

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 107

HON. MICHAEL E. PASTOR, JUDGE

THE PEOPLE OF THE STATE OF )  
CALIFORNIA, )  
 )  
 PLAINTIFF, )  
 )  
 VS. ) NO. BA255257  
 )  
 WILLIAM FRENCH ANDERSON, )  
 )  
 DEFENDANT. )  
 )  
 \_\_\_\_\_ )

REPORTER'S TRANSCRIPT OF IN CAMERA PROCEEDINGS

CONFIDENTIAL - NOT TO BE VIEWED WITHOUT COURT ORDER

JULY 7, 2006

APPEARANCES:

FOR THE PEOPLE: STEVE COOLEY, DISTRICT ATTORNEY  
BY: CATHRYN BROUGHAM, DEPUTY  
 JAMIE GARRISON, DEPUTY  
 210 WEST TEMPLE STREET  
 LOS ANGELES, CA 90012

REPORTED BY: MAVIS E. THEODOROU, CSR #2812  
 OFFICIAL REPORTER

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PAGES 3610-3631

1 LOS ANGELES, CALIFORNIA FRIDAY, JULY 7, 2006

2 DEPARTMENT 107 HON. MICHAEL E. PASTOR, JUDGE

3 APPEARANCES:

4 PRESENT IN CAMERA ARE CATHRYN BROUGHAM AND JAMIE  
5 GARRISON, DEPUTIES DISTRICT ATTORNEY.

6 (MAVIS E. THEODOROU, OFFICIAL REPORTER.)

7

8 THE COURT: WE ARE IN CAMERA ON PEOPLE VERSUS  
9 ANDERSON. DETECTIVE EBERT IS AGAIN PRESENT. DETECTIVE,  
10 DO YOU ACKNOWLEDGE YOU ARE STILL UNDER OATH AND STILL  
11 SWORN TO TELL THE TRUTH?

12 THE WITNESS: YES, I DO.

13 THE COURT: MR. GARRISON AND MS. BROUGHAM ARE  
14 PRESENT. MR. GARRISON AND MS. BROUGHAM, DO EITHER ONE OF  
15 YOU WANT TO ASK ANY QUESTIONS OF DETECTIVE EBERT?

16 MR. GARRISON: YES. THANK YOU, YOUR HONOR.

17

18 EXAMINATION

19 BY MR. GARRISON:

20 Q DETECTIVE EBERT, WHEN WE WERE IN OPEN COURT,  
21 YOU INDICATED THERE WERE CERTAIN REASONS WHY YOU WERE  
22 CLAIMING LAW ENFORCEMENT PRIVILEGE AS TO THE RECORDING  
23 DEVICE AND THE MANUALS, AND COULD YOU GO INTO A LITTLE  
24 MORE DETAIL ABOUT THAT INFORMATION.

25 A WELL, THE RECORDERS HAVE -- THEY ARE DESIGNED  
26 FROM THE GROUND UP, RECORDING IN DIFFERENT FASHION,  
27 MEMORY CORRIDORS, TO ALLOW NOISE CANCELLATION, CHANNEL  
28 CANCELLATION, AND ENHANCEMENT PROCESS TO BE DONE

1 AFTERWARD MUCH BETTER THAN NORMAL. THEY DON'T RECORD  
2 WITH ANY AUTOMATIC GAIN OR ANYTHING THAT A NORMAL  
3 RECORDING DOES.

4 ON FIRST LISTENING, SOMEONE COULD VERY EASILY  
5 SAY, WELL, THE RECORDER IS MALFUNCTIONING. VOLUMES ARE  
6 VERY LOW. THEY ARE KIND OF MEANT TO BE ENHANCED LATER  
7 BECAUSE THERE IS MANY LAW ENFORCEMENT APPLICATIONS WHERE  
8 ONE HAS TO SUBTRACT OUT MUSIC, OR RUMBLE, OR CAR NOISE.

9 WE RECORD WITH MULTIPLE MIKES AND CANCEL ONE  
10 CHANNEL FROM ANOTHER. AND THEN THAT IS ONE OF MANY OF  
11 ITS FEATURES. IT HAS DAYTIME RECORDING. IT CAN COME  
12 ALIVE. YOU CAN BE PUT INTO A LOCATION, COME ALIVE AT A  
13 LATER POINT IN TIME, MUCH LIKE A VCR. IT HAS --

14 THE COURT: YOU MEAN SOME SORT OF DELAY?

15 THE WITNESS: IT HAS A BUNCH OF FEATURES, BUT YES.  
16 IT CAN BE TIMED TO COME ON AT A LATER TIME AND DATE. IT  
17 HAS THE ABILITY TO OVERRIDE ITS OFF/ON SWITCH SO IT CAN  
18 BE TURNED ON AND BE GIVEN TO AN INFORMANT AND NOT  
19 ACCIDENTALLY TURNED OFF BY HIM. HE THINKS HE CAN TURN IT  
20 OFF, BUT HE CAN'T.

21 IT HAS, IN SOME OF THE UNITS -- NOT THIS  
22 PARTICULAR ONE -- BUT THIS MANUFACTURER'S UNIT AND THE  
23 MANUALS, IT GOES INTO DETAIL OF ITS ABILITY TO COME  
24 WITHIN PROXIMITY OF IT AND DOWNLOAD INFORMATION AND  
25 REPROGRAM IT. THIS CAN BE COVERTLY INSTALLED ON A PERSON  
26 OR A CAR, BE DOWNLOADED, ERASED, REPROGRAMMED TO RECORD  
27 THE NEXT DAY. IT HAS FUNCTIONS THAT WE DON'T REALLY WANT  
28 OUT IN THE PUBLIC.

1 Q BY MR. GARRISON: WHEN YOU SAY PUBLIC, WOULD  
2 THAT ALSO INCLUDE DEFENSE ATTORNEYS, IN THAT IF THIS  
3 INFORMATION IS GIVEN TO DEFENSE ATTORNEYS, THAT WILL GIVE  
4 THEM INFORMATION THAT IS IMPORTANT TO LAW ENFORCEMENT?

5 A THAT IS CORRECT. ON TOP OF THIS, I'M SURE I  
6 DON'T KNOW THE ACTUAL RULES BECAUSE I DON'T WORK FOR THE  
7 COMPANY, BUT I DO KNOW THAT THERE ARE MANDATES BY THE FBI  
8 AND DEPARTMENT OF JUSTICE FOR THE EQUIPMENT TO ONLY BE  
9 SOLD TO DIFFERENT PARTIES AND DISSEMINATED TO THEM.

10 SO I REALLY DO FEEL IF THERE IS ANY CHANCE OF  
11 THE EQUIPMENT BEING ORDERED, THAT WE SHOULD HAVE  
12 ATTORNEYS FROM THE FEDERAL GOVERNMENT TO EXPLAIN THEIR  
13 POINT OF VIEW WHY THEY DON'T WANT TO HAVE THAT DONE. I  
14 KNOW THE COMPANY IS UNDER RESTRICTIONS OF WHO THEY CAN  
15 SELL THE EQUIPMENT TO.

16 Q IS IT YOUR UNDERSTANDING THEY ARE ONLY  
17 ALLOWED TO SELL AND DISSEMINATE EQUIPMENT TO LAW  
18 ENFORCEMENT?

19 A IT IS MILITARY AND LAW ENFORCEMENT. THEY  
20 HAVE A GREAT DEAL IN THE MILITARY BEING USED ALSO.

21 Q AND DO YOU FEEL THE SAME WOULD HOLD TRUE THAT  
22 IN YOUR OPINION, WOULD IT DAMAGE LAW ENFORCEMENT PURPOSES  
23 IF THIS GOT IN THE HANDS OF A CIVILIAN TECHNICAL EXPERT?

24 A YES, I DO.

25 Q WHY?

26 A I HAVE OTHER CONCERNS RELATED TO THAT, TOO.  
27 I DON'T KNOW ANYTHING ABOUT THE EXPERT. I DON'T KNOW  
28 THAT HE HAS ANY KIND OF QUALIFICATIONS TO REALLY KNOW

1 ANYTHING ABOUT THE EQUIPMENT ENOUGH TO ANALYZE IT AND  
2 TELL WHAT IT IS SUPPOSED TO DO OR NOT SUPPOSED TO DO  
3 BECAUSE ITS PARAMETERS, ITS WORKING PARAMETERS AREN'T  
4 LIKE A NORMAL RECORDER.

5                   IT HAS -- I CAN GO INTO A COUPLE MORE DETAILS  
6 HERE IN CAMERA. THE RECORDER HAS BEEN SHIELDED AND  
7 DESIGNED TO NOT PRODUCE NORMAL ELECTRONIC SIGNAL OUTPUTS,  
8 WHAT THEY CALL ELECTRONIC COUNTERMEASURES EQUIPMENT CAN  
9 DETECT. CERTAIN NORMAL TYPE RECORDERS PUT OUT  
10 INFORMATION THAT, WITH ELECTRONIC EQUIPMENT, CAN BE  
11 DETECTED.

12                   MANY OF ITS UNITS ARE ALSO FURTHER HOUSED  
13 INSIDE OF AN ALUMINUM CLOSURE THAT PREVENTS THEM BEING  
14 DETECTED BY WHAT IS NORMALLY REFERRED TO AS NON-LINEAR  
15 DETECTOR THAT PUTS OUT HIGH ENERGY AND LOOKS FOR  
16 ELECTRONICS AND REFLECTS BACK IF THERE IS AN ELECTRONIC  
17 PACK ON SOMEONE, MUCH LIKE YOUR WAND WOULD FIND THIS  
18 DEVICE -- NOT THIS PARTICULAR ONE BECAUSE IT ACTUALLY IS  
19 DISGUISED IN ANOTHER HOUSING THAT WOULD NOT TRY TO HIDE  
20 FROM THE ELECTRONICS. A PAGER ACTUALLY HOUSED IN A PAGER  
21 IN THIS CASE.

22                   A PAGER WOULD SHOW UP ON E.C.M., BUT MANY OF  
23 THE SAME COMPANY'S HOUSINGS DESCRIBED IN THE MANUAL ARE  
24 INVISIBLE TO A WAND. SO YOU COULD GO INTO A LOCATION  
25 WHERE SOMEONE WAS SCANNING FOR ELECTRONICS OF ANY KIND  
26 AND GO RIGHT THROUGH.

27           Q           WHEN YOU SAY E.S.M.?

28           A           ELECTRONIC COUNTERMEASURES. SOMEONE LOOKING

1 FOR BUGS, TRANSMITTERS ON SOMEBODY WITH ELECTRONIC  
2 EQUIPMENT. IN NARCO CASES, A LOT OF DRUG PEOPLE ACTUALLY  
3 HAVE EQUIPMENT TO SEE IF THE PERSON THEY ARE TALKING TO  
4 IS WIRED, AND THIS EQUIPMENT IS SPECIALLY DESIGNED TO  
5 EVADE ELECTRONIC DETECTION.

6 Q IS THIS EQUIPMENT ALSO USED FOR BUGGING THAT  
7 IS PLANTED IN A CAR OR RESIDENCE?

8 A THIS PARTICULAR ONE IS HOUSED IN A PAGER TO  
9 THROW ON SOMEONE, BUT SAME ELECTRONICS IN THIS IS EXACTLY  
10 THAT. THEY MAKE FOUR CHANNEL VERSIONS BUILT INTO THE  
11 CAR, A MOTORCYCLE, IN THE ENGINE COMPARTMENT. ONE FOR  
12 OUTSIDE.

13 YOU CAN RECORD WHAT IS HAPPENING IN THE CAR  
14 AND SUBSTRACT THE NOISES THAT ARE OCCURRING FROM THE  
15 ENGINE AND THE OUTSIDE NOISE FROM THE ACTUAL RECORDING  
16 THAT IS IN THE CAR TO MAKE RECORDINGS IN ENVIRONMENTS YOU  
17 NORMALLY WOULD NOT BE ABLE TO.

18 Q DOES THE MANUAL TALK ABOUT THE FACT THAT  
19 THOSE ITEMS HAVE THAT ANTI-DETECTION? I FORGET THE TERM  
20 YOU USED.

21 A IT HAS BEEN A LONG TIME SINCE I READ MANUALS,  
22 BUT THE MANUALS ARE GENERIC, GO THROUGH ALL OF THE MODELS  
23 OF THE RECORDER. ON THE PAGE IT SAYS, YOU KNOW, FOR THIS  
24 ONE, DO THIS. FOR THIS ONE, DO THIS. BUT THEY DISCUSS  
25 ALL OF THESE FEATURES. AND THE COMPANY, THE FEDERAL  
26 GOVERNMENT, NOR OUR DEPARTMENT REALLY WANT TO HAVE IT OUT  
27 THERE.

28 MR. GARRISON: NOTHING FURTHER. THANK YOU, YOUR

1 HONOR.

2 THE COURT: DESCRIBE WITH SPECIFICITY THE EXACT  
3 DEVICE THAT WAS UTILIZED IN THIS CASE AND THE  
4 SURREPTITIOUS WIRE OUTSIDE OF THE PUBLIC LIBRARY, THE  
5 PLANT ON THE ALLEGED VICTIM IN THIS CASE.

6 THE WITNESS: THE PLANT ON THE ALLEGED VICTIM IS  
7 PROBABLY THIS PARTICULAR COMPANY'S SIMPLEST MODEL.

8 THE COURT: WHAT IS THE COMPANY CALLED?

9 THE WITNESS: ADAPTIVE DIGITAL SYSTEMS. ADS IN  
10 IRVINE, ORANGE COUNTY.

11 IT IS VERY SMALL. IT IS A REAL PAGER THAT  
12 FUNCTIONS AS A PAGER. YOU CAN PAGE IT. THEY REMOVE THE  
13 VIBRATE SECTION OF IT, WHICH IS A VERY, VERY SMALL PIECE  
14 OF THE ELECTRONICS OF THE PAGER. AND THIS RECORDER IS  
15 BUILT ON THE CIRCUIT BOARD ON A REAL MOTOROLA PAGER  
16 REPLACING THE VIBRATION SECTION.

17 SO THE PAGER ONLY BEEPS. IT DOES NOT VIBRATE  
18 BUT IS A WORKING PAGER THAT IS ALSO A RECORDER. IT IS  
19 VERY SIMPLE. IT HAS TWO SMALL LITTLE TINY HOLES THAT  
20 REQUIRE A PAPER CLIP. YOU PUSH IT IN ONE HOLE TO START.  
21 YOU PUSH IT IN ANOTHER HOLE, IT STOPS. THOSE ARE ITS  
22 ENTIRE FUNCTIONS THAT AN INVESTIGATOR CAN START IT AND  
23 STOP IT.

24 IT CANNOT ERASE ANY DATA. YOU CANNOT EVEN  
25 ERASE THE RECORDER UNTIL AFTER DATA HAS BEEN TRANSFERRED  
26 OFF OF IT SUCCESSFULLY. THE MANUFACTURER HAS SAFEGUARDS  
27 BUILT INTO THE PROGRAM. WHEN IT RECORDS ACTUAL  
28 INFORMATION, IT CHURNS UP DATA INTO SMALL SECTIONS, MAKES

1 A CYCLING REDUNDANCY CHECK, CRC, MUCH AS A COMPUTER DOES  
2 FOR A FILE. VERY SMALL PAGES OF INFORMATION.

3 UPON TRANSFER TO THE COMPUTER, IT COMPARES  
4 WHAT GOT WRITTEN TO THE COMPUTER, PAGE BY PAGE  
5 VERIFICATION THAT THE DATA IS TRANSFERRED CORRECTLY.

6 THE UNIT CANNOT BE ERASED UNTIL AFTER DATA  
7 HAS BEEN SUCCESSFULLY TRANSFERRED. YOU CANNOT LISTEN TO  
8 IT ON THE PAGER. ALL IT DOES IT RECORD AND STOP. IF THE  
9 BATTERY WAS REMOVED, IT DOES NOT DESTROY DATA. IT IS  
10 STORED IN THE FLASH MEMORY THAT IS NONVOLATILE. IT DOES  
11 NOT REQUIRE A BATTERY TO HOLD THE INFORMATION THAT IT HAS  
12 CAPTURED.

13 I DON'T KNOW. IS THAT A GOOD DESCRIPTION OF  
14 WHAT YOU ARE TRYING TO ASK? IT IS HOUSED IN WHAT LOOKS  
15 LIKE A REGULAR PAGER.

16 THE COURT: NOW, YOU MENTIONED, IN RESPONSE TO  
17 CERTAIN QUESTIONS PROPOUNDED BY DEFENSE COUNSEL, THAT  
18 THIS IS NOT THE TYPE OF DEVICE OR EQUIPMENT THAT ONE  
19 WOULD EXPECT TO FIND AT ONE OF THESE SO-CALLED SPY SHOPS?

20 THE WITNESS: CORRECT.

21 THE COURT: IS THAT YOUR POSITION?

22 THE WITNESS: OH, YES. THEY HAVE AUTOMATIC GAIN.  
23 THEY DO NOT DESIGN CIRCUITRY FOR PURPOSE OF ENHANCEMENT  
24 LATER. DON'T HAVE DATE AND TIME STUFF. DON'T HAVE  
25 SOFTWARE BUILT INTO THEM TO VALIDATE THE DATA. THEY  
26 DON'T HAVE ANY KIND OF SPECIAL ELECTRONICS DESCRIBED TO  
27 AVOID DETECTION.

28 IF I HAD ANY KIND OF DETECTION EQUIPMENT, I



1 WOULD INSTANTLY FIND SOMETHING THAT WAS SOLD AT A SPY  
2 SHOP. IT IS NOT NEARLY AS SOPHISTICATED.

3 THIS PARTICULAR DEVICE IS IN THE NEIGHBORHOOD  
4 OF \$3,000, AND THE THINGS AT THE SPY SHOP ARE IN THE  
5 NEIGHBORHOOD OF \$200, \$300, AND THEY ARE CONVERTED  
6 VERSIONS OF SONY OR PANASONIC OR ONE OF THE CONVENTIONAL  
7 COMPANIES PACKAGED, REPACKAGED.

8 THIS IS BUILT FROM THE GROUND UP BY  
9 SPECIFICATIONS BY THE MILITARY AND THE FBI FOR THE  
10 PURPOSE OF COVERT RECORDINGS. IT NOWHERE RESEMBLES  
11 ANYTHING THEY WOULD SELL AT THE SPY SHOP.

12 THE COURT: TO YOUR KNOWLEDGE, I ASKED YOU THIS  
13 YESTERDAY. I WANT TO REASK YOU.

14 THE WITNESS: OKAY.

15 THE COURT: HAS THE TYPE OF INFORMATION ABOUT WHICH  
16 YOU ARE CLAIMING PRIVILEGE, THE EQUIPMENT ITSELF, THE  
17 PROPRIETARY PROCESSES, AND THE FUNCTIONALITY, THE  
18 MANUALS, THE BUILT-IN MICROPHONE, HAS THAT INFORMATION TO  
19 YOUR KNOWLEDGE EVER BEEN DISCLOSED IN ANY OTHER CASE? I  
20 THINK YOU MENTIONED ONE.

21 THE WITNESS: WELL, NOT FOR THIS PARTICULAR  
22 EQUIPMENT. I CONTACTED THE MANUFACTURER AT THE BEGINNING  
23 OF THIS TRIAL AND HE SAYS IN 15 YEARS OF MANUFACTURING,  
24 THAT THIS HAS NEVER BEEN DISCLOSED. HE HAS BEEN MAKING I  
25 DON'T KNOW HOW MANY THOUSANDS OF UNITS FOR THE GOVERNMENT  
26 AND LAW ENFORCEMENT. AND HIS EQUIPMENT HAS NEVER, THE  
27 SECRETS OF HIS EQUIPMENT HAS NEVER BEEN GIVEN OUT OR  
28 DISCLOSED TO ANYONE.

1                   WE HAVE GIVEN, ON THE DEPARTMENT LEVEL, WHICH  
2 IS A TAPE RECORDER, BUT IT WAS A CONVENTIONAL \$300  
3 STANDARD TYPE OF TAPE RECORDER. NOTHING WITH PROPRIETARY  
4 FUNCTIONS AND FEATURES. THAT WAS GIVEN BECAUSE THERE WAS  
5 A VERY, VERY DETAILED, SPECIFIC TEST THAT SOMEONE WANTED  
6 TO APPLY. NOT A BROAD, "WE WANT TO SEE IT." IT WAS A  
7 VERY, VERY SPECIFIC TEST THAT WAS REQUESTED.

8                   WE SAID WE SEE NO PROBLEM WITH THIS, AND WE  
9 GAVE ACROSS THE DECK FOR EXAMINATION, BUT IT WAS NOT A  
10 SECRET. IT WAS NOT THIS LEVEL OF SOPHISTICATION. IT WAS  
11 A VERY SIMPLE, STANDARD CASSETTE RECORDER.

12                  THE COURT: HAVE YOU EVER PROVIDED THIS TYPE OF  
13 INFORMATION TO ANY THIRD PARTY OTHER THAN LAW ENFORCEMENT  
14 WITHOUT ASSERTION OF PRIVILEGE, TO SECURITY GUARDS?

15                  THE WITNESS: NEVER.

16                  THE COURT: TO, FOR INSTANCE, MEMBERS OF THE  
17 DISTRICT ATTORNEY'S OFFICE?

18                  THE WITNESS: NOT UNTIL RIGHT HERE IN CAMERA, THEY  
19 DON'T KNOW. THEY NOW KNOW MORE OF THE FEATURES THAN THEY  
20 DID.

21                  THE COURT: WHAT OTHER AGENCIES USE THE SAME OR  
22 SIMILAR EQUIPMENT?

23                  THE WITNESS: MOST OF THE MILITARY. THE NAVY, THE  
24 AIR FORCE, THE FBI, THE SECRET SERVICE, THE UNITED STATES  
25 POSTAL SERVICE. MAYBE LAPD HAS SOME. I DON'T KNOW IF  
26 THEY DO OR NOT. IT IS RELATIVELY EXPENSIVE. THE RATHER  
27 LARGE DEPARTMENTS. I KNOW HONOLULU P.D. HAS SOME. THERE  
28 ARE OTHER VERY LARGE, MORE TECHNICAL DEPARTMENTS THAT

1 HAVE THE EQUIPMENT.

2 THE COURT: TO YOUR KNOWLEDGE, OTHER THAN WHAT YOU  
3 JUST EXPLAINED HERE, DOES THE PROSECUTION OR EVEN MEMBERS  
4 OF ITS OWN INVESTIGATIVE BUREAU, THE D.A. INVESTIGATORS,  
5 DO THEY KNOW THE ANSWERS TO THESE QUESTIONS?

6 THE WITNESS: I WOULD THINK NOT, NO. I MEAN LOTS  
7 OF PEOPLE SEE TV SHOWS AND IMAGINE THINGS. AS FAR AS  
8 ACTUALLY BEING TOLD AND SEEING SOMETHING, IT IS  
9 DIFFERENT.

10 THE COURT: TO YOUR KNOWLEDGE IS ANY INFORMATION  
11 ABOUT THIS SPECIFIC COMPANY'S PRODUCT LINE AND THE  
12 PARTICULARS OF INDIVIDUAL DEVICES AVAILABLE ON THE  
13 INTERNET?

14 THE WITNESS: NO. IF YOU GO TO HIS PAGE, IT SAYS,  
15 "I MAKE SPECIALIZED ELECTRONIC DEVICES FOR MILITARY AND  
16 LAW ENFORCEMENT." AND UNLESS YOU CALL AND GET AHOLD OF  
17 THEM, THERE IS NO INFORMATION YOU CAN GET FROM THE  
18 WEBSITE, EXCEPT WHERE IT IS LOCATED AND PHONE NUMBER.

19 THE COURT: YOU ACTUALLY CHECKED THAT OUT YOURSELF?

20 THE WITNESS: OH, YES.

21 THE COURT: IS THIS THE ONLY COMPANY THAT SUPPLIES  
22 YOU WITH THIS TYPE OF DEVICE?

23 THE WITNESS: WELL, THERE ARE TWO OR THREE  
24 COMPETITIVE COMPANIES THAT MAKE SIMILAR DEVICES, AND WE  
25 OWN EQUIPMENT FROM EACH. EACH OF THEM HAVE SIMILAR  
26 RESTRICTIONS ON WHO THEY SELL TO. AND AS WITH ANY  
27 COMPETITIVE COMPANIES, THERE ARE PROCEDURES AND  
28 CONSEQUENCES TO THE DIFFERENT EQUIPMENT FOR DIFFERENT

1 PURPOSES.

2                   BUT WE HAVE TWO OTHER COMPANIES THAT MAKE  
3 KIND OF, I GUESS YOU WOULD CALL IT, SIMILAR EQUIPMENT.  
4 ANOTHER COMPETITIVE COMPANY IS CALLED DIGITAL AUDIO  
5 CORPORATION IN NORTH OR SOUTH CAROLINA. THEY MAKE  
6 EQUIPMENT KIND OF SIMILAR. THEY ARE THE BIGGEST  
7 COMPETITOR.

8           THE COURT: NOW, WHAT ABOUT THE INTERVIEW CONDUCTED  
9 ON JULY 9, 2004, BETWEEN DETECTIVES BOYETT AND DUNCAN AND  
10 DR. ANDERSON. ARE YOU FAMILIAR WITH THE EQUIPMENT THAT  
11 WAS USED?

12           THE WITNESS: IS THAT ANOTHER ONE OF THE RECORDINGS  
13 WITH OURS?

14           MS. BROUGHAM: IT HAS TO BE FROM YOURS, YES.

15           THE WITNESS: IT WAS VIRTUALLY THE SAME MODEL.  
16 JUST A DIFFERENT SERIAL NUMBER, IF I'M NOT MISTAKEN. WE  
17 HAVE ABOUT TEN OR ELEVEN OF THESE UNITS. WITHOUT PULLING  
18 UP THE SERIAL NUMBER, I CAN'T TELL WHICH UNIT IT IS. BUT  
19 FAMILY CRIMES TRADITIONALLY CHECKS OUT THE PAGER BECAUSE  
20 THERE IS WIRING OF YOUNG PEOPLE OR FEMALES INSTEAD OF  
21 HARDCORE WIRING.

22                   WE HAVE RECORDERS THAT YOU, IN A MORE  
23 CONVENTIONAL SENSE, YOU HAVE MICROPHONES AND PUT IT ON  
24 UNDERNEATH THE CLOTHES. THEY PREFER TO CLIP SOMETHING  
25 ONTO A PURSE OR CLIP IT TO A BELT FOR MINORS OR FEMALES,  
26 ESPECIALLY IF THERE IS ANY KIND OF SEXUAL ALLEGATION.

27           THE COURT: THIS WAS AN INTERVIEW WITH THE  
28 DETECTIVES?

1 THE WITNESS: YES. I DON'T RECALL, BUT MY  
2 RECOLLECTION IS THAT IT MIGHT HAVE BEEN ANOTHER PAGER. I  
3 HAVE PAPERWORK SOMEWHERE THAT WOULD SHOW SERIAL NUMBERS  
4 THAT WOULD TELL WHAT IT IS.

5 MS. BROUGHAM: I CAN CALL BOYETT RIGHT NOW AND FIND  
6 OUT EXACTLY WHAT IT WAS.

7 THE WITNESS: IF NOT, IT WAS A VERY SIMILAR DEVICE  
8 MADE BY THE SAME COMPANY IN JUST A DIFFERENT PACKAGE  
9 INSTEAD OF A PAGER. SO SAME TECHNOLOGY AND PROCESS WOULD  
10 APPLY. IT MIGHT HAVE BEEN, INSTEAD OF A PAGER, IN A CELL  
11 PHONE OR IN JUST A SQUARE PACKAGE THAT HE SAT IN HIS  
12 POCKET OR SOMETHING. WE MAKE VERY SMALL DEVICES THAT  
13 DON'T REQUIRE BEING PUT ON THE OUTSIDE.

14 BUT IN NARCOTICS, DANGEROUS OR RESTRICTED  
15 DRUGS, THE ELECTRONICS AND PROCESSES ARE THE SAME. JUST  
16 DIFFERENT HOUSING.

17 THE COURT: THAT WOULD ALSO IN YOUR OPINION BE WHAT  
18 WOULD HAVE BEEN UTILIZED BY DETECTIVE JESTER WHEN HE WAS  
19 CONDUCTING AN INTERVIEW OF THE DEFENDANT ON JULY 30?

20 THE WITNESS: YES. I'M PRETTY SURE THAT HE USED  
21 ONE OF OUR DEVICES.

22 MS. BROUGHAM: NO. YOU ARE TALKING ABOUT DUNCAN  
23 AND BOYETT. THE JUDGE IS JUST ASKING YOU ABOUT JESTER,  
24 WHICH IS THE POST-ARREST INTERVIEW.

25 THE WITNESS: AGAIN, I DON'T GET INVOLVED IN  
26 KNOWING WHAT THEY DO. I GET THE DEVICE BACK. I TRANSFER  
27 THE INFORMATION. I CUT THE CD AND INVESTIGATOR COMES IN.

28 MANY TIMES, I NEVER EVEN LISTEN TO IT. I

1 HAVE NO CLUE WHICH INTERVIEWS YOU GUYS ARE TALKING ABOUT  
2 BECAUSE I HAVE DONE --

3 MS. BROUGHAM: I ACTUALLY HAVE PERSONAL KNOWLEDGE  
4 OF THAT. I ASKED DETECTIVE JESTER. HE SAID IT WAS A  
5 DICTAPHONE THAT HAD BEEN USED. WHEN THEY ARE IN THAT  
6 UNIT, THEY ARE BASICALLY GIVEN A DICTAPHONE THAT IS  
7 ASSIGNED TO THAT DETECTIVE.

8 AFTER THIS ISSUE CAME UP IN PASADENA, WE  
9 CONFIRMED THAT WAS A DICTAPHONE THAT WAS USED TO RECORD  
10 THAT POST-ARREST INTERVIEW AND JULY 30. THE LIEUTENANT  
11 OF THAT UNIT, I BELIEVE IT WAS LUCAS, ACTUALLY WAS ABLE  
12 TO FIND THAT SPECIFIC DICTAPHONE AND PUT IT INTO EVIDENCE  
13 OR PUT IT SOME LOCKER SOMEPLACE TO MAKE IT AVAILABLE FOR  
14 THE DEFENSE. IT IS JUST A REGULAR DICTAPHONE.

15 THE COURT: SO THE DEFENSE IS AWARE OF IT, HAS HAD  
16 ACCESS TO IT?

17 MS. BROUGHAM: EXACTLY.

18 THE COURT: THAT IS NOT THE ISSUE HERE.

19 MR. GARRISON: NO.

20 MS. BROUGHAM: THEY CLAIM NOT TO HAVE KNOWN THEY  
21 HAD ACCESS TO IT. BUT ON THE RECORD, IN DEPARTMENT E,  
22 THE JUDGE TOLD US TO DO THAT. WE SAID, "IT IS DONE."

23 I THINK YOU TALKED TO THEM AND CONFIRMED,  
24 SPEAKING WITH MR. GARRISON, CONFIRMED ON THE PHONE WITH  
25 TARLOW AND BERK AND SAID IT IS THERE. IT'S AVAILABLE.  
26 YOU JUST NEED TO GO DOWN. THEY HAVE NO PROBLEM. LET  
27 THEM LOOK AT A DICTAPHONE. THAT IS NOT CONFIDENTIAL OR  
28 PRIVILEGED.

1 THE COURT: AND THAT CAN BE REITERATED.

2 MS. BROUGHAM: EXACTLY.

3 THE COURT: TODAY.

4 MR. GARRISON: WE SAID IT YESTERDAY ALSO.

5 THE COURT: I REMEMBER THAT.

6 MS. BROUGHAM: I COULD PROBABLY CALL DOWN THERE.  
7 IF THEY WANTED TO GO DOWN THERE AND GET IT, OR GET A  
8 MESSENGER TO GET IT, I'M SURE THEY COULD. MAYBE NOT AN  
9 INVESTIGATOR. THEY MIGHT WANT AN INVESTIGATOR TO CHECK  
10 IT OUT.

11 THE COURT: ALL RIGHT. HAVE THE PEOPLE ANY  
12 ADDITIONAL QUESTIONS OF DETECTIVE EBERT?

13 MR. GARRISON: THE COURT CAN SEE THE EXHIBIT. I  
14 THINK THEY ATTACHED IT. IT DOES SAY SERIAL NUMBERS OF  
15 THE ITEM THAT DUNCAN AND BOYETT USED.

16 MS. BROUGHAM: THE ONE THAT HAD TECHNICAL LANGUAGE  
17 ABOUT THE SERIAL NUMBER. IT WAS AN ATTACHMENT. DO YOU  
18 HAVE THAT?

19 THE WITNESS: I MIGHT HAVE A COPY, YES.

20 MS. BROUGHAM: IT WAS IN THE SEALED PORTION?

21 THE COURT: IT WAS AN EXHIBIT IN A SEALED --

22 THE WITNESS: IS THIS WHAT YOU ARE TALKING ABOUT?

23 MS. BROUGHAM: THIS IS BASICALLY THE SAME  
24 INFORMATION HERE THAT IS IN THE SEALED PORTION, AND THIS  
25 IS WHAT WE GAVE DEFENSE BUT MORE IN LETTER FORM.

26 THE COURT: I THINK WE WILL MAKE A COPY OF THIS AND  
27 INCLUDE THIS AS A SEALED EXHIBIT.

28 THE WITNESS: OKAY.

1 THE COURT: THIS IS NOT CONFIDENTIAL, IS IT?

2 THE WITNESS: WELL, THEY WERE REQUESTING MANY  
3 THINGS. AND I FELT, SINCE THEY COULDN'T FIND OUT  
4 INFORMATION GOING OUT BY THE WEBSITE, I GAVE THEM COMPANY  
5 SERIAL NUMBER. IT DOESN'T LEAD TO INFORMATION, BUT THOSE  
6 ARE TWO RECORDERS USED FROM OUR OFFICE, BOTH BY THE SAME  
7 COMPANY, BOTH WITH THE SAME FEATURES WE ARE TALKING  
8 ABOUT. AND LIKE YOU SAID, THERE ARE OTHER RECORDINGS  
9 THAT WEREN'T WITH OUR EQUIPMENT.

10 THE COURT: I WANT TO BE CLEAR HERE. I HAVE BEEN  
11 HANDED A PIECE OF PAPER DATED JANUARY 5, 2006 TO CATHRYN  
12 BROUGHAM FROM JOHN POWELL RE FRENCH ANDERSON CASE. WHO  
13 IS JOHN POWELL? IT SAYS:

14 "PURSUANT TO OUR PHONE  
15 CONVERSATIONS, BELOW IS THE TIME  
16 LINE AND EQUIPMENT INFORMATION  
17 ON THE RECORDINGS OF JULY 1 AND  
18 JULY 9, 2004.

19 "JULY 1, 2004: EQUIPMENT:  
20 ADS MONO 8A, SERIAL #0461 (THIS  
21 INFORMATION ALONG WITH DATE AND  
22 TIME IS ELECTRONICALLY EMBEDDED  
23 IN THE RECORDING).

24 "TIMELINE: RECORDING OF  
25 INTEREST (SESSION 3) STARTS AT  
26 12:40:57 AND ENDS AT 13:59:41  
27 (77 MINS 44 SECONDS). FILE  
28 CREATION DATES AND TIMES ON THE



1 DATA DOWNLOAD START AT 14:23:52  
2 AND END AT 14:40:02 ON JULY 1,  
3 2004.

4 "JULY 9, 2004: EQUIPMENT:  
5 ADS MONO 8, SERIAL #0155 (THIS  
6 INFORMATION ALONG WITH DATE AND  
7 TIME IS ELECTRONICALLY EMBEDDED  
8 IN THE RECORDING.)

9 "TIMELINE: RECORDING  
10 STARTS AT 09:15:45 AND ENDS AT  
11 10:51:19 (96 MINS 34 SECONDS).  
12 FILE CREATION DATES AND TIMES ON  
13 THE DATA DOWNLOAD START AT 15:43  
14 AND END AT 16:03 ON JULY 9,  
15 2004.

16 "I HAVE ALSO INCLUDED A  
17 STATEMENT FROM THE MANUFACTURER  
18 REGARDING THE DATA PROTECTION  
19 FEATURES OF THE ADS RECORDING  
20 PRODUCTS. LET ME KNOW IF YOU  
21 REQUIRE ADDITIONAL INFORMATION."

22 IT IS SIGNED JOHN B. POWELL.

23 THE COURT: WAS THIS GIVEN TO THE DEFENSE?

24 MS. BROUGHAM: I TOOK THAT INFORMATION AND PUT IT  
25 IN A LETTER, SENT IT TO MR. TARLOW. THAT IS WHAT IS IN  
26 THE SEALED PORTION THAT WAS ATTACHED BY DEFENSE. THEY  
27 SHOWED THAT TO ME YESTERDAY IN COURT.

28 THE COURT: I WAS GOING TO SAY I DIDN'T KNOW.

1 MS. BROUGHAM: THEY ACTUALLY HAD IT IN A NOTEBOOK.  
2 I SAID I WANTED TO CONFIRM THEY GOT THAT. I WAS GOING TO  
3 GO BACK AND SEE IF I COULD FIND MY FAX SHEET. HE  
4 ACTUALLY SAID, "I HAVE IT HERE."

5 YOU WOULDN'T HAVE SEEN IT. IT IS SOME  
6 SEALED PORTION. IT IS THE SAME EXACT INFORMATION YOU  
7 JUST READ WAS CONTAINED IN MORE OF A LETTER FORM TO MR.  
8 TARLOW.

9 ONE MORE THING, WHICH I THINK IS IMPORTANT IN  
10 TERMS OF THE REASON THAT SERGEANT POWELL WROTE DOWN THE  
11 TIMES HERE, WAS THAT IF THERE IS ANY DISPUTE REGARDING  
12 WHAT WAS DONE WITH THESE RECORDINGS AND WHETHER THEY WERE  
13 TAKEN TO THE LAB AND THINGS LIKE THAT, BASICALLY IT SHOWS  
14 THAT WITHIN HALF AN HOUR, JESTER TOOK THAT PAGER, TOOK IT  
15 TO THE LAB, AND THAT IT WAS DOWNLOADED ONTO THE SYSTEM AT  
16 14:23. THE RECORDING STOPPED AT 13:59. WITHIN LESS THAN  
17 HALF AN HOUR, THAT WAS DOWNLOADED ONTO THE SERVER AT THE  
18 SHERIFF'S STATION.

19 THE COURT: THANK YOU.

20 DETECTIVE, YOU WERE MENTIONING THAT YOU MAY  
21 OR MAY NOT KNOW A CERTAIN ANALYST OR EXPERT IN THIS CASE.  
22 THE DEFENSE HAS MADE REFERENCE TO A DEFENSE EXPERT BY  
23 NAME OF JOHN RUSS.

24 ARE YOU FAMILIAR WITH THAT GENTLEMAN?

25 THE WITNESS: JOHN RUSS HAS WRITTEN A COUPLE OF  
26 BOOKS ON VIDEO FORENSICS. WE HAVE A BOOK IN OUR OFFICE  
27 BY HIM. I KNOW OF NO HISTORY OR KNOWLEDGE OF HIM HAVING  
28 ANY ABILITY IN ELECTRONICS OR AUDIO. SINCE HE HAS

1 WRITTEN A COUPLE OF BOOKS, I ASSUME HE HAS SOME KNOWLEDGE  
2 IN THE VIDEO FIELD.

3 THE COURT: WOULD YOU EXPECT THAT HE WOULD BE ONE  
4 OF THOSE INDIVIDUALS WHO HAS ACCESS TO THIS TYPE OF  
5 EQUIPMENT?

6 THE WITNESS: NO. I DOUBT THAT HE HAS ACCESS TO  
7 THIS TYPE OF EQUIPMENT. AND FURTHERMORE, I DON'T KNOW  
8 THAT HE HAS ANY REAL ABILITY TO DO ANY ANALYSIS BEYOND  
9 VERY BASIC BECAUSE THE UNIT ITSELF RECORDS AND STOPS.  
10 WITHOUT TEARING IT APART OR KNOWING ELECTRONICS OR THE  
11 ACTUAL MICRO-CIRCUITRY BUILT ONTO ANOTHER CIRCUIT BOARD,  
12 WITHOUT THE RIGHT EQUIPMENT I HAVE NO IDEA WHAT ANYONE  
13 WOULD DO WITH THIS PIECE OF EQUIPMENT BEYOND VERY BASICS  
14 OF PUSHING START AND STOP.

15 I DON'T KNOW WHAT TO SAY. ONLY THE  
16 MANUFACTURING CAN TEST IF IT IS WITHIN SPECIFICATIONS  
17 BECAUSE THEY WOULD HAVE NO IDEA WHAT THE SPECIFICATIONS  
18 OR ITS PARAMETERS ARE.

19 THE COURT: IS THERE ANYTHING ELSE YOU WANTED TO  
20 ADD?

21 THE WITNESS: IF IT IS DEEMED NECESSARY THAT THERE  
22 IS SOME ANALYSIS ON THIS TAPE RECORDER, I WOULD VENTURE  
23 TO RECOMMEND THAT IT ACTUALLY GO BACK TO THE MANUFACTURER  
24 AND HAVE A REPORT DIRECTLY FURNISHED TO THE COURT ON THE  
25 FINDINGS OF WHETHER THE TAPE RECORDER IS FUNCTIONING  
26 CORRECTLY AS COMPARED TO GIVING IT TO SOMEBODY ELSE THAT  
27 WE DON'T KNOW, I DON'T KNOW, AND THEIR QUALIFICATIONS TO  
28 ANALYZE SUCH A PIECE OF EQUIPMENT.

1 THE COURT: DO YOU HAVE ANY REASON FOR BELIEVING  
2 THAT THE EQUIPMENT IS MALFUNCTIONING?

3 THE WITNESS: I HAVE NO REASON TO BELIEVE THAT.  
4 BUT IF PUSH COMES TO SHOVE AND SOMEBODY HAS TO KNOW, I  
5 WOULD RECOMMEND IT GET SENT BACK TO THE COMPANY. IT  
6 WOULD BE OUT FOR MUCH LESS PERIOD OF TIME. I'M SURE THE  
7 EQUIPMENT WOULD BE TAKEN CARE OF.

8 IT WOULD NOT VIOLATE ANY OF THE ISSUES I HAVE  
9 ABOUT GIVING INFORMATION OUT TO ANYONE WHERE IT CAN DO  
10 ANY DAMAGE.

11 THE COURT: MS. BROUGHAM, MR. GARRISON, ANY  
12 ADDITIONAL QUESTIONS?

13 Q BY MR. GARRISON: ANYTHING ABOUT THE  
14 RECORDINGS IN THIS CASE? SPECIFICALLY, THE RECORDING AT  
15 THE LIBRARY THAT SHOWS THERE WAS ANY MALFUNCTION.

16 A NOT THAT I KNOW OF. THE TRUTH IS THE DEVICE  
17 CAN HOLD MANY HOURS WORTH OF STUFF. WE DOWNLOAD IT WITH  
18 SOFTWARE. IT SAYS IT IS A GOOD DOWNLOAD. I CUT IT TO  
19 CD, VERIFY THE CD IS GOOD WITH VERIFICATION SOFTWARE  
20 BUILT INTO THE BURNING SOFTWARE. IT BURNS SOFTWARE. IT  
21 REREADS THE FILE AND COMPARES IT TO THE ORIGINAL AND  
22 MAKES SURE IT IS GOOD, AND THEN WE GIVE IT TO THE  
23 INVESTIGATOR.

24 I DON'T HAVE ENOUGH TIME IN THE DAY TO LISTEN  
25 TO ALL THESE. I PROBABLY HAVE NEVER LISTENED TO THIS  
26 RECORDING FROM BEGINNING TO END. IF THE INVESTIGATOR CAN  
27 HEAR WHAT IS GOING ON AND DOESN'T COMPLAIN THE RECORDING  
28 DOES NOT COME OUT, OR THERE IS A HUM IN IT, OR THERE IS

1 SOME REAL ISSUE, WE WOULD GET COMPLAINTS BACK. AND THE  
2 TRUTH IS I DON'T LISTEN TO EVERY RECORDING WE DO. I  
3 WOULD HAVE TO GET FEEDBACK FROM SOMEBODY.

4 THE COURT: IF SOMETHING WERE MALFUNCTIONING, WOULD  
5 YOU BE ABLE TO TELL AS YOU GO THROUGH THE PROCESS?

6 THE WITNESS: IN THIS CASE, I HAVE ENHANCED THIS  
7 TWICE AND I HAVEN'T ENHANCED THE WHOLE THING BECAUSE  
8 THERE IS A SMALL SECTION OF TIME, HALF HOUR OR 40 MINUTES  
9 INTO IT, WHERE A MEETING TAKES PLACE.

10 SO I HAVE ENHANCED THE SECTION OF TIME.  
11 DURING THAT SECTION OF TIME, THE RECORDING SOUNDS NORMAL  
12 AND THE EQUIPMENT APPEARS TO BE FUNCTIONING CORRECTLY.

13 THE COURT: OKAY.

14 Q BY MS. BROUGHAM: WHEN YOU SAY THERE IS A  
15 SECTION OF TIME YOU DIDN'T LOOK AT, THIS IS TIME WHERE  
16 THERE IS NO TALKING, CORRECT?

17 A THEY START THE RECORDER. INVESTIGATOR SAYS  
18 SOMETHING. THEY WALK. YOU HEAR SCRATCHING AND RUSTLING  
19 AS PEOPLE ARE WALKING FROM ONE LOCATION TO ANOTHER. I  
20 DON'T WANT TO LISTEN TO 40 MINUTES OF WALKING. I WAIT  
21 UNTIL I HEAR A VOICE.

22 Q YOU DID BACK IT UP TO THE ENTIRE PART OF THE  
23 CONVERSATION?

24 A THE ENTIRE PART.

25 Q THE MEETING?

26 A THE MEETING, BUT IT IS A LIMITED SECTION OF  
27 THIS ENTIRE RECORDING.

28 Q I KNOW THAT THE MEETING AT LIBRARY, YOU

1 ENHANCED THAT PORTION?

2 A CORRECT.

3 Q YOU DID REVIEW THAT ENTIRE PORTION TWICE?

4 A WELL, TO ENHANCE IT, I DON'T HAVE TO LISTEN  
5 TO THE WHOLE THING. I PICK UP PARTS THAT ARE BAD, AND I  
6 APPLY A PROCESS AND I DID LISTEN TO IT IN ITS ENTIRETY  
7 THREE WEEKS AGO.

8 BUT IN THE EARLY STAGES, I PROBABLY NEVER DID  
9 BECAUSE I GAVE THIS THING TO THE INVESTIGATOR ENHANCED  
10 WITHIN HALF AN HOUR OF GETTING IT, SO I DID A REAL QUICK  
11 ENHANCEMENT, GAVE IT OFF TO THE INVESTIGATOR. AND SO THE  
12 ONLY TIME I HAVE HEARD THIS THING IN ITS ENTIRETY WAS  
13 THREE WEEKS AGO WHEN I DID THE FINAL ENHANCEMENT FOR YOU.

14 THE COURT: FOR THE RECORD, SOME OF MY QUESTIONS  
15 ASKED DETECTIVE EBERT ARE QUESTIONS THAT ARE CONTAINED  
16 WITHIN THE DEFENSE SUBMISSION DATED JUNE 27, 2006, AND  
17 CAPTIONED MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT  
18 OF REQUIRED PROCEDURE GOVERNING THE ASSERTION OF A  
19 PRIVILEGE UNDER EVIDENCE CODE SECTION 1040, AND THE  
20 REQUIRED IMPOSITION OF SANCTIONS, INCLUDING DISMISSAL.

21 THERE WERE SOME QUESTIONS WHICH WERE  
22 PROPOUNDED WITHIN THAT SUBMISSION, AND I ASKED THOSE  
23 QUESTIONS AS WELL.

24 IS THERE ANYTHING ELSE THE PEOPLE WANT TO  
25 ADDRESS AT THIS HEARING?

26 MS. BROUGHAM: NO. THANK YOU.

27 THE COURT: THESE PROCEEDINGS ARE CONFIDENTIAL AND  
28 ARE TO REMAIN SO. THEY HAVE BEEN REPORTED. THEY ARE NOT

1 TO BE TRANSCRIBED, ABSENT FURTHER COURT ORDER.

2 SO THE NEXT PROCEDURE IS TO GO BACK IN OPEN  
3 COURT AND SEE WHERE WE GO FROM THERE.

4 MS. BROUGHAM: THANK YOU.

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6 (FURTHER PROCEEDINGS WERE HELD IN  
7 OPEN COURT.)

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