents," et cetera, there's a category of
22 documents that we requested you to produce from your
23 office: "All documents and communications related to
24 DNA or other forensic analysis performed by the Orange
25 County Sheriff-Coroner's office in connection with the

1 the Orange County Sheriff-Coroner, she never produced
2 the copies that were described here.

3 Q Okay. Just for clarity of the record, one of
4 the documents that I believe you produced today is a
5 document that I'll mark Exhibit 64. And the top, if
6 you'll look at that, that appears to be the subpoena
7 that defendants served on the Orange County
8 Sheriff-Coroner's office.

9 (Exhibit 64 marked.)

10 BY MR. MARQUEZ:

11 Q And is this the document you're speaking about
12 that Ms. Manriquez prepared documents to produce prior
13 to today's deposition in response to?

14 A Yes. She showed me this today and she showed
15 me a subpoena today that looks to be this subpoena and
16 told me that those were who she made the discovery
17 requests for, and that an individual named Nicole had
18 picked it up.

19 Q Okay. Do you mind if I borrow this?

20 Well, this subpoena, Exhibit 64, also has a
21 corresponding request for documents. The documents that
22 are sought there by defendants are "Any and all records,
23 files, case, communication, DNA testing and the like as
24 well as any communication between their office and the
25 D.A. concerning James Ochoa." And so the language of

1 Buena Park Police Department's or Orange County District
2 Attorney's investigation into the May 23rd, 2005
3 carjacking in Buena Park, California for which James
4 Ochoa was arrested and prosecuted."

5 Were you aware of that document request on the
6 subpoena?

7 A Yes, I was.

8 Q Can you tell me if you and/or others at your
9 office made efforts to produce documents responsive to
10 this request?

11 A There was some confusion as to this request
12 and who was asking for the information. I brought this
13 to Maria Manriquez, who is the individual who handles
14 the discovery requests. And at the time that I brought
15 her a copy, she had not received a copy herself.

16 I asked if I needed to bring something up to
17 L.A. and deliver something at L.A. yesterday, which is
18 the date that was stated that the documents were
19 required, and she said no, that's all handled on her end
20 and they would be sent up there.

21 Somewhere around that same time, she received
22 a request from the city attorneys for Buena Park, and
23 she was then -- believed that this was the same request,
24 and she handled that request. And because she never
25 received a copy of this request directed just towards

1 the request is a little bit different.

2 My question to you I guess is, is my
3 understanding correct that the documents that have been
4 produced today to deposing counsel, and here by yourself
5 at deposition, if those documents were gathered in
6 responding to defendant's subpoena which we've just
7 marked as Exhibit 64; is that correct?

8 A That is correct.

9 MR. FERGUSON: In other words, the documents
10 produced would be the same documents regardless of what
11 subpoena the request was from?

12 MR. MARQUEZ: Well, I haven't gotten there
13 yet.

14 MR. FERGUSON: Oh, I thought that's what you
15 were just asking.

16 BY MR. MARQUEZ:

17 Q Well, just for clarity's sake, my question was
18 the documents that were produced were produced with the
19 document request the defendants included with their
20 subpoena in mind; is that a correct understanding?

21 A Yes. The documents that were given to Nicole
22 were based upon the request from that subpoena there.

23 Q Okay. Do you have any reason to believe that
24 the Orange County Sheriff's -- Sheriff-Coroner's office
25 would have produced any additional or different

1 documents had they produced documents with our subpoena
2 request in mind? By "our," I mean plaintiff's subpoena.

3 **A No, I do not think there would have been**
4 **anything additional.**

5 Q Okay. Great. So with that in mind, just real
6 quickly, I have here -- I'm handing to you a stack of
7 documents that I'll sort of mark piece by piece later in
8 the deposition.

9 Aside from the subpoena that I just removed
10 and marked as Exhibit 64, which is on top of that stack,
11 can you just confirm for me the stack I just handed to
12 you is what you have produced today?

13 **A It's what I have in my -- did you want me to**
14 **actually go through and make sure all the numbers are**
15 **here or -- we have the reports labeled A, B, C and so**
16 **on. So I could tell you whether there was a report**
17 **missing. Would that be sufficient?**

18 Q That would be sufficient. I mean, if you see
19 something that is missing, let me know. And maybe it
20 helps to start with -- it looks like you are looking at
21 maybe a case file --

22 **A Yes.**

23 Q -- that is in a manila folder. Could you tell
24 me what you've got there that you're using to compare
25 against our production?

1 packets -- for the record, the bottom two are stapled
2 packets. And I'm going to do a swap with you because I
3 had highlighted on that copy set and I'll give you a
4 clean copy set.

5 So for the record, the bottom two documents
6 that she's identified are -- appear to be a latent print
7 report, Orange County Sheriff-Coroner Identification
8 Bureau latent print report.

9 MR. FERGUSON: What's at the bottom, number?

10 THE WITNESS: They're hard to read. They
11 would be, I think --

12 MR. FERGUSON: Is that a B?

13 THE WITNESS: -- G and H, maybe. You know
14 what? I take that back. It does look like a B.

15 MR. MARQUEZ: It almost looks like a B. Is it
16 a B or an R? Oh, it's an R. If you look a few pages
17 forward, I think it's an R.

18 MR. FERGUSON: No, it's B.

19 MR. MARQUEZ: No, it is a B. You're right.

20 MR. FERGUSON: 1 through 9.

21 MR. MARQUEZ: So it looks like it's B-1
22 through B-9.

23 MR. FERGUSON: 7.

24 MR. MARQUEZ: B-1 to B-7.

25 Q So that's one document that's not from your

1 **A I'm using the case file from FR 05-47933,**
2 **which is the forensic report number that was assigned to**
3 **the case you had mentioned earlier.**

4 Q So that was the forensic report number
5 assigned to the investigation into whether James
6 Ochoa -- into the investigation into the May 23rd, 2005
7 carjacking?

8 **A Correct, Buena Park DR number 054762.**

9 Q Okay. So is that the entirety then of the
10 case file on that particular forensic investigation?

11 **A This is the entire DNA section. I don't**
12 **believe that there is another section, but I am not -- I**
13 **didn't check to see if there was any reports generated**
14 **by any other disciplines, being ID or fingerprint,**
15 **anything else in this particular FR.**

16 Q Okay. I'll have you now go through and just
17 see if you can confirm that at least for the DNA section
18 of the documents that I handed to you which were
19 produced, if that matches up with your file.

20 And I believe at the very end of that, I saw
21 some documents that may not be in your DNA file that may
22 have been produced from other sectors. If you could
23 confirm that.

24 **A Okay. The bottom two are not in my DNA file.**

25 Q The bottom two documents? And they're stapled

1 DNA file?

2 **A Yeah. If you look at the very top of them,**
3 **they're headed "Orange County Sheriff-Coroner**
4 **Identification Bureau," and those would not be from the**
5 **DNA section. They would be from the ID or fingerprint**
6 **section.**

7 Q I see. So the second of the documents is also
8 headed "Orange County Sheriff-Coroner Identification
9 Bureau Latent Print Report." And this one does not
10 appear to have a number on the footer but appears to
11 be -- the investigating officer towards the top of the
12 document is listed as Montez. Date assigned, 10-20-06.

13 And this appears to pertain to a fingerprint
14 analysis of the print that was lifted from the gear
15 shift of the recovered car in the carjacking as compared
16 to the print of Mr. McCollum.

17 MR. FERGUSON: McCollum?

18 MR. MARQUEZ: McCollum.

19 Q Aside from those two documents, I see there's
20 another document just prior to that that also lists
21 Orange County Sheriff-Coroner Identification Bureau at
22 the top. And I don't think -- this one may have a
23 footer but only at the second page, and it looks like
24 it's A-2 but I can't read it very well.

25 It looks like it is a statement by someone who

1 took a photograph from a live lineup, Orange County
2 Sheriff's Department Investigator Lance Gilbert. It's a
3 two-page document.

4 MR. FERGUSON: Where was this in the packet?

5 MR. MARQUEZ: I believe it's the third-to-
6 the-last document.

7 MR. FERGUSON: No.

8 MR. MARQUEZ: No?

9 THE WITNESS: It would be the first one
10 after --

11 MR. FERGUSON: Oh, here. Okay. Got it.

12 BY MR. MARQUEZ:

13 Q Okay. This is a third document that also has
14 a heading of "Orange County Sheriff-Coroner
15 Identification Bureau," but is it safe to assume that
16 this document also came from the identification bureau
17 and not the DNA department?

18 A That is correct. The individual who wrote the
19 document is one of the forensic specialists in the ID
20 bureau.

21 Q Okay. And aside from that, the other
22 documents that were produced are from this DNA file --
23 this forensic file on the specific case number you
24 referenced earlier?

25 A Yes. These ones would be from the DNA section

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1 the Examination Results section that would be notes, I
2 take it, from your department?

3 A Yes. We also added who the oral swabs was
4 from, comment S, enclosed in parentheses --

5 Q I see.

6 A -- Ochoa, and also the FR number was filled in
7 on the top right-hand corner.

8 Q I see. And do you recall having received this
9 document yourself or seen it yourself back in May of
10 '05?

11 A I don't recall that it was exactly May of '05.
12 I know I would have received it shortly after one of the
13 supervisors had called and made notations on this page.

14 Q Okay. If you look at this document, right
15 under the first grid towards the top of the page, it
16 says, "Case Investigator Nunes."

17 Who did you understand to be the case
18 investigator from the Buena Park Police Department on
19 this investigation?

20 A Nunes.

21 Q Was that Detective Frank Nunes?

22 A I don't know if I am certain that his first
23 name is Frank. But yes, Detective Nunes.

24 Q Detective Nunes. Okay. And just next to that
25 it says, "Work request prepared by Nunes." Was that

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1 of FR 05-47933. The three files that you've just
2 mentioned would be from the ID section of the same FR.

3 Q Okay. Thanks for that clarification.

4 Now, Mr. James Ochoa was arrested as a suspect
5 of this carjacking on May 23rd, 2005. And it is my
6 understanding that subsequent to the arrest the Buena
7 Park Police Department submitted a request for DNA
8 analysis to the Orange County Sheriff-Coroner's office.

9 And I'm going to show you a document that was
10 marked at a prior deposition as Exhibit 37. And tell me
11 if you recognize this document.

12 A May I look at my notes to refresh the document
13 that I have --

14 Q Yes, you may. And I believe that this same
15 document is part of the packet that you produced today.
16 Let me try to find a match.

17 MR. FERGUSON: Is it A-6?

18 MR. MARQUEZ: A-6.

19 MR. FERGUSON: Or at least part of it, anyway.

20 THE WITNESS: Additional notes would have been
21 made by -- by my lab onto that page.

22 BY MR. MARQUEZ:

23 Q Okay. So looking at your document, A-6, and
24 the depo Exhibit 37 that I just showed to you, do those
25 appear to be the same report with additional notes in

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1 your understanding that he submitted a work request to
2 the Orange County Sheriff-Coroner's office for DNA
3 analysis?

4 A Yes.

5 Q Okay. And it appears that just to the right
6 of that, it's dated 5-23-05. But you don't have an
7 independent recollection of when it came to your
8 attention that this request had been submitted?

9 A Based on my notation at the bottom left-hand
10 -- I'm sorry, right hand of the page, where it says, "To
11 DGW 6-10-05," and then the initials "RJH" right there,
12 that was actually the date that somebody gave this
13 request to me, because I wrote right above that
14 "6/13/05." That's the date that I actually received it
15 myself.

16 Q Okay. And would you have commenced any work
17 prior to receiving this document?

18 A No, I do not believe I would have.

19 Q Okay. I'm going to show to you another
20 document that I believe is probably going to be a more
21 exact copy of this.

22 I am handing to you what's previously been
23 marked at deposition as Exhibit 39. And though this may
24 not be identical to what you have, I believe this is --
25 this duplicates Exhibit 37 but has also the notes that

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1 you mentioned having been added by your department.
 2 Could you take a look at that and see if
 3 that's accurate?
 4 **A Yes, that appears to be correct.**
 5 Q Okay. So we don't have to jump back and forth
 6 between so many pieces of paper, I'm just going to ask
 7 you from your file copies, with the understanding that
 8 we have essentially the same documents in our possession
 9 that were previously produced by defendants.
 10 So I'm looking back at this document, and I
 11 just wanted to see if you could --
 12 Go ahead.
 13 MR. FERGUSON: 39? I'm sorry, I'm just
 14 trying --
 15 MR. MARQUEZ: Yeah, I was looking at 39 --
 16 MR. FERGUSON: Okay.
 17 MR. MARQUEZ: -- and comparing that to her
 18 A-6.
 19 Q So it appears that on about May 23rd, '05,
 20 Detective Nunes submitted a request for DNA analysis,
 21 and that appears to be reflected by this document.
 22 Is that your understanding of A-6?
 23 **A Yes.**
 24 Q Okay. And does this also reflect that Mr. --
 25 sorry, Detective Nunes submitted an oral swab containing

1 Q Okay. And does this document, Exhibit 38,
 2 match your documents A-7 and A-8?
 3 **A Yes, it does.**
 4 Q Okay.
 5 MR. FERGUSON: Are you talking about 38?
 6 There are some differences.
 7 MR. MARQUEZ: I'm going to walk through that
 8 right now.
 9 Q Is it correct that there are some differences
 10 between the two documents? Namely, it looks like at the
 11 top right-hand side, again, the FR number has now been
 12 filled in in the copy from your files, which was lacking
 13 in Exhibit 38; is that correct?
 14 **A Correct.**
 15 Q Okay. And could you tell me, it looks like
 16 there are a couple of initials above the FR number. Do
 17 you know whose initials those are?
 18 **A Above the 33, those are my initials, "DW."**
 19 Q Okay. And those are also not present on
 20 Exhibit 38, correct?
 21 **A That is correct.**
 22 Q And then to the left of the FR number, it
 23 appears that there's also some notation I can't make
 24 out. That also is not on Exhibit 38, correct?
 25 **A Correct.**

1 a sample of Mr. Ochoa's DNA?
 2 **A This would have been the request to process**
 3 **the item. He would not have necessarily, and most**
 4 **likely did not bring over the swabs himself on that same**
 5 **day. Usually they request that we do the work and then**
 6 **we request that the agency bring over the items.**
 7 Q Okay. Is it safe to assume from this report
 8 that ultimately somebody, the appropriate person, would
 9 have brought oral swabs taken from Mr. Ochoa's mouth to
 10 the Orange County Sheriff-Coroner's office for any DNA
 11 analysis?
 12 **A Yes.**
 13 Q And that would have to be compared against
 14 something, some sample, correct?
 15 **A Yes.**
 16 Q I'm going to hand you what's been marked as
 17 Exhibit 38 before at a prior deposition. And if you
 18 could take a look at this document, which I also believe
 19 you have copies of in your production.
 20 And tell me if this request for evidence
 21 examination appears to be a document that was submitted
 22 containing or listing the DNA samples that would be used
 23 to compare to see if Mr. Ochoa's DNA matched DNA
 24 collected from the recovered car.
 25 **A Yes, it does.**

1 Q Can you tell me what that says, if you can
 2 read it?
 3 **A I don't recognize the initials. Typically**
 4 **when our clerical department receives the request for a**
 5 **DNA analysis, they will assign the case an FR number, or**
 6 **if one has already been assigned, write the FR number on**
 7 **the request and then put their initials next to it. And**
 8 **that's what I believe those initials would be from.**
 9 Q Okay. And aside from those differences, it
 10 appears that there is also a new notation within the
 11 Examination Results portion of this request that was not
 12 in Exhibit 38.
 13 Do you see that?
 14 **A Yes, I do.**
 15 Q Okay. And that notation just says, "215
 16 carjacking." And it looks like there may be some
 17 initials next to that.
 18 **A Yes.**
 19 Q Can you make those out?
 20 **A I'm recognizing the writing. It is "JH," John**
 21 **Hartman. At the time, he was the DNA supervisor.**
 22 Q And then finally a couple of other subtle
 23 differences, which are, there's a fax header at the top
 24 that's not on Exhibit 38. There's of course a notation
 25 at the bottom, "A-7," that is missing from Exhibit 38,

1 and then "A-8" on the next page that's also missing from
2 Exhibit 38.

3 Do you see that?

4 **A Yes.**

5 **Q** And then it looks like the final difference on
6 the second page of -- comparing A-8 to the second page
7 of Exhibit 38, there also appears to be your initials
8 next to the case number, above the case number on A-8
9 that are missing from 38.

10 Do you see that?

11 **A Yes. I'm required to write my initials and**
12 **the FR on all pages that go into the file.**

13 **Q** Okay. And then the last difference is there's
14 a notation just beneath that line that says "05-47993,"
15 and then it appears what someone has done -- maybe you
16 have done that -- is indicated the FR number.

17 **A Yes. It's actually 05-47933.**

18 **Q** Okay. Aside from that, do you see any other
19 differences between your A-7 and A-8 and my Exhibit 38?

20 **A No, I do not.**

21 **Q** Okay. So looking at Exhibit 38, it appears
22 that someone by the name of C. Terrill submitted a work
23 request dated 5-24-05 that listed each item of evidence
24 to be examined in this DNA analysis.

25 Is that what I'm looking at here?

1 **when they recovered the car.**

2 **Q** Okay. And were you told that the -- who had
3 worn, or if they had -- the police had information as to
4 who had worn the shirt and the cap?

5 **A They told me that the victims had said that**
6 **the assailant was wearing those clothes.**

7 **Q** Okay. And looking at the notes regarding
8 examination requested on the above items, it appears
9 that the request was written, "Please examine for DNA
10 evidence and compare to listed suspect James Ochoa," and
11 his birth date, "oral swab of Ochoa booked as item
12 number FN2 under the same case number. Work request
13 already submitted by Detective Frank Nunes."

14 Do you understand this notation to refer back
15 to page A-6 which we just previously looked at that
16 seemed to indicate that Detective Nunes was submitting
17 an oral swab -- or Buena Park Police Department was
18 submitting an oral swab of the sample of Mr. Ochoa's
19 DNA?

20 **A Yes, I knew that they were related to the same**
21 **case.**

22 **Q** Now, once you received -- did you also then
23 receive a copy at some point of A-7 and A-8?

24 **A I -- I don't recall when I received those**
25 **copies. I mean, at some point I did receive them, but I**

1 **A Yes.**

2 **Q** Can you walk me through quickly what those DNA
3 sample items were?

4 **A Well, these samples are not samples that I**
5 **collected. These are samples that Buena Park collected**
6 **and submitted.**

7 **They asked for swabs taken from the underneath**
8 **side of the exterior driver's front door handle and**
9 **background standard, the interior driver front door pull**
10 **and background standard, swabs from the interior driver**
11 **front door handle and background standard, two from the**
12 **gear shift and a background standard. They submitted**
13 **the steering wheel cover.**

14 **Also, there was a gray plaid long-sleeved**
15 **shirt that they noted was from the suspect, as well as a**
16 **black baseball cap from the suspect.**

17 **And then swabs from the back grip of item**
18 **number 1RB, the front grip of item number 1RB, the right**
19 **side grip of item number 1RB, the left side grip of item**
20 **number 1RB and the trigger of item number 1RB, which I**
21 **was told were from a gun.**

22 **Q** Okay. Regarding the gray plaid long-sleeved
23 shirt, the black baseball cap and the gun, were you told
24 where those came from?

25 **A I was told that they came from inside the car**

1 **don't recall if it was together in the same packet or if**
2 **they were separate.**

3 **Q** Okay. At some point, did you have a swab, an
4 oral swab from Mr. Ochoa and the various items listed
5 here that were recovered from the car, and you were
6 ready to commence work?

7 **A Yes.**

8 **Q** Okay. Did you have any communication with
9 anyone at Buena Park PD providing you instructions as to
10 what you were being requested to do?

11 **A Yes, I did.**

12 **Q** And can you tell me who you spoke to?

13 **A I spoke with Detective Nunes.**

14 **Q** And what were your instructions per Detective
15 Nunes?

16 **A I called him because when the evidence came**
17 **over, it came over in one large box, all the items. And**
18 **typically we don't analyze that number of items. And so**
19 **I asked him where he wanted me to start and asked where**
20 **he -- where the shirt and the cap had come from.**

21 **And if -- I don't recall whether I suggested**
22 **to start with that or whether he suggested to start with**
23 **that, but it was decided that those would be the two**
24 **items looked at initially.**

25 **Q** Okay. This conversation that you've just

1 described, I'm looking again at page A-6, the request
2 for evidence examination that describes the oral swabs
3 from Mr. Ochoa. Under Examination Results, there is a
4 notation. Looks like it reads, "5-24-05, left message
5 for Nunes. Is there a corresponding DR number that
6 these swabs" -- and I don't know what the rest of that
7 refers to.

8 Do you recognize this handwriting?

9 **A Yes, I do.**

10 **Q** Is this your handwriting?

11 **A No, it's not.**

12 **Q** Okay. So this handwriting wouldn't be
13 notations of the conversation you just described?

14 **A No.**

15 **Q** Okay. So during this conversation with
16 Detective Nunes, it appears that it was decided that the
17 first -- that the items that should be analyzed for DNA
18 were the shirt and the cap that the victims identified
19 were worn by the suspect; is that correct?

20 **A That's correct.**

21 **Q** And is there a reason why the shirt and the
22 cap were chosen?

23 **A Typically, clothing items tend to be our --
24 with -- given the other items that were submitted being
25 items from a victim's car, items from a gun, the**

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1 **clothing items would be my -- the best chance of getting
2 a DNA profile from the suspect.**

3 **We did not have at the time victim elimination
4 standards, which are required for items from a car or
5 something that the victim would have normally handled or
6 touched. And gun samples tend not to be -- we don't
7 tend to get really good results on them quite often, so
8 it's not somewhere I would have started with.**

9 **Q** And as between the shirt and the cap, is there
10 one or -- one of those items -- strike that. Let me ask
11 a better question.

12 As between the shirt and the cap, would one of
13 those items be preferable or more likely to result in an
14 accurate DNA profile match between DNA recovered from
15 that item and the suspect?

16 **MR. FERGUSON:** Objection; vague, ambiguous as
17 framed, lacks foundation as framed.

18 **BY MR. MARQUEZ:**

19 **Q** You can answer if you understand my question.

20 **A Typically hats tend to be better because you
21 can't wear clothing underneath them. And sometimes you
22 find that you get people who come in close contact with
23 individuals wearing the clothing and so we will
24 oftentimes get female DNA on clothing that is clearly
25 male around a collar. And so I would tend to choose a**

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1 **hat. But we oftentimes -- or sometimes we also get
2 mixtures on hats because people do share clothing.**

3 **Q** Okay. But other than recalling a conversation
4 between yourself and Detective Nunes that the shirt and
5 the cap would be where the analysis would first begin,
6 you can't recall whether it was you or he that suggested
7 those two items?

8 **A I think he had asked for those two items to be
9 done, but I cannot be certain that I did not suggest it,
10 since those are the two items, if you had given me this
11 list, that I would have started with as well.**

12 **Q** Okay. So now at a first -- sort of your first
13 marching orders were then to move forward and analyze
14 the shirt and the cap. At that point, those were the
15 only two items being analyzed?

16 **A At the time that he called me back, I was back
17 in the lab already starting to work on the case, and I
18 had begun to cut out some of the gun swabs because I
19 didn't know the circumstances of the case, and so I
20 didn't know where the shirt and the cap came from.**

21 **Sometimes people collect items without
22 thinking about where they come from. Sometimes they're
23 the victim's items. So I wanted to know for sure where
24 the items came from before I started on those. And so I
25 had begun to cut out the gun swabs when he called me**

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1 **back.**

2 **Q** Okay. So then when you proceeded after this
3 phone call, is it correct that your analysis then was
4 performed on the shirt, the cap and maybe a couple of
5 the gun swabs that you had already managed to cut out?

6 **A I can't remember whether I replaced the gun
7 samples back into the envelopes at that point or whether
8 I went ahead and submitted them for extraction and --
9 and continued on with that, or whether I came back to
10 the gun swabs later on. But I did begin to cut them out
11 that day.**

12 **Q** Okay. So you performed your analysis, and I
13 believe you prepared a report with your conclusions. I
14 want to confirm that that is accurate. Let's look at
15 page A-1 and A-2, which appear to be a report containing
16 conclusions signed and dated by you on July 19th, '05.

17 Can you take a look at those and let me know
18 if this was the report that you produced after you
19 completed your analysis of the DNA on the shirt and the
20 cap.

21 **A Yes, that is correct.**

22 **Q** Okay. And can you walk me through and let me
23 know sort of paragraph by paragraph in the Conclusions
24 section, which start -- with which the report begins,
25 sort of what your conclusions were on each of the items.

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1 A So on the baseball cap there was a major DNA
2 contributor. I was able to eliminate James Ochoa as a
3 contributor to that major DNA profile. That profile was
4 then searched in the local DNA database, meaning the
5 Orange County Sheriff casework database, and no matches
6 were obtained.

7 I then also made the notation that there were
8 some minor DNA alleles but no interpretation was made
9 about them on that hat.

10 As for the shirt, there was numerous
11 contributors, at least four contributors, to the collar
12 and the cuff of the shirt. James Ochoa was again
13 eliminated as a contributor to this mixture, and because
14 of the number of contributors and the absence of a major
15 DNA contributor to the sample, no further analysis,
16 meaning CODIS entry, database entry, was done.

17 Oh, and then the last -- the gun swabs that
18 were extracted at that time did not have enough DNA to
19 proceed with DNA typing.

20 Q Okay. So the conclusion with regard to the
21 baseball hat was that James Ochoa was eliminated as a
22 possible contributor to the DNA found on the hat,
23 correct?

24 A Correct.

25 Q And your conclusion regarding the shirt was

1 recipient of this report. Is that what that indicates,
2 that notation indicates?

3 A Correct.

4 Q Okay. And to the right of that, it looks like
5 someone has initialed, and there's a date next to those
6 initials, July 20th, looks like '05.

7 Do you -- would you interpret that to be the
8 date that Officer Nunes was sent a copy, if you know?

9 A Yeah, he would either have been mailed or
10 faxed a copy on that date.

11 Q Okay. And then also D.A. Christian Kim
12 appears to have been sent a copy also on 7-20-05. Is
13 that how you would read that?

14 A Correct.

15 Q Okay. Out of curiosity, down below, "TR" and
16 "AR" and the notations within, can you tell me what
17 those stand for?

18 A TR is the technical review that was done by
19 Joe Jaing on the 19th, and AR is the administrative
20 review of this report, and that was done by Elizabeth
21 Thompson on 7-19.

22 Q Can you spell Joe Jaing's last name?

23 A J-I-A-N-G. It may also be J-A-I-N-G. I tend
24 to misspell his name a lot.

25 Q Okay. And then the other individual, the

1 that also James Ochoa was eliminated as a contributor to
2 the DNA found on the shirt; is that right?

3 A Correct.

4 Q And then finally, there was insufficient
5 amount of DNA recovered from the gun swabs to do an
6 analysis?

7 A Correct.

8 Q Now, if you turn to the second page, A-2, it
9 appears that you signed and dated this report on
10 July 19th, '05; is that accurate?

11 A Yes.

12 Q And if you look to the left of that, it looks
13 like certain individuals received copies of your report.
14 Starting from the top, there's a handwritten notation
15 that says "cc Donna Rose."

16 Do you know who Donna Rose is?

17 A Donna Rose was Christian Kim's DNA
18 investigator.

19 Q Okay. And do you know whose handwriting wrote
20 "cc Donna Rose"?

21 A No, I'm not sure whose handwriting that is.
22 It would be one of our clerical staff's but I don't know
23 who it is.

24 Q Okay. And it also looks like Investigator
25 Nunes from the Buena Park Police Department was a

1 administrative review person?

2 A Oh, Elizabeth Thompson.

3 Q Thompson. And you said these notations
4 indicate that the technical review was signed off on
5 7-19-05 by Joe Jaing, and that the administrative review
6 was signed off on 7-19-05 by Elizabeth Thompson; is that
7 accurate?

8 A That's correct.

9 Q And what is technical review?

10 A Technical review is another qualified DNA
11 analyst who goes through the entire case, confirms all
12 of the conclusions, all of the allele calls are correct,
13 making sure that all of the correct procedures were
14 used, all of the controls were in place and the correct
15 results were obtained from them.

16 The administrative review will go through and
17 do some of the checks that the TR did, but their biggest
18 role was to ensure that the work that was requested was
19 actually performed and done.

20 Q So after you completed your analysis on the
21 shirt and the hat and some of the gun swabs, Joe Jaing
22 went back and, in essence, quality controlled your
23 analysis to confirm your conclusions that your
24 procedures were accurate and the results were correct;
25 is that correct?

