

1 under the name of Judy Jaimie C-O-A-T-E.

2 Q What was the result of your examination?

3 A The Commonwealth's Exhibit 31A and B, deceased
4 fingerprints, were made by the same fingerprints appearing
5 on Commonwealth's Exhibit 32, the fingerprint card bearing
6 the name of Judy Jaimie Coate, C-O-A-T-E.

7 MR. HORAN: I have no further questions, Your
8 Honor.

9 THE COURT: Mr. Sheldon.

10 MR. SHELDON: No questions, Your Honor.

11 THE COURT: Is Mr. Cole free to go or subject
12 to recall?

13 MR. HORAN: He's free to go.

14 THE COURT: Okay. Mr. Cole, thank you very
15 much. You're free to go, sir.

16 THE WITNESS: Thank you, Your Honor.

17 (The witness excused.)

18 THE COURT: Mr. Horan.

19 MR. HORAN: William Reeves.

20 Whereupon

21 WILLIAM REEVES

22 a witness, was called for examination by counsel on behalf
23 of the Commonwealth, and after having been duly sworn by

1 the Clerk, was examined and testified, as follows:

2 THE COURT: Good afternoon, sir.

3 THE WITNESS: Good afternoon.

4 THE COURT: Sounds like you may be soft
5 spoken, I want you to please move a little bit closer to
6 the microphone. Keep your voice up, so the members of the
7 jury can hear your testimony and please listen to and
8 answer the questions the attorneys may ask you, sir.

9 Mr. Horan.

10 DIRECT EXAMINATION

11 BY MR. HORAN:

12 Q State your full name and your occupation.

13 A My name is William J. Reeves, R-E-E-V-E-S, and
14 I'm a fingerprint specialist for the Fairfax County Police
15 Department.

16 Q What are the duties of a fingerprint
17 specialist of the Fairfax County Police Department?

18 A My duties are to compare and analyze
19 fingerprint submissions to our office. By this I mean, we
20 receive fingerprint evidence from crime scenes, as well as
21 fingerprints that are recorded at the jail for comparison
22 to each other.

23 Q How often do you do that?

1 A Eight hours a day every day. At least eight
2 hours a day every day.

3 Q How long have you been in the fingerprint
4 field?

5 A Over thirty years now.

6 Q When did you start?

7 A I started in 1972 at the FBI Identification
8 Division over in Washington, D.C. I spent --

9 Q What was your job at the FBI?

10 A I classified, compared and analyzed
11 fingerprint submissions in the criminal division of the
12 identification division where we searched questioned
13 fingerprints against those of known records.

14 Q Did you receive any educational training at
15 the FBI?

16 A Yes. We went through several months of
17 training, followed by one-on-one tutorship from more
18 senior examiners and training in fingerprint work is
19 ongoing all the time, but I went through several months of
20 training. I think the probation period was about a year.

21 Q And did you eventually work in the field at
22 the FBI?

23 A Yes, I did.

1 Q For what period of time did you do that?

2 A I spent about four-and-a-half years at the
3 FBI.

4 Q What did you do subsequent to your FBI job?

5 A Then I went to the Illinois State Police in
6 Joliet, Illinois as part of their Illinois Crime Lab
7 system doing similar work for nearly seventeen years.

8 Q How frequently would you examine and compare
9 prints during those seventeen years?

10 A I'm sorry?

11 Q During those seventeen years, how frequently
12 would you examine and compare prints?

13 A On a daily basis, sir.

14 Q Once you left the Illinois State Police, what
15 did you do?

16 A I worked for a contracting firm where we did
17 fingerprinting for licensing and regulatory, such as,
18 school bus drivers, daycare and we obtained those on a
19 contractual basis for the Illinois State Police and
20 submitted them.

21 It was an electronic live-scan-gathering
22 system and I did that for about three years.

23 Q Okay. What did you do after that?

1 A I came -- in the interim I spent some time
2 with another firm, part time, while I finished college and
3 then I joined the Fairfax County Police Department about
4 -- it'll be six years this year.

5 Q And what are your duties with the Fairfax
6 Police Department?

7 A I compare and analyze the fingerprints that
8 are submitted. We do acquire a variety of types of
9 fingerprint work on a daily basis.

10 Q You're with the Fairfax police, but you're
11 with somebody called NOVARIS?

12 A Yes. That's --

13 Q What is NOVARIS?

14 A NOVARIS is an acronym for the Northern
15 Virginia Regional Identification System. It's -- Fairfax
16 County Police Department is the host agency for this and
17 it encompasses several jurisdictions. Like, such as,
18 Arlington County, Alexandria City, Falls Church City,
19 Fairfax City, Prince William County and we compile
20 repository over here next door in the Massey Building of
21 fingerprint data from all of these jurisdictions and we've
22 computerized its fingerprints so we can analyze them and
23 can share information on cases with each other.

1 Q Now, other than your original training with
2 the FBI, have you had any other training through the years
3 in the same field?

4 A The last (inaudible) I had approximately
5 eight or nine hundred hours of additional training and I
6 go to thirty or forty hours of training a year at minimum,
7 and then training is ongoing. We are always bouncing
8 training ideas off of each other.

9 I've been through the three week
10 administrative advance fingerprint course at the FBI
11 Academy, as well as some other courses either sponsored by
12 or at the FBI Academy at Quantico. I've gone to study
13 under different seminars taught by the Royal Canadian
14 Mounted Police, Arizona Department of Public Safety,
15 Illinois State Police, New Jersey State Police, I've been
16 all over the United States for different types of
17 training.

18 Q More than 800 hours worth; is that what you
19 just said?

20 A Something to that effect.

21 MR. HORAN: Your Honor, I would submit that
22 Mr. Reeves' is an expert in his field.

23 THE COURT: Of fingerprint analysis?

1 MR. HORAN: Yes, Your Honor.

2 THE COURT: Is there any objection?

3 MR. LOPEZ: No objection.

4 THE COURT: Mr. Reeves will also be received
5 as an expert in the field of fingerprint analysis, and
6 ladies and gentlemen, again, you will determine the
7 credibility of his testimony.

8 You may proceed, Mr. Horan.

9 BY MR. HORAN:

10 Q How are fingerprints compared for the purpose
11 of making an identification?

12 A Well, fingerprints are compared by noting
13 which characteristics -- let's say a questioned
14 fingerprint, and we look for various types of ridge
15 characteristics and you compare those to known examplors,
16 such as ink fingerprints, and we -- on a record where
17 prints have been taken deliberately from somebody and we
18 compare the various ridge characteristics on one to the
19 other and look for an agreement within these two images.

20 Q How many different kinds of ridge
21 characteristics are there?

22 A Ridge characteristics leave ridges that end
23 abruptly. We call those ending ridges or ridges that

1 divide and we call those bifurcation or dots. We also
2 take into account the ridge structure, the flow of the
3 ridges so whether it's curved or it was straight or
4 different anomalies within an individual ridge units
5 themselves, and we look for agreement among the -- between
6 the two images.

7 Q What are the basic factors that you consider
8 in making the identification?

9 A The two major basic factors are the
10 fingerprints at first they are unique. No two people have
11 been found to have the same fingerprints or palm prints or
12 foot prints, and they are permanent. By permanent I mean,
13 fingerprints begin to form in utero in the womb early in
14 gestation and these ridge characteristics and points, if
15 you will, will form within the uterus on the skin -- on
16 the person's skin, on the hands and feet during that time
17 and they stay persistent throughout life until death and
18 decompose issues.

19 Except for permanent scarring or if -- if
20 somebody, you know, has it surgically removed or
21 amputated.

22 Q Now, you used the term points, what's a point?

23 A Points are these points characteristic

1 details, features are all synonymous with each other in
2 the business. Except for the examiners have their own
3 terminology, but they're -- for semantics are the same
4 thing. These are these bifurcation and ending ridges that
5 I referred to earlier, and we look at those particular
6 issues and the fingerprints themselves.

7 MR. HORAN: Your Honor, could I have
8 Commonwealth's Exhibit 24, fingerprints that this officer
9 took.

10 THE COURT: Mr. Horan, can you describe what
11 you're looking for? Do you have what you need?

12 BY MR. HORAN:

13 Q Did there come a time when you took the
14 fingerprints of this Defendant?

15 A Yes.

16 Q When and where did that occur?

17 A It occurred on the evening of October 5th of
18 2005 at the Massey Building in the Criminal Investigations
19 Bureau.

20 Q And have you brought those prints with you
21 today?

22 A Yes, sir, I have.

23 MR. HORAN: I wonder if I could have those

1 marked for identification as Commonwealth's Exhibit 45.

2 Your Honor, that's a full set of case prints, I don't know
3 whether Court wants to go A, B, C, D --

4 THE COURT: I would because I want the record
5 to be clear if you ask about a particular one or Mr.
6 Sheldon is, I'd like the record to be clear what we're all
7 talking about.

8 So, Anne, why don't you just make it 41 for
9 the top one then -- make it 41 --

10 THE CLERK OF THE COURT: It's 45, Judge.

11 THE COURT: 45A, then 45 through whatever the
12 end of it would be.

13 THE CLERK OF THE COURT: 45N. Judge, do you
14 want me to hand these back to Mr. Horan or do you want me
15 to mark them first?

16 THE COURT: I'd like to have them marked.

17 (The Clerk complied with the request.)

18 (The photographs referred to
19 above were marked
20 Commonwealth's Exhibit
21 Nos. 45A through N, for
22 identification.)
23

1 THE COURT: Anne, when you have the first
2 couple of them ready, why don't you hand those to Mr.
3 Horan and then we can have the others being marked as he's
4 going through the examination, if that's okay with you,
5 Counsel.

6 MR. SHELDON: Your Honor, I haven't seen those
7 yet. If I could take a look.

8 THE COURT: Absolutely, Mr. Sheldon. Tell you
9 what, let's do this. You haven't had a chance to take a
10 look at them yet, let's go ahead and take the afternoon
11 recess right now for fifteen minutes. That way we can
12 have everything marked, Mr. Sheldon, you can have a chance
13 to look at everything you need to look at, bring the jury
14 back in and we can move forward.

15 Folks, take fifteen minutes and Deputy, put
16 the fan on for the fifteen minutes, the jurors are out
17 because it's first time in three days it's getting to me
18 finally. Take fifteen minutes.

19 (Whereupon, at approximately 3:10 o'clock
20 p.m., the jury retired from the courtroom.)

21 (Recess.)

22 THE COURT: Bring the Defendant back in,
23 please.

1 MR. LOPEZ: Your Honor, I spoken with Mr.
2 Horan and he has informed me that this is his last witness
3 on his case in chief and I don't know how long it will
4 take with it being 3:30, we have a witness on call that I
5 contacted and it would be a lengthy witness, Your Honor, I
6 don't believe we'd be able to get her on and off in
7 fifteen or twenty minutes.

8 THE COURT: Okay.

9 MR. LOPEZ: So I asked her to come tomorrow at
10 9:00 knowing that we would probably start at 9:30 or close
11 as possible, but I'll have her here --

12 THE COURT: I have another 8:30 meeting
13 tomorrow morning that was scheduled before I was assigned
14 to do this case so I intend to start at 9:30 tomorrow, so
15 if we end a little bit early today -- how long do you
16 expect to be on direct examination with Mr. Reeves, Mr.
17 Horan?

18 MR. HORAN: I hope it's only about ten
19 minutes.

20 THE COURT: Okay. Well, if we end a little
21 bit early considering how hot it is in here, I'm not sure
22 that we're going to get too many complaints from them.

23 Mr. Lopez, how long would you anticipate the

1 defense case taking and you don't have to answer that
2 question, I'm just trying to get an idea. If you think
3 you'd be giving something up, you don't have to answer the
4 question.

5 MR. LOPEZ: Your Honor, I told Mr. Horan that
6 I thought we'd be able to finish by 1:00 o'clock.

7 THE COURT: Okay. Now, the only other thing
8 that I would then say to counsel, again, I'm not ordering
9 anybody to do anything, once you know basically what the
10 evidence is going to be, if you could consider the
11 possibility of exchanging proposed instructions, to pull
12 out duplicates, that might be of assistance, but if either
13 of you has any problem doing that, don't worry about it.

14 I wouldn't be upset at all for you to wait for
15 all the evidence is in before you exchange instructions.
16 Okay.

17 MR. LOPEZ: Very well.

18 THE COURT: All right. Let's bring the jury
19 in, Deputy.

20 MR. HORAN: Your Honor, just so you know,
21 we're going to share the instructions in the morning.

22 THE COURT: Well, that's what I was hoping you
23 would do if you were willing to do it and it wouldn't be a

1 problem, that would be great.

2 If there's any way for the jury to get the
3 case tomorrow and have a reasonable period of time to
4 deliberate tomorrow instead of until next Tuesday, I think
5 that's in everyone's best interest.

6 (Whereupon, at approximately 3:30 o'clock
7 p.m., the jury returned to the courtroom and resumed their
8 seats in the jury box.)

9 THE COURT: Okay. Folks, all set.

10 Mr. Horan, you may continue with your
11 examination of the witness.

12 BY MR. HORAN:

13 Q Mr. Reeves, I want to show you these documents
14 that have now been marked 45A through 45N for
15 identification and ask can you identify them?

16 A Yes. Yes, sir.

17 Q Are those the prints you took from this
18 Defendant?

19 A Yes, sir.

20 Q How come there's so many of them?

21 A Because these are call -- it's an FBI term we
22 call a major case prints and it's my job as a fingerprint
23 examiner to capture in essence all the ridge detail that

1 occurs on the palm or surfaces of your hand.

2 Ridge detail begins up at the nail and goes
3 down (indicating), as I'm indicating to the bottom of my
4 wrist or to the bottom of my hand near my wrist, I should
5 say, and ridge detail occurs at or around the edge of the
6 nail and travels around to the other edge of the
7 fingernail, and this area (indicating) they're called
8 friction ridge.

9 Friction ridge only occurs on the hands and
10 feet, and in order to capture all the ridge detail on Mr.
11 Dowdy's hands, I took a number of sets of prints.

12 Q I want to show you Commonwealth's Exhibit
13 Number 27 in evidence and ask if you've ever seen that
14 before.

15 (Mr. Horan handed a photograph to the witness
16 for his examination.)

17 A I'm sorry, sir?

18 Q Have you ever seen that before?

19 A Yes, sir.

20 Q Where did you see it?

21 A I saw it in the -- in the crime scene bay unit
22 across -- next door to the Adult Detention Center. It's a
23 Fairfax County Crime Scene unit, they have a bay which

1 they process large items.

2 Q And what was the purpose of your going to look
3 at that?

4 A I was requested to go and examine by Detective
5 Bond to see if there were any -- for the presence -- for
6 the presence of fingerprints.

7 Q Okay. And did you look at that box to see
8 whether there were?

9 A Yes, sir.

10 Q Did you find any areas of the box that you
11 thought might produce some usable prints?

12 A Yes. There are a number of areas that produce
13 what, in my primary examination of what I thought was to
14 be identifiable ridge detail on various areas of this
15 door.

16 Q Okay. And were there some particular areas
17 that you were interested in?

18 A Well, the first area that drew my attention
19 was Area D. That was the most pronounce area. Area A,
20 Detective Netherton, I believe, indicated these as Areas
21 A, B, C, D and E, and Area A, B, D and E all had
22 identifiable ridge detail.

23 Q Okay. Now, would you hold that up for the

1 jury and show them where Area A is.

2 (The witness complied with the request.)

3 A Yes. Area A is -- is right where the end of
4 my pointer is (indicating) as I'm indicating here, about
5 an inch below the top of the photograph.

6 Q And how about Area D?

7 A Area D is right about here (indicating) where
8 my pointer is pointing.

9 Q I'm going to show you Commonwealth's Exhibit
10 Number 28 and ask if you identify that area.

11 A Yes. This is a -- this is a photograph, a
12 one-to-one photograph, of the area that on the door known
13 as Area D.

14 Q And is that the area you indicated looked like
15 a usable print?

16 A Yes.

17 Q Did that later turn out to be true?

18 A Yes, sir.

19 Q Did you find, as far as you were concerned,
20 sufficient ridge detail on that particular print?

21 A Yes, sir, I did.

22 Q You also indicated you looked at Area A. I'll
23 show you these three exhibits that are in evidence, 21, 22

1 and 23 and I ask you to look at those.

2 (Mr. Horan handed photographs to the witness
3 for his examination.)

4 A Yes, sir.

5 Q And is that the Area A you were talking about?

6 A Yes.

7 Q Can you see the particular prints that you
8 thought might be usable on that exhibit?

9 A On Area A there is one usable print. One
10 print that has enough features to reflect positive
11 identification.

12 Q Did there come a time when you used the palm
13 print shown on D in Commonwealth Exhibit 28 and you
14 compare that to the prints you had taken of the left palm
15 of the Defendant?

16 A Yes, sir.

17 Q And tell us what was the result of that
18 examination?

19 A The result was that on the -- on the print
20 carrying -- one of the prints, there are three touches
21 that I identify in those particular area, one area really
22 stood out. On Area D I compared to palm prints of Matthew
23 Dowdy and concurred that they were made by one in the same

1 person --

2 MR. SHELDON: Objection, Your Honor. May I
3 approach?

4 THE COURT: Yes. Obviously with Mr. Horan.

5 BENCH CONFERENCE

6 MR. SHELDON: Your Honor, I just want to
7 reserve my objection to the reliability of his application
8 of fingerprint signs until after the cross examination. I
9 might not have a motion to exclude his opinion based on
10 his lack of reliability, but I'm objecting now to preserve
11 it for after cross examination.

12 THE COURT: And the basis for the objection
13 now?

14 MR. SHELDON: Is Darwin Spencer, the
15 reliability of his opinion. Of course, I don't know
16 without having gone through cross examination.

17 THE COURT: What you want to do is instead
18 going through an extended voir dire of the witness, what
19 you're proposing to do is to allow Mr. Horan to complete
20 his direct examination, you then conduct your cross
21 examination and at the conclusion of cross examination, if
22 you believe that you'd have a basis you're going to move
23 to strike the testimony?

1 MR. SHELDON: Well, articulated.

2 THE COURT: Okay. Is that okay with you, Mr.
3 Horan?

4 MR. HORAN: That's fine.

5 THE COURT: That's fine with me too. Okay.

6 OPEN COURT

7 THE COURT: Subject to what was agreed at the
8 bend, you may continue, Mr. Horan.

9 BY MR. HORAN:

10 Q Area D on the photograph is of what area of
11 the hand?

12 A The area of the hand, Area D, is identified in
13 Area D as an area we call the thenar, T-H-E-N-A-R, that's
14 an area that surrounds the thumb below the crease, as I'm
15 indicating here on my left hand, as a left-hand print and
16 it travels -- the ridge area flows from this area
17 (indicating) below this crease down towards this crease
18 (indicating) that I'm indicating in the center of my hand
19 to near where it meets the wrist and around by the thumb
20 on this side (indicating).

21 Q So there was more than one area that you could
22 identify on Area D?

23 A Yes, sir.

1 Q How many different locations could you find?

2 A There were three. There was an area in the
3 interdigital area that is directly under the fingers
4 approximately under the ring finger area and then there
5 was an area on the hypothenar on this (indicating) cushion
6 side of the palm, and they were consistent with three
7 different touches.

8 Q Okay. And you compared all three to the
9 prints you had taken off Matthew Dowdy?

10 A Yes, sir.

11 Q And it was your opinion they were the same?

12 A They were made by one in the same person, yes.

13 Q Was there any other area where you found
14 prints that you felt to be consistent with Matthew Dowdy?

15 A Area E, there were two touches and Area B, I
16 believe, there were two touches.

17 MR. SHELDON: Objection, Your Honor. I'm
18 going to have the same objection.

19 THE COURT: Okay. With the same position?

20 You want to handle it the same way, Mr.

21 Sheldon?

22 MR. SHELDON: Yes, Your Honor.

23 THE COURT: That's okay with you, Mr. Horan?

1 MR. HORAN: That's fine.

2 THE COURT: It's fine with the Court also for
3 the record.

4 BY MR. HORAN:

5 Q And how about Area A?

6 A Area A was the left ring finger of Mr.
7 Dowdy's. This would be the area -- finger number 9, we
8 call it, but it's the left ring finger as I'm indicating
9 here (indicating).

10 Q Mr. Reeves, did you do a blow up to be able to
11 show the jury the different areas where you find the
12 comparison to be made?

13 A I made one blow up of an area from Area D that
14 showed that thenar area that I was describing early.

15 Q And have you brought that with you?

16 A Yes, I did.

17 Q Can I see it.

18 (The witness handed a photograph to Mr. Horan
19 for his examination.)

20 THE COURT: Ladies and gentlemen, while
21 they're doing that, you can bring bottles with you
22 tomorrow if you want. I just told the Deputy to give you
23 a pitcher of cold water that we'll leave at one end of the

1 jury box and that if somebody gets thirsty, we'll get you
2 thirteen cups, if you get thirsty during the course of the
3 day, you can tap somebody on the shoulder and you can get
4 some water.

5 I was hoping that when I went home last night
6 it was snowing and be okay. No such luck.

7 MR. HORAN: Your Honor, I ask this to be
8 marked Commonwealth's Exhibit 46 for identification.

9 (The photograph referred to
10 above was marked
11 Commonwealth's Exhibit
12 No. 46, for identification.)

13 BY MR. HORAN:

14 Q I'm going to show you 46 and could you tell
15 the jury what that is.

16 (Mr. Horan handed a photograph to the witness
17 for his examination.)

18 A This is a photographic enlargement. The print
19 on the left is the ink print of Mr. Dowdy, of a palm print
20 of the thenar area I was describing of Mr. Dowdy near the
21 -- that surrounds the area of the left thumb.

22 The print on your left that's marked latent
23 print, that is a print from Area D on the door.

1 Q Now, you got ten numbers now on both the ink
2 print and the latent print, what are those numbers?

3 A Oh, these are numbers of -- this -- I prepared
4 this to illustrate some of the features in these prints
5 that are comparable to each other in both the latent print
6 and the ink print. The features are corresponding
7 features of each print that I found in agreement.

8 These aren't the only features that I found in
9 agreement. I made this simply to illustrate to the jury
10 and to the Court, to all that was present, that these are
11 the features that I -- to show you how I arrived at my
12 conclusions.

13 Q Now, are those ten, what you call, points?

14 A Yes. You can call them points.

15 Q That's the FBI term, points?

16 A Yeah. That's an FBI term.

17 Q So you have ten points, but can you estimate
18 how many other points you found?

19 A At least thirty.

20 MR. SHELDON: Objection as to foundation. I
21 don't know where he found the thirty points --

22 THE COURT: Are you talking about thirty
23 points on -- that's an enlargement of Commonwealth's 28,

1 is it not?

2 THE WITNESS: Yes.

3 THE COURT: You talked about before for the
4 thenus (sic).

5 Are you saying that there was thirty points on
6 there or thirty points in --

7 THE WITNESS: There are thirty points in both
8 images in agreement. A minimum of thirty points in
9 agreement on both images.

10 THE COURT: Are you saying both images of the
11 thenus?

12 THE WITNESS: Of the thenar.

13 THE COURT: Of the thenar, excuse me.

14 THE WITNESS: T-H-E-N-A-R.

15 THE COURT: I apologize. Okay.

16 So there are thirty points of comparison of
17 the thenar and the ink print of the accused in this case?

18 THE WITNESS: Yes, sir.

19 THE COURT: Okay. Does that take care of your
20 concern, Mr. Sheldon?

21 MR. SHELDON: Yes, Your Honor.

22 THE COURT: Okay. Mr. Horan, you may
23 continue.

1 BY MR. HORAN:

2 Q And of those thirty, you only marked ten of
3 them?

4 A Yes.

5 MR. HORAN: Your Honor, I wonder could Mr.
6 Reeves come down in front of the jury and show them what
7 he's talking about when he said he found points common on
8 both of them.

9 THE COURT: Yes. You may step down, sir,
10 Mr. Sheldon, feel free to move over.

11 (The witness complied with the request.)

12 THE COURT: Mr. Horan and Mr. Sheldon, in
13 light of the fact that it's an enlargement, under the
14 circumstances I'm going to come and take a look also as he
15 testifies.

16 THE COURT: Anybody object to my standing here
17 (indicating)?

18 MR. HORAN: I don't know if it would do any
19 good. I don't object. Go ahead.

20 THE COURT: Your back is to the Court
21 Reporter, so please make sure you keep your voice up,
22 please.

23 THE WITNESS: Thank you, Your Honor.

1 Can you hear me okay?

2 THE COURT: Can you open it up a little bit
3 wider so that they can see.

4 (The witness complied with the request.)

5 BY MR. HORAN:

6 Q I'll tell you what, I'll hold it and you point
7 to it.

8 A Thank you. Ladies and gentlemen, I made this
9 chart, we don't do comparisons off the charts themselves,
10 we do comparisons on one-to-one images with fingerprint
11 magnifiers of the variety magnifying glasses, but prepared
12 this chart to demonstrate to you how I arrived at my
13 conclusions.

14 I would first like to draw your attention to
15 an area that I marked as Number 1. If you'll notice first
16 of all, (inaudible) the ridge wall -- before I start with
17 Number 1 -- the ridge wall travels in the same direction
18 on both images, on both the ink print and on the latent
19 print.

20 This is, again, this is the area surrounding the
21 thumb. Point Number 1 --

22 THE COURT: Hold on for one second please.
23 Mr. Sheldon's having a little bit of difficulty. I'm

1 going to have him stand next to you.

2 Does that block any members of the jury?

3 THE JURY: No.

4 THE COURT: No. Okay. You may continue, sir.

5 THE WITNESS: Point Number 1, for example, is
6 a ridge that comes down from about 1:00 o'clock, if you're
7 looking at it in clock terms, and divides into two ridges.
8 We call it a bifurcation. On the latent print, this
9 ridge, again, travels down from the 1:00 o'clock direction
10 and divides into two.

11 Again, over on the ink print, approximately an
12 inch below and about one ridge over (inaudible) back there
13 called furrows and the -- over about one ridge there is
14 another ridge that flows and divides that is known as a
15 bifurcation, as well.

16 Like wise, approximately an inch below Number
17 1, the ridge, again, divides into two ridges here
18 (indicating) and just below that, to the right, one, two
19 ridges over and another inch below are identified an area
20 here (indicating) as Number 3, one, two ridges over.

21 Over, for example, on the, your right and my
22 left, I would like to draw your attention to this
23 (indicating) Area Number 9. There's a ridge here

1 (indicating) that flows, again, from the 1:00 o'clock
2 direction and divides into two.

3 Up from that towards the 12:00 o'clock
4 direction, there is another ridge that also divides in the
5 -- in the same direction on both of these prints. Now, I
6 stated earlier that I did not mark every individual
7 characteristic on here.

8 I would also like to draw your attention also,
9 for example, a ridge that I did not mark for
10 characteristics below the line here (indicating)
11 indicating Number 4. Just to the right of this crease
12 there is -- there are two ridges that are over under that
13 are very short, it's about a quarter of inch below the
14 line.

15 I would like to draw your attention over to
16 this side (indicating). This is -- this white area here
17 is a corresponding crease and two ridges over and a
18 quarter of an inch below there's -- there's another over
19 under type occurrence that occurs here (indicating).

20 There are numerous other ridges that I didn't
21 identify that had led me to the conclusion that the print
22 that I've identified as a latent print and the print
23 identified as an ink print were made by one and the same

1 person, Mr. Matthew Dowdy.

2 MR. SHELDON: Running objection.

3 THE COURT: Can't give you a running
4 objection, but you can simply say that you want to stand
5 on the same objection and rationale that you mentioned at
6 the bench. I assume there's no objection from Mr. Horan
7 and it's fine with the Court for the record. Okay.

8 BY MR. HORAN:

9 Q Now, also you indicated that in the Area A
10 shown on Commonwealth's Exhibit 22.

11 A Yes, sir.

12 Q Do you see that left ring finger on there
13 where you identified a common print?

14 A This would be (indicating), as I'm indicating.

15 MR. HORAN: Can you see that from over there?

16 THE JURY: (No response.)

17 THE WITNESS: There's an outline, what appears
18 to be, four fingers and none of the other three area
19 indicated on this photograph are not identifiable. This
20 area (indicating) is Number 9 for the left ring finger of
21 Mr. Matthew Dowdy.

22 BY MR. HORAN:

23 Q Now, the prints that you --

1 MR. SHELDON: Objection, Your Honor. For the
2 same reason.

3 THE COURT: Okay.

4 BY MR. HORAN:

5 Q -- were treated with what they call amino
6 black?

7 A Yes, sir.

8 Q Is that unusual that you would have prints
9 that have been treated that way?

10 A Amino black is -- it's a dye stain technique
11 used to -- that reacts with proteins in blood and helps
12 make semi-visible prints that are produced in blood
13 visible.

14 Q Okay. Does the amino black distort the
15 fingerprint at all?

16 A No, it does not.

17 Q The particular print here (indicating) in Area
18 D and Area A, did you find those prints to be, what they
19 call, blurry?

20 A No, sir. Not the ones that I identified.

21 Q In the particular prints that were put on that
22 door, do you have an opinion as to whether or not those
23 prints could have already been on the door and somebody

1 came along with a bare hand and just put the print you
2 found on there?

3 A No, sir. Not in my opinion.

4 Q Why is that?

5 A Because the ridges -- the substance appeared
6 to be produced by the ridges on the hand. The ridges are
7 raised portions of the skin and these ridges are sort of
8 like a stamp that you would see at the post office or bank
9 or here at the courthouse even, where the substance is
10 transferred from a stamp pad over onto a piece of paper,
11 and the letters on the stamp are raised letters.

12 Well, the ridges on your hand are also raised
13 as well, and this, in my opinion, the prints already had
14 the substance on them when they were placed upon the door.

15 MR. HORAN: I have no further questions of
16 this witness, Your Honor.

17 THE COURT: Mr. Sheldon, do you want the
18 exhibits?

19 Do you want to use those for cross?

20 MR. SHELDON: I will use some of them for
21 cross.

22 THE COURT: Okay. If you'd just leave them
23 with Mr. Sheldon, if you would please.

1 MR. SHELDON: Court's indulgence. It will
2 take me just a minute.

3 THE COURT: Yes, sir.

4 (Pause.)

5 MR. HORAN: Your Honor, I would offer that
6 chart in evidence as Commonwealth's 46.

7 THE COURT: Any objection?

8 MR. SHELDON: Yes, I would object, Your Honor.
9 My objection is based on several grounds. Friend on
10 evidence says that illustrative evidence should not be
11 admitted if it is -- if it could result in confusion,
12 distortion or prejudice. This examiner did not use this
13 chart to make his identification and he never would, he
14 testified to that.

15 He testified that he would use a one-to-one
16 comparison and use a magnifying glass. The chart is
17 prejudicial because as we saw from Commonwealth's 27,
18 there isn't much friction ridge detail on Commonwealth's
19 27, and this chart would focus the jury on a tiny portion
20 of D.

21 Whereas, there was a lot of ridge detail to
22 look at and there's pictures of all of the ridge detail.
23 The third reason is that the chart likely included

1 distortions and that's why they use magnifying glasses and
2 they do not use blow ups to look at -- to make a
3 comparison.

4 THE COURT: Well, did the witness testify
5 about using a magnifying glass for that one?

6 MR. SHELDON: Yes. Yes, he did. He testified
7 that he took pictures, he has varying degrees of
8 magnifying glasses he said, and he uses those to make --
9 and that was why you were moving down here and he was
10 standing.

11 THE COURT: Okay. That may be why I missed
12 it.

13 MR. SHELDON: And another reason, Your Honor,
14 is I haven't had the same amount of time as the expert or
15 opposing counsel to look at this chart. I had to look at
16 it here in Court. It was not shared with me prior to this
17 hearing.

18 THE COURT: Okay. Mr. Horan, do you want to
19 respond?

20 MR. HORAN: Your Honor, a long time ago we
21 gave them all of this information upon disk. Everything
22 except the chart, 46, because that's what the expert
23 prepared to bring to Court. They have all these prints.

1 I personally delivered most of them to their office.

2 They've had the chance to look them all over,
3 they've had a chance to look at all the pictures, they
4 have them all, A, B, D, E. They have all of that
5 material. This is strictly a chart to aide the jury in
6 seeing how the process works.

7 Now, the fact that in his office he's doing it
8 with magnifying glasses doesn't change the method that he
9 has used to impart that information to the jury.

10 THE COURT: Okay, sir. The objection's
11 overruled. This is not just an demonstrative aide as that
12 would be defined under Virginia Law, Mr. Sheldon, because
13 it directly relates to the specific evidence involved in
14 this case rather than it just being something such as
15 anatomy that might be shown to the jury to understand the
16 anatomy or as there might be an injury in the case.

17 As far as the last basis for your opinion --
18 excuse me, for your objection, if you want to, I'll let
19 you have access to this overnight and then if there's
20 something else that you need to bring up or something of
21 that nature as a result of examining this specific law,
22 you can let Mr. Horan know and the witness will be back
23 tomorrow and I'll give you further opportunity to ask him

1 questions if you want to .

2 MR. SHELDON: Thank you.

3 THE COURT: So there isn't any possible
4 prejudice, but the objection to its admissibility is
5 overruled.

6 (The photograph previously
7 marked as Commonwealth's
8 Exhibit No. 46, for
9 identification, was received
10 in evidence.)

11 CROSS EXAMINATION

12 BY MR. SHELDON:

13 Q To be clear, the Fairfax Police Department has
14 their own latent print examination; is that right?

15 A I'm sorry.

16 Q The Fairfax Police Department has their own
17 latent print examination unit?

18 A I still didn't hear your question.

19 Q You work for the Fairfax Police?

20 A Yes, sir.

21 Q They have their own latent print examination
22 unit?

23 A Yes.

1 Q And that's different from the Department of
2 Forensic Science?

3 A It's separate from the state's --

4 Q That's right.

5 A Yeah.

6 Q Department of Forensic Science also does
7 fingerprints?

8 A Yes, they do.

9 Q Okay. Most latent print analysis of crimes in
10 Fairfax is done in-house by the Fairfax police; is that
11 right?

12 A That's correct.

13 Q Your boss is police officer Lieutenant Bird?

14 A Yes, sir.

15 Q And you and three others work in the
16 department; is that right, as fingerprint specialist?

17 A Yes, sir.

18 Q Now, you have personally been working in some
19 form of fingerprint identification for thirty-three years;
20 is that right; thirty-four now, perhaps?

21 A (Nodding head.)

22 Q You keep up with new information and
23 techniques in the latent fingerprint field?

1 A Yes, sir.

2 Q I'm going to ask you whether you recognize as
3 standard authority several treaties.

4 You testified that you went to the Advanced
5 Latent Fingerprint School?

6 A Yes, sir.

7 Q Did you receive a publication from that school
8 when you went, FBI Advanced Latent Fingerprint school?

9 A Yes, sir.

10 Q Would you recognize that as a standard
11 authority in the field of fingerprint?

12 A One of them.

13 THE COURT: Did you say one of them, sir?

14 THE WITNESS: One of those, yes.

15 BY MR. SHELDON:

16 Q Henry Lee's Crime Scene Handbook, Henry Lee is
17 probably the most recognized crime scene experts; is that
18 right?

19 A Well, he's well recognized.

20 Q And his treaties on crime scenes including on
21 latent print collection is recognized as authoritative in
22 the field?

23 A One of them.

1 Q You're familiar with the scientific working
2 group on friction ridge analysis in study and technology?

3 A Yes, sir.

4 Q It goes by the acronym Swig Fast?

5 A Yes, sir.

6 Q And that is an FBI working group that includes
7 experts in latent analysis from many agencies; is that
8 right?

9 A That's correct. Yes.

10 Q You're a member of the International
11 Association of Identification?

12 A Yes.

13 Q All right. And the Swig Fast guidelines,
14 that's the FBI guidelines from the working group, they're
15 available on the International Association of
16 Identification website; right?

17 A Yes, sir.

18 Q All right. And you'd recognize those
19 guidelines as authoritative in the field of
20 fingerprinting?

21 A I recognize them as guidelines, as overall
22 guidelines as recommendations, not A, B, C specific.

23 Q Right. They're not -- they can't be enforced

1 by any agency, can they, they be guidelines?

2 A No, sir.

3 Q They're recommendations just like these --
4 this book and this manual cannot be enforced on any
5 agency.

6 They're just treaties for publications with
7 advice?

8 A Yes, sir.

9 Q But the guidelines in the same way that these
10 are authoritative, the guidelines are authoritative on
11 latent print examination?

12 A Yes, sir.

13 Q The fourth authority is the Science of
14 Fingerprints by the FBI?

15 A Yes.

16 Q It's suggested reading material by the
17 International Association of Identification?

18 A Yes.

19 Q And, of course, you're a member of that and
20 this is considered authoritative also?

21 A One of them.

22 Q The fifth one I want to ask you about is the
23 Department of Forensic Science, it use to be called the

1 Division of Forensic Science.

2 It serves all state and local law enforcement
3 agencies in Virginia; isn't that right?

4 A To my knowledge, yes.

5 Q Fairfax is one of the only departments in
6 Virginia that does most fingerprints in-house; isn't that
7 right?

8 A I can't attest to that, sir.

9 Q You know that the Department of Forensic
10 Science is nationally credited?

11 A Yes.

12 Q All right. By the American Society of Crime
13 Lab Directives?

14 A That's correct.

15 Q And the Department of Forensic Science, you
16 know, employs latent print examiners?

17 A Yes.

18 Q And its publications on latent print
19 identification are authoritative in Virginia?

20 A Yes.

21 Q You've already testified that latent prints
22 are different from known prints; right?

23 A Well, I did not say that. I said latent -- I

1 don't believe I said that.

2 Latent prints are different than known prints?

3 Q Yes. A latent print --

4 A -- being different.

5 Q A latent print is a fragment of a print; isn't
6 that right?

7 A Often, yes.

8 Q Let me just read to you, "Long time assignment
9 to fingerprint duties alone does not necessarily breed an
10 expert. There must be continuous comparison of
11 fragmentary impressions, observation of peculiarities and
12 variations and thoughtful considerations and problems
13 associated with the field."

14 That refers to latent prints; isn't that
15 right?

16 A In that context.

17 Q Right. So latent prints are different from
18 known prints.

19 A known print is a print that a fingerprint
20 identification expert took?

21 A Excuse me, sir?

22 Q A known -- why don't you describe what a known
23 print is.

1 A A known print is a print that's preproduced in
2 a -- such as a rolling, deliberate action taken by a
3 police officer or booking agent or -- or a fingerprint
4 examiner onto -- and transfer it onto a contrasting
5 surface such as a fingerprint card.

6 I guess that's the best way to describe it.

7 Q And what is a latent print?

8 A A latent print is a print that is latent by
9 that terminology means hidden or not readily visible and a
10 latent print is made visible by either (unintelligible) or
11 development of powders or chemicals or some other type of
12 technique or sophisticated photography, and preserve with
13 photography generally or lifted with lift tape and
14 transferred onto the contrasting surface such as a latent
15 lift card.

16 Q So a challenge with a latent print that occurs
17 in your work would be deciding when you have enough of the
18 latent print to evaluate it; is that true?

19 A Yes, sir.

20 Q And when you work with known prints, that is
21 not part of your work, is that true?

22 A I work with both, sir.

23 Q That's not my question.

1 When you work with known prints, that is not
2 part of your work, is it, to identify whether you have
3 enough of an image to make a match?

4 It's not the same work as working with latent
5 prints.

6 A The concept, sir, is still the same. You're
7 looking for identifiable ridge detail in known prints if
8 you just have the luxury of having all the fingerprints
9 there to compare it to the previous record of the person
10 that exist, and those as the same concept, you're looking
11 at an individual ridges, bifurcation, delta areas that
12 occur in each of these fingers and see if whether or not
13 they are in agreement.

14 Q Does somebody that only works with known
15 prints have the judgement and ability to determine when
16 they have enough of a fingerprint latent --

17 MR. HORAN: Your Honor, I object on the
18 grounds that that's irrelevant.

19 THE COURT: Mr. Sheldon.

20 MR. SHELDON: I'll withdraw the question.

21 THE COURT: Question's withdrawn.

22 BY MR. SHELDON:

23 Q The field of latent print evaluation is a

1 science?

2 A Yes, sir.

3 Q A forensic science?

4 A Yes, sir.

5 Q The fingerprint section that you work in uses
6 scientific equipment?

7 A No. We -- we basically we use magnifying
8 glasses and we use computers.

9 Q And which building do you work in?

10 A What's that?

11 Q Which building do you work in?

12 A I work in the Massey Building.

13 Q All right. There is scientific method in
14 lifting, evaluating and identifying latent prints; is that
15 true?

16 A Yes, sir.

17 Q I want to start now by asking about your level
18 of confidence in your identification of the latents to Mr.
19 Dowdy's ink print.

20 In this case, are you a hundred percent
21 certain that Mr. Dowdy left the prints?

22 A Yes, sir.

23 Q Is there any possibility you could be wrong?

1 A No, sir.

2 Q There's no possibility you could have made a
3 mistake?

4 A No, sir.

5 Q In every case in which you've identified a
6 latent print to an ink print, have you been a hundred
7 percent certain?

8 A Yes, sir.

9 Q You've never had any doubt?

10 A No, sir.

11 Q Would you call your error rate zero?

12 A Yes, sir.

13 Q Do you calculate an error rate?

14 A I'm not sure I understand your questions.

15 Q You call your error rate zero?

16 A Yes, sir.

17 Q Did you calculate that zero?

18 A The error rate, as I understand it, is that
19 the amount from the science that no two people have ever
20 been found to have the same fingerprints and that has so
21 far been disproved, and that's as I understand it, and
22 that error rate when positive identification reflective
23 it's not in error.

1 Q Did you calculate your error rate?

2 A I have -- I've never been -- I've never made a
3 misidentification, sir.

4 Q Have you calculated your error rate?

5 A No. I guess not.

6 Q No. The answer's no.

7 You don't have a method --

8 MR. HORAN: I object to comment by counsel

9 THE COURT: I sustain the objection to the
10 comment. Let's keep the lawyers to the questions, the
11 witnesses to the answers and let's move forward, please.

12 BY MR. SHELDON:

13 Q You are always right, you testified, because
14 of the method you use for latent print evaluation; is that
15 right?

16 A Yes, sir.

17 Q But that doesn't mean mistakes aren't made
18 using the method that you use?

19 A I suppose there are mistakes made. I have
20 heard of mistakes being made.

21 Q You have heard of mistakes, you're aware of
22 latent print identification mistakes?

23 A Yes, sir.

1 Q All right. And some mistakes have been
2 recent?

3 A Like what --

4 Q In the last two years?

5 A Last two or three years.

6 Q All right. Some have been in serious cases?

7 A Yes, sir.

8 Q And some have been by FBI trained latent print
9 examiners?

10 A Yes, sir.

11 Q Let me ask you about your use of points. You
12 testified on your chart you have ten points, and you
13 testified you would be able to find as many as thirty.

14 There's no standard for using a certain number
15 of points; is there?

16 A There's no scientific basis (inaudible) and
17 then number of points (inaudible).

18 Q All right. And you testified under oath at a
19 preliminary hearing in this case on December 20th, 2005;
20 isn't that right?

21 A Yes, sir.

22 Q In this courthouse?

23 A Yes, sir.

1 Q On the 2nd Floor?

2 A Yes, sir.

3 Q And you were administered an oath?

4 A Uh-huh.

5 Q You were administered an oath.

6 THE COURT: You have to say yes or no, please.

7 THE WITNESS: Yes.

8 THE COURT: Thank you.

9 BY MR. SHELDON:

10 Q The same oath as today?

11 A Yes.

12 Q And you agreed to tell the truth then of
13 course?

14 A Yes.

15 Q And you were asked questions by the
16 prosecutor?

17 A Yes.

18 Q And you were asked questions by Mr. Lopez?

19 A Yes, sir.

20 Q And at that point you testified that you could
21 find thirteen points?

22 A It was not on that same area. I found
23 thirteen points in another area, in Area D.

1 Q You testified thirteen points in Area D?

2 A Yes, sir. On one of those images in Area D.

3 Q Now, you met with me on December 21st, 2006?

4 A Yes, sir.

5 Q Less than three weeks ago?

6 A Yes, sir.

7 Q We met in the Commonwealth's office?

8 A Yes, sir.

9 Q And you had present with you your supervisors?

10 A Yes, sir.

11 Q And the purpose was for me to ask questions?

12 A Yes.

13 Q And when you answered my questions, of course,
14 you answered truthfully?

15 A Yes, sir.

16 Q You knew I was meeting with you to prepare for
17 Mr. Dowdy's trial?

18 A Yes, sir.

19 Q That was the topic.

20 You had Mr. Dowdy's file with you?

21 A Uh-huh.

22 THE COURT: I'm sorry, you need to say yes or
23 no, Mr. Reeves.

1 THE WITNESS: Yes.

2 BY MR. SHELDON:

3 Q Do you recall that I asked you how many
4 points?

5 A Yes.

6 Q And do you recall your answer was twelve?

7 A On which finger, sir?

8 On which -- at which latent?

9 Q Do you remember which latent you had in front
10 of you?

11 A You asked me about a number of different
12 prints. You asked me about Area A, B, C, D, and E and
13 then showed me the photograph.

14 Q You took out latent print D, didn't you, when
15 we were meeting?

16 A I did.

17 Q And I asked you how many points of comparison
18 there were in that --

19 MR. HORAN: I object to this line of
20 questioning. Number one, as he's already indicated --

21 THE COURT: Let's just -- legal basis, Mr.
22 Horan?

23 MR. HORAN: That there are three different

1 areas and he's not identifying --

2 THE COURT: Mr. Sheldon, you said latent area
3 -- latent print D is what I think you said.

4 Is that what you mean the latent print D or
5 did you mean Area D?

6 MR. SHELDON: On Commonwealth's 27 --

7 THE COURT: Okay. Then ask him more specific
8 question because I think the way that you asked it is not
9 consistent with the evidence in the case unless I've
10 completely misunderstood something so why don't you
11 rephrase your question.

12 MR. SHELDON: Could we have Commonwealth's 28?

13 THE CLERK OF THE COURT: I think you still
14 have it.

15 THE COURT: You may still have that, Mr.
16 Sheldon.

17 THE CLERK OF THE COURT: Mr. Horan had that.

18 THE COURT: You can approach the witness, sir.

19 BY MR. SHELDON:

20 Q When I met with you on December 21st, the
21 purpose was for me to ask you questions about this case;
22 isn't that right?

23 A That is correct.

1 MR. HORAN: I object to the form of the
2 question. I don't want this jury to believe that he's
3 there to take his deposition. This was a discovery --

4 THE COURT: Well, Mr. Horan, I don't want
5 speeches being made by either side. The legal basis for
6 the objection --

7 MR. HORAN: The legal basis is that he is
8 asking him a question that is prefaced with counsel's
9 belief that you're required to answer him and he wasn't.
10 He could have told him I don't want to talk to you.

11 THE COURT: Well, Mr. Horan, on redirect
12 examination you can ask him whatever you want to set what
13 you believe to be the appropriate context, but I don't
14 believe that the last question was objectionable and it's
15 overruled.

16 BY MR. SHELDON:

17 Q When we met, I asked you if you had anything
18 in writing about your evaluation; is that right?

19 A Yes. I think you asked me that.

20 Q And you took out a one page report?

21 A Yes, sir.

22 Q And after that, you took out one photograph;
23 it was the same photograph that you testified with at the

1 preliminary hearing, the one that you have in your hands;
2 isn't that right?

3 A Yes, sir.

4 Q You had that photograph. And I asked you, in
5 that photograph how many points of comparison did you
6 make?

7 A I don't think you asked me how many were in
8 that photograph, as I recall, sir. That's not my
9 recollection.

10 Q You responded to me that there were twelve
11 points?

12 A I responded to you that I got at least twelve
13 in a particular area on what I identified as digital area.
14 I also informed you that there were three different
15 touches on this photograph. That there was numerous
16 touches all over and I identified the -- I told you that
17 there were several touches throughout this -- in those
18 photographs.

19 Q There use to be standards on the number of
20 points of comparison; isn't that right?

21 A I'm sorry, what?

22 Q There use to be standards, a standard number
23 used before a latent print examiner reached a judgement of

1 a match?

2 A Some agencies have standards.

3 Q When you worked at the FBI, was there a
4 standard number used?

5 A Not that I recall.

6 Q When you worked at the Illinois State Police,
7 was there a standard number used?

8 A No.

9 Q So a judgement is made that a latent matches a
10 known or an ink print when a latent print examiner says so
11 based on their training and experience as a latent print
12 examiner?

13 A Primarily, yes.

14 Q I'd like to ask you about written standards
15 for conducting a latent print evaluation. I'm going to
16 ask you some questions from the FBI guidelines, that's the
17 Swig Fast guidelines. Again, I'm asking you about written
18 standards and I'm going to read to you from the FBI
19 guidelines on corrective actions.

20 "The agency is responsible for writing and
21 enforcing policy to handle errors. When preparing written
22 policy governing errors, a variety of corrective actions
23 should be included. The corrective actions should be

1 appropriate to the level of the error and the skill level
2 of the examiner and the circumstances."

3 Do you agree that that statement that an
4 agency that does latent examination should have a
5 corrective actions policy in writing?

6 A May I see the standards?

7 MR. SHELDON: May I approach with this, Your
8 Honor?

9 THE COURT: Yes, sir.

10 (Mr. Sheldon handed a document to the witness
11 for his examination.)

12 BY MR. SHELDON:

13 Q Two point four.

14 A Your Honor, this is under the heading of the
15 Quality Assurance Guidelines section of latent printer
16 examiners; if that's what it says. That is correct.

17 Q And you'd agree with that?

18 Does Fairfax have --

19 THE COURT: Well, is that a question, you'd
20 agree with that?

21 Did you answer the question, sir?

22 THE WITNESS: I'm sorry.

23 THE COURT: Would you agree with that?

1 THE WITNESS: In general, yes.

2 THE COURT: Okay.

3 BY MR. SHELDON:

4 Q Does Fairfax have such written guidelines?

5 A I'm not sure.

6 Q Have you seen such written guidelines?

7 A No. I have not, sir.

8 Q I'm going to read to you from the same
9 portion, Number 3.

10 "The quality manual must be maintained. The
11 quality manual must contain documentation of all
12 significant aspects of friction ridge impression
13 development and examination procedures."

14 MR. HORAN: Your Honor, I object. Going
15 through what are the administrative guidelines --

16 THE COURT: Okay. Again, Mr. Horan, I just
17 want to know the legal basis for the objection.

18 MR. HORAN: Because it's irrelevant --

19 THE COURT: Okay.

20 MR. HORAN: -- what administrative
21 requirements of the FBI are.

22 THE COURT: Come up to the bench for a moment,
23 please.

BENCH CONFERENCE

THE COURT: I just don't want the jury to be swayed (inaudible).

MR. SHELDON: Probably about forty minutes.

THE COURT: Okay. I'm sending the jury home. Let's take -- send them home, we can spend a few minutes now on the issue, otherwise, this is something we're going to have to take up before we get them going tomorrow. You're entitled to cross examine.

He's recognized certain things to be authoritative sources, not the sole authoritative sources, but some authoritative sources, and you're entitled to cross examine him about things in those authoritative sources that may be inconsistent what he's testified to on direct examination.

Let me send them home and then we'll talk about a couple things. Okay.

OPEN COURT

THE COURT: Ladies and gentlemen, we're not going to finish this witness during the course of the afternoon today. There are certain things I have to take up with counsel outside of your hearing. Instead of sending you back to the jury room, I got a better idea.

1 I'm going to send you home. Same admonition,
2 folks. Don't discuss anything with anyone. How about
3 9:15 tomorrow morning, downstairs. I have another one of
4 my 8:30 meetings. I hope to be done by 9:15. If I'm not
5 done by 9:15, I will be done by 9:30.

6 If I'm not done 9:30, I'll be done by 9:30
7 anyway and I'll be on the bench at 9:30. Just meet the
8 deputy downstairs in the jury assembly hall. When all of
9 you are here -- Renee, I'm going to be in the 4th Floor
10 conference room, I believe, so somebody should just come
11 and get me when everybody's ready to go, and I'll come
12 back on the bench.

13 Same admonition, folks. Don't discuss
14 anything about this case with anyone, allow anyone else to
15 discuss it in your presence. As of now, I believe that
16 we're in this courtroom again tomorrow, if something
17 changes I'm sure the Deputy will bring you up to the other
18 room.

19 Have a nice evening, folks. We'll see you
20 then.

21 (Whereupon, at approximately 4:25 o'clock
22 p.m., the jury retired from the courtroom.)

23 THE COURT: Renee, do you need me to leave the

1 bench for a few minutes to escort them down?

2 THE COURT SECURITY OFFICER: Sorry, Judge?

3 THE COURT: Do you need me to leave the bench
4 at this point?

5 THE COURT SECURITY OFFICER: No.

6 THE COURT: Okay. One deputy's okay? You
7 sure?

8 THE COURT SECURITY OFFICER: Yep.

9 THE COURT: Okay.

10 THE COURT SECURITY OFFICER: I'm not -- I'm
11 just going to send them out.

12 Is that okay?

13 THE COURT: I'd like you to take them down the
14 back.

15 THE COURT SECURITY OFFICER: Oh, then yes.
16 You need to --

17 THE COURT: I'm going to leave the bench for a
18 few minutes and then -- gosh, it's about time for me to
19 go. I do want to take some guidance to both sides about
20 where I think the line needs to be drawn pursuant to
21 questions that are being asked so that it may aide both of
22 you in knowing where we go.

23 Mr. Sheldon, what do you want to do with

1 (inaudible)?

2 Do you want to take it with you tonight?

3 MR. SHELDON: If Mr. Horan doesn't object.

4 THE COURT: Well, it's not up to him, it's up
5 to me.

6 MR. SHELDON: Yes, I do.

7 THE COURT: Okay. As long as it doesn't leave
8 your hands, you can take it home tonight. You make sure
9 that it's back here tomorrow morning. Obviously, you can
10 share it with Mr. Lopez, but I don't want it going to
11 somebody else.

12 It's yours, it's suppose to be with the Clerk,
13 but based upon your representation that you haven't seen
14 it before, I'm going to give you an opportunity to look
15 into it to the extent that you may deem advisable. Just
16 make sure it's returned up to Ms. Nichols first thing
17 tomorrow morning.

18 Give her five minutes to take people
19 downstairs or see if we can get somebody else to do it.

20 THE COURT SECURITY OFFICER: Nobody's
21 available.

22 THE COURT: Nobody's available. Okay. Just
23 take them down the back and you can let them out through

1 that entrance. Okay. We'll take five minutes, Counsel.

2 (Recess.)

3 THE COURT: Okay. Can we bring the Defendant
4 back in the courtroom, please.

5 MR. SHELDON: Mr. Reeves is still in the
6 courtroom and I don't think we gave an instruction about
7 talking about his testimony and since there's a rule on
8 witnesses also.

9 THE COURT: Well, that's true.

10 Mr. Reeves, there's a rule on witnesses
11 throughout the entirety of the trial. You're still on the
12 witness stand, so don't discuss your testimony or anything
13 else about the case with anyone until you're done with
14 your testimony.

15 THE WITNESS: Yes, sir.

16 THE COURT: All right. And then if you're
17 subject to recall, even then you only should discuss it at
18 that point with the three attorneys involved in the case
19 until the case is over. Okay. I don't have the time, nor
20 should I, go step by step by step through where we are.

21 Mr. Horan's objection, if I understood it, was
22 that he believes that you're taking what appeared to be
23 internal, whatever they may be, regulations operating

1 procedures of the Federal Bureau of Investigation and make
2 it seem as if they are standard or mandatory or even
3 advisory for other people in the field, so that if it is
4 not being done, then somebody's violating the requirements
5 set out in authoritative sources.

6 That's what his objection is. If he's right,
7 then the objection is probably well taken, so whatever
8 you're going to utilize because you can utilize
9 authoritative sources if they're inconsistent with what
10 the witness has testified to under direct examination or
11 for purposes of attempting to impeach him.

12 Just make sure that by the questions there
13 isn't an implication left with the jury and I'm not saying
14 that there was with what you're doing right now, Mr.
15 Sheldon, because I don't know one way or the other, but
16 there shouldn't be an implication that something is
17 something other than what it is, and with the questions, I
18 urge you to re-examine your questions to make sure that
19 you're within that line.

20 Then, can I see counsel at the bench real
21 quick for one moment please about something else.

22 MR. SHELTON: I have two points on what you
23 just said.

1 THE COURT: Well, let's -- come up to the
2 bench for a quick moment, please. Obviously, this is not
3 intended -- your client can come up, Mr. Lopez can come up
4 or remain seated as they deem appropriate.

5 BENCH CONFERENCE

6 THE COURT: You can take that (inaudible), Mr.
7 Sheldon, but what I wanted to say is, part of the
8 disadvantage of going to an interview, I don't know if
9 somebody was with you or not, is an attorney puts him or
10 herself potentially in an equitable box and you've got to
11 be very careful not to make yourself a witness in the
12 case.

13 More importantly, at this stage, you've got to
14 be careful not to be testifying to the jury based upon the
15 manner in which you ask questions about what happened
16 during a meeting that you attended, and so you need to be
17 careful about the phrasing of the questions to make sure
18 it isn't John Sheldon testifying to this jury saying, this
19 is what happened at the meeting, isn't it? where the
20 jury's going to be able to perceive it as if you're
21 testifying when Mr. Horan can't cross examine you and
22 ethically you can't be testifying if it's a controverted
23 matter.

1 MR. SHELDON: Right.

2 THE COURT: So take a look at the way that
3 you're phrasing those questions. That doesn't mean that
4 you're precluded from asking questions about what
5 happened. Just make sure that the questions are
6 appropriately phrased in a manner where it is not going to
7 be reasonably perceived by the jury that John Sheldon is
8 testifying by means of the questions that he's asking.

9 Okay. So that's just another line to draw.
10 You may step back. I want to do that up here, so I didn't
11 potentially embarrass you.

12 OPEN COURT

13 THE COURT: All right. Mr. Sheldon, you can
14 make those two brief points because, again, I'm trying to
15 give some guidance because there's another forty minutes
16 of cross examination and then whatever re-direct. I don't
17 want to be making advisory rulings, which I'm not suppose
18 to be making, and I surely don't want the record to look
19 like I'm making rulings that are binding based upon
20 questions that I have not yet heard because that would not
21 be appropriate, but if you want some further guidance, Mr.
22 Sheldon, you can ask me a question or two and I'll
23 determine whether it would or would not be appropriate to

1 answer.

2 MR. SHELDON: All right. Generally, what I'm
3 doing is I'm testing the knowledge of the expert. That's
4 one of the things I'm doing, but these questions about the
5 written guidelines, that's different and I will go back
6 with the witness tomorrow and have him explain what a
7 working group is and that it's guidelines for everybody.

8 THE COURT: Well, if it is, Mr. Sheldon, then
9 you can ask whatever questions you may deem appropriate.
10 Mr. Horan can make whatever objections he may want to make
11 and then let me just to say counsel, as I did at the
12 beginning of the trial, I don't want there to be speaking
13 objections and I don't want there to be arguments being
14 presented by any of the attorneys involved in the case.

15 If you have an objection, I want you to stand,
16 I want the first word to be objection and then simply give
17 me the legal basis for the objection. Relevancy, hearsay,
18 authenticity, whatever it may be. There have been times
19 during the course of this trial where I thought about the
20 objection, I wasn't a hundred percent sure what the basis
21 was.

22 I remember a couple times I asked Mr. Lopez to
23 articulate further, so I could totally understand the

1 basis for his objection. If I don't understand it, that's
2 what I'll do, but I don't want anybody making speeches to
3 the jury in the guise of making objections.

4 It's not an appropriate thing to do and it's
5 something I've been very careful to make sure that it
6 doesn't happen. Okay. Have a nice evening. 9:30
7 everyone?

8 MR. LOPEZ: Yes.

9 THE COURT: Okay. 9:30 we'll start tomorrow.
10 Everyone should be seated and ready to go at that time.
11 Chief Judge McWeeny said that we will be here again.

12 * * * * *

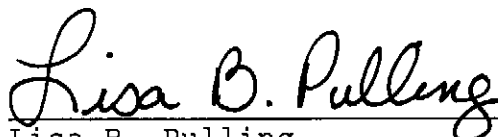
13 (Whereupon, at approximately 4:44 o'clock p.m.,
14 the hearing in the above-entitled matter was recessed to
15 reconvene at 9:30 o'clock a.m. the next day.)

16 * * * * *

* * * * *

CERTIFICATE OF REPORTER

I, Lisa B. Pulling, Verbatim Reporter, do hereby certify that I took the stenographic notes of the foregoing proceedings which I thereafter reduced to typewriting; that the foregoing is a true record of said proceedings; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were held; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.



Lisa B. Pulling
Verbatim Reporter

1 (The Witness, W. J. Reeves, complied with the
2 request.)

3 (Whereupon, at approximately 9:40 o'clock
4 a.m., the jury returned to the courtroom and resumed their
5 seats in the jury box.)

6 THE COURT: Folks, good morning.

7 THE JURY PANEL: Good morning.

8 THE COURT: Am I correct that nobody's heard
9 anything about this case, discussed anything about this
10 case or looked into anything about this case since you
11 left me yesterday?

12 Okay. Mr. Sheldon, you may continue with your
13 examination of the Witness.

14 MR. SHELDON: Thank you.

15 CROSS EXAMINATION

16 BY MR. SHELDON:

17 Q When we left off yesterday, I was asking you
18 about what I refer to as the Swigfast guidelines, the
19 Scientific Working Group Friction Analysis Guidelines.
20 I'm going to read to you -- I want to step back and just
21 get some background information on this.

22 I'm going to read to you from the FBI lab
23 publication on scientific working groups. The FBI lab

1 sponsors scientific working groups to improve forensic
2 science practices and build consensus among international,
3 federal, state and local forensic community partners.

4 Would you agree with that?

5 A May I see that, please.

6 MR. SHELDON: May I --

7 THE COURT: You may approach.

8 (Mr. Sheldon handed a document to the Witness
9 for his examination.)

10 THE WITNESS: Yes.

11 BY MR. SHELDON:

12 Q Each scientific working group has a form of
13 structure and functions in accordance with its bylaws.
14 Membership is at the discretion of the chair of the
15 working group and most scientific working groups include
16 --

17 MR. HORAN: I object on the grounds that its
18 not a question. He is simply reading a policy statement
19 of this --

20 THE COURT: Mr. Sheldon?

21 MR. SHELDON: I am doing two things. One, is
22 I'm just giving background, but I'm, one, testing his
23 knowledge and by reading a statement from something that

1 he has recognized as an authority and I'm going to ask him
2 whether he agrees or disagrees.

3 THE COURT: Okay. Well, if you want to do
4 that, the latter, then I want you to preface your question
5 with you're going to read something, whatever it may be,
6 and I want to ask you if you agree or disagree with this,
7 but it also needs to be done in a manner that's consistent
8 with the discussion that we had after the jury went home
9 yesterday.

10 Okay. You may proceed, sir.

11 BY MR. SHELDON:

12 Q Mr. Reeves, I'm going to read to you from the
13 same document, the FBI lab publication on scientific
14 working groups.

15 Do you agree or disagree that scientific
16 working groups serve as a common voice for the scientific
17 discipline?

18 A Generally.

19 Q Do you agree or disagree that scientific
20 working group members come together to discuss issues of
21 concern and reach consensus on documents drafted
22 throughout the year?

23 A Could you repeat the question, please.

1 Q Do you agree or disagree that scientific
2 working group members come together to discuss issues of
3 concern and reach consensus on documents drafted
4 throughout the year?

5 A I've never been to one of these, so I assume
6 what they do that that is correct.

7 Q And one more question on this.

8 Do you agree or disagree from the same
9 document that these documents, that's the guidelines,
10 provide crime labs a solid basis for operational
11 requirements?

12 A Generally speaking, yes.

13 Q And now I'm going to read to you from the
14 Swigfast Update and ask you whether you agree or disagree
15 that its mission is to assist the latent print community
16 in providing the best service and product to the criminal
17 justice system?

18 MR. HORAN: I object on the grounds of
19 relevance.

20 THE COURT: What's the relevancy of whether
21 that particular organization has that as a principle by
22 which that organization is right?

23 MR. SHELDON: This witness has recognized the

1 guidelines that are authoritative in the field and this is
2 to clarify that the field -- that the latent print
3 community -- the entire latent print community, not just
4 the FBI.

5 THE COURT: Okay. I sustain the objection to
6 that question.

7 BY MR. SHELDON:

8 Q Yesterday when we left off, I was asking you
9 about written standards for conducting a latent print
10 evaluation and I asked you about the quality assurance
11 guidelines and now, I'm going to ask you -- I'm going to
12 read to you from the Quality Assurance Guidelines for
13 Latent Print Examiners.

14 Guideline 2.2.6, do you agree or disagree that
15 an agency that conducts latent print examinations should
16 have written methods of procedures for friction ridge
17 examination including documentation and report that?

18 MR. HORAN: Your Honor, I object to the form
19 of the question, A, on the grounds of relevance and, B, on
20 the grounds that members of this group aren't here to be
21 cross examined as to their views on the subject, and it's
22 unfair to ask this officer to either defend or accept the
23 standards of some group that's not here.

1 THE COURT: Okay. I overrule the objection to
2 that question.

3 THE WITNESS: Would you repeat the question?

4 BY MR. SHELDON:

5 Q I'm reading to you from Swigfast Quality
6 Assurance Guidelines for Latent Print Examiners.

7 Do you agree or disagree that agencies that do
8 latent print examination should have methods of procedures
9 for a friction ridge examination including documentation
10 and report writing?

11 A Again, may I impose on you to look?

12 THE COURT: You may approach the Witness.

13 (Mr. Sheldon, handed a document to the Witness
14 for his examination.)

15 BY MR. SHELDON:

16 Q I'm reading 2.2.6.

17 A I'm sorry, 2.2 what?

18 Q 2.2.6.

19 A Could you repeat that again, sir?

20 Q You may read 2.2.6, if you would.

21 A I apologize.

22 May I impose on you again to point out
23 specifically on which page you're talking here?

1 THE COURT: You can approach him and show it
2 to him, Mr. Sheldon.

3 BY MR. SHELDON:

4 Q (Inaudible.)

5 A Okay. I apologize. I'm sorry.

6 And your question is, do I agree with that
7 statement?

8 Q Yes.

9 A I would say so, yes.

10 Q And do you have such written documentation in
11 Fairfax?

12 A We have an SOP, but I'm not sure that it
13 addresses that particular issue.

14 Q And did you follow that SOP in the evaluation
15 you did in this case?

16 A I followed the general practices of the latent
17 fingerprint community, sir.

18 Q Did you follow that SOP in the evaluation you
19 did in this case?

20 A I'm not sure that our SOP covers that specific
21 area, sir.

22 Q Did you know the exist of the SOP when you did
23 the evaluation in this case?

1 A No, I did not.

2 Q So you did not follow the SOP when you did the
3 evaluation in this case?

4 A I --

5 MR. HORAN: I think that's been asked and
6 answered.

7 THE COURT: Sustained.

8 BY MR. SHELDON:

9 Q I'm going to read to you one more from the
10 Swigfast Quality Assurance Guidelines and just below that,
11 Number 2.2.13. Written procedures shall be maintained for
12 method validation records.

13 Do you agree or disagree with that?

14 A What exactly are method and validation
15 records?

16 Q Okay.

17 A I'm asking you -- I can't --

18 Q You don't know what they are?

19 A Not in this particular context, no.

20 Q Do you know whether Fairfax has method
21 validation records?

22 A It's my understanding they probably do not.

23 Q You did not follow any written guidelines when

1 you evaluated the latents in this case; is that right?

2 MR. HORAN: Your Honor, I object. The
3 question's been asked and answered.

4 THE COURT: I don't know if there's any
5 difference between written guidelines and standard
6 operating procedures. If there aren't, then the Witness
7 can tell us that. If there are, then the objection would
8 be overruled.

9 THE WITNESS: Well, Your Honor, these are
10 general guidelines, not custom tailored to any particular
11 operation including ours. SOP's are a product that says
12 you will do it this way and not deviate from that
13 procedure.

14 We follow a generally accepted practice that
15 is accepted throughout the latent fingerprint community.
16 That's the only way I can address that issue.

17 THE COURT: Okay. Mr. Sheldon.

18 BY MR. SHELDON:

19 Q Why are written standards necessary?

20 THE COURT: Mr. Sheldon, hold on for one
21 second. Can I see counsel at the bench for a quick
22 moment.

23 BENCH CONFERENCE

1 THE COURT: Mr. Sheldon, are the two Afro-
2 American women seated in the rear of the courtroom
3 witnesses?

4 MR. SHELDON: No. Yes, they are.

5 Before we started I looked and they weren't
6 there, so they must have come in --

7 THE COURT: Okay. Well, let's -- (inaudible)
8 -- pointed it to my attention. I think you need to ask
9 them to step outside and then we'll deal with whatever
10 objection Mr. Horan may have if they heard something that
11 affects their testimony.

12 I just wanted to bring it to your attention.

13 OPEN COURT

14 THE COURT: Okay. Mr. Sheldon, you may
15 continue.

16 BY MR. SHELDON:

17 Q Why are written standards necessary?

18 A Written standards may be necessary in some
19 organizations where there's either a large number of
20 employees, where there are multi-disciplines within that
21 organization. We are a very small entity of four
22 examiners with a cumulative total of over a 120 years of
23 experience between us.

1 We evaluate each other's work meticulously.

2 Q Do you agree that written standards help
3 insure that a method isn't unnecessarily varying when you
4 apply it?

5 A I'm sorry, I can't hear your question.

6 Q Do you agree that written standards help
7 insure a method isn't unnecessarily varied each time it's
8 applied?

9 A I'm hard of hearing, I'm very sorry.

10 Q Do you agree that written standards help
11 insure a method isn't unnecessarily varied each time it's
12 applied?

13 A That's possible, yes.

14 Q Written standards help prevent taking
15 shortcuts with a method?

16 A I don't know that written standards prevent
17 anything, sir.

18 Q Written standards help prevent taking
19 shortcuts with a method?

20 A Possibly.

21 Q Written standards help insure that everyone is
22 doing the method in the same way?

23 A Possibly.

1 Q The Department of Forensic Science has written
2 standards?

3 A Yes, they --

4 MR. HORAN: I object on the grounds of
5 relevance.

6 THE COURT: Mr. Sheldon?

7 MR. SHELDON: He's recognized the Department
8 of Forensic Science as an authority and their written
9 guidelines as an authority.

10 THE COURT: Okay. Come on up to the bench for
11 a moment, please, Counsel.

12 BENCH CONFERENCE

13 THE COURT: I sustain the objection to the
14 last question. You can ask him questions that relate to
15 procedures or principles that should be followed in
16 general terms based upon what he has accepted to be
17 authoritative sources yesterday.

18 You cannot ask him to comment or to affirm
19 specific procedures that have to do with other local
20 organizations that really do not have a direct impact on
21 what he did under the circumstances of this case. Just
22 because the FBI or Division of Forensic Science may have
23 certain procedures, doesn't mean that Fairfax has to have

1 procedures.

2 More importantly, it does nothing to impeach
3 the testimony of this particular witness. You're going to
4 be able to come forward to show him the evidence that
5 something that he did in this particular case is
6 questionable or incomplete overall based upon his failure
7 to do what these (inaudible) -- that you're utilizing say
8 should be done.

9 Not just what he's done within his
10 organization, but what should be done to assure the
11 quality of work that this witness has testified, he
12 presented under the circumstances of this case.

13 MR. SHELDON: My only exception is that, I
14 believe because he's recognized this standard and because
15 they have guidelines, that it does go to the weight of his
16 opinion --

17 THE COURT: He hasn't recognized them as
18 standard, he's recognized them as --

19 MR. SHELDON: Standard authorities.

20 THE COURT: -- authorities, so that if there's
21 -- you asked the question Mr. Horan objected to before
22 that said some (inaudible) -- should do A, B, C, Mr. Horan
23 objected, I overruled that objection, but that's a

1 principle that a lab should do this and not that any
2 particular lab has its own internal procedures to do it,
3 but a statement in a recognized (inaudible) -- that
4 somebody should do this.

5 Where the line is being drawn by me, will
6 continue to be drawn by me, is what should be done versus
7 what may specifically be done in an individual lab that
8 really has no relationship to the work that he did under
9 the circumstances of this case.

10 What I'm really saying, Mr. Sheldon, is I'm
11 not going to let you do an end-run attack on the Fairfax
12 Police Department's internal procedures without it having
13 something to do or you're showing me that it has something
14 to do with his work in this case and that there may have
15 been errors arising out of his work in this case based
16 upon his failure to do things that these sources say
17 should be done by anyone (inaudible) -- their organization
18 --

19 MR. SHELDON: And that's what I'll get to
20 eventually.

21 THE COURT: Okay. Well, that's where I draw
22 the line. The last question was a question related to a
23 specific procedure for some other organization and I

1 sustain Mr. Horan's objection.

2 OPEN COURT

3 THE COURT: I sustain the objection for the
4 last question.

5 BY MR. SHELDON:

6 Q You're familiar with the American Society of
7 Crime Lab Directors Lab Accreditation Board, aren't you?

8 A Familiar, no. Do I know of them? Yes.

9 Q You worked at the Illinois State Police?

10 A I did.

11 Q At what division there?

12 A At that time it was under the Division of
13 Forensic Science and -- but we were not a part -- we were
14 not -- our section was not accredited. My particular
15 section was not, and --

16 Q Is the Fairfax Police Department as
17 accredited?

18 A No, sir.

19 Q Do you know does ASCLD accredit latent print
20 examination labs?

21 A Yes, they do.

22 Q Now, I would like to talk to you about your
23 evaluation of the latent print, recovered in this case,

1 with the ink print you took from Mr. Dowdy.

2 Did Detective Netherton give you pictures of
3 the latent print; isn't that correct?

4 A Yes, he did.

5 Q And you took an ink print from Mr. Dowdy?

6 A Yes, sir.

7 Q You knew that Mr. Dowdy was the main suspect?

8 A Yes, sir.

9 Q And you knew that this was a circumstantial
10 evidence case?

11 A I'm not an attorney skilled at circumstantial
12 evidence, sir.

13 Q Let me ask you about bias.

14 You're aware of the concept in scientific
15 (inaudible) -- called expectation bias?

16 A No.

17 Q You've never heard of expectation bias?

18 A No.

19 Q Have you heard of the phenomenon where basic
20 observations may be biased towards what an observer
21 expects to see?

22 A That can happen.

23 Q It's unintentional?

1 A Yes.

2 Q And it's not about cheating, it's about well
3 intentioned scientist seeing what they expect to see?

4 A I didn't expect to see anything.

5 Q I haven't asked you yet about what you've
6 done. Just what expectation bias is.

7 A Your question, again, sir.

8 Q Honest and careful scientists may
9 subconsciously observe what they expect to see?

10 A That's possible.

11 Q So scientific studies are designed to reduce
12 expectation bias?

13 MR. HORAN: I object. Scientific study,
14 whoever it is, is not here to be cross examined.

15 THE COURT: Mr. Sheldon?

16 MR. SHELDON: I think he can answer if he does
17 know.

18 THE COURT: Okay. I sustain the objection to
19 that question.

20 BY MR. SHELDON:

21 Q Considering the circumstances of your
22 evaluation in this case, would it be fair to say that
23 expectation bias could exist?

1 A No.

2 Q You could have guarded against expectation
3 bias in this case, couldn't you?

4 A Your question again, sir.

5 Q You could have guarded against expectation
6 bias in this case?

7 A I am guarded against that, sir.

8 Q When you compared Mr. Dowdy's ink print with
9 the latent print, you knew that ink print was Mr. Dowdy's?

10 A No, I did not. Not when -- until I completed
11 a thorough and comprehensive examination of the two
12 impressions.

13 Q I think you're misunderstanding the question.
14 I'm asking about the ink print.

15 A The ink print?

16 Q When you did your evaluation you were in your
17 office?

18 A I did the evaluation between the latent and
19 the ink print together.

20 Q In your office?

21 A In my office.

22 Q You had the latent print on your desk?

23 A A photograph of the latent print.

1 Q You had the inked print on your desk?

2 A I did.

3 Q The inked print was labeled with Mr. Dowdy's
4 name?

5 A Yes.

6 Q Isn't it true that twice before in this case
7 you failed to be able to point out points or
8 characteristics between the ink print and the latent
9 print; Mr Dowdy's ink print and the latent print?

10 A Excuse me, sir?

11 Q Isn't it true that in this case, twice before
12 you were asked to point out characteristics in the latent
13 print that matched Mr. Dowdy's ink print and you failed to
14 do that?

15 A I don't recall that being true at all, sir.

16 Q Would it refresh your recollection if I showed
17 you a transcript of your testimony at the preliminary
18 hearing on December 20th of 2005?

19 A Sure.

20 THE COURT: You can hand it to the Deputy, Mr.
21 Sheldon, and if there are certain pages, you can let the
22 Witness know what pages you want him to take a look at.

23 (The Deputy handed a document to the Witness

1 for his examination.)

2 BY MR. SHELDON:

3 Q Please, turn to Page 64 and read to yourself
4 from Line 8 to Line -- to the second line on top of Page
5 65.

6 (The Witness complied with the request.)

7 A And your question is, sir?

8 Q Isn't it true that at the preliminary hearing
9 on December 20th, 2005 Mr. Lopez, counsel for Mr. Dowdy,
10 asked you three times to point out similarities between
11 the latent and Mr. Dowdy's ink print and you failed to do
12 that?

13 MR. HORAN: Your Honor, I object to that
14 question because counsel has deliberately misstated what
15 was said at the preliminary hearing.

16 THE COURT: Okay. Come up to the bench,
17 Counsel. Can I see the transcript, please.

18 MR. SHELDON: Yes.

19 BENCH CONFERENCE

20 THE COURT: Are you relying for the question
21 on this part of Page 64 what you were referring to?

22 MR. SHELDON: Right and then it ends on 65
23 when he's asked a third time what (inaudible) --

1 THE COURT: 64, I got 64 from you Mr. Sheldon,
2 is there something else besides this part of 64 that I
3 need to look at to see the predicate question?

4 MR. SHELDON: No. Those are the three times.

5 THE COURT: Three times. One, two, three
6 here.

7 MR. SHELDON: Yes. We asked him (inaudible)
8 -- and he didn't do it. We asked the same question
9 (inaudible) --

10 THE COURT: The question that you asked -- you
11 can ask him the questions and you can relate back -- well,
12 you haven't specifically asked him about the preliminary.
13 You wanted to show this to him, but the question you asked
14 him left the impression that he was -- that he did not
15 have to do something and he did not identify (inaudible)
16 --

17 MR. SHELDON: That's right.

18 THE COURT: Okay. What this does is say that
19 he wasn't prepared at the time of the preliminary hearing
20 to answer a specific question about (inaudible) --

21 MR. SHELDON: Would that be his answer to
22 that? I wasn't prepared and that's why I didn't do it?

23 THE COURT: You can ask him, if you want to

1 impeach him with a prior inconsistent statement, because
2 this is arguable inconsistent what he testified to under
3 direct examination.

4 MR. SHELDON: It is. It is like you said.

5 THE COURT: Okay. (Inaudible) -- then you
6 should ask him and what he testified to -- whether he was
7 asked this at the preliminary hearing and whether he
8 answered this way at the preliminary hearing.

9 MR. SHELDON: So you --

10 THE COURT: Watch out, Mr. Sheldon. You don't
11 necessarily have to do it that way under Virginia
12 Appellate precedent. However, the impression I got from
13 your question was that he didn't do it, he couldn't do it,
14 not that at the time that he testified --

15 MR. SHELDON: That's exactly --

16 THE COURT: Mr. Sheldon, hear me out.

17 MR. SHELDON: Okay.

18 THE COURT: Okay. Not that he was unprepared
19 to do it at a preliminary hearing, but the question
20 implied that it went beyond an ability to do it during the
21 course of the testimony at the preliminary hearing, and as
22 a result of that, Mr. Horan is saying that it was
23 misleading the way it was phrased has some validity as

1 far as the Court's concerned to Mr. Horan's objection
2 here.

3 You can ask him about his specific testimony
4 at the preliminary hearing if you want, you can reference
5 the preliminary hearing, you can ask him the specific
6 questions that Mr. Lopez asked him at the preliminary
7 hearing, you can ask him why he was unable to do that, if
8 you want to ask him that, but I sustain the objection to
9 the last question based upon the way that it was raised.

10 MR. SHELDON: Do you strike the part of the
11 objection that said it was deliberate; that I deliberately
12 mislead?

13 THE COURT: Well, I said to everybody at the
14 end of the day yesterday that I don't want any of you to
15 be making speeches to the jury.

16 Mr. Horan, I don't want you making speeches to
17 the jury through objections.

18 Mr. Sheldon, I'm not going to start saying
19 anything to the jury one way or the other now because that
20 will be perceived as I'm taking sides between the two of
21 you. I have ruled, I felt that the question was an
22 improper question, Mr. Horan should not have done what he
23 did but I'm not going to start making comments to the jury

1 and it may be perceived as being on your side or Mr.
2 Horan's side.

3 I want you to rephrase the question.

4 MR. HORAN: Just for the record. I object to
5 the Court's comments about what I did because he did
6 deliberately misstate what went on at the preliminary.
7 Just as you noted every -- he was never asked (inaudible)
8 --

9 That was never asked. (Inaudible) -- the jury
10 to believe that that's what he did.

11 THE COURT: Mr. Horan, I agree with you, which
12 is why I've sustained your objection, but as I told
13 counsel on multiple occasions early on in this trial, I do
14 not want speeches being made to the jury in support of
15 your perspective positions and there was no reason to say
16 that he deliberately misrepresented something.

17 You could simply have said that the question
18 is not consistent with what is stated in the transcript
19 and that you object because it is potentially misleading
20 and that would have stated the position that you wanted
21 that -- eventually agreed with.

22 Now, you can step back, gentlemen.

23 OPEN COURT

1 THE COURT: Mr. Sheldon, you may continue
2 consistent with my ruling.

3 BY MR. SHELDON:

4 Q At the preliminary hearing on December 20th,
5 2005, you were asked by counsel to Mr. Dowdy whether you
6 cared to elaborate on the thirteen characteristics that
7 you said that you found and what was your answer?

8 MR. HORAN: Your Honor, can we have which page
9 and which line counsel is now talking about.

10 THE COURT: Counsel, can you supply that for
11 Mr. Horan.

12 MR. SHELDON: As I said at the beginning, 64.

13 THE COURT: Page 64, Mr. Horan.

14 MR. SHELDON: Starting at Line 8.

15 THE COURT: Okay. Starting at Line 8. I just
16 want Mr. Horan to be able to follow if Mr. Horan were to
17 ask questions. I wanted page numbers also, so you can
18 follow along too. All right.

19 BY MR. SHELDON:

20 Q Page 64, Line 8. Counsel for Mr. Dowdy asked,
21 are you prepared today to elaborate on those thirteen
22 characteristics and isn't it true that you were not
23 prepared?

1 A That's not true.

2 Q Would you read the answer, Page 64, Lines 12
3 to 14.

4 A I said, well, it is a combination of ridges
5 and bifurcations. How many times, I can't tell you off
6 the top of my head. I didn't chart and he interrupted me
7 at that point. Mr. Horan did not have me prepare a chart
8 at that time.

9 Q Mr. Lopez asked you, Page 64, Line 9, where
10 were the characteristics found.

11 MR. HORAN: 64, Line 9?

12 MR. SHELDON: Page 64, Line 9.

13 BY MR. SHELDON:

14 Q Where they were found, referring to the
15 characteristics.

16 Did you answer that question; did you state
17 where they were found?

18 MR. HORAN: Your Honor, I object. That's an
19 asked and answered in the prior answer. That's exactly
20 the response that this witness gave at preliminary
21 hearing.

22 THE COURT: I overrule the objection.

23 THE WITNESS: And the question again, sir?

1 BY MR. SHELDON:

2 Q Page 64, Line 9, counsel for Mr. Dowdy asked
3 you at the preliminary hearing about the characteristics,
4 where they were found.

5 Did you answer that question?

6 A I did earlier in the direct, I believe. As I
7 recall, I indicated earlier that -- that those thirteen
8 characteristics are found at that particular one that I
9 was attesting to was an area under the inter-digital area
10 of the left hand known as Area D, and I explained also, I
11 believe, that there were three touches at that time.

12 There were more than one touch, I believe.
13 I'm not sure exactly what I said at that point, but I
14 explained earlier in the direct that there -- those --
15 that particular thirteen that I was referring to was an
16 area under the finger and I also explain that in this
17 venue also.

18 Q In this venue when you explained that you
19 pointed out the specific identifying characteristics;
20 isn't that right?

21 A I pointed out specific identifying
22 characteristics of another area, Area D.

23 Q And in that preliminary hearing you did not

1 point out specific identifying characteristics; isn't that
2 correct?

3 A I didn't have a chart to point them out, sir.

4 Q Who prepared the chart for today?

5 A I did.

6 Q Let me refer your attention to the December
7 21st, 2006 meeting between counsel for Mr. Dowdy and
8 yourself where two of your supervisors were present.

9 At that meeting, were you asked to point out
10 identifying characteristics of latent D?

11 A Would you repeat that again, please.

12 Q I'm referring to the meeting of December 21st,
13 2006.

14 A Yes.

15 Q Less than three weeks ago.

16 A Yes.

17 Q You had a meeting with counsel for Mr. Dowdy.

18 A That's you.

19 Q That's right. And at that meeting you were
20 asked, were you not, to point out --

21 MR. HORAN: I object to counsel testifying.
22 We talked about it yesterday.

23 THE COURT: Okay. I understand your

1 objection, Mr. Horan.

2 Rephrase your question, sir.

3 MR. SHELDON: May I have the Court's
4 indulgence?

5 THE COURT: Yes, sir.

6 (Pause.)

7 BY MR. SHELDON:

8 Q December 21st, 2006 you were asked to point
9 out identifying characteristics of a latent print in this
10 case and you didn't do that; isn't that correct?

11 A That's not how I recall that meeting, sir.

12 Q Did there come a time in this case where you
13 evaluated Jaimie Coate's known print with a latent?

14 Jaimie Coate's the victim in this case.

15 A Yes.

16 Q When did you do that?

17 A I compared it to the photographs of the prints
18 on the -- the -- prints on the door A, B, C and D of those
19 photographs. I compared hers to those.

20 Q When did you do that?

21 A In October of 2005.

22 Q On what day did you do that?

23 A I don't recall off the top of my head. I

1 think it was on -- it was sometime during the week of the
2 4th or 5th of October, during that time frame. That's as
3 specific as I can be.

4 Q Did you take notes from that evaluation?

5 A No, sir.

6 Q Did you write a report of that evaluation?

7 A Not of specific to that examination alone. I
8 wrote a summary report, a supplemental report, saying that
9 -- where I indicated that I compared both Mr. Dowdy's
10 prints and Ms. Coate's prints.

11 Q Was it a detailed written report?

12 A It's a report that -- a standard report that
13 we -- that we write.

14 Q On October 5th, you compared Mr. Dowdy's inked
15 print with the latent print?

16 A There's several latent prints here.

17 Q Did you compare Jaimie Coate's known print
18 before or after you did Mr. Dowdy's?

19 A We -- I compared -- I did one comparison prior
20 to that before the processing of amino black that we
21 identified. We had one photograph that had some
22 identifying ridge detail and I did a comparison on those
23 to that particular of what we could see in that -- what I

1 could see in that and -- and they were not made by Ms.
2 Coate.

3 Q My question was, did you evaluate Jaimie
4 Coate's known print to the latent before or after your
5 October 5th comparison of Mr. Dowdy's inked print?

6 A I think I conducted -- I can't recall exactly
7 the sequence of events on --

8 Q Do you have notes?

9 A -- who I compared it with. I initially -- I
10 made an identification to Mr. Dowdy, then when all these
11 photographs were completed, I compared all the -- all the
12 identifiable latent touches on that door to both Mr. Dowdy
13 and Ms. Coate.

14 Q Which one did you do first, Mr. Dowdy with the
15 ink print that you collected on October 5th or the victim,
16 Jaimie Coate?

17 A I don't recall, sir.

18 Q I'm going to ask you about elimination prints.
19 It's not your job to collect elimination
20 prints; isn't that right?

21 A Excuse me?

22 Q Is it your job to collect elimination prints?

23 A When necessary.

1 Q Okay. You know what they are then, of course?

2 A Yes.

3 Q I'm going to read to you from A Science of
4 Fingerprints. Do you agree or disagree with this
5 statement: "Following the location of any latent prints
6 at the scene of a crime, the prints of all persons whose
7 presence at the place under inspection has been for
8 legitimate purposes should be excluded from further
9 attention.

10 "It is advisable, therefore, during the
11 initial stages of an investigation where latent prints are
12 found to secure the ink prints of all members of the
13 household, employees, police or other officials who may
14 have touched the objects."

15 A Generally, if possible.

16 Q I'm going to read to you from the FBI's
17 Advanced Latent Fingerprint school, Page 159: "All latent
18 impressions after they have been developed should be
19 photographed with a fingerprint camera whenever possible
20 and then lifted with a special lifting tape."

21 I'm going to ask you whether you agree or
22 disagree with the next paragraph: "The latent impression
23 should then be compared with the fingerprints of persons

1 who had a legitimate reason for being at a particular
2 crime scene, so that their impressions can be eliminated."

3 Do you agree or disagree with that?

4 A May I see that, again, please.

5 Q I'm going to put Page 159 on top and there are
6 no numberings.

7 MR. SHELDON: Would it be all right with the
8 Court if I draw a line along the sentence, so that he can
9 find it easier?

10 THE COURT: Yes, sir.

11 (Mr. Sheldon handed a document to the Witness
12 for his examination.)

13 THE WITNESS: And your question, sir, again?

14 BY MR. SHELDON:

15 Q Do you agree or disagree with that statement?

16 A Within the context of the article or the
17 section I agree.

18 Q Would you take a close look at that statement,
19 above it and below it, and would you state whether there
20 are any qualifications to that at all.

21 (The Witness complied with the request.)

22 A And your question again, sir?

23 Q Are there any qualifications to that statement

1 that elimination prints should be compared with a latent?

2 Does it say anywhere there -- I'm sorry. I'm
3 going to give you a chance to answer.

4 A On the -- in this particular case --

5 Q Does it say anywhere in there -- any
6 qualifications to the advice to compare all elimination
7 prints with the latent?

8 That's the only question I'm asking right now.

9 A I'm not sure I understand your question.

10 Q Take your time and read the whole paragraph,
11 above and below.

12 Are there any situations in which you should
13 not do that in that document?

14 Does that document tell you don't do that in
15 certain situations?

16 MR. HORAN: Your Honor, I object for reason
17 that when one reads this document it deals with a question
18 generally as opposed to this specific case.

19 THE COURT: Okay. That objection's overruled,
20 but I think the point's been made, so I'd really like to
21 move on, but that's up to you. I overrule the objection
22 for the last --

23 MR. SHELDON: I just want to get an answer

1 from the Witness and then I'll move on.

2 THE WITNESS: Generally, yes.

3 BY MR. SHELDON:

4 Q Yes, there are qualifications in that?

5 A Generally -- first of all --

6 MR. SHELDON: Your Honor, I'll move on.

7 THE COURT: Okay, sir.

8 THE WITNESS: I'm not sure I totally follow
9 your point of the question.

10 BY MR. SHELDON:

11 Q Were you aware in this case that the people
12 having access to the Verizon box in Commonwealth's 27 were
13 four landscapers from L and H Landscaping, five, possibly
14 five people from the fire unit, five police officers, two
15 medical examiners and two detectives; were you aware of
16 that?

17 MR. HORAN: Your Honor, I object to that.
18 That's not the evidence.

19 THE COURT: Okay. Mr. Sheldon, is that in
20 evidence?

21 MR. SHELDON: Yes, Your Honor.

22 THE COURT: Is that in evidence at this time
23 in this trial?

1 MR. SHELDON: Yes, Your Honor. I made that
2 list as people testified.

3 MR. HORAN: (Inaudible.)

4 THE COURT: Then you can --

5 MR. SHELDON: That list was generated during
6 testimony in this case.

7 MR. HORAN: Your Honor, the testimony in this
8 case so far is that none of them were inside the tape once
9 --

10 THE COURT: Mr. Sheldon, you can phrase it if
11 you want to phrase it in a hypothetical provided that you
12 content that based on the evidence involved in the case,
13 but I sustain the objection to the question as it was
14 phrased.

15 BY MR. SHELDON:

16 Q You're aware of a situation, are you not,
17 where a suspect was matched to a latent print and later
18 the latent was determined to belong to an elimination
19 print?

20 A Excuse me?

21 Q Are you aware of a case in which a suspect was
22 matched to a latent print and later it was determined a
23 mistake was made and the latent matched an elimination

1 print?

2 A I'm not sure the case you're referring to.

3 Q The McKie case.

4 A Huh?

5 Q You're familiar with the McKie, -C-K-I-E?

6 A Yes.

7 Q Right, sir.

8 A I have some familiarity with it. I followed
9 it loosely over the years.

10 Q Isn't it true that a suspect was matched to
11 the latent and after that the latent was matched to an
12 elimination print.

13 MR. HORAN: I object on grounds of relevance.

14 THE COURT: Okay.

15 MR. HORAN: Primarily on --

16 THE COURT: Come on up for one last time
17 hopefully counsel.

18 BENCH CONFERENCE

19 THE COURT: Mr. Sheldon, what's the relevance
20 of what may have happened in the McKie case?

21 He has conceited upon your questioning that
22 there's something called elimination prints and that the
23 (inaudible) -- that he's accepted as authoritative talks

1 about a need for such prints to be done or such an
2 analysis to be done.

3 What relevancy is there to an individual case
4 with other people that he had nothing to do with as to a
5 mistake allegedly having been made, even if in fact a
6 mistake was made?

7 Aren't you attempting to impeach him through
8 -- it's as if you were attempting to impeach him if it was
9 a statement by the prior inconsistent statement of
10 somebody else, you're attempting to impeach him by
11 somebody else who's alleged sloppy work?

12 MR. SHELDON: Do we have re-cross -- are we
13 allowed re-cross after redirect because I anticipate what
14 he's going to say --

15 THE COURT: If Mr. Horan opens up a door --

16 MR. SHELDON: That the elimination prints were
17 --

18 THE COURT: Hold on for a second, Mr. Sheldon.
19 If Mr. Horan asks a question on redirect examination that
20 raises something that you could not have reasonably
21 anticipated you needed to cross examine about during your
22 initial cross examination, you can ask me (inaudible) --
23 to re-cross and if there's something that's brought up on

1 any redirect examination, I believe, in fairness you are
2 to be able to re-cross, I'm going to allow you to re-
3 cross.

4 MR. SHELDON: Great. Because I anticipate in
5 fairness, I can anticipate, that he's going to answer on
6 redirect.

7 THE COURT: Well, then, if that's what the
8 situation is, then that's an issue you can address with me
9 by asking for relief to allow re-cross, but I'm not going
10 to let you prolong this based upon what you anticipate may
11 happen because it may not happen.

12 In which case we're going through more than we
13 need to necessarily go through. Okay. At this point I
14 sustain the objection for the last question.

15 OPEN COURT

16 THE COURT: I sustain the objection for the
17 last question.

18 BY MR. SHELDON:

19 Q In this case you were not given any
20 elimination prints other than the victim's to compare to
21 the latent; is that correct?

22 A That is correct.

23 Q Let me get back to your evaluation of Mr.

1 Dowdy's ink print to the latent in this case.

2 You did the evaluation in your office; is that
3 right?

4 A Yes.

5 Q And on your desk you had the inked print from
6 Mr. Dowdy and you had the pictures of the latent prints;
7 is that right?

8 A Yes.

9 Q You do the comparison by putting them side to
10 side?

11 Do you have magnifying glasses?

12 A Yes.

13 Q How many magnifying glasses do you?

14 A I have two or three.

15 Q Could you tell me what the magnification is of
16 those magnifying glasses.

17 A Two of them are four -- about -- approximately
18 four and a half power magnification and the other one is
19 approximately six power magnification, and I have another
20 one that I use occasionally, but I'm not sure what the
21 magnification level is on that.

22 Q Okay. So you got -- you put the pictures side
23 by side, you evaluate it, the latent prints with Mr.

1 Dowdy's inked print at your desk?

2 A Yes.

3 Q And you had five latents?

4 Five pictures of latent prints on your desk;
5 is that right?

6 A Yeah, I believe so.

7 Q How long did that evaluation take?

8 A Several days.

9 Q So you evaluated those five latents against
10 Mr. Dowdy's inked print for how many days?

11 A I don't recall, sir. It was more than one
12 day.

13 Q More than one day and you don't know how many
14 days?

15 A No, sir.

16 Q You didn't take any notes?

17 A No, sir.

18 Q On the first day you didn't take any notes at
19 all during the evaluation?

20 A No, sir.

21 Q The second day, did you take any notes at all
22 during the evaluation?

23 THE COURT: Mr. Sheldon, I think he said he

1 didn't take notes, if I understood him correctly.

2 MR. SHELDON: Okay.

3 BY MR. SHELDON:

4 Q After the evaluation, did you take any notes?

5 A No.

6 Q And what days did this evaluation take place
7 on?

8 A The week of, I believe, it's the first week of
9 October in 2005. It was over a period of days.

10 Q When you were done with the evaluation, after
11 several days, did you write a report as soon as you were
12 done?

13 A I don't recall if it was as soon as I was
14 done. I did write a report.

15 Q Did you write it within a few days of doing
16 the evaluation?

17 A I began my report within a few days. I
18 finished my report, let's see, a while later.

19 Q More than a month later?

20 A About, yes.

21 Q And your report does not include any
22 identifying points or characteristics; isn't that right?

23 A No. That's true.

1 Q Your report simply states that Mr. Dowdy's ink
2 print matches the latent prints?

3 A Yes.

4 Q It doesn't say anything else about the
5 evaluation or the match?

6 A No. I said there also in that report that
7 there are no latent prints of identification value that
8 remained unidentified. That every latent print that could
9 be identified, was identified.

10 MR. SHELDON: Court's indulgence for just a
11 moment.

12 THE COURT: Yes, sir.

13 BY MR. SHELDON:

14 Q So the evaluation that you made on October 5th
15 and for several days afterwards, you cannot reproduce the
16 same identifying characteristics; is that right?

17 A Excuse me?

18 Q On October 5th and for several days
19 afterwards, you compared Mr. Dowdy's ink print to five
20 photographs of latent prints?

21 A Yes.

22 Q Do you have any recollection of that
23 evaluation of which identifying characteristics you used?

1 A I used -- when I compared these
2 characteristics, when I found enough detail in agreement
3 to achieve individualization --

4 Q Let me ask this --

5 MR. HORAN: Your Honor, the Witness is allowed
6 to answer the question --

7 THE COURT: Mr. Sheldon?

8 MR. SHELDON: He was -- his answer was non-
9 responsive to the question.

10 THE COURT: Okay. Ask your next question, Mr.
11 Sheldon.

12 Have you completed your response to his
13 specific question, Mr. Reeves?

14 Not comment further, have you completed your
15 response to his last specific question?

16 THE WITNESS: I don't think so, sir.

17 THE COURT: Finish your answer.

18 THE WITNESS: When I -- I conclude, I compare
19 features of fingerprints, Your Honor, from the latent
20 print in question to known fingerprints. When I find
21 enough ridge detail in agreement in a unit relationship to
22 achieve individualization to exclude any and all other
23 donors, possible donors, I am satisfied, in my mind, that

1 these two prints were made by one and the same person.

2 THE COURT: Okay. Your next question, sir.

3 MR. SHELDON: Your Honor, I would ask the
4 Court to strike that answer as it is completely
5 unresponsive to the question. The question was -- can I
6 restate the question?

7 THE COURT: Yes, sir.

8 MR. SHELDON: Do you remember which points of
9 identification you used when you made the evaluation?

10 THE COURT: Mr. Court Reporter, give me the
11 exact question, please.

12 THE COURT REPORTER: It will take a few
13 minutes.

14 THE COURT: Okay. Take your time. Okay.
15 You can stand up for a moment.

16 MR. SHAPIRO: Your Honor, would it be possible
17 to take a short break at this point?

18 THE COURT REPORTER: That would be helpful,
19 Your Honor.

20 THE COURT: A few minutes, Mr. Sheldon?

21 MR. SHELDON: Three or four minutes.

22 THE COURT: Ladies and gentlemen, I'm going to
23 take a five-minute recess. Counsel (inaudible) -- I'll

1 send you back to the jury room. Make yourself
2 comfortable.

3 (Whereupon, at approximately 11:00 o'clock
4 a.m., the jury retired from the courtroom.)

5 (Recess.)

6 THE COURT: Okay. We all set. Let's bring
7 the Defendant back into the courtroom, please. Okay.
8 Let's bring the jury in, please.

9 (Whereupon, at approximately 11:05 o'clock
10 a.m., the jury returned to the courtroom and resumed their
11 seats in the jury box.)

12 THE COURT: Okay. Mr. Sheldon, you may
13 continue.

14 THE COURT REPORTER: Did you want the last
15 question?

16 THE COURT: Yes. Thank you. Can I have that
17 last question.

18 THE COURT REPORTER: "Do you have any
19 recollection from that evaluation of which identifying
20 characteristics you used."

21 THE COURT: Okay. Mr. Horan, do you want to
22 be heard?

23 Did you hear what the question was?

1 MR. HORAN: No, Your Honor. I already made my
2 objection.

3 THE COURT: Okay. And I strike the latter
4 portion of the witness's answer that was given after I
5 asked him to complete what he thought was the answer to
6 the last question as it was not responsive. Mr. Horan can
7 ask what he wants on redirect examination.

8 Okay. Mr. Sheldon, you may continue.

9 BY MR. SHELDON:

10 Q Your October 5th evaluation of Mr. Dowdy's ink
11 print and the latent print, you identified approximately
12 thirteen points of identification; isn't that right?

13 A On one of the prints.

14 Q But you don't know which individual
15 characteristics of the points you used; isn't that
16 correct?

17 A I utilized the entire group that were
18 available to me at the time. I stopped counting at
19 thirteen.

20 Q So you couldn't tell me which the first point
21 of identification was that you used in your evaluation?

22 A No.

23 Q You couldn't tell which the second was?

1 A It's not necessary, sir.

2 Q So you don't know what order you made the
3 points of identification?

4 A No, sir.

5 Q You don't know what points you used?

6 A The points that were present.

7 Q You didn't measure the size of the area that
8 you used for evaluation?

9 A I believe there was a scale in the photograph,
10 but I didn't -- I know that it was approximately one to
11 one.

12 Q You didn't measure the size of the area on the
13 latent that you used for evaluation?

14 A No. I did not measure it.

15 Q There was no scientific basis for the amount
16 of the latent print that you looked at and I'm talking
17 about size?

18 MR. HORAN: Your Honor, I object to that
19 question on the grounds of relevance.

20 THE COURT: Mr. Sheldon, what's the relevance?

21 MR. SHELDON: It's relevant to his opinion of
22 whether there was match, is there a scientific basis for
23 how much of a latent print he looks at. I don't know

1 why he's looking at a small sample.

2 THE COURT: I overrule the objection. He can
3 answer the question.

4 BY MR. SHELDON:

5 Q There was no scientific basis for the size of
6 the area that you looked at in the latent to compare to
7 the ink print; isn't that right?

8 A I'm not sure what you mean by scientific basis
9 for the size of the area that you're talking -- that we're
10 talking about. I'm not sure I follow your question and
11 the concept.

12 Q You didn't measure, for example, the lengths
13 of the individual ridges that make up the pattern; right?

14 A I observed the length of the ridges, I
15 observed the structure of the ridges, I observed the
16 various nuances of the ridges.

17 Q You didn't measure the individual ridges that
18 make up the pattern; isn't that right?

19 A By measure with a ruler?

20 Q That's correct.

21 A No. We don't do that.

22 Q Do you know at what point you concluded that
23 the latent print is Mr. Dowdy's?

1 A When I was satisfied in my mind that there was
2 sufficient detail in agreement to individualize Mr.
3 Dowdy's prints with the latent print to Mr. Dowdy's print.
4 When I concluded in my mind -- can I tell you exactly what
5 minute, no I cannot tell you exactly what minute.

6 Q So there was no scientific reason to stop it
7 at thirteen identifying points?

8 A No, sir.

9 Q And it was simply, you made up in your mind,
10 that it was enough; is that right?

11 If I mischaracterized let me know.

12 A When I'm satisfied in my mind. I have to
13 prove it to myself first.

14 Q So it's a judgement call that you make?

15 A Yes.

16 Q Not based on any standards?

17 A It's based upon the standard that there has to
18 be sufficient uniqueness to individualize Mr. Dowdy's
19 prints.

20 Q Now, what standard did you use for knowing
21 when there's enough uniqueness to individualize?

22 A When I'm satisfied in my mind and I believe
23 that another competent examiner would arrive at the same

1 conclusion.

2 Q In your chart that you used in your testimony
3 in direct, there are ten points or characteristics that
4 you have identified?

5 A Uh-huh.

6 Q For each of --

7 THE COURT: You have to say yes or no, please.

8 THE WITNESS: Yes.

9 BY MR. SHELDON:

10 Q I'm trying to make this quick, so I'm trying
11 to ask the question in one big question.

12 For each of those ten features, rather than me
13 going through each one, you don't know how many people
14 have each feature like the one pointed out in your chart,
15 do you?

16 A I don't -- the best I can answer that, sir, is
17 that no two people have that same -- those same features
18 and that same arrangement -- agreement.

19 Q I wasn't asking that question, so I will go
20 into this.

21 MR. SHELDON: May I get the chart, please?

22 THE CLERK: The fingerprint?

23 MR. SHELDON: Yes. Would you give it to the

1 Witness, please.

2 (The Clerk handed a photograph to the Witness
3 for his examination.)

4 BY MR. SHELDON:

5 Q Would you open it up, please. Perhaps, if you
6 could, hold it so the jury could see it, just so they
7 understand what I'm talking about.

8 (The Witness complied with the request.)

9 Q So I'm trying to make this quick. Look at
10 Number 1.

11 A Yes, sir.

12 Q Describe what kind of feature Number 1 is.

13 A Feature Number 1 is a ridge that divides and
14 calls it a bifurcation.

15 Q Bifurcation. And what percent of the
16 populations have bifurcations?

17 A A hundred percent probably.

18 Q All right. Number 2, what kind of detail is
19 that?

20 A Excuse me?

21 Q At a point where characteristic is Number 2?
22 We're looking at the latent print.

23 A It appears to be a bifurcation, as well.

1 Q Okay. I think I've made my point. Thank you.

2 Now, taking that testimony into account, do
3 you know the percentage of people who have each of those
4 features in there?

5 A From my observation, a hundred percent of the
6 population most likely has some bifurcations appearing
7 somewhere on that friction ridge.

8 Q Right. And so the question is, the
9 arrangement of those details, the characteristics are in a
10 pattern; is that correct?

11 A That's correct.

12 Q Do you know what percentage of the population
13 has, for example, -- and you pointed out Number 1
14 bifurcation, Number 2 a bifurcation -- what percentage of
15 the population has two bifurcations in that pattern?

16 A In that exact arrangement?

17 Q Yes.

18 A Not likely any, sir.

19 Q So your testimony is that after two points,
20 after identifying Point 1 as a bifurcation and Point 2 is
21 a bifurcation, of which all people have those, you could
22 conclude that that print was Mr. Dowdy's from those two
23 points?

1 A That's not what I said, sir.

2 Q Why don't you explain what you said.

3 A I do not conduct my evaluation based upon two
4 points. I look at the entire information that's there and
5 I process all of that information that is there. These
6 are two that I just illustrated for you for court.

7 Q So those two points -- I'm going to ask it
8 again because I didn't get an answer.

9 Those two points, Number 1 and Number 2, two
10 bifurcations and let me speak of those two points as a
11 pattern, a relationship distance between the two of them,
12 what percentage of the population has those two points in
13 that relation?

14 MR. HORAN: I object, the question's been
15 asked and answered.

16 THE COURT: Mr. Sheldon.

17 MR. SHELDON: He hasn't answered the question
18 at all.

19 THE COURT: Rephrase it, go ahead and ask it.

20 BY MR. SHELDON:

21 Q What percentage of the population has those
22 two points in that relationship?

23 A I don't know. That's the best that I can

1 answer that.

2 THE COURT: Okay.

3 BY MR. SHELDON:

4 Q Let me ask you about discrepancies.

5 If one discrepancy is found then there's no
6 match, isn't that correct?

7 A If it's an unexplainable discrepancy.

8 Q If one unexplainable discrepancy is found,
9 regardless of the number of points, then a known print or
10 an ink print does not match a latent; isn't that correct?

11 A Yes, sir.

12 Q You could have a fifty points of similarity,
13 but if you found an unexplained discrepancy, then the ink
14 print does not match the known?

15 A I'd have to see the particular latents.

16 Q So would you disagree with that statement?

17 A I disagree with the answer to that.

18 Q So if you had a fingerprint, a palm print, in
19 which you found fifty points of similarity and then you
20 found a clear unexplained discrepancy, you would make an
21 identification of that print; is that correct?

22 A I would have to see the print.

23 Q I'm asking you -- let me ask you a

1 hypothetical question.

2 If you had fifty points or characteristics in
3 a latent print, which in your mind you matched to an ink
4 print and then you found one unexplained discrepancy that
5 was clear in the latent print that did not match the ink
6 print, one unexplained clear discrepancy, in that
7 hypothetical, would you call those a match?

8 A Your Honor, I cannot answer a hypothetical
9 question. I'd have to see the print. I cannot answer
10 that a yes or no.

11 THE COURT: That's his answer to your
12 question.

13 MR. SHELDON: Your Honor, may I get
14 Commonwealth's Exhibit 27, please, for the Witness. Can I
15 have marked for identification Defendant's Exhibit 15,
16 please.

17 THE COURT: Mr. Sheldon, even when he does, I
18 still want the Deputy to show it to opposing counsel to
19 make sure that everybody's looking at the same thing at
20 the same time. It's marked for identification as
21 Defendant's 15.

22

23

(The photograph referred to
above was marked
Defendant's Exhibit
No. 15, for identification.)

THE COURT: Do you want to give it to the
Witness?

MR. SHELDON: Yes, sir.

THE COURT: Okay, sir.

(Mr. Sheldon handed a photograph to the
Witness for his examination.)

BY MR. SHELDON:

Q Can you identify Defendant's 15.

A I identify -- this appears to be the same
photograph that was from -- we discussed earlier from
Areas A identifying the left ring finger of Mr. Dowdy.

MR. SHELDON: Your Honor, may I hand two pens
to the Witness to make a mark on the photograph?

THE COURT: Is there any objection to a mark
being made on the photograph, Mr. Horan?

MR. SHELDON: On Defendant's exhibit.

THE COURT: I understand.

MR. HORAN: Marking the exhibit?

THE COURT: He wants to put a mark on a

1 defendant's exhibit that's been marked for identification.

2 MR. HORAN: I have no objection to that.

3 THE COURT: Okay, sir.

4 (Mr. Sheldon handed an item to the Witness.)

5 BY MR. SHELDON:

6 Q Mr. Reeves, on Defendant's Exhibit 15, you
7 used Finger Number 9, the left ring finger, to make an
8 identification; is that correct?

9 A Yes, sir.

10 Q Would you with a green pen -- with the green
11 pen, please, circle, as closely as you can, that friction
12 ridge detail that you used.

13 (The Witness complied with the request.)

14 Q And would you use the red pen to circle all
15 other friction ridge detail, please. It's the red pen, in
16 the photograph, please, all friction ridge detail.

17 (The Witness complied with the request.)

18 Q Mr. Reeves, if you would just hold the picture
19 up, please, so the jury can see it. Just so they're
20 following along with what we're doing.

21 (The Witness complied with the request.)

22 Q So the green circle is the friction ridge
23 detail that you matched to Mr. Dowdy's ink print and the

1 red circles are friction ridge detail that you did not --
2 that is not part of the green circle; is that correct?

3 A Yes.

4 MR. HORAN: I object to the form of the
5 question. In form it has no relevance.

6 THE COURT: Overruled and the witness has
7 answered.

8 BY MR. SHELDON:

9 Q Is there any other friction ridge detail in
10 the picture that you did not circle?

11 Regardless of clarity. Even unclear friction
12 ridge detail I'm asking you to circle.

13 A I'm sorry, the question, sir.

14 Q My question is, is there any friction ridge
15 detail, regardless of clarity, that you didn't circle?

16 A Not that I can see.

17 Q Now, I think these will go more quickly.

18 MR. SHELDON: Defendant's Number 16 for
19 identification, please.

20 (The photograph referred to
21 above was marked
22 Defendant's Exhibit
23 No. 16, for identification.)

1 BY MR. SHELDON:

2 Q While that's being marked, Mr. Reeves,
3 Defendant's Number 15, is that a fair and accurate copy of
4 the print that you evaluated?

5 A I believe so.

6 Q Mr. Reeves, on Defendant's Exhibit 16, would
7 you please take the green pen and circle those areas on
8 the latent print which you concluded at your examination
9 matched Mr. Dowdy's ink print.

10 A With the green pen, sir?

11 Q Yes, please. Green for, you used it to make
12 your identification.

13 (The Witness complied with the request.)

14 A May I have indulgence to refer to my
15 photographs of this?

16 Q Yes, absolutely.

17 (Pause.)

18 MR. SHELDON: Your Honor, may I approach the
19 Witness to see what the Witness is referring to?

20 THE COURT: For what purpose, Mr. Sheldon?

21 MR. SHELDON: So I can see what the Witness is
22 using to help his demonstrative testimony.

23 THE COURT: Yes, sir.

1 BY MR. SHELDON:

2 Q Is Defendant's Exhibit 16 a fair and accurate
3 representation of the latent that you examined?

4 A Yes, sir.

5 MR. SHELDON: Defendant's Exhibit 17 for
6 identification, please

7 THE COURT: It will be so marked.

8 (The photograph referred to
9 above was marked
10 Defendant's Exhibit
11 No. 17, for identification.)

12 BY MR. SHELDON:

13 Q Mr. Reeves, can you identify Defendant's
14 Exhibit 17.

15 A It's a photograph of -- it's a photograph of
16 Area C, the doors.

17 Q Is that a fair and accurate representation of
18 the latent that you looked at at this case?

19 A Yes.

20 Q Would you, please, with a red pen -- I
21 withdraw the question.

22 You did not make any identification using C;
23 is that correct?

1 A That's correct.

2 Q Would you with a red pen circle all the
3 friction ridge detail in the picture.

4 (The Witness complied with the request.)

5 THE COURT: Picture is Defendant's 17, as I
6 understand it correctly?

7 MR. SHELTON: Yes.

8 THE WITNESS: This is done without the benefit
9 of a magnifying glass under appropriate lighting, so.

10 MR. SHELTON: Your Honor, may I offer the
11 Defendant a magnifying glass?

12 THE COURT: You can offer the Witness one if
13 he wants one --

14 MR. SHELTON: The Witness.

15 THE COURT: -- or if he wants to go sit some
16 place else where he has better light in order to do what
17 he needs to do. He's entitled to do that also.

18 (Mr. Sheldon handed an item to the Witness for
19 his examination.)

20 BY MR. SHELTON:

21 Q That's three times magnification.

22 THE COURT: Mr. Sheldon, how much longer would
23 you anticipate being with your cross examination of the

1 Witness, approximately?

2 MR. SHELDON: Your Honor might be aware that
3 I'm not good at estimating, but I would say approximately
4 thirty minutes, perhaps, twenty.

5 THE COURT: Would it be possible for the
6 Witness to be able to do what you're just asking him to do
7 during the course of the luncheon recess and then to
8 provide it to counsel at that point to be made part of the
9 record instead of taking the time to do it while the
10 jury's in the box?

11 MR. SHELDON: Your Honor, I wanted to ask the
12 Witness questions about this.

13 THE COURT: Okay. Then --

14 MR. SHELDON: Before we --

15 THE COURT: Then we'll wait.

16 (Pause.)

17 BY MR. SHELDON:

18 Q Why don't you keep that, Mr. Reeves, -- and I
19 apologize, Defendant's Exhibit 16, that's latent B, I
20 neglected to ask you to circle.

21 Do you have that in your hand, Defendant's
22 Exhibit 16?

23 I neglected to ask you, with a red pen, would

1 you circle all friction ridge -- all other friction ridge
2 detail in the picture.

3 (The Witness complied with the request.)

4 BY MR. SHELDON:

5 Q Have you completed --

6 MR. SHELDON: This is going to be Defendant's
7 Exhibit 18. for identification Defendant's Exhibit 18.

8 (The photograph referred to
9 above was marked
10 Defendant's Exhibit
11 No. 18, for identification.)

12 BY MR. SHELDON:

13 Q Mr. Reeves, can you identify that picture?

14 A Give me a second, sir.

15 Q Take your time.

16 A This is Area -- photograph of Area D.

17 Q Is that a fair and accurate representation of
18 the latent that you used in this case?

19 A It appears to be.

20 Q Would you, please, go through the same
21 exercise. Take the green pen and circle, please, with the
22 green pen the friction ridge detail that you used to make
23 your identification.

1 (The Witness complied with the request.)

2 Q And with a red pen, Mr. Reeves, if you would
3 circle all other friction ridge detail in the picture.

4 (The Witness complied with the request.)

5 Q You done?

6 A Yes.

7 MR. SHELDON: May I hand Defendant's Exhibit
8 19 for identification, please.

9 (The photograph referred to
10 above was marked
11 Defendant's Exhibit
12 No. 19, for identification.)

13 BY MR. SHELDON:

14 Q Mr. Reeves, just feel free to alert me when
15 you're done with it.

16 A Okay.

17 Q Can you identify Defendant's Exhibit 19?

18 A Yes. It appears to be images from Area E of
19 the (inaudible) --

20 Q Is that a fair and accurate representation of
21 the latent print that you used in this case?

22 A Close, yes. Appears to be.

23 Q Would you do the same exercise, please. Using

1 the green pen, circle those areas of the friction ridge
2 detail you used to make your identification.

3 (The Witness complied with the request.)

4 THE COURT: Counsel, while he's doing that can
5 I see you all at the bench for a quick moment, please.

6 Mr. Lopez, I'd like you to come up also,
7 please.

8 BENCH CONFERENCE

9 THE COURT: We're probably going to be hard
10 pressed to get this case to the jury at all today.

11 What is your reaction if the Sheriff can
12 provide security to having the case argued to the jury
13 first thing tomorrow morning if the evidence is
14 (inaudible) -- today instead of waiting to Tuesday of next
15 week?

16 MR. LOPEZ: That's fine with me, Your Honor.

17 MR. HORAN: And let them deliberate tomorrow?

18 THE COURT: Yeah. Instead of waiting until --
19 four day hiatus in a case of this nature. Especially with
20 the technical evidence I don't think it's in anyone's best
21 interest. I've spoken to the Chief Judge, he said it's
22 fine with him.

23 I'm trying to get the Deputy of Supervisors in

1 the Sheriff's Department, I'm much -- I think it would be
2 better for everyone if this case could be concluded and
3 sent to the jury tomorrow, if they can be there and then
4 let them go ahead and deliberate tomorrow instead of
5 waiting until next Tuesday.

6 MR. LOPEZ: I agree, Your Honor.

7 THE COURT: Just wanted to make sure it okay
8 with all of you before I went any further.

9 MR. LOPEZ: Yes, sir.

10 OPEN COURT

11 BY MR. SHELDON:

12 Q And with the red pen, please, mark -- circle
13 all other friction ridge detail.

14 (The Witness complied with the request.)

15 Q Mr. Reeves, do you have Commonwealth's 27 in
16 front of you?

17 A I'm sorry?

18 Q Do you have Commonwealth's Exhibit 27 in front
19 of you?

20 That should be, I believe, the picture of the
21 Verizon box.

22 When you looked at these pictures that you
23 have been drawing on, Defendant's 15 through 19, the A

1 through E on the Verizon box corresponds -- those pictures
2 correspond with A through E; is that correct?

3 A Yes.

4 Q All right.

5 MR. SHELDON: May I hand him a blue pen just
6 to quickly mark each photograph A through E in the margin
7 of the photographs, Defendant's Exhibits 15 through 19.

8 THE COURT: You want him to mark A through E
9 in each of those photographs?

10 MR. SHELDON: A through E on each photograph.

11 THE COURT: Okay.

12 MR. SHELDON: Just so it's clear which --

13 BY MR. SHELDON:

14 Q In the margin simply so it doesn't obscure any
15 friction ridge detail, and as large as you can in the
16 margin, please.

17 A I'm sorry, what?

18 Q Please, just mark the letters as large as you
19 can in the margin, A through E.

20 THE COURT: Mr. Sheldon, if there are other
21 photos that you're going to be asking the Witness to mark
22 --

23 MR. SHELDON: No.

1 THE COURT: I'm sorry?

2 MR. SHELDON: No, Your Honor. I'm done.

3 THE COURT: Okay. Because we're right around
4 the time for the morning recess for these folks. They've
5 had a couple of minutes, but I'd like to give them ten
6 more.

7 MR. SHELDON: (Inaudible) --

8 THE COURT: Is this a logical breaking point?

9 MR. SHELDON: Yes, Your Honor.

10 THE COURT: Okay. We're going to take another
11 ten minutes for recess right now. Counsel, twenty five of
12 according to that clock, I want everyone seated ready to
13 go at a quarter of according to that clock.

14 Folks, pads and pens in the jury box. We'll
15 see you in ten minutes.

16 (Whereupon, at approximately 11:37 o'clock
17 a.m., the jury retired from the courtroom.)

18 (Recess.)

19 MR. SHELDON: I am anticipating another
20 objection to an authority that I'm going to read. May Mr.
21 Horan and I approach and clarify this now?

22 THE COURT: Well, do you need to approach if
23 the jury's not in the room?

1 MR. SHELDON: No, Your Honor.

2 THE COURT: Well, have you discussed it with
3 Mr. Horan?

4 MR. SHELDON: No, I haven't.

5 THE COURT: Okay. Well, then you can briefly
6 discuss it with Mr. Horan to see if there's an objection,
7 but I'd really like to move things along to the extent
8 that we reasonably can.

9 (Discussion, off the record.)

10 MR. SHELDON: So I wanted to be able to
11 explain that these Swigfast guidelines we're talking about
12 are --

13 THE COURT: Well, don't give me an
14 explanation. Tell me what the question is going to be and
15 I can find out if Mr. Horan objects to the question.

16 MR. SHELDON: Do you agree or disagree that
17 there are areas of common interest to the latent print
18 community and other fingerprint applications, like
19 criminal history biometrics and that the Swigfast
20 guidelines are developed at specific requirements of the
21 latent print community and they differ with those other
22 applications?

23 Reason for the question is because I will get

1 into the fact that the Witness does mostly other
2 applications and so is not familiar with latent print
3 guidelines.

4 THE COURT: What difference does that make?

5 If he's not familiar with the Swig latent
6 print guidelines, what difference does that make as far as
7 impeaching goes?

8 MR. SHELDON: The Witness has eluded to the
9 fact that his work is non-latent work in other fingerprint
10 applications is relevant to the weight of his opinion in
11 this case, and my argument is, the weight of his opinion
12 is based on his expertise as a latent print examiner none
13 other fingerprint applications.

14 There are many other fingerprint applications
15 of which this witness takes part in many of them and the
16 vast majority --

17 THE COURT: Okay. Well, why don't you ask him
18 that first and then if you need to you can, and it's
19 appropriate, you can get into the -- is it Swig, I'm
20 sorry?

21 MR. SHELDON: Yes. Swigfast. Scientific
22 Working Group.

23 THE COURT: I'm not sure -- the Swigfast

1 guidelines, Mr. Sheldon, if it's confusing me, I trust --
2 and it's confused Mr. Horan, I think it's pretty likely
3 it's going to confuse the jurors --

4 MR. SHELDON: I'm not trying to get into it
5 more about what they are and why and I haven't been
6 allowed to.

7 THE COURT: You haven't been allowed to
8 because -- simply because a particular organization has
9 certain guidelines doesn't mean that a witness can be
10 impeached based upon his organization not following some
11 other organizations guidelines in a particular case, and
12 there are things that are required, things that should be
13 done, I've let you go into all of that with the witness,
14 but just because organization A does some things a
15 particular way, doesn't mean that all other organizations
16 have to do things the same exact way or someone who
17 happens to be a member of organization B is subject to
18 impeachment.

19 The Fairfax County Police Department is not on
20 trial in this case. Your client's on trial in this case.
21 You're entitled to do what you need to do to attempt to
22 undermine the testimony of this witness on behalf of the
23 Commonwealth.

1 Mr. Sheldon, I've tried to draw lines that I
2 felt were appropriate. If anything I've probably drawn
3 them more on your side than -- I would have to of, but I
4 don't understand your question, it's going to be confusing
5 to the jury in my opinion.

6 You can ask your question, I'll hear whatever
7 Mr. Horan has to say as far as an objection for whatever
8 guidance that may give you, but I want the jury back in.
9 I told them they'd be back in the courtroom five minutes
10 ago.

11 Let's go.

12 (Whereupon, at approximately 11:53 o'clock
13 a.m., the jury returned to the courtroom and resumed their
14 seats in the jury box.)

15 THE COURT: Mr. Sheldon, you may continue with
16 your examination of the Witness. You may be seated.

17 BY MR. SHELDON:

18 Q Mr. Reeves, you have pictures marked A through
19 E in front you, that's Defendant's Exhibit 15 through 19
20 --

21 A JUROR: Excuse me, could you speak a little
22 louder, please. Thank you.

23 BY MR. SHELDON:

1 Q You have Defendant's Exhibits 15 through 19 in
2 front of you; is that right?

3 A Yes.

4 Q And --

5 A JUROR: A little bit louder.

6 THE COURT: From the Witness?

7 A JUROR: Yes. Please.

8 THE COURT: Okay.

9 THE WITNESS: I'm sorry.

10 THE COURT: Okay. Mr. Reeves, speak directly
11 into that microphone, if you would please and maybe
12 reposition it, so you speak or reposition yourself so
13 you're speaking right into it. Thank you.

14 (The Witness complied with the request.)

15 THE WITNESS: I'm sorry.

16 BY MR. SHELDON:

17 Q In each photograph the green circle is the
18 friction ridge detail you used in your identification; is
19 that right?

20 A That's correct.

21 Q And the red is all other friction ridge
22 detail?

23 A Yes, sir.

1 Q The chart that you used in your testimony,
2 does the area from the chart appear in any of the green
3 circles?

4 THE COURT: The chart being the blow up that
5 was used yesterday, Mr. Sheldon?

6 MR. SHELDON: Yes.

7 THE COURT: Okay.

8 MR. SHELDON: The big blow up -- points of
9 identification 1 through 10.

10 MR. HORAN: Your Honor, are we talking about
11 Commonwealth's 46?

12 MR. SHELDON: Is that it, Commonwealth's 46?

13 BY MR. SHELDON:

14 Q Which photograph does it appear in?

15 A It appears in photograph D.

16 Q And are you sure that in Defendant's Exhibits
17 15 through 19, you have circled all friction detail -- all
18 friction ridge detail?

19 A As near as I can see under the circumstances.
20 Yes, sir.

21 Q Do you need more time to do that?

22 A I don't believe so, sir.

23 Q Mr. Reeves, in general, can a computer make an

1 identification of a latent to an ink print?

2 A No.

3 Q And a computer can give false negatives; isn't
4 that correct?

5 A It can.

6 MR. HORAN: I object on the grounds of
7 relevance.

8 THE COURT: What's the relevance?

9 Is there evidence that he used a computer for
10 purposes of his analysis?

11 MR. SHELDON: I'll withdraw the question.

12 THE COURT: Question's withdrawn. --

13 BY MR. SHELDON:

14 Q It takes a person --

15 MR. SHELDON: I'm sorry, Your Honor.

16 BY MR. SHELDON:

17 Q It takes a person to do the evaluation because
18 the process requires human judgement?

19 A Your question again, sir.

20 Q It takes a person to do the evaluation, not a
21 computer, because the evaluation takes human judgement?

22 A Human judgement and skill.

23 Q Judgement and skill.

1 So you're evaluation and identification, would
2 you call that subjective?

3 A The best that I can answer that is it's
4 subjective criteria based upon objective criteria.

5 Q Let me ask you briefly about your proficiency
6 testing. You have in front of you the Swigfast Quality
7 Assurance Guideline and I'm going to read from that
8 guideline. The Swigfast, the Scientific Working Group for
9 friction ridge analysis guideline 5.2.

10 Do you agree or disagree that a proficiency
11 test should be administered to each latent print examiner
12 annually?

13 MR. HORAN: Your Honor, once again, I object.
14 That's somebody else's theory on how it should be done as
15 opposed to what Fairfax county requires.

16 THE COURT: Mr. Sheldon?

17 MR. SHELDON: This witness has already
18 recognized this Quality Assurance Guideline as an
19 authority and whether he --

20 THE COURT: I'm going to allow him to answer
21 that question.

22 THE WITNESS: Okay. Your question again, sir.

23 BY MR. SHELDON:

1 Q Do you agree or disagree that a proficiency
2 test should be administered to each latent print examiner
3 annually?

4 A I don't necessarily feel that -- I feel that
5 it's not necessary.

6 Q You do not take annual proficiency tests?

7 A No, sir.

8 Q You haven't taken one in several years?

9 A No, sir.

10 Q You've testified nine or ten times before, all
11 in Fairfax; is that right?

12 A Yes.

13 Q How many times have you testified in circuit
14 court?

15 A I don't recall. Two or three

16 Q What was the name of the last circuit court
17 case you testified in?

18 A I don't recall, sir.

19 Q Do you recall the name of any case you
20 testified in in circuit court?

21 A I can't recall the names of the case. I can
22 recall one -- one case by name. I think I can remember
23 the Defendant's name.

1 Q What was the Defendant's name?

2 A I believe his name was Turner, but I'm not
3 sure.

4 Q So in your experience as a latent print
5 examiner, you recall one case in which you've testified in
6 circuit court; is that right?

7 A By name. I've testified at least two or three
8 times in circuit court.

9 Q I'm going to read to you a statement from the
10 FBI Advanced Latent Fingerprint School. I'm going to read
11 four short statements to you and ask whether you disagree
12 or agree. Again, this is the FBI Advanced Latent
13 Fingerprint School, the one that you attended.

14 MR. HORAN: Your Honor, I object on the
15 grounds of relevance.

16 THE COURT: Well, I need to hear what they
17 are, Mr. Horan. Depending on what they say, I may agree,
18 I may disagree with you. Let me hear what they have to
19 say.

20 BY MR. SHELDON:

21 Q An evaluation of fingerprints containing a
22 score of points in the hands of a unknowledgeable person
23 could constitute a greater hazard to the science than a

1 comparison of print possessing relatively few points in
2 the hands of a thoroughly experienced technician.

3 That's number 1.

4 THE COURT: Well, let's stop right there. Do
5 you want to ask him if he agrees or disagrees with that.

6 MR. SHELDON: Yes.

7 BY MR. SHELDON:

8 Q Do you agree or disagree?

9 A Re-read it again, please.

10 Q An evaluation of fingerprints containing a
11 score of points in the hands of an unknowledgeable person
12 -- let me withdraw the question. Let me just go to the
13 second question, which is shorter.

14 Do you agree or disagree, experience is an
15 indispensable factor in fingerprint work?

16 A I agree.

17 Q Thirdone is very short.

18 Do you agree or disagree, that long time
19 assignment to fingerprint duties alone, does not
20 necessarily breed an expert?

21 A Generally.

22 Q There are different fingerprint applications,
23 aren't there?

1 A Well, the two -- yes. I short, yes.

2 Q And I'm going to read you one more short
3 statement and as you if you agree or disagree. This is a
4 continuation of the third statement. The third is long
5 time assignment of fingerprint duties does not necessarily
6 breed an expert.

7 The fourth comes right next, there must be a
8 continuous comparison of fragmentary impressions,
9 observations of percula rarities and variations.

10 MR. HORAN: I object on the grounds of
11 relevance.

12 THE COURT: Mr. Sheldon?

13 MR. SHELDON: I'll withdraw the question --

14 THE COURT: Question's withdrawn.

15 BY MR. SHELDON:

16 Q Turning to your experience, Mr. Reeves, at the
17 time that you worked for the FBI, from 1972 to 1976, you
18 didn't have a college degree at that point; is that
19 correct?

20 A No, sir.

21 Q You had a high school diploma at the time you
22 worked for the FBI?

23 A Yes.

1 Q You now have a bachelor's of arts degree?

2 A Yes, sir.

3 Q It's not a science degree?

4 A No.

5 Q It's in interpersonal communications?

6 A Yes.

7 Q You got it in 1999?

8 A Yes.

9 Q When you worked at the FBI from '72 to '76,
10 you did not work on latent prints; isn't that correct?

11 A No.

12 Q You worked in the known fingerprint section?

13 A Yes.

14 Q And very little of your work involved latent
15 fingerprint identification to an ink print?

16 A True.

17 Q You worked at the Illinois State Police -- I
18 withdraw that question.

19 When you worked for the FBI, you never
20 testified in a case; isn't that true?

21 A That's true.

22 Q You worked at the Illinois State Police from
23 '77 to '94?

1 A That's true.

2 Q You did similar work to the work you did at
3 the FBI?

4 A Uh-huh.

5 Q Very little or none on latent prints?

6 A I attended some schools on latent prints, yes.

7 Q I'm asking about your work experience.

8 A No.

9 Q You worked for Identics next.
10 You left Illinois state police in '94, you
11 worked for Identics from '94 to '96; is that right?

12 A Yes.

13 Q Identics is -- that's corporate work, meaning
14 you use known prints, ink prints, to do background checks;
15 is that correct?

16 A Correct.

17 Q You didn't work on latent prints?

18 A No.

19 Q You worked for Sears next.

20 You went from Identics to Sears, '97 to '98;
21 is that right?

22 No latent experiences at Sears; is that right?

23 A No.

1 Q What did you do from 1998 to 2001?

2 A Well, if it's anybody's business, I took three
3 years off to help my wife's career.

4 Q So the only thing I meant by that is from '98
5 to '01, it's not on your resume, is it, what you did from
6 '98 to '01?

7 A No.

8 Q And you didn't work on latent prints from '98
9 to '01; is that right?

10 A Did some seminars.

11 Q You did no work?

12 A No.

13 Q So you have testified that you have thirty
14 three years of experience in fingerprints identification;
15 is that correct?

16 A I think I testified over thirty years.

17 Q For the first twenty-eight, twenty-nine years
18 of your career, you didn't work on latent prints
19 identification?

20 A True.

21 Q You never worked on latent print
22 identification full time until you arrived in Fairfax?

23 A True.

1 Q Fairfax has no written procedures?

2 A Excuse me?

3 Q Fairfax has no written procedures that you
4 have ever used in making a latent print identification?

5 A No.

6 Q Most of your work in Fairfax is on known
7 prints, not on latents; isn't that correct?

8 A That's not true.

9 Q You do a lot of work on known prints with the
10 Adult Detention Center?

11 A I compare prints from the Adult Detention
12 Center to unsolved latent cases every day of the week.
13 Comparing those prints to unsolved latent cases utilizing
14 computer search and secondly, I do latent print
15 submissions to those known prints.

16 It's a two fold process the way it's
17 structured here in Fairfax.

18 Q Now, I'm going to read to you from Advanced
19 Latent Fingerprint School. Just put it in context, it's a
20 paragraph. You answered that you agreed with long time
21 assignment that fingerprint duties alone does not
22 necessarily breed an expert.

23 MR. HORAN: Your Honor, that question's been

1 asked and answered.

2 THE COURT: Okay.

3 MR. SHELDON: I'm just trying to get context

4 --

5 THE COURT: Okay.

6 BY MR. SHELDON:

7 Q The next question is, do you agree or disagree
8 that it must be continuous comparison of fragmentary
9 impressions, observations of peculiarities and variations
10 and thoughtful consideration to do latent print
11 examination?

12 MR. HORAN: Your Honor, I object on the
13 grounds of relevance.

14 THE COURT: Overruled.

15 THE WITNESS: That's what I do everyday, sir.

16 BY MR. SHELDON:

17 Q Do you agree or disagree with that statement?

18 A I agree with the statement.

19 MR. SHELDON: Your Honor, Court's indulgence
20 for a moment.

21 (Pause.)

22 MR. SHELDON: No further questions, Your
23 Honor.

1 THE COURT: Any redirect, Mr. Horan?

2 MR. HORAN: Yes, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. HORAN:

5 Q Mr. Reeves, counsel has asked you questions in
6 a number of different areas and I want to go into those.

7 He asked you about accreditation and he talked
8 about accreditation of the Northern Virginia Crime Lab; do
9 you recall that?

10 A Well, the -- I'm sorry.

11 Q He asked you a question about that lab whether
12 it was or was not accredited; right?

13 A The state lab or --

14 Q Yeah.

15 A Yes, sir. He asked me that.

16 Q And then he asked you a question about whether
17 your department is accredited?

18 A Yes.

19 Q Is your department a crime lab?

20 A No, sir.

21 MR. SHELDON: Objection, Your Honor.

22 THE COURT: Legal basis.

23 MR. SHELDON: It's irrelevant whether you're a

1 crime lab or not to be accredited.

2 THE COURT: Okay. Overruled.

3 THE WITNESS: We're not a crime lab.

4 BY MR. HORAN:

5 Q Counsel talked about, what they call, peer
6 review.

7 What's peer review?

8 MR. SHELDON: Objection, Your Honor.

9 THE COURT: Mr. Sheldon, I need the legal
10 basis in order to be able to intelligently rule.

11 MR. SHELDON: Relevance or mischaracterization
12 of the question. I never asked about peer review.

13 THE COURT: Well, the question is, did Mr.
14 Sheldon ask you?

15 Do you remember Mr. Sheldon asking you any
16 questions about peer review, sir?

17 THE WITNESS: I don't recall, sir.

18 THE COURT: Okay. Then Mr. Horan, your next
19 question.

20 BY MR. HORAN:

21 Q Does anyone check your results once you form

22 --

23 MR. SHELDON: Objection. Objection. Hearsay

1 and confrontation clause --

2 THE COURT: When and if he asks him about any
3 specifics of any particular situation, Mr. Sheldon, the
4 objection's may be potentially well taken. At this point,
5 in light of the cross examination, the objection's
6 overruled.

7 THE WITNESS: Your question again, Mr. Horan.

8 BY MR. HORAN:

9 Q Let me take it from a different -- I withdraw
10 that, Your Honor.

11 You said in the course of responding to Mr.
12 Sheldon's question that in your shop you validate each
13 other's work meticulously?

14 A Yes, sir.

15 Q And what did you mean by that?

16 MR. SHELDON: Objection, Your Honor. Hearsay
17 and confrontation cause grounds.

18 THE COURT: Overrule. He's not testifying
19 what anybody else said, he's testifying to what he meant
20 by something he was asked on cross examination.

21 THE WITNESS: What I do when I complete an
22 examination, I turn my work over to another examiner to
23 have it independently check, verify --

1 MR. SHELDON: Objection. Relevance.

2 THE COURT: Overruled.

3 THE WITNESS: -- and they -- the other
4 examiners within my section check every identification
5 that I affect, to see that it is in fact an
6 identification.

7 BY MR. HORAN:

8 Q Now, in the course of doing your work, if you
9 have a doubt as to whether there is a comparison, do you
10 make one?

11 A Do I what, sir?

12 Q Do you make a comparison if you have doubts
13 about it?

14 A I do not make an identification if there is a
15 doubt about it, sir.

16 Q Counsel was talking about in this case you
17 went for a number of days in order to draw the conclusions
18 you did.

19 Is that unusual?

20 A No, sir.

21 Q In the course of drawing your conclusion,
22 ultimately, what are you doing in all of those days?

23 A I'm comparing, for example -- may I use one of

1 my photographs?

2 I take -- in this particular case, sir, I
3 would take the photograph and I look for -- I examine all
4 the ridge detail and I compare that, I fold the photograph
5 or whatever I need to do and compare it side by side with
6 the ink prints of whomever I'm comparing to, whether it's
7 Mr. Dowdy or anybody else, and I -- that's how I do that,
8 and I look to see if everything is in agreement, if
9 there's anything that's in disagreement.

10 Q Why can't you do all that in one day?

11 A It's an arduous work and -- and -- and often
12 times -- and also it's not the only case I had going. I
13 worked this and then I take -- I have to walk away, take a
14 break, refresh my eyes, get something to eat or drink,
15 come back, then we do the same thing again.

16 Q During that period in October of 2005, was
17 this case the only case you were working on?

18 A No, sir.

19 Q During the same period where you were
20 examining these, were you examining prints from other
21 cases?

22 A Yes, sir.

23 Q And is that unusual?

1 A No, sir.

2 Q Counsel read from one of these groups that
3 says how you're suppose to do these things and that group
4 said, don't take shortcuts.

5 Do you recall him asking you about that?

6 A Yes, sir.

7 Q Did you take any shortcuts in this case?

8 A No, sir.

9 Q You testified in response to counsel's
10 question that you followed the generally accepted
11 practices of the fingerprint community?

12 A Generally, yes.

13 Q Did you deviate from those practices?

14 A No, sir.

15 Q Counsel asked you about what you did while you
16 were with the FBI from 1972 to '76.

17 Did you have any training with the FBI during
18 those years in the field of latent examination?

19 A We had some exposure to it and we spent some
20 time in the latent section showing what the difference was
21 between the latent prints and the known prints and we
22 spent some time with latent examiners, they were on the
23 next floor, and they would explain to us how they do, what

1 they do, how they compare to our work and things like
2 that.

3 Not a lot of formal training during that time.

4 Q Now, you've indicated that you had over 800
5 hours training?

6 A Yes, sir.

7 Q In the field of fingerprint examination?

8 A Fingerprint and crime scene, both.

9 Q Can you estimate what percentage of that is
10 latent examinations.

11 A A good portion of it, but the bulk of it --
12 sir?

13 Q Now, is there a great deal of difference
14 between latent examination and known fingerprint
15 examination?

16 A The difference, sir, the best I can -- it is
17 more difficult, however, the concept of affecting
18 identification, whether it's a ten print to a ten print or
19 to latent to ten print, it's the same. You're looking at
20 ridge detail.

21 Q Now, at the preliminary hearing that counsel
22 talked to you about, were you talking about the same print
23 that's shown on Commonwealth's Exhibit 46, the huge blow

1 up?

2 A No, sir.

3 Q At the preliminary hearing, which print were
4 you talking about?

5 A I was talking about one from the same
6 photograph, but from a different area of the hand that
7 occurred under the finger. We call that the interdigital
8 area, it's just below the fingers of the left hand, as I'm
9 indicating here (indicating)

10 Q And on that particular area you determined
11 thirteen points?

12 A I stopped at thirteen.

13 Q Now, in Commonwealth's Exhibit Number 46, show
14 the jury on your hand where Commonwealth's 46 covers. On
15 your hand.

16 A (Indicating.)

17 Q On your hand.

18 A Oh. On my hand?

19 Q Yeah.

20 A Excuse me. Which was Commonwealth's 46?

21 Q That's the --

22 A Oh the chart. This was the are called the
23 thenar, T-H-E-N-A-R. This was an area that surrounds the

1 left thumb (indicating), as I'm indicating here, below the
2 second flexion crease down towards the wrist. It's sort
3 of a half moon shaped.

4 The ridge is sort of flowing in a half moon.

5 Q And that's not the same area you were
6 testifying to at the preliminary hearing?

7 A That is correct. Yes, sir.

8 Q Now, counsel asked you about the December 16th
9 discovery hearing.

10 A Yes.

11 Q Where was that hearing held?

12 A It was in the law library of the
13 Commonwealth's Office on the 2nd or 1st Floor -- it was
14 near your office.

15 Q Okay. And what was the purpose of that
16 meeting?

17 A Mr. Sheldon had some questions to ask me and
18 it was to look at the evidence and he asked me -- he had a
19 list of questions and I answered his questions.

20 Q Did you show him any prints?

21 A Just showed him the photograph -- Well, I
22 pulled out Photograph D and showed him a little bit where
23 that came from on the door, and he had a picture of

1 the door of -- that was corresponding to Commonwealth's 27
2 here, and I showed him a picture of D and showed him where
3 that was on this door.

4 Q Did you refuse to answer any of his questions?

5 MR. SHELDON: Object, Your Honor. Beyond the
6 scope of cross.

7 May I approach, Your Honor?

8 THE COURT: One second, please. You want to
9 approach, Mr. Sheldon?

10 MR. SHELDON: Yes, please, Your Honor.

11 THE COURT: Yes.

12 BENCH CONFERENCE

13 MR. SHELDON: Just want to point out that on
14 the cross I was unable to get into the subject matter
15 (inaudible) -- objections from the Commonwealth.

16 THE COURT: Well, Mr. Sheldon, I'm not sure
17 that I remember objections that were made by Mr. Horan
18 that prevented you from getting into the subject matter.

19 Are you referring to my concerns that I've
20 expressed to you --

21 MR. SHELDON: I asked questions about did he
22 answer my questions (inaudible) -- because we didn't have
23 an investigator and there was an objection and then I

1 thought that objection was sustained and I could not ask
2 questions --

3 THE COURT: There was one objection that I
4 remember, Mr. Sheldon, where you asked the question -- I
5 don't remember the exact words. It was something to the
6 effect, isn't it true that -- which was consistent with
7 what I had told you yesterday I wanted you to stay away
8 from, but the question was being phrased in a way where
9 John Sheldon has basically testified the way the question
10 was asked.

11 I had told you yesterday that if you asked,
12 did this happen or were you asked or something of that
13 nature, that that would not imply to the jury that you
14 were the person verifying to the truth of what you
15 remembered took place during the course of the
16 interaction, and I almost said something when that
17 question was asked, but you didn't ask for any further
18 guidance or anything else and I decided to leave the
19 situation be.

20 The clear implication from the cross
21 examination about what happened there was this witness hid
22 something from you that should have been given to you.
23 What Mr. Horan's line of questioning now is intended to

1 try to (inaudible) -- something that would cause the jury
2 not to accept that basic premise and, therefore, it's an
3 appropriate redirect examination.

4 Your objection is overruled.

5 MR. SHELDON: So if I want re-cross --

6 THE COURT: You're going to ask --

7 MR. HORAN: Judge, I'm not going to get into
8 the substance, I'm just --

9 THE COURT: Okay. If there is something
10 specific that you want to ask him on re-cross, as I told
11 you earlier, Mr. Sheldon, you can ask for leave of court
12 to conduct a re-cross examination. I may ask you the
13 subject matter is that you want to go into.

14 If it's something that came up that I feel
15 that will be appropriate to allow you to have a re-cross
16 instead of it simply being a repetition of what happened
17 on cross or things that could have and should have gone on
18 during the initial cross, I may very well allow it, but
19 that's something I'll have to determine whether it would
20 be appropriate it or not when and if the time comes that
21 you want to exercise your re-cross. Okay.

22 OPEN COURT

23 THE COURT: I overrule the objection to the

1 last question.

2 BY MR. HORAN:

3 Q Did you refuse to answer any of counsel's
4 questions at the discovery hearing in December?

5 A No, sir.

6 Q Now, at the time you were first looking at all
7 these prints back in October of the year 2005, did you
8 have any evidence that personnel from the Police
9 Department had touched the door where these prints were?

10 A No, sir.

11 Q Did you have any evidence that anybody else
12 had touched that door while the police were there?

13 A No, sir.

14 Q If a police officer is directing traffic a
15 block away from where a body's found, do you count that as
16 the officer being in the crime scene?

17 MR. SHELDON: Objection, Your Honor.
18 Mischaracterization.

19 THE COURT: The question as it was phrased
20 does not specifically relate to the circumstances of this
21 particularly case and I therefore, overrule the objection.

22 THE WITNESS: The question is again?

23 THE COURT: If a police officer was a block

1 away from a crime scene routing traffic, would you
2 consider that officer to be within the area of the crime
3 scene?

4 THE WITNESS: No, sir.

5 BY MR. HORAN:

6 Q Just for purposes of definition.

7 What is your interpretation of crime scene?

8 A A crime scene is an immediate area around the
9 crime and where the crime scene investigation personnel
10 determine to be the scope of evidence that has fallen in
11 and around the crime scene, and they generally, from my
12 experience in both working in crime scenes and from
13 observing this department's procedures, they cordon that
14 off and the scene is secure from contamination is to
15 preserve and collect the evidence, so the crime scene and
16 to preserve it in such tack, so that they can remove it to
17 a more secure facility.

18 Q In this case, based upon what you knew, did
19 you feel there was any necessity for elimination prints?

20 A No, sir.

21 Q Now, in either the generally accepted
22 practices of the fingerprint community or in any of the
23 Fairfax County requirements, is there any requirement that

1 you take notes as you're doing each step of the analysis?

2 A No, sir.

3 Q Have you ever taken notes in the course of the
4 evaluation?

5 A During training I did. Other than that, no.

6 Q Now, counsel asked you a number of questions
7 about the friction ridge detail.

8 A Yes.

9 Q I want to talk about that for a minute.
10 What is a print comparison value?

11 A Well, two things. Clarity is one and
12 quantity, the detail, is the other. There has to be a
13 sufficient quantity of detail to end agreement in sequence
14 in order to render it a value, so that you know that it --
15 in your mind that it can be this is enough detail for
16 either identification or elimination.

17 Q Do all friction ridges have identification
18 value?

19 A No.

20 Q And counsel had you mark on those photographs
21 areas that you considered to have value and considered not
22 to have value.

23 A Yes.

1 Q Right. And you marked in green the ones that
2 you thought had value and in, looks like purple or red, I
3 guess it's red, those that have no value?

4 A (Inaudible) --

5 MR. HORAN: Your Honor, I wonder if the
6 Witness could come down in front of the jury.

7 THE COURT: Yes.

8 (The Witness complied with the request.)

9 MR. SHELDON: I object, Your Honor. They
10 haven't been moved into evidence yet.

11 THE COURT: Mr. Horan.

12 MR. HORAN: Well, counsel has gone in to
13 detail about them, where they're from and what they're
14 from.

15 THE COURT: Do you want them in evidence, Mr.
16 Horan?

17 Unless and until they're in evidence, they
18 should not be displayed to the jury.

19 MR. HORAN: I don't have any objection to put
20 them in evidence.

21 THE COURT: Okay. Do you want them in
22 evidence?

23 MR. HORAN: Defendant's 15, Defendant's 16,

1 Defendant's 17, Defendant's 18, Defendant's 19.

2 THE COURT: Is there any objection to them
3 being received into evidence?

4 MR. SHELDON: It is clear that the
5 Commonwealth is moving them in.

6 THE COURT: The Commonwealth is them into
7 evidence. Yes, sir.

8 MR. SHELDON: No objection.

9 THE COURT: There being no objection,
10 Defendant's 15, 16, 17, 18, 19 also, Mr. Horan?

11 MR. HORAN: Yes, Your Honor.

12 THE COURT: 15 through 19, I'll receive into
13 evidence at the request of the Commonwealth.

14 (The photographs previously
15 marked as Defendant's
16 Exhibit Nos. 15 through 19,
17 for identification, were
18 received in evidence.)

19 THE COURT: Mr. Sheldon, you can feel free to
20 move over if you'd like, sir.

21 BY MR. HORAN:

22 Q The big blow up, Commonwealth 46, that you
23 showed to the jury, on what area of the door is that

1 taken?

2 A That is from Area D.

3 Q And that's the area shown in Commonwealth's
4 Exhibit 18?

5 A Yes.

6 Q And you marked in green the areas that you
7 felt had value for comparison purposes?

8 A Yes.

9 Q Okay. How about looking at this red thing up
10 there. That looks like it has friction ridges that should
11 be good.

12 MR. SHELDON: Objection, Your Honor.
13 Testifying.

14 THE COURT: That he's leading the Witness?

15 MR. HORAN: I'm just saying that's what it
16 looks like.

17 THE COURT: Okay. I sustain the objection.
18 It's leading, Mr. Horan.

19 BY MR. HORAN:

20 Q Well, will you tell us why that has no value.

21 A Because there is two things. There appears to
22 be movement that was -- when the touch occurred, there
23 appears to be more than one impression take place or

1 possible double tap. I'm not sure, and that there's
2 sufficient -- insufficient detail in this area to affect
3 individualization to any one particular person.

4 Q The other areas you have marked in red, is
5 there anything on there that you could use for a
6 comparison?

7 A No, sir, not in the areas marked red.

8 Q And why is that?

9 A Well, the same reason I stated before, that
10 there -- there's insufficient detail to individualize to
11 the exclusion of anyone else, and that these -- there's
12 just too much either distortion or movement or
13 insufficient ridge detail and agreement with the known
14 sample.

15 Q Now, in the area marked in green, you indicate
16 there is usable value?

17 A That is correct, sir.

18 Q Would you show the jury on there which area in
19 green you used for the chart that was put into evidence as
20 Commonwealth's 46.

21 A This area -- this area right around here
22 (indicating), as I'm indicating, on the photograph,
23 approximately straight above centimeter four and five,

1 right in here (indicating), and the -- there's a half moon
2 type ridge pattern that I discussed earlier.

3 Q Would you just briefly point out the other two
4 areas where you're able to identify Matthew Dowdy's print.

5 A This area (indicating) below -- above the
6 ruler indicating from approximately six centimeters to ten
7 or eleven centimeters. This area right here (indicating)
8 occurs from the same portion of the (inaudible) -- it was
9 a different touch, but it still occurs from this area
10 around the thumb, so there's more than one touch.

11 Q I'm going to show you what was Defendant's
12 Exhibit 15 --

13 MR. HORAN: Judge, are we going to renumber
14 these now as Commonwealth's exhibits --

15 THE COURT: No, sir. No, they're marked,
16 directed is clear that you moved them into evidence, Mr.
17 Horan, for whatever difference that might make in this
18 case, but you may continue to refer to them as defense
19 exhibits.

20 BY MR. HORAN:

21 Q That's Defendant's Exhibit 15, what area of
22 the door is that?

23 A This is from Area A.

1 Q Okay. And you show on there an area in green?

2 A This area (indicating) I've marked sort of in
3 a half moon type mark there, right --

4 Q And the are you marked in green, is that the
5 one you identified as being ring finger of the Matthew
6 Dowdy?

7 A Yes, sir.

8 Q Now, in looking at the other ones marked in
9 red. Would you tell the jury why they were of no value
10 for comparison purposes.

11 A There was, again, on these there was
12 insufficient detail and agreement with the known standard.
13 Either there weren't enough ridge events or there was too
14 much movement -- movement or slippage within the finger,
15 however, during that time it was touched.

16 Q In the Defendant's Exhibit 16, what area of
17 the door is that?

18 A This is Area B.

19 Q Did you identify any of Mr. Dowdy's prints in
20 Area D?

21 A Yes. There were two touches that I identified
22 and I indicated here, outlined with the green marker.

23 Q Now, how about the areas marked in red; why

1 couldn't you use those?

2 A For the same reasons, sir. They're either
3 obscured by movement or whatever the substance, the blood
4 or too much -- or just not insufficient ridge detail.

5 Q In Defendant's Exhibit 17, you have marked all
6 of the prints there in red.

7 Does that mean you didn't find anything of
8 comparison value in there?

9 A No, sir.

10 Q Why was that?

11 A Because, in my mind, it did not meet the
12 threshold, personal threshold, necessary to affect
13 positive identification.

14 Q And finally, Defendant's Exhibit 19, what area
15 of the door is that?

16 A This is Area D -- I'm sorry, E.

17 Q Did you find areas on that door that you could
18 use to try to identify Mr. Dowdy's print?

19 A Yes. Once again, an area I've outlined
20 approximately with a green marker occurring right here
21 (indicating) on the left edge of the impressions and on
22 these three right of this photograph, your right.

23 Q Now, how about the areas marked in red, did

1 you find anything there where you used in comparison
2 values?

3 A No, sir.

4 Q Why was that?

5 A Because the area -- it was either too much
6 movement, it did not agree with the area on the palm cards
7 -- the palm prints that I took of Mr. Dowdy.

8 Q Now, on a number of these photographs and I
9 want to show you Commonwealth's 18, and I want to point
10 out one particular area on 18, which appears to be prints
11 right there (indicating).

12 Would you tell the jury -- you indicated that
13 wasn't useable, why is that not useable?

14 A Well, there's, again, there's insufficient
15 ridge detail occurring in here to affect any kind of
16 individualization to anyone.

17 Q But there is ridge detail there, isn't it?

18 A Sure.

19 Q Why is that ridge detail not as good as any
20 other ridge detail?

21 A Well, again, there's insufficient to -- an
22 agreement to affect an individualization to anyone and,
23 while there's ridge detail, there's was not enough detail

1 in an appropriate sequence to affect a positive
2 identification to anyone.

3 Q Now, counsel read to you some standard about
4 having written reports and you indicated that you did have
5 a written report in this case?

6 A Yes, sir.

7 Q I'm going to show you what I'm going to ask
8 the Court to mark Commonwealth's Exhibit Number 47, I
9 think.

10 THE COURT: Yes, sir. Marked for
11 identification as Commonwealth's 47.

12 (The document referred to
13 above was marked
14 Commonwealth's Exhibit
15 No. 47, for identification.)

16 MR. HORAN: Excuse me, just a minute, Your
17 Honor. I just want to show him that ask about that too.

18 BY MR. HORAN:

19 Q Let me show you Commonwealth's Exhibit Number
20 47 for identification and ask can you identify that?

21 (Mr. Horan handed a document to the Witness
22 for his examination.)

23 A Yes, sir.

1 Q And how do you identify it?

2 A It's a report that I submitted to Detective
3 Bond. It's a copy of the report I submitted to Detective
4 Bond.

5 Q Now, down at the bottom of that report, do you
6 know what date that was?

7 It's got a shadow in there that blocks the
8 date.

9 A I believe it was November 22nd. Yes, sir,
10 November 22nd.

11 MR. HORAN: If it's agreeable I'm going to
12 have him write November 22nd on it.

13 MR. SHELDON: Yes.

14 BY MR. HORAN:

15 Q Would you put down November 22 --

16 THE COURT: Is there any objection to that,
17 Mr. Sheldon?

18 MR. SHELDON: No objection.

19 THE COURT: Okay. Then the Witness may write
20 in November 22nd, 2005.

21 (The Witness complied with the request.)

22 MR. HORAN: Your Honor, I offer that in
23 evidence as Commonwealth's Exhibit 47.

1 THE COURT: Any objection?

2 MR. SHELDON: No objection.

3 THE COURT: There being no objection, it's
4 received in evidence.

5 (The document previously
6 marked as Commonwealth's
7 Exhibit No. 47, for
8 identification, was received
9 in evidence.)

10 MR. HORAN: I have no further questions, Your
11 Honor.

12 THE COURT: Okay. Anything further of the
13 Witness?

14 MR. SHELDON: No, Your Honor, nothing further.

15 THE COURT: Okay. Is the Witness free to go
16 or subject to recall, Mr. Horan?

17 MR. HORAN: Out of abundance of caution, he's
18 subject to recall.

19 THE COURT: Mr. Reeves, there's a chance you
20 may be recalled as a witness in this case. As a result,
21 don't discuss your testimony or anything else about the
22 case with anyone except for these three attorneys. If you
23 leave, leave a phone number where Mr. Horan can contact

1 you.

2 Can he go back to the office, Mr. Horan, or do
3 you want him to remain here?

4 MR. HORAN: Yes, he may.

5 THE COURT: You can go back to your office and
6 you'll be advised if we need you to testify further.
7 Thank you, sir. You may step down.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: Watch your step.

10 (The witness stood aside.)

11 THE COURT: Mr. Horan.

12 MR. HORAN: Your Honor, the Commonwealth
13 rests.

14 THE COURT: Ladies and gentlemen, that
15 concludes the presentation and the evidence in the
16 Commonwealth's case in chief.

17 MR. SHELDON: Your Honor, we have some matters
18 we'd like to take up with the Court.

19 THE COURT: Okay. Ladies and gentlemen,
20 there's some matters I'm going to have to take up with
21 counsel outside of your hearing that are probably going to
22 take us awhile, so I'm going to go ahead and send you to
23 lunch at this time.