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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

UNITED STATES OF AMERICA		DOCKET 6:19-CV-0004
VS.		SEPTEMBER 15, 2020
		8:29 A.M.
CHARLES ORANGE		TYLER, TEXAS

REPORTER'S TRANSCRIPT OF JURY TRIAL

BEFORE THE HONORABLE ROBERT W. SCHROEDER, III,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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PROCEEDINGS RECORDED USING MECHANICAL STENOGRAPHY;
TRANSCRIPT PRODUCED VIA COMPUTER-AIDED TRANSCRIPTION.

1 (OPEN COURT, DEFENDANT PRESENT.)

2 THE COURT: Good morning, ladies and gentlemen of
3 the jury and welcome back. Appreciate everyone being here
4 on time so that we can start promptly at 9:00. I want to
5 thank you again for your service in this matter and for
6 your patient and cooperation with us yesterday.

7 As I said, you are performing a pivotal duty as
8 American citizens and we would not be able to do our jobs
9 in the administration of justice without your help and
10 support as jurors.

11 Miss Combs, our acting courtroom deputy, will now
12 administer the oath to you. If you would please stand.

13 (Jury panel sworn.)

14 THE COURT: Please be seated.

15 Okay. Members of the jury, now that you have been
16 sworn, I want to give you some preliminary instructions to
17 guide you in your participation in the trial. It'll be
18 your duty to find from the evidence what the facts are.
19 You and you alone are the judges of the facts. You will
20 then have to apply those facts and -- those facts and the
21 law as the Court will give it to you. You must follow the
22 law whether you agree with it or not.

23 You must perform those duties fairly. Do not let
24 any bias, sympathy or prejudice that you may feel toward
25 one side or the the other influence your decision in any

1 way. In particular, do not let racial, ethnic, national
2 origin, or other bias influence your decision in any way.

3 Nothing that I may say or do during the course of
4 the trial is intended to indicate or should be taken by you
5 as indicating what your verdict should be.

6 The evidence from which you will find the facts
7 will consist of the testimony of witnesses, documents, and
8 other items received into the record as exhibits and any
9 facts that the lawyers agree to or stipulate to that the
10 Court may instruct you to find.

11 Certain things are not evidence and must not be
12 considered by you, and I will list those for you now.

13 Number one: Statements, arguments and questions
14 by lawyers are not evidence.

15 Number two: Objections to questions are not
16 evidence. Lawyers have an obligation to their clients to
17 make objections when they believe evidence being offered is
18 improper under the rules of evidence. You should not be
19 influenced by the objection or by the Court's ruling on it.
20 If the objection is sustained, you should ignore the
21 question. If it is overruled, you should treat the answer
22 like any other. If you are instructed that some item of
23 evidence is received for a limited purpose only, you must
24 follow that instruction.

25 Number three: Testimony that the Court has

1 excluded or told you to disregard is not evidence and must
2 not be considered.

3 Number four: Anything you may have seen, read or
4 heard outside the courtroom is not evidence and must be
5 disregarded. You are to decide the case solely on the
6 evidence presented here in the courtroom.

7 As I told you yesterday, there are two kinds of
8 evidence, direct and circumstantial. Direct evidence is
9 direct proof of a fact such as testimony of an eyewitness.
10 Circumstantial evidence is proof of facts from which you may
11 infer or conclude that other facts exist. I'll give you
12 further instructions on these as well as other matters at
13 the end of the case, but keep in mind that you may consider
14 both kinds of evidence. It'll be up to you to decide which
15 witnesses to believe, which witnesses not to believe, and
16 how much of any witness's testimony to accept or reject.

17 I will give you some guidelines for determining
18 credibility of witnesses at the end of the case.

19 Now, as you know, this is a criminal case and
20 there are three basic rules about a criminal case that you
21 must keep in mind.

22 First, the defendant is presumed innocent until
23 proven guilty. The indictment brought by the government
24 against the defendant is only an accusation, nothing more.
25 It is not proof of guilt or anything else. The defendant,

1 therefore, starts out with a clean slate.

2 Second, the burden of proof is on the Government
3 until the very end of the case. The defendant has no
4 burden to prove his innocence or to present any evidence or
5 even to testify. And since the defendant has the right to
6 remain silent, the law prohibits you from arriving at your
7 verdict by considering the fact that the defendant may not
8 have testified.

9 Third, the Government must prove the defendant's
10 guilt beyond a reasonable doubt. I'll give you further
11 instructions on this point later but bear in mind that in
12 this respect, a criminal case is different from a civil
13 case.

14 In this case, the defendant is charged with the
15 following: Count I, possession of child pornography. I
16 will give you detailed instructions on the law at the end
17 of the case, and those instructions will control your
18 deliberations and your decision. But in order to help you
19 follow the evidence, I will now give you a brief summary of
20 the elements and events that the Government must prove
21 beyond a reasonable doubt to make its case.

22 Count I. For you to find the defendant guilty of
23 Count I you must be convinced that the Government has
24 proved each of the following beyond a reasonable doubt:

25 First, that the defendant knowingly possessed an

1 item or items that contains an image of child pornography
2 as alleged in the first superseding indictment.

3 Second, that the material was mailed or shipped or
4 transported using any means or facility of, in or affecting
5 Interstate or foreign commerce by any means, including by
6 computer, or that the material was produced using materials
7 that had been mailed or shipped or transported in or
8 affecting Interstate or foreign commerce by any means,
9 including by computer.

10 And third, that when the defendant possessed the
11 material, the defendant knew the material contained child
12 pornography.

13 Now, let me say a few words about your conduct as
14 jurors. During the course of the trial, please do not
15 speak with any witness or with the defendant or with any of
16 the lawyers in this case. Please don't talk with them
17 about any subject at all. You may be unaware of the
18 identity of everyone connected with the case.

19 Therefore, in order to avoid even the appearance
20 of impropriety, please don't engage in any conversation
21 with anyone in or about the courtroom or even around the
22 courthouse. It's best that when you arrive here you go
23 directly to the jury room and remain in the jury room
24 during breaks in the trials. Please don't linger in the
25 hall.

1 Also, during the course of the trial I would ask
2 that you not talk about the trial with anyone else. This
3 includes your family, your friends, people you work with,
4 anyone else.

5 The next instruction is important as well. Don't
6 discuss the case even among yourselves until I have
7 instructed you on the law at the very end of the case and
8 you have gone to the jury room to begin your deliberations
9 at the end of the trial.

10 The first time you should discuss the case is at
11 the very conclusion after all of the evidence has been
12 presented, all of the testimony has been given, all of the
13 exhibits, documents and other materials have been admitted
14 into evidence, and you're in the jury room beginning your
15 deliberations. If you violate that rule without realizing
16 it, what happens is you may start forming opinions before
17 the trial is over with, and it's very important you wait
18 until all the evidence is received and you have heard my
19 instructions on the law before you begin deliberating among
20 yourselves.

21 You should have notepads at your seats. Feel free
22 to take notes throughout the trial. You're not required to
23 take notes if you don't want to. Just make your own
24 decision about that. I would ask that if you decide to
25 take notes, be careful not to get so involved in your

1 notetaking that you become distracted from the ongoing
2 proceedings. Your notes should be only aids to your memory
3 and you should not give them any precedence over your own
4 independent recollection of the evidence.

5 If you don't take notes, you should simply rely on
6 your own independent recollection of the proceedings and
7 you should not be unduly influenced by the notes of other
8 jurors. Notes really are not entitled to any greater
9 weight than memory or impression each juror has about what
10 the testimony may have been. So whether you take notes or
11 not, each of you must form and express your own opinion as
12 to the facts of the case.

13 We do have an official court reporter who is
14 making a record of the trial. We would not, however, have
15 typewritten transcripts of the record available for your
16 use in reaching a decision.

17 Now, as I mentioned yesterday, one of the other
18 very important rules that I'm going to ask you to follow
19 relates to the requirement that you decide this case solely
20 on the basis of the evidence that is presented within the
21 four walls of this courtroom. So during the trial, during
22 the course of the day, in the mornings and evenings, when
23 you're away from the courthouse, please don't conduct any
24 independent research about the case, the matters in the
25 case, the individuals involved in it. Don't consult any

1 dictionaries or records, materials or internet sites,
2 websites or blogs, or any other electronic tool to obtain
3 any information about the case or to help you decide the
4 case. Please don't try to find out any information at all
5 about the case from any source outside the confines of this
6 courtroom.

7 We all use cellphones and the internet and other
8 tools of modern technology. Please don't talk to anyone at
9 any time about the case or use those tools to in any way
10 communicate with anyone electronically about the case. As
11 I said, this does include your family and friends, so don't
12 use your cellphone or your email or any other smartphone to
13 use any social media site, you know, Facebook or Google or
14 YouTube or anything of that nature, or any other similar
15 technology of social media, even if I haven't specifically
16 mentioned it, and I will expect you to inform me if you
17 become aware of another juror's violation of those
18 instructions.

19 As I said yesterday, a juror who violates those
20 restrictions does jeopardize the fairness of the
21 proceedings with respect to both parties, and after a lot
22 of time and effort and energy on both parties's parts, a
23 mistrial could result, which would require this entire
24 process to begin over. So please do be respectful of that
25 request.

1 As we go along during the course of the trial, I
2 will remind you of some of these rules. I do that
3 certainly not because I think you will have any trouble
4 following those rules, but just to emphasize the importance
5 and the necessity of following them. So forgive me if I
6 sound like a broken record from time to time.

7 I will now give you a short roadmap to guide you
8 and to help you understand what is going to happen over the
9 course of the trial. The Government will begin by making
10 its opening statement in just a few moments. That is
11 simply an outline to help you understand the evidence that
12 the Government expects to be admitted.

13 Following that, the defendant's attorney may, but
14 does not have to, make an opening statement. As I said
15 earlier, opening statements are neither evidence -- or
16 they're merely, you know, suggestions about what the
17 parties believe the evidence is going to show. The
18 Government will then follow that by presenting its
19 witnesses, and counsel for the defendant may cross-examine
20 those.

21 Following the Government's case, the defendant
22 may, if he wishes, present witnesses whom the Government
23 may cross-examine. If the defendant decides to present
24 evidence, the Government may introduce rebuttal evidence as
25 well.

1 And after all of the evidence is in, the attorneys
2 will present their closing arguments to you to summarize
3 and interpret the evidence for you and the Court will
4 instruct you on the law. And after that, you'll retire to
5 the jury room to begin deliberating on your verdict.

6 So with those preliminary comments, the trial will
7 now begin. I'm informed you don't have notepads. I
8 thought you did.

9 They do have notepads, Mrs. Combs.

10 THE CLERK: I'll sit back down.

11 THE COURT: You take your seat.

12 All right. Very well. Does either party wish to
13 invoke the rule?

14 MR. KUMMERFELD: Yes, Your Honor. At this time
15 the Government would invoke the rule.

16 THE COURT: All right. Very well. Ladies and
17 gentlemen of the jury, just so you understand what that
18 means, the Government has invoked the rule in this case and
19 that is a rule of evidence that requires the exclusion of
20 witnesses from the courtroom.

21 There are not any witnesses, I think, in the
22 courtroom now, other than the case agent and -- but if
23 there are any witnesses, of course they need to excuse
24 themselves from the courtroom at this time and remain
25 outside the presence and the hearing of the proceedings

1 until such time as the Court Security Officer summons them.

2 During the course of the trial, witnesses may not
3 discuss the case among themselves and should not discuss
4 the case with anyone else or permit it to be discuss in
5 their presence. The one exception to the rule is that
6 witnesses may discuss the case with the attorneys.

7 So at this time, having invoked the rule, the
8 Government may read the indictment.

9 Mr. Mims, can I ask you and Mr. Orange to please
10 stand.

11 MR. KUMMERFELD: In the United States District
12 Court for the Eastern District of Texas, Tyler Division,
13 United States of America versus Charles Orange, Cause
14 Number 6:19-cr-04. The First Superseding Indictment. The
15 United States Grand Jury charges Count I, violation of 18
16 U.S. code sections 2252A 2252A(a)(5)(B) and (b)(2),
17 possession of child pornography.

18 On or about December 20th, 2018, in the Eastern
19 District of Texas, Charles Orange, defendant, knowingly
20 possessed material, mainly a Samsung Galaxy Grand Prime
21 cellular phone, model G5302 and bearing IMEI number
22 359128060553191. It contained images of child pornography
23 as defined in Title 18 U.S. Code Section 2256A involving a
24 prepubescent minor and a minor of about 12 years of age.
25 It had been shipped and transported using any means of

1 facility of Interstate or foreign commerce. It had been
2 shipped and transported in or affecting Interstate and
3 foreign commerce by any means, including by computer, and
4 that had been produced using materials that had been mailed
5 and shipped and transported in and affecting Interstate and
6 foreign commerce by any means, including by a computer.

7 Included in the images Mr. Orange possessed are
8 the following: File name 1545312204686.jpg. Description:
9 This image depicts a nude, prepubescent male performing
10 oral sex on an adult male.

11 File name 1545312204791.jpg. Description: This
12 image depicts a nude male lying prone while a nude
13 prepubescent male is positioned above holding the prone
14 male's erect penis in his fingers and performing oral sex.

15 File name 1545312197962.jpg. This image depicts a
16 nude, prepubescent male lying prone with his legs lifted as
17 an erect male penis penetrates his anus.

18 File name 1545312193082.jpg. Description: This
19 image depicts a nude, prepubescent male sitting on a short
20 wall outdoors with his legs spread to expose his genitals
21 which are the focus of the image.

22 File name ESCN0022.jpg. This image depicts a
23 nude, prepubescent male sitting with his legs pulled up and
24 knees spread apart to expose his genitals and anus to the
25 camera, which are the focus of the image, in violation of

1 18 U.S. Code Sections 2252A(a)(5)(B) and (b)(2).

2 THE COURT: Thank you, Mr. Kummerfeld.

3 Mr. Orange, how do you plead to Count I of the
4 indictment?

5 THE DEFENDANT: Not guilty.

6 THE COURT: All right. Very well. You may be
7 seated.

8 Thank you, Mr. Kummerfeld and Mr. Mims.

9 At this time, the Government may present its
10 opening statement.

11 MS. MILLER: Thank you, Your Honor. May it please
12 the Court, counsel. Ladies and gentlemen of the jury.

13 Charles Orange possessed a Samsung cellular phone
14 that he knew contained child pornography. That's the
15 Government's case. That's why we're here before you. As
16 the Judge told you yesterday, we anticipate that this will
17 be a very quick case, but one that is to the point, one
18 that through which you will hear evidence that starts with
19 December 20th, 2018.

20 You will hear on that day that members of Homeland
21 Security Investigations, which we refer to as HSI, and
22 members of state and local law enforcement went to a house
23 in Longview Texas. At this house, you will hear they
24 encountered Charles Orange, who was living at the home of
25 his brother and sister-in-law and their teenage daughter.

1 You will hear and see the inside of that home and
2 see that there was only one way in and out of
3 Charles Orange's bedroom. Very different layout of the
4 house. And you will see that upon entering that bedroom,
5 there were multiple digital devices, including a Samsung
6 cellular phone on a dresser right next to the bed where
7 Charles Orange slept.

8 You will hear lots of information about that
9 Samsung phone. You will see some records and some data
10 that show that that Samsung phone was manufactured in
11 China, and you will likely hear a judicial notice that
12 China is outside of the United States of America. I'm sure
13 that won't be a surprise to any of you.

14 You will also hear evidence and testimony about
15 what was on that phone. Here are some categories: First,
16 you will hear testimony about and you will see evidence
17 about data on that phone that links the use of that phone
18 to Charles Orange and the reason that we're here.

19 You will also hear about child pornography that
20 was found on that phone and I anticipate that you will see
21 those images.

22 And you will hear testimony: Some of those images
23 were downloaded just hours before agents arrived with a
24 search warrant.

25 You will hear that cellphone was unlocked and

1 powered on at the time the agent's impounded it.

2 And ladies and gentlemen, I anticipate that as
3 this case goes on, you will hear and see that much will not
4 be contested in this case. In fact, I anticipate that the
5 defense will agree to the admission of certain pieces of
6 evidence. But the question is going to come down to the
7 issue of knowledge and did Charles Orange know that that
8 child pornography was on -- on the cellphone.

9 And I submit to you that the Government's answer
10 to that is yes and we'll prove that to you, not only from
11 the events that occurred on those earlier morning hours of
12 December 20, 2018, but we'll go back in time and you will
13 hear testimony from a Homeland Security analyst from
14 Washington D.C., her name is Lauren Morris, and she will
15 tell you how it was that Mr. Orange came on her radar, what
16 she did, and what she did with that information when she
17 discovered it.

18 Ladies and gentlemen, most importantly, you will
19 hear from Charles Orange himself. I anticipate that you
20 will hear a recorded interview between Mr. Orange and
21 members of Homeland Security. And ladies and gentlemen, as
22 the Judge has just instructed you, our only request to you
23 would be that you listen carefully and think critically
24 about what you hear and ask yourself, what is being said in
25 this interview.

1 I submit to you that you're going to hear more
2 than one account as to how Charles Orange obtained that
3 cellphone and you're going to hear different information as
4 to what he knew about that cellphone, what he used it for
5 or what he believed it could be used for.

6 Ladies and gentlemen, Charles Orange will be
7 proven to have possessed a Samsung cellular phone and the
8 Government will prove that that phone contained child
9 pornography, and we will also prove that Mr. Orange knew
10 that those images were contained on his phone. And at the
11 end of trial, we'll appear back before you and ask you to
12 return a verdict of guilty. Thank you.

13 THE COURT: Thank you, Ms. Miller.

14 Mr. Mims.

15 MR. MIMS: Thank you.

16 Ladies and gentlemen, good morning. Good morning.
17 Thank you for coming back. You are about to embark on one
18 of the most important decisions that you will ever make,
19 certainly for Mr. Orange but for yourselves, because when
20 this case is over you have to go home and that would be
21 your verdict and while Charles will live with it, we all
22 take these home.

23 So one of the reasons that I bring this to your
24 attention is because the Court has just laid out for you
25 your guideline of how this case will go and how you decide

1 the case. And you get a jury charge and that jury charge
2 will give you what the Government has to prove. Ms. Miller
3 just laid out what they say that they're going to prove and
4 one thing I will agree with is they've got to prove that he
5 had knowledge, that Mr. Orange knew that those images were
6 on there.

7 Now, what the jury's duty is and I'll submit to
8 you, is to look for anything that they did not prove that
9 they're required to prove, the elements of the case. The
10 jury's duty is to look for reasonable doubt affirmatively.
11 Try to make sure that they have proven this thing beyond a
12 reasonable doubt, the kind of evidence that you would not
13 hesitate to rely on in the most important of your own
14 affairs.

15 As I tell you, this is a very important affair and
16 it's yours as much as it is ours over here on the defense.
17 I know you will do that.

18 Sometimes the Government will try to use emotion
19 to leap over we call those crushes to help -- to a jury to
20 use emotion. These are going to be pornographic pictures.
21 There's not any the dispute about that. Those -- those
22 pictures, right now they reside somewhere out in the ether.
23 They're there. They're there forever. Whatever happens
24 after this, those pictures with still going to be there.
25 Maybe they'll be used to try to invite other -- other

1 cases, and that's fine. But the facts are that there's
2 nothing we can do to get those pictures off the internet.

3 The other thing is that sometimes they try to, you
4 know, to make their case and try to show other things that
5 somebody has done or try to help them get over their --
6 their evidence that they have that proves somebody
7 knowingly did something on any particular occasion, and
8 that would be -- (inaudible) -- by December the 20th, 2018.

9 So you -- you will be charged by the judge and
10 under your oath to make a verdict as to the law and the
11 evidence, but the law will be given to you, the evidence
12 that you will hear such that they have and we're going to
13 ask you at the end of the case to find the case to be not
14 proven beyond a reasonable doubt, and we'll ask -- with all
15 the confidence in the world ask for the verdict to be not
16 guilty, not proven. Thank you very much.

17 THE COURT: Thank you, Mr. Mims.

18 At this time, have the parties agreed about the
19 introduction of exhibits? Would you like to move those at
20 this time, Mr. Kummerfeld?

21 MR. KUMMERFELD: Yes, sir. Your Honor, at this
22 time the parties will offer the Government's exhibits that
23 -- the parties agreed to the following exhibits that I will
24 read into the record. Exhibits 1, 2, 3, 4, 5, 6, 7B, 11,
25 13, 15 -- sorry -- I missed 14 -- 14, 15, 16, 17, 18 and

1 28.

2 MR. MIMS: That's right.

3 THE COURT: Mr. Mims, does the defense agree?

4 MR. MIMS: We agree.

5 THE COURT: All those exhibits will be admitted
6 into evidence.

7 At this time the Government will call its first
8 witness.

9 MR. KUMMERFELD: Your Honor, one preliminary
10 matter. At this time the Government will ask the Court to
11 take judicial notice that Longview, Texas is within the
12 Eastern District of Texas.

13 THE COURT: Mr. Mims, any objection?

14 MR. MIMS: No objection.

15 THE COURT: The Court will take judicial notice
16 that Longview, Texas is within the Eastern District of
17 Texas.

18 MR. KUMMERFELD: Thank you, Your Honor.

19 At this time the Government will call its first
20 witness.

21 Lauren Morris.

22 THE COURT: Ms. Morris, come around and be sworn,
23 please. If you would raise your right hand.

24 (Witness sworn.)

25 THE WITNESS: Can I take off the mask?

1 THE COURT: You may.

2 LAUREN MILLER, GOVERNMENT'S WITNESS,

3 DIRECT EXAMINATION

4 BY MR. KUMMERFELD:

5 Q. Good morning, Ms. Morris. How are you this morning?

6 A. Good morning.

7 Q. It's been a while. Would you please introduce yourself
8 to the ladies and gentlemen of the jury?

9 A. My name is Lauren Morris --

10 Q. Please, if you wouldn't mind, pull that microphone a
11 little bit closer?

12 A. Is that better?

13 Q. That's perfect.

14 A. My name is Lauren Morris. I'm an intelligence research
15 specialist.

16 Q. Who are you employed by?

17 A. I'm employed by Homeland Security Investigations.

18 Q. How long have you -- I'm sorry?

19 A. Known as HSI.

20 Q. Okay. Homeland Security Investigations, also known as
21 HSI, okay, so we'll refer to it both ways. Thanks for
22 pointing that out.

23 How long have you been with HSI?

24 A. For 11 years.

25 Q. Now, let's talk about your educational background prior

1 to joining HSI. Tell the folks here how you were educated.

2 A. I have a bachelor's degree from the State University of
3 New York at Geneseo in political science, and I have a
4 master's degree from Carnegie University in Pittsburgh,
5 Pennsylvania, and it is a master's in management and public
6 policy with a focus on data analysis.

7 Q. All right. So following the completion of your
8 education, did you go to work in a civilian context with
9 the military?

10 A. Yes.

11 Q. Tell the folks here about that role.

12 A. The first seven years I was a logistics management
13 specialist and I worked on weapons acquisition.

14 Q. Which military branches did you work with?

15 A. For the U.S. Navy and also for the U.S. Marine Corps.

16 Q. Ms. Morris, after you completed your service with the
17 military, what did you do?

18 A. I was a stay-at-home mom for five and a half years and
19 did some consulting work.

20 Q. After that, what brought you back to HSI?

21 A. I needed to work again. I needed mental stimulation.
22 So I had -- originally during college I was entered in law
23 enforcement, actually had an internship with the United
24 States Secret Service. So at the time I decided to apply
25 for jobs with the U.S. government, with law enforcement

1 agencies, and I was hired by Homeland Security
2 Investigations directly to Cybercrimes Center.

3 Q. When you joined HSI, what types of training did you go
4 through as a research specialist?

5 A. I went to FLETC, which is the Federal Law Enforcement
6 Training Center, in Georgia, and I went there for two
7 months.

8 Q. Okay. And have you ever gone -- undergone kind of
9 ongoing training throughout the course of your career at
10 HSI?

11 A. Yes, sir, specifically to child exploitation
12 investigations, which is what my focus was for ten years.
13 I continued to get training, be involved in different
14 Internet Crimes Against Children conferences and receiving
15 training throughout, and to the point that I became a
16 subject matter expert. And I provide training now to both
17 special agents and analysts in child exploitation
18 investigations.

19 Q. All right. So as you sit here now in -- your role at
20 HSI, let me ask you, your role has recently changed, has it
21 not?

22 A. Yes, sir.

23 Q. Tell us about your role prior to the change and then
24 tell us what you do now.

25 A. So prior to the change I was a -- assisting with child

1 exploitation investigations at our headquarters which is --
2 the Cybercrime Center were the headquarters for cyber
3 investigations within HSI. So in large part, we work
4 operations and we also take leads from our foreign
5 counterparts, foreign partners who have information about
6 potential United States individuals involved in online
7 child sexual exploitation.

8 Q. Okay. That role has changed a little bit recently.
9 What do you do now?

10 A. I'm sorry. I need to include, for two of the years of
11 the ten I was working specifically child sexual
12 exploitation, I was actually the Department of Homeland
13 Security representative or liaison at the National Center
14 for Missing and Exploited Children. So I sat there and I
15 worked on online cyber-related child exploitation, as well
16 as assisting in missing children investigations and
17 parental abductions.

18 Q. Okay. Very good.

19 And then now you do something with Cyber Center?
20 What do you do now?

21 A. Like, it's still part of the Cybercrimes Center, but I
22 moved over and I'm now working on -- (inaudible) --
23 investigations.

24 Q. So you mentioned some of the different types of
25 investigations you participated in. What is CCC?

1 A. CCC is the acronym for the Cybercrimes Center. So it
2 is, again, the headquarters for the cyber program within
3 Homeland Security Investigations.

4 Q. So have you received recognition for your work in these
5 areas?

6 A. Yes, sir. I received an award from the National Center
7 for Missing and Exploited Children for major national
8 investigation.

9 I have received two ICE director awards -- so ICE
10 is the parental agency over Homeland Security
11 Investigations. So I have received over the years two
12 director awards related to two different child sexual
13 exploitation investigations.

14 I received a commendation from the United Kingdom
15 from the National Crime Agency and their General
16 Communications Headquarters. That was last July.

17 I received a WIFLE award, which is Women in
18 Federal Law Enforcement.

19 I received an award for excellence in intelligence
20 relating to child sexual exploitation investigation.

21 I received U.S. Department of Justice award from
22 assistant U.S. attorney -- or the U.S. Assistant Attorney
23 General for child exploitation.

24 Q. So you have a lot of experience in this area?

25 A. Yes.

1 Q. Okay. So -- so the jury understands, tell them about
2 your experience participating in online investigations
3 generally. Kind of what is the scope of your work in that
4 area generally?

5 A. So generally we get -- we either investigate websites,
6 both on the regular internet but also on the anonymous part
7 of the internet. A part of that is known as Tor.

8 I also work on leads and information, like I said,
9 coming in from foreign law enforcement. So a lot of time
10 if they have arrested offenders in their countries, they
11 will provide us with information about other users who
12 appear to be based in the U.S. with whom they have been
13 trading child sexual exploitation material and such like
14 that.

15 Q. Okay. So in the course of your work with HSI, you
16 frequently work with international partners?

17 A. Yes, sir.

18 Q. Who are some of the partners you've worked with?

19 A. In Canada, the Royal Canadian Mounted Police, and also
20 provincial police from around the country, Mexican law
21 enforcement, Brazil, Columbia, all throughout the Americas,
22 European law enforcement, African law enforcement, Asian
23 law enforcement. So child exploitation investigators work
24 very well together because it's such an international
25 crime. The internet is everywhere.

1 Q. Ms. Morris, at some point did you become involved in an
2 online child exploitation investigation called Blacklist?

3 A. Yes.

4 Q. Can you tell the jury just generally what Blacklist
5 was, who participated, and what the goals of the operation
6 were?

7 A. Operation Blacklist was started by Interpol, actually
8 Interpol investigators in Asia. They were at the time
9 combine -- at the time they were having an in-person
10 operation, so there were investigators from all around the
11 world working together, at that time physically working
12 together, and HSI investigators were there as well.

13 And at the time, Interpol agents located some
14 material of children who appear to be from Thailand who
15 were depicted in this child sexual exploitation material
16 and they located the websites where this material was being
17 distributed.

18 Q. Okay. What were those websites?

19 A. They're called boyxzeed.net, boyxzeed and
20 boyxzeed2.net.

21 Q. Okay. And those boyxzeed.net and boyxzeed2.net. Okay.
22 And on those websites, what was the material up on those
23 websites?

24 A. Well, they were subscription websites where users make
25 accounts and can log in and download -- view and download

1 child sexual exploitation material and write comments on it
2 and pay for different levels, like a forum. So you could
3 see stuff but you can also comment and pay for the
4 different levels of access or you can earn levels of access
5 by uploading your own material.

6 Q. What was the purpose of the law enforcement operation?
7 What were the goals?

8 A. Well, our goal is always to rescue children, so in this
9 investigation they rescued 11 boys that were under the age
10 of 13 in Thailand. In total I think over 50 children were
11 rescued. Of course we want to also identify and
12 investigate the people who were posting that material, who
13 produced that material of the children, and people who are
14 downloading that material and trading it.

15 Q. So after identifying and rescuing children in Thailand,
16 where did the investigation take international law
17 enforcement as a group?

18 A. As part of the investigation, one of the first things
19 you have to do is get information to locate where the site
20 is. So actually HSI located the site, which was in
21 Bulgaria. So the Bulgarian cybercrime investigators seized
22 the servers and took copies of it and gave that to
23 Interpol.

24 So a website is not just what it looks like, but
25 it's also the data behind it, so all the user information

1 and when they were they logged in and such. So that
2 information went to Interpol, and then Interpol went
3 through it and worked with New Zealand law enforcement, the
4 New Zealand Department of Internal Affairs, and they're
5 very good at data analytics and they separate it out, and
6 we -- and actually HSI Bangkok was given copies of the data
7 that appeared to be U.S. users.

8 Q. So you mentioned Thailand and Bulgaria. Do you know
9 the time difference between here and Thailand?

10 A. Yes, 12 hours.

11 Q. Thailand is 12 hours ahead of us?

12 A. Yes.

13 Q. What about Bulgaria?

14 A. They're eight hours ahead of us.

15 Q. Eight hours ahead of us. Now, that information, once
16 obtained from Bulgaria, ultimately ended up with HSI in the
17 United States. So what was your involvement upon receiving
18 that information?

19 A. So HSI in Bangkok, they work very closely with the Thai
20 Department of Special Investigations, Thai DSI, and they
21 work together with HSI actually to locate the children. So
22 they handed the data over to -- or they and Interpol handed
23 the data over to HSI Bangkok, who contacted me based on my
24 experience working international investigations. So I took
25 the information from there directly from them.

1 Q. Okay. What did you do with the information once you
2 received it?

3 A. Essentially my job is to take information about people
4 who appear to be in the U.S. and separate it out and figure
5 out where they are so I can get it to the correct offices
6 around the country.

7 Q. Okay. So you receive this information and you can
8 parse it out and send it to the appropriate jurisdictions
9 so they can continue further investigation?

10 A. Yes, sir.

11 Q. Okay. Well, in this particular case, what types of
12 identifiers were provided to you in general by your
13 counterparts overseas? What types of identifiers related
14 to this website?

15 A. For each user I was given a username. I was given an
16 email address because they had to use an email address to
17 register on the website, and I was given internet IP
18 addresses, Internet Protocol addresses, which are
19 essentially your mailing address on the internet.

20 Q. Okay. And were you also provided registration data for
21 that particular user?

22 A. Yes, sir.

23 Q. Okay.

24 A. Date of account registration or creation.

25 Q. Okay. Well, specifically with respect to the lead that

1 you sent to Texas, what specific identifiers did you have
2 to review specific to that that you sent to Texas?

3 A. Specific to that lead I had the username loverboy9 with
4 the email address wheelboy14@gmail.com, and an IP address
5 that began with 162 and it belonged to AT&T.

6 Q. Okay. Did you have a registration date as well?

7 A. I did. It was October 10, 2018.

8 MR. KUMMERFELD: Your Honor, may I approach the
9 witness?

10 THE COURT: You may.

11 BY MR. KUMMERFELD:

12 Q. Ms. Morris, I asked you about the registration name.

13 Would it help if you were reading your report to --

14 A. Sure. Thank you.

15 Q. -- accurately? I'm showing you -- I'm showing you a
16 copy of your report. Just review that and when you're done
17 with it --

18 A. I'm sorry. I said the wrong year. It's October 10,
19 2017.

20 Q. Having been able to review your report, was your
21 recollection refreshed?

22 A. Yes.

23 Q. So let me ask you again, what was the date of the
24 registration of that account?

25 A. Sorry. It was October 10, 2017.

1 Q. Okay. Now, you mentioned username loverboy9 and the
2 email address wheelboy14@gmail.com. Did you have previous
3 familiarity with those identifiers?

4 A. Yes, I had seen them before.

5 Q. And you had seen them before in what context generally?

6 A. In another child sexual exploitation investigation.

7 Q. You mentioned an IP address and you characterized that
8 as like a mailing address on the internet?

9 A. Yes.

10 Q. Could you explain what an IP address helps you
11 determine once you have the address?

12 A. An IP address is -- is issued by an internet provider
13 so you can determine what internet provider has provided
14 that IP address, and it is unique with the IP address and
15 the date and the time of use. So then you can send legal
16 process to the internet provider, in this case, AT&T.

17 Q. So you did that in this case once you got the IP
18 address?

19 A. Yes, sir.

20 Q. Okay. I'm going to show you what's been previously
21 admitted as Government's Exhibit 1.

22 MR. KUMMERFELD: Ms. Miller, would you put it on
23 the screen.

24 BY MR. KUMMERFELD:

25 Q. I believe, Ms. Morris, there's an exhibit book to your

1 right. We'll try to blow it up a little bit so you can see
2 it a little bit better.

3 I'm going to ask you, is this the record from AT&T
4 that you received responsive to your request?

5 A. Yes, sir.

6 Q. Okay. Let's look at some of the information there on
7 the page 1. What's the IP address that's indicated there?

8 A. The IP address is 162.201.231.47.

9 Q. That's the IP address that you had seen in the
10 information from Bulgaria and the IP address you requested
11 from the information from AT&T, right?

12 A. Yes.

13 Q. On that first page, is a member ID indicated there?

14 A. AT&T used the email address, corange313@att.net as the
15 member ID for that account information.

16 Q. Okay. And is there also a date that the IP was filed?

17 A. Yes. The historical IP provision shows the 22nd of
18 September of 2016.

19 Q. On the next page, this one is a little smaller, and it
20 needs to be blown up to see it a little better.

21 MR. KUMMERFELD: So maybe, Ms. McCullars, if you
22 could expand the top half.

23 BY MR. KUMMERFELD:

24 Q. Here, Ms. Morris, do we again have some information
25 about contact account and contact name?

1 A. Yes, sir. It is Helen Orange.

2 Q. And you see an email address there as well?

3 A. Yes, the AT&T address, borange313@att.net, as well as
4 the preferred address, borange313@gmail.com.

5 Q. Is there a date there the account was established?

6 A. Yes, the 16th of September, 2016.

7 Q. Is there an associated physical address?

8 A. It's on the bottom of the page.

9 Q. Okay.

10 MR. KUMMERFELD: Ms. McCullars, would you go to
11 the bottom of the page.

12 A. It's 431 Electra in Longview, Texas.

13 BY MR. KUMMERFELD:

14 Q. Okay. So this IP information shows which internet
15 provider manages that particular service and who is
16 registered for that service with the internet provider,
17 correct?

18 A. Correct.

19 Q. Okay. It doesn't show who the user of an IP address
20 was at a given time, it just shows who registered the
21 information?

22 A. Correct.

23 Q. Now, after receiving this IP information and
24 identifying the physical address associated with the IP
25 address that you discovered in the course of your

1 assistance with the Blacklist investigation, what did you
2 do with this information?

3 A. I packaged this up along with all the information and I
4 forwarded it to HSI -- the HSI office in Texas.

5 MR. KUMMERFELD: Your Honor, we pass the witness.

6 THE COURT: Cross-examination?

7 CROSS-EXAMINATION

8 BY MR. MIMS:

9 Q. Ms., my name is Bobby Mims and I represent
10 Charles Orange and he is the fellow on trial for the case
11 that we're involved with here. Have we -- you and I have
12 never talked before, have we?

13 A. No, sir.

14 Q. Let me ask you something. Can you hear me okay?

15 MR. MIMS: Can y'all hear me okay?

16 BY MR. MIMS:

17 Q. You said that your agency or whatever that you're with,
18 you work with international law enforcement, various
19 countries, correct?

20 A. Yes, sir.

21 Q. All right. Do you also work -- you work with Thailand,
22 work with Brazil, work with Mexico, Canada, UK, France,
23 probably South Africa --

24 A. Yes, sir.

25 Q. -- those countries? How about Russia?

1 A. Yes, we have.

2 Q. Did they participate with Interpol in this?

3 A. They participate with Interpol. I don't have direct
4 contact with a Russian office.

5 Q. Now, I take it from your testimony you have some
6 responsibility with your agency to police child pornography
7 internationally. Is that a fair statement?

8 A. To clarify, I'm an analyst.

9 Q. Okay. But you have access -- in other words, your
10 agency or yourself in some -- in some manner, you obtain
11 information about child pornographers and child pornography
12 and you convey it to local law enforcement and their
13 agencies, correct?

14 A. Correct.

15 Q. Right. Even -- I guess you could talk about UK and
16 Thailand and all these other --

17 A. Yes, sir, so I provide information to our HSI
18 investigators who are located at attache offices overseas,
19 so I generally am not directly providing evidence to any
20 law enforcement overseas.

21 Q. Let's talk about -- you said you. Your agency -- I
22 guess it's more than you, you're not the whole agency.
23 There are other agents and analysts involved?

24 A. Yes.

25 Q. Okay. And so that agency, wherever it is, it might --

1 whatever you call it, it cooperates with international law
2 enforcement in some manner?

3 A. Yes, sir.

4 Q. Sure. And my question is, how -- how involved is the
5 Russian law enforcement in cooperating with your agency?
6 Are they cooperating or not?

7 A. Again, I'm not working directly with them.

8 Q. You don't know?

9 A. Yeah, I don't know today. I have no idea.

10 Q. Okay. Now, from the Government's Exhibit 1, page 2 --

11 MR. MIMS: Can we have it up again please.

12 THE COURT: Mr. Mims, can I ask you to move the
13 microphone.

14 MR. MIMS: Get a little closer?

15 THE COURT: Yeah, that's better.

16 MR. MIMS: Can you hear me now?

17 THE COURT: I can hear you.

18 BY MR. MIMS:

19 Q. Can you see the Government's Exhibit 2 there?

20 A. (Nonverbal response.)

21 Q. What is the contact name for this particular IP
22 address?

23 A. The account?

24 Q. What is it?

25 A. The account -- the subscriber account is Helen Orange.

1 Q. Did you say Helen Orange?

2 A. Yes, sir.

3 Q. Okay. And then the preferred email is
4 borange313@gmail?

5 A. Yes, sir.

6 Q. Do you know -- do you have any information whose email
7 address that is?

8 A. No.

9 Q. You wouldn't have any reason to know, would you?

10 A. (Nonverbal response.)

11 Q. Right. You just convey whatever information you've
12 got?

13 A. (Nonverbal response.)

14 Q. Okay. So do you have -- and I don't remember what you
15 testified to. Do you have expertise -- we --

16 MR. MIMS: Can we put what I've got on there.

17 BY MR. MIMS:

18 Q. Do you have expertise in --

19 MR. MIMS: Hmm? It's demonstrative evidence --
20 I'll withdraw it.

21 BY MR. MIMS:

22 Q. You don't know what the actual configuration of the IP
23 address located at whatever address y'all were talking
24 about is at that time, do you?

25 A. The configuration?

1 Q. Right.

2 A. You mean what?

3 Q. Well, normally people that have an internet provider,
4 an IP address, they're going to have a router at the house
5 and then that distributes out internet availability to the
6 users, correct?

7 A. Correct.

8 Q. And if it's -- if it's secured, only the users that
9 have that password can use that internet from that router?

10 A. That's correct.

11 Q. Sure. And in the IP address that you provided for the
12 jury here as evidence, that is for the AT&T internet
13 provider that provided whatever service to that address,
14 that borange313, correct?

15 A. For the physical address --

16 Q. Sure.

17 A. -- borange313.

18 Q. Sure. Okay. And the contact was Helena Orange?

19 A. Yes, sir.

20 Q. Now, these images that are out there on the internet,
21 they're not just pictures. Aren't they just a series of
22 electronic -- I guess electronic notations? What are they?

23 A. They're pixels. It's data, yes.

24 Q. Put together they become pictures, but actually in the
25 ether they're just coding; is that correct?

1 A. Yes.

2 Q. All right. Is it true that each one of those images
3 has a particular hashtag?

4 A. Hash value, yes.

5 Q. Tell us what a hashtag is, if you know.

6 A. Hash value is a mathematical calculation or computation
7 of something digital. So you could hash a picture, and no
8 matter what happens to that picture, that hash value is
9 that picture. So if a picture gets compressed or if
10 someone draws on it, like pixels destroys part of it, hash
11 value change.

12 Q. And each one of those pictures is unique among all
13 others in the world. Would that be a fair statement?

14 A. Yes, sir.

15 Q. And the way these things are done, there's a super
16 computer -- and I didn't print them off, I'm just asking --
17 there's these computers that sweep the internet all the
18 time looking for this particular hashtag. Is that correct?

19 A. I wouldn't say computers. I'll say servers that know
20 these images. So the National Center for Missing and
21 Exploited Children keeps a list of these hash values of
22 these known images. And by "known," it means the children
23 have been identified. We know that they are minors. We
24 know that they're below the age of 18.

25 Q. And do you have any idea how many individual pictures

1 that have individual hashtags there are in the whole
2 internet, do you have any idea -- of child porn? Let's
3 limit it to that.

4 A. Millions.

5 Q. Millions, is that correct?

6 A. Yes, sir.

7 Q. All right. And the National Center For Missing and
8 Exploited Children, NCMEC or something like that? Is that
9 the agency?

10 A. Yes.

11 Q. They have a -- do they have responsibility for trying
12 to find all this child porn and tracing it back to an
13 individual? Is that what their responsibility is or is
14 that your agency?

15 A. No, because they're not a law enforcement agency so
16 their job is not to track it back to individuals,
17 necessarily. They do assist in trying to help children who
18 are depicted in the material, but they're not law
19 enforcement. They're not prosecutors.

20 Q. Okay. Is there any effort that you know of by law
21 enforcement, either in all these countries we're dealing
22 with, probably with the exception of Russia, that's taking
23 this stuff down, trying to destroy it, trying to get rid of
24 it, trying to get it off the internet?

25 A. Yes, sir, and -- yes.

1 Q. I'm sorry?

2 A. Yes, sir.

3 Q. Okay. And how do they do that?

4 A. Generally it would be based on hash values.

5 Q. What do they do, just change the hash value and put it
6 back up there or something? Is that how they do it?

7 A. No. They scan the internet looking for those images
8 and then they have to contact the companies that host those
9 servers and say, hey, please take down these materials,
10 there's children depicted in these images.

11 Q. And these companies that have -- that have these
12 servers, they cooperate by and large, do they not?

13 A. U.S. based companies among others as well, yes.

14 Q. Do the Russians?

15 A. I don't know.

16 Q. Okay. All right. So your testimony today, if I
17 understand it, you were notified by international parties
18 that there were some hashtag values of images that were
19 accessed by somebody at the IP address at 341 (sic)

20 Electra. Is that pretty much it?

21 A. Yes. Well, we were told that someone at that -- at
22 that IP address accessed the server for this website, or
23 accessed this website, and they were logging in and were
24 active on the site.

25 Q. And -- and then your exhibit here -- or the

1 Government's exhibit here has an Electra address, correct?

2 A. Yes, sir.

3 Q. And it says that it's that borange313@gmail.com?

4 A. Yes, sir.

5 Q. And the contact is Helena Orange?

6 A. Yes, sir.

7 MR. MIMS: Pass the witness.

8 THE COURT: Redirect?

9 REDIRECT EXAMINATION

10 BY MR. KUMMERFELD:

11 Q. Just briefly to clarify, Ms. Morris. The lead
12 indicated that the IP address accessed the website; is that
13 correct?

14 A. Yes, sir.

15 Q. The lead did not indicate that borange313@gmail
16 accessed the website?

17 A. Correct. That just has to do with who pays for the
18 internet service.

19 Q. Okay. Nor did it indicate the borange313@att.net had
20 access to the website?

21 A. Correct. It did not indicate that email address
22 accessed that website.

23 Q. But it did provide identifiers of the individual user
24 who did access the website, did it not?

25 A. It did.

1 Q. What were the individual identifiers?

2 A. Loverboy9 and wheelboy14@gmail.com.

3 Q. Thank you, Ms. Morris.

4 MR. KUMMERFELD: Pass the witness.

5 MR. MIMS: Nothing further, Your Honor.

6 THE COURT: You may step down.

7 MR. KUMMERFELD: Your Honor, may she be excused?

8 MR. MIMS: No objection.

9 THE COURT: Yes, you may be excused. Thank you.

10 Call your next witness.

11 MS. MILLER: Your Honor, at this point we would
12 ask for VTC witness Andrew Peters.

13 THE COURT: Okay. I'll just explain to the ladies
14 and gentlemen of the jury that the next witness will be
15 appearing via video telephonic conversation and he is
16 located in Abu Dhabi, and Mr. Jackson is going to assist
17 with any technology requirements.

18 Can the jurors see the witness? Okay.

19 Ms. Miller.

20 MS. MILLER: Thank you, Your Honor. And again,
21 I'll note that pursuant to docket entry 84, the parties
22 have consented to Mr. Peters's appearance in this trial via
23 video.

24 Good morning, Mr. Peters.

25 THE COURT: Hold on.

1 THE WITNESS: Good morning.

2 THE COURT: We need to swear the witness in,
3 first.

4 All right. Ms. Combs, if you would go around and
5 swear the witness.

6 MS. MILLER: Thank you, Your Honor.

7 (Witness sworn.)

8 ANDREW PETERS, GOVERNMENT'S WITNESS,

9 DIRECT EXAMINATION

10 BY MS. MILLER:

11 Q. I will say good morning, Mr. Peters. It is 10:00 a.m.
12 here in the Eastern District of Texas. Would you please
13 tell the jury where you are?

14 A. I'm in Abu Dhabi in the United Arab Emirates right now.

15 Q. What time is it there?

16 A. It's ten after 7:00 p.m.

17 Q. All right. Where are you testifying from?

18 A. I'm at the U.S. Embassy here.

19 Q. Mr. Peters, would you tell the jury why it is you
20 happen to be in the UAE?

21 A. My wife was selected as the assistant attache for the
22 DHS mission here, so I retired and joined my wife here in
23 the UA.

24 Q. Okay. Where did you retire from?

25 A. I was a supervisor in HSI in Dallas.

1 Q. Let's go back a little bit further. Would you tell the
2 jury where you began your law enforcement career?

3 A. I began as a state trooper there in Texas, Texas
4 Highway Patrol in Moore County in the panhandle of Texas.

5 Q. How long were you in that role?

6 A. I was there for three years before joining the U.S.
7 Customs Service back in 2000.

8 Q. And when you say U.S. Customs Enforcement, do we know
9 that as something different today?

10 A. Yes. It merged into DHS and eventually Homeland
11 Security Investigations.

12 Q. And just for the sake of the jury that may not know the
13 acronym, does DHS refer to Department of Homeland Security?

14 A. I'm sorry, yes. Department of Homeland Security.

15 Q. Okay. So fair to say you were with the predecessor
16 agency and moved over once it merged post-September 11th?

17 A. That's correct.

18 Q. Okay. And where did you start your Customs or HSI
19 career?

20 A. Initially assigned to Laredo, Texas in September of
21 2000 when I joined the agency. I stayed there for
22 approximately three years.

23 Q. After that where did you go?

24 A. I was transferred to San Angelo, Texas until 2009, May
25 of 2009, and then I transferred to Dallas, Texas from 2009

1 until just recently.

2 Q. What types of cases did you investigate when you were
3 in San Angelo?

4 A. Mainly narcotics and some child sexual exploitation
5 cases.

6 Q. All right. When you came to Dallas, you indicated that
7 you were promoted to a supervisor; is that correct?

8 A. Yes, I was promoted to supervisor in 2011.

9 Q. All right. Fast-forwarding later, at some point did
10 you become supervisor of a child exploitation group?

11 A. Yes. In approximately September of 2007 I became
12 supervisor over the HSI Dallas Child Sexual Exploitation
13 Group -- sorry -- 2017.

14 Q. Thank you.

15 A. 2017.

16 Q. It's a little bit later in Abu Dhabi, right?

17 So you were a supervisor in that group for
18 approximately two years; is that correct?

19 A. That's correct.

20 Q. What were your responsibilities as supervisor of the
21 Child Sexual Exploitation Group?

22 A. I would disseminate leads received from headquarters or
23 various agencies throughout the United States and foreign
24 agencies we worked with lot that were investigating child
25 exploitation cases over there or in the United States. I

1 would supervise the agents in my group, we had
2 approximately five agents at the time, and also our
3 computer forensics lab, which we had the HERO program and
4 -- as well the special agents who were assigned to do
5 forensics as well.

6 Q. Were you also responsible for the supervision of agents
7 in another office?

8 A. Yes, I supervised the Tyler area responsibility. We
9 had two agents in that office so that was part of my duties
10 as well as the child exploitation group.

11 Q. I'm going to turn your attention to the fall of 2018.
12 Were you working in Dallas as the Child Sexual Exploitation
13 Group supervisor?

14 A. Yes, I was.

15 Q. And did you receive a referral from HSI headquarters
16 relating to an address on Electra Street in Longview,
17 Texas?

18 A. Yes, I did.

19 Q. And based on your testimony about assigning referrals,
20 did you assign that case?

21 A. Yes. I assigned it to a special agent in Tyler, Texas.

22 Q. Are you aware, did that agent continue the
23 investigation?

24 A. Yes, he did.

25 Q. And at some point were you asked to participate in a

1 search warrant related to that investigation?

2 A. Yes. In December we -- the HSI Dallas Child
3 Exploitation Group, as well as our friends, were assisting
4 -- or were asked to assist Tyler to execute the search
5 warrant.

6 Q. Was that a common practice?

7 A. Yes, yes. They have very few agents there, so we would
8 gather our forces in Dallas to help in Tyler or actually
9 wherever it would be across our AOR.

10 Q. All right. I'll turn your attention specifically to
11 December 20th of 2018. Was that the address you headed out
12 to in Longview?

13 A. Yes.

14 Q. Okay. And approximately what time did you arrive at
15 the premises?

16 A. We arrived with the search warrant at approximately
17 6:00 a.m. to 431 Electra Street in Longview.

18 Q. Okay. Given that it was December, was it light outside
19 at 6:00 a.m. when you arrived?

20 A. No, it was dark still.

21 Q. All right. And in addition to a number of members of
22 Homeland Security Investigations, did you also have other
23 members of law enforcement with you?

24 A. Yes. Whenever we go to a city, and this time it's
25 Longview, we ask the local police department to assist. We

1 want marked units out there with lights on so when we go
2 knock and announce on the door, they know it's police out
3 there and not unmarked vehicles, which is what we drive
4 usually.

5 Q. Okay. Is that what you did on this day?

6 A. Yes. We had two marked Longview police units out there
7 to assist with us.

8 Q. And at any point did they activate their strobe lights?

9 A. Yes. When we went to the door and knocked and
10 announced we had a search warrant, they activated the
11 strobe lights so the people inside could see outside.

12 Q. You used the phrase "knock and announce." What does
13 that refer to?

14 A. So we had a search warrant for this address. We go and
15 we knock on the door and give them ample time and let them
16 know the police is out there. We announce that we are the
17 police, we have the lights going. We let them know that --
18 we give them ample amount of time to come to the door so
19 usually we don't have to break down a door. Most people
20 come to the door.

21 Q. Prior to arriving at the search warrant, did everyone
22 have a role for that day?

23 A. Yes. The -- (indecipherable) -- assigns roles that
24 morning. Sometimes we adjust whose role will be for
25 interviewing, for searching, doing videos or photographs or

1 evidence --

2 Q. And as --

3 A. -- as well as the entry team.

4 Q. And as the supervisory special agent on scene, what was
5 your role that day?

6 A. I usually -- up until the entry time, I stay back and
7 help on perimeter in case there's anybody running. I make
8 sure everybody is, you know, following policy, that
9 everybody is doing everything in a safe manner, making sure
10 that at the time people come out of the house, that
11 everything is done safely.

12 Q. All right. And did you observe the knock-and-announce
13 on December 20, 2018?

14 A. I did.

15 Q. And did an individual come to the door?

16 A. Yes. After they knocked and announced, Mr. Orange --
17 Mr. Bruce Orange and Helena Orange came to the door.

18 Q. Who are Bruce and Helena Orange?

19 A. They were the occupants of the residence, the owners of
20 the residence.

21 Q. Did you encounter any other occupants in the residence
22 on that day?

23 A. Yes. A 15-year-old black female was also living there
24 with -- with their parents, the Oranges, as well as
25 Charles Orange was living there in a bedroom in the back of

1 the residence.

2 Q. Did all four of those individuals exit the house?

3 A. Yes, they all came outside and cooperated to come
4 outside.

5 Q. Are you familiar with the process known as clearing?

6 A. Yes.

7 Q. What does that mean?

8 A. So, once we get everybody outside the house, we ask if
9 there's anybody else in the residence, any animals, any
10 people hiding, anything like that. And they usually -- in
11 this case they told us no, but we communicate if they tell
12 us that we have to go in and make sure that everybody will
13 be in there safe. We can't just walk into the residence
14 and have somebody pop out and all that. So we go in each
15 bedroom, look in each closet, look under the beds, make
16 sure there's nobody hiding.

17 Once we determine that there is nobody in the
18 residence, there's no more danger, then we announce it's
19 clear, and at that point everyone knows that we can relax
20 as far as danger to the officers.

21 Q. And in this case, was the house cleared?

22 A. Yes. After those four individuals came outside. There
23 was nobody else in there.

24 Q. And at that point before the searching began, did you
25 take any particular steps to memorialize the state of the

1 house?

2 A. Yes, it's our practice to -- once the house is clear,
3 we have somebody that does a videotape entry of the
4 residence so everybody can have it memorialized of what the
5 residence looked like before we begin our search. I was
6 assigned that duty to take a videotape of the residence.

7 So I go in with my video camera and I start from
8 the entryway, videotape as much as I can in the first room
9 before I go to the next room, and so on. I try to get in
10 most closets to people can see what it looks like before
11 the search starts, see if there's anything that may be
12 laying out, that would be on videotape --

13 Q. And when you --

14 A. -- and, once that's done, I exit with the camera.

15 Q. When you video recorded we'll call it the entry of that
16 residence on Electra on December 20, 2018, was anybody else
17 in the house when you recorded it?

18 A. Nobody else but law enforcement.

19 Q. And --

20 A. There's usually somebody that trails behind me or waits
21 outside the next room to make sure that everything is done
22 in a safe manner. If by chance the house wasn't clear,
23 there's going to be somebody there with me making sure that
24 I'm safe as well.

25 Q. Fair to say the other members of the search team are

1 not in the house?

2 A. Correct. Nobody else wants to be on the video.

3 Q. Had anybody begun searching at the time you filmed this
4 video?

5 A. No, the search doesn't start until I come outside with
6 the camera and tell everybody they can start the search.

7 Q. All right. Now, Mr. Peters, prior to the -- to
8 testifying today, did you have the opportunity to review
9 the video that is marked and now admitted into evidence as
10 Government's 2?

11 A. Yes, I did.

12 Q. Who recorded that video?

13 A. I recorded that video.

14 Q. And is that recording a fair and accurate depiction of
15 what you saw when you recorded it on December 20, 2018?

16 A. Yes, it was.

17 MS. MILLER: Your Honor, at this time I would ask
18 for permission to publish Exhibit 2, and I understand that
19 we're going to be able to do some screen-on-screen.

20 THE COURT: Let me ask, Miss Miller, is there
21 audio on Exhibit 2 as well?

22 MS. MILLER: May I ask Mr. Peters?

23 THE COURT: Certainly.

24 BY MS. MILLER:

25 Q. Mr. Peters, did you hear the judge's question?

1 A. I did not.

2 Q. Is there audio in Exhibit 2?

3 A. Yes, there is on the video recording when I walked in.

4 Q. Is that just at the beginning?

5 A. As I walked through the whole video, there is going to
6 be audio. I don't do much talking but I don't turn the
7 audio off.

8 Q. Okay. So there will be sounds throughout the video of
9 you walking through the house; is that correct?

10 A. Yes, that is correct.

11 Q. But as far as any speaking, would that just be confined
12 to the beginning of the recording?

13 A. Yes. At the beginning I announce that I'm about to go
14 into the house with the video and that's the only time I
15 talk on the video.

16 THE COURT: So I guess -- I assume, Ms. Miller,
17 there's not been a transcript prepared for that. For
18 purposes of the record, should the court reporter
19 transcribe the audio on the tape?

20 MS. MILLER: My expectation is not, and I can
21 always pause it and ask Mr. Peters to testify as to what he
22 has just said.

23 THE COURT: That's fine.

24 Is that agreeable, Mr. Mims?

25 MR. MIMS: Yes.

1 THE COURT: Very well. Please proceed.

2 MS. MILLER: Please publish.

3 (Videoclip played.)

4 MS. MILLER: If we can pause that please,
5 Mr. Kummerfeld.

6 BY MS. MILLER:

7 Q. Mr. Peters, did you hear a male voice speaking?

8 A. Yes, that was me speaking on the video.

9 Q. And what did you just say?

10 A. I let them know what address and what time we began the
11 video.

12 Q. And was it approximately 6:00 a.m.?

13 A. Yes, ma'am.

14 Q. And again at 431 Electra Street?

15 A. That's correct.

16 Q. And what are -- just since we have it paused here,
17 where are we?

18 A. This is the entryway to the door, and the first room
19 here is the living area. Past that doorway you will see it
20 enters into the kitchen, dining area.

21 Q. Fair to say that you were standing at the threshold of
22 the front door of the residence?

23 A. Yes, that's correct.

24 Q. Thank you.

25 MS. MILLER: If we can please continue.

1 (Videoclip resumes.)

2 A. Now I'm entering into the dining room.

3 BY MS. MILLER:

4 Q. Where are you now?

5 A. This is the kitchen.

6 Q. Is that the pantry?

7 A. Yes. I turn around, now going back to the dining, and
8 to the left, this is the front of the house where you can
9 see the police lights still on, and this is the -- Bruce
10 and Helena Orange's bedroom.

11 (Videoclip resumes.)

12 BY MS. MILLER:

13 Q. Are you backing --

14 A. Backing out, yes. This is the only bathroom there in
15 the residence.

16 (Videoclip resumes.)

17 A. And then I exit the residence -- go left and this is
18 the child's bedroom. And then turn and show the bedroom,
19 and directly past the child's bedroom is Charles Orange's.

20 MS. MILLER: Let's pause right there, please.

21 BY MS. MILLER:

22 Q. I cut you off, Mr. Peters, I'm sorry. What room have
23 you identified this as?

24 A. This is the bedroom where Charles Orange was sleeping.
25 This is his bedroom.

1 Q. Are you able to see the screen in front of you?

2 A. Yes, sir.

3 Q. What is on the right-hand side of that screen?

4 A. On the right-hand side is his bed.

5 Q. On the left-hand side?

6 A. On the left-hand side is the wall that separates his
7 bedroom with the child's bedroom, and then there's a
8 calendar and the dresser there, a white dresser.

9 Q. Okay. And as we'll hear later on, did you seize any
10 items from the top of that dresser?

11 A. Yes. There's two cellphones on top of the that
12 dresser.

13 Q. Okay.

14 MS. MILLER: If we can please continue playing.

15 (Videoclip resumes.)

16 A. Exiting back out there and going through the child's
17 bedroom again, back to the dining room. And this will lead
18 back into the kitchen area, and then that leads you into
19 the dining -- excuse me -- the laundry room off to the
20 right there. And we're at the back of the house now.
21 That's the back door.

22 BY MS. MILLER:

23 Q. What have you just done?

24 A. I have just videotaped the laundry room and then I
25 stick my camera outside just to pan around. We usually

1 don't go back there unless there's other agents with me or
2 an outbuilding. And now I walk back to the front and I
3 completed the video of the house.

4 MS. MILLER: Freeze that screen.

5 BY MS. MILLER:

6 Q. Mr. Peters, fair to say that it is a fairly small
7 house?

8 A. Yes. It was just those three bedrooms on the left-hand
9 side when you enter as well as the living room, the little
10 kitchen area of the kitchen and the laundry area, and that
11 was the complete house.

12 Q. Would you estimate how many square feet?

13 A. 1100 square feet --

14 Q. Okay.

15 A. -- 1200, somewhere around there.

16 Q. And how many entrances to Charles Orange's bedroom?

17 A. Just through the child's bedroom.

18 Q. Okay. No other hallway entrance?

19 A. No.

20 Q. And was there any other bathroom or door exit through
21 the back of the house from his bedroom?

22 A. No. Not from his bedroom.

23 Q. Okay. Once your video recording was complete, what did
24 you do next?

25 A. Go outside and tell everybody it's time to start the

1 search. So the members designated to search will start and
2 those designated to do interviews would start to interview
3 the occupants of the residence, and then the forensics guys
4 usually come in and start setting up in a safe area or big
5 area where they can -- (indecipherable.)

6 Q. Is that what you did on December 20, 2018?

7 A. Yes.

8 Q. Now. Did your role that day end once you took the
9 video?

10 A. No. I volunteered to help search as well, so myself
11 and another agent began searching in the back of the house.

12 Q. When we're talking about the back of the house, did you
13 search Charles Orange's bedroom?

14 A. Yes, I did.

15 Q. Okay. Now, during the course of the search warrant
16 itself, did you and other agents take still images?

17 A. Yes. Whenever anything is found that we deem to be
18 worthy of evidentiary value, we take pictures of it so we
19 can have it memorialized before we pick it up and move it.

20 Q. And what is the purpose of taking both the entry video
21 as well as the still images?

22 A. A lot of times you can't really see what is on the
23 video that we find. For example, if we search a closet,
24 turn over clothes and find something in the closet, we want
25 to take a picture of where it's at beforehand, and you're

1 not going to see that in the video. Same on the counters
2 and stuff. If I don't happen to get something on the video
3 and somebody finds it later, we want pictures of where it
4 is found.

5 Q. Were photographs taken of certain portions of
6 Charles Orange's bedroom on December 20, 2018?

7 A. Yes, they were.

8 Q. And were you present when those photos were taken or
9 were you aware of those photos being taken?

10 A. I was.

11 Q. And did you review them prior to testifying today?

12 A. Yes, I did.

13 Q. Do those photos fairly and accurately reflect
14 Charles Orange's bedroom as you saw it on December 20,
15 2018?

16 A. Yes, it did.

17 MS. MILLER: Your Honor, may I have permission to
18 publish Exhibit 3, which I believe has been admitted
19 pursuant to agreement?

20 THE COURT: You may.

21 MS. MILLER: Thank you, Your Honor.

22 Ms. McCullars, if we could please publish
23 Exhibit 3, page 5.

24 BY MS. MILLER:

25 Q. Okay. Is this a similar view as what we just had on

1 the still image of the video?

2 A. Yes, that is.

3 Q. Does the room look the same as from your video?

4 A. Yes, it does. Same bedroom, same dresser.

5 Q. Okay. And again, what's on the right side of the
6 screen?

7 A. The right side of my screen is his bed where he was
8 sleeping, Mr. Charles Orange.

9 Q. Okay. And on the left side, closest to the camera,
10 there appears to be something of glass. Can you describe
11 what that item is?

12 A. The -- like, the coffee table that's sitting there --

13 Q. Yeah.

14 A. -- on the left-hand side of the screen.

15 Q. Yes. Were there any items on top of the -- that
16 glass-topped coffee table?

17 A. There was a tablet on top of the that.

18 Q. Okay. And then what is behind that glass-topped coffee
19 table?

20 A. The -- his chest of drawers, the white chest of drawers
21 that he used.

22 Q. Mr. Peters, about how much space separates the white
23 chest of drawers from the bed?

24 A. I'd say no more than two feet at the most.

25 MS. MILLER: If we can go to page 4, please.

1 BY MS. MILLER:

2 Q. What are we looking at here?

3 A. That's the same items, just a different angle, still
4 photo.

5 Q. If we start first with that glass-topped coffee table,
6 where is that tablet or that computer you identified?

7 A. There's a tablet on the coffee table just right next to
8 the chest of drawers and it's just right in reach of his
9 bed.

10 Q. Can we now see a fan or some sort of heater?

11 A. Yes.

12 Q. And what part of the table is that located in?

13 A. That's -- on my view it's on the very left-hand side,
14 up against the wall.

15 Q. Okay. And again, what is to the right of that
16 glass-topped coffee table?

17 A. That's the white chest of drawers.

18 Q. All right.

19 MS. MILLER: Let's go to page 1.

20 BY MS. MILLER:

21 Q. Is this a different angle?

22 A. Yes, it's just a little closer picture of the tablet,
23 the chest of drawers with the phones on it.

24 Q. Okay. And when you say there are phones, where are
25 those phones located?

1 A. On top of the white chest of drawers there.

2 MS. MILLER: Let's go to page 2.

3 BY MS. MILLER:

4 Q. Page 2. Is this a closer view of those phones?

5 A. Yes, that's a closer shot.

6 Q. Okay. I think you and I are looking at the same view
7 and same angle here, so do you recognize the device on the
8 far right of your screen?

9 A. Yes. That's the Samsung cellphone in between his watch
10 and glasses and another cellphone.

11 Q. Okay. And just to the left of the glasses, what device
12 is that?

13 A. That's another cellphone. It's just a tiny one.

14 Q. And to the left of that other cellphone, what's there?

15 A. His -- a set of car keys along with -- I guess there's
16 some Blow Pops and some Hawaiian Punch fruit drinks.

17 Q. Okay. And right to the very back of that dresser
18 behind the -- the first cellphone you identified, do you
19 recognize that item?

20 A. That's a Bible along with what looks like a
21 highlighter.

22 MS. MILLER: Ms. McCullars, if we can go to
23 page 3, please.

24 BY MS. MILLER:

25 Q. Okay. Mr. Peters, what are we looking at here?

1 A. This is an even closer photo of the cellular telephone
2 on top of the dresser next to the watch.

3 Q. All right. Mr. Peters, while you were in the room, did
4 you pick up that cellphone?

5 A. Yes, I did.

6 Q. All right. And do you see how there's a little home
7 button at the bottom?

8 A. Yes.

9 Q. Did you press that button?

10 A. I did, yes.

11 Q. Why did you press the button?

12 A. To turn the phone on or see if it was on and
13 operational.

14 Q. What did you see when you pressed that button?

15 A. The phone was on and it was charged and operational.

16 Q. Did you attempt to find out whether that phone was
17 password protected or otherwise locked?

18 A. I didn't need to because it immediately came with all
19 the -- the screens as a regular phone would that does not
20 have a password on it.

21 Q. Okay. While you were standing there holding the phone,
22 did you manually look at any of the folders?

23 A. I did.

24 Q. Did you -- do you really seeing any folders in
25 particular?

1 A. I found a folder that said something like Thai Boys.

2 Q. And once you saw that folder, did that have any
3 significance to you?

4 A. Yes, because I knew that, as part of the case, the
5 individual who was alleged to download or do these chats
6 had also been viewing and uploading and downloading the
7 Thai child pornography.

8 Q. Had you reviewed the lead before you sent it to the
9 agent in Tyler?

10 A. Yes.

11 Q. As the supervisor, would you also review any search
12 warrants or documentation that is prepared by your agents?

13 A. Yes. I would read their search warrant just to make
14 sure there's no errors that would embarrass them or make
15 sure all the addresses are correct so there's no problems.

16 Q. Okay. Once you saw that folder, what did you do with
17 the phone?

18 A. Then I took it to Special Agent Armstrong, who was
19 interviewing Mr. Orange outside in their government
20 vehicle.

21 MS. MILLER: Your Honor, may I ask permission to
22 approach the camera with Exhibit 4?

23 THE COURT: Yes, you may.

24 BY MS. MILLER:

25 Q. Mr. Peters, I don't know how well you can see this but

1 can you see the bag that I'm holding up?

2 A. I do see the bag, yes.

3 Q. Okay. Do you recognize this style of bag?

4 A. Yes. Those are evidence bags that we use to seize --
5 property custodian uses that we put evidence in after we
6 seize it.

7 Q. And when you say "we," do you mean Homeland Security
8 Investigations?

9 A. Yes, that's correct.

10 Q. Okay. This is Exhibit 4, which has been admitted into
11 evidence, and I'm now pulling out a second bag on the
12 inside. Do you recognize that bag?

13 A. That's another evidence bag we use.

14 Q. And I may be pushing my luck here, but can you see who
15 the witnessing officer is on that bag?

16 A. I cannot. I'm sorry. I can't read the writing.

17 Q. Okay. That's fine.

18 Let me ask this. As I hold up this device, can
19 you see that device?

20 A. Yes, I can.

21 Q. And do you recognize that device?

22 A. That's the cellular telephone that was used.

23 Q. Is that the same device that we can see in the exhibit
24 that's currently being published to you?

25 A. Yes, I believe so.

1 Q. As best as you can see from many thousands of miles
2 away?

3 A. As best as I can see, yes.

4 Q. Okay.

5 MS. MILLER: If we could please go to Exhibit 3,
6 page 6.

7 BY MS. MILLER:

8 Q. Now, Mr. Peters, as you continued your search, did you
9 keep everything on the dresser the same as it was before?

10 A. We try to, but most of the time when searching for
11 items we're going to move stuff around. Especially we want
12 to see if there's anything in those other boxes or in the
13 boxes with the punch. A lot of times what we find is just
14 a small thumb drive with stuff on it, so that could be
15 hidden anywhere. It could be hidden inside the box of
16 Hawaiian Punch itself.

17 Q. Particularly in this case and in this exhibit that I
18 have in front of you, have you moved items around at this
19 point?

20 A. Yes, we have.

21 MS. MILLER: Ms. McCullars, can we focus in on the
22 mail.

23 BY MS. MILLER:

24 Q. Mr. Peters, do you see that item blown up in front of
25 you?

1 A. Yes, I do.

2 Q. Why was it that this photograph was taken?

3 A. Just to show that Charles Orange, that was his mail in
4 this bedroom, so it gives significance that this is his
5 stuff here.

6 Q. And are you able to read the mailing address?

7 A. Yes. It says 431 Electra Street, Longview, Texas,
8 75602.

9 Q. Is it addressed to Mr. Orange?

10 A. Yes, it is.

11 Q. Okay.

12 MS. MILLER: Page 7, please.

13 BY MS. MILLER:

14 Q. What are we looking at in this photo?

15 A. This is a shot of the dresser -- or the chest of
16 drawers that had the phones on it, along with other items,
17 and just a far-away of those, along with the --
18 (indiscernible) -- that was found.

19 Q. Fair to say this would be post search?

20 A. Correct, yes.

21 Q. Okay. Now, at the end of -- to the best of your
22 knowledge, were other items located or seized by agents on
23 that day?

24 A. Yes.

25 Q. And what happened with all of the items that were

1 located and seized that day?

2 A. All the items that were seized were transported back to
3 HSI Dallas to the secure vault and the forensic lab.

4 Q. And that lab was an area that you supervised at the
5 time; is that correct?

6 A. Yes, that's correct.

7 MS. MILLER: I'll tender the witness.

8 THE COURT: Cross-examination?

9 MR. MIMS: One second.

10 CROSS-EXAMINATION

11 BY MR. MIMS:

12 Q. Good evening, agent Peters. Can you see me okay?

13 A. Yes.

14 Q. I'm Bobby Mims. I represent Charles Orange, the
15 defendant in this case.

16 Have you ever met Mr. Orange before?

17 A. The only day that I met Mr. Orange was the day of the
18 search warrant.

19 Q. Did you ever talk to him yourself?

20 A. No, sir.

21 Q. Okay. And you were the agent in charge on the scene
22 that night that -- of that search warrant; is that correct?

23 A. That's correct.

24 Q. Okay. You assign tasks to various other agents to make
25 entry, to seize evidence, and of course you did the video.

1 Is that pretty much it?

2 A. Yes, mostly.

3 Q. Okay. All right. When you -- who was the first agent
4 that went into the residence? Do you know?

5 A. I do not know. So the stack team will stack up against
6 the door, the entry team, however many, five, six agents,
7 and then they will knock and announce. And if the people
8 come out, then we, you know, get everything out of there
9 after that. The clear team, which is usually the most
10 tactical agents, will go inside and clear the residence.

11 Q. Okay. And I have never been out there and the jury
12 hadn't been out there, but the only thing we know now is
13 that the video sort of sets the scene as it was right after
14 the people exited. Is that pretty much it?

15 A. Correct.

16 Q. Right. That we have seen. And the video that we see,
17 like you go in the front door, go to the living room, maybe
18 go down a little hall, go to maybe another room and then
19 there's a child's room? You said it was a child's room?

20 A. It was in between -- in between Charles Orange --
21 (video disruption.)

22 MR. MIMS: I think we just lost the feed.

23 THE WITNESS: I can hear you again.

24 MR. MIMS: Are you back? Okay.

25 THE WITNESS: Yes, sorry. Froze here.

1 MR. MIMS: That's me. I don't know. Have we lost
2 you?

3 THE COURT: Ladies and gentlemen of the jury,
4 we're going to take a break at this time and see if we can
5 repair the technical difficulties, so the CSOs will escort
6 you back to the jury room.

7 Let me remind you not to discuss the case, even
8 amongst yourselves, until all the evidence is presented and
9 I trust instruct you on the law.

10 And let me remind you to maintain your social
11 distancing as well.

12 So we'll get you back into the courtroom as
13 quickly as we can.

14 (Recess taken.)

15 THE COURT: All right. Ladies and gentlemen of
16 the jury, welcome back. We have resolved the technical
17 difficulties.

18 At this time, Mr. Mims, you may continue.

19 MR. MIMS: Thank you, Your Honor.

20 BY MR. MIMS:

21 Q. I'm sorry about the technical difficulties, but I guess
22 it's 10,000 miles and we have to expect that from time to
23 time. Just so you know, I appreciate you appearing by
24 video. I know you had to go to quarantine a couple times
25 before you came back to testify live. Is that true?

1 THE COURT: Hold on, Mr. Mims.

2 (Video disruption.)

3 THE COURT: All right.

4 Mr. Mims.

5 THE WITNESS: Can you hear me?

6 MR. MIMS: We're good now.

7 THE WITNESS: Yes. Sorry.

8 BY MR. MIMS:

9 Q. Let me get to it before we lose you again. I
10 appreciate you appearing by video. I know it's a lot of
11 trouble. In fact, frankly, I can hear you better than I
12 could this first witness we already had this morning.

13 A. Well, I appreciate being able to do this by video.

14 Q. Yes, sir. Back to the -- I don't remember exactly
15 where I was when I was cross-examining. You understand
16 that's what I'm doing here? I have an obligation to ask
17 you what you testified to?

18 A. Right. I believe you were asking about the rooms.

19 Q. Sure. And you testified in other cases, I presume? Is
20 that correct?

21 A. Yes.

22 Q. Okay. Let's go back to that evening. And remember I
23 asked you but you don't recall who the agents were that
24 went in and made the first entry to the house?

25 A. Not the initial entry to the house, no.

1 Q. Okay. And what I want to know is did someone have to
2 force Mr. Orange, Charles Orange, from the house, or did he
3 get up voluntarily?

4 A. Yes, he came out voluntarily.

5 Q. Okay. Did anybody have any firearms on them? Anybody
6 have to use a firearm or threaten anybody to get them out?

7 A. No, sir.

8 Q. Everybody cooperated pretty much, didn't they?

9 A. Yes, sir.

10 Q. Okay. Indeed, Charles Orange cooperated, did he not?

11 A. That's correct.

12 Q. Went to a vehicle outside and had a conversation with
13 Agent Orange (sic) and is it Reavis? Who was the other
14 agent?

15 A. Special Agent Armstrong and Special Agent Reavis.

16 Q. Reavis? And who is Special Agent Reavis? Would you
17 tell the jury who that is?

18 A. He is the Tyler agent assigned out there to help on the
19 case.

20 Q. In other words, he was the local agent under you
21 responsible for investigating this case after you left; is
22 that correct?

23 A. That's correct.

24 Q. Okay. And then Agent Armstrong also?

25 A. Correct.

1 Q. Okay. You may not see it, but Agent Armstrong is
2 sitting in the court -- in the courtroom at the counsel
3 table here with the Government. Just so you know, he is
4 here and he can hear you.

5 A. Okay.

6 Q. Okay. All right.

7 What -- do you know -- were you the one that
8 collected the evidence out there that night?

9 A. I assisted with that. We have an evidence custodian
10 that takes all of the evidence. So whenever something is
11 found, after we take pictures of it, say, for example, the
12 phone is taken back to me and I give it to the seized
13 property custodian on scene, and whoever is taking the
14 evidence gives it directly to her so she can bag it up and
15 make an inventory so we can leave from the residence and
16 she can let them know what we took or what we seized.

17 Q. And we saw -- earlier Ms. Miller showed you that bag.
18 That's the same what you're talking about here, correct?

19 A. Yes, sir.

20 Q. Okay. And I believe you were the one that turned it on
21 and saw what you thought were the Thai porn; is that
22 correct?

23 A. That's correct.

24 Q. Because obviously we're in a trial here and every
25 detail makes a difference; would you agree with me?

1 Everything makes some difference, does it not?

2 A. I would assume so, yes.

3 Q. Sure. We want to be correct in everything we say and
4 testify to?

5 A. Yes.

6 Q. All right. One of the things that I recall you
7 testifying to earlier on direct was whenever you picked up
8 the phone or you saw you said some type of bed, you said
9 that was where he was watching child porn. Do you remember
10 saying that?

11 A. I do not think that I said that's where he was watching
12 child porn, no.

13 Q. Okay. What do you recall you said back then?

14 A. That was Charles Orange's bed and the phones and the
15 laptop -- or the tablet were right there within reach to
16 his bed.

17 Q. Okay. But if you had said he was watching child porn,
18 you don't know that, do you?

19 A. No, I don't know where he watching child porn.

20 Q. You don't know if he ever watched child porn, do you?

21 A. I can say that I'm not the judge and the jury so I
22 can't say if he never watched child porn or not. I'm just
23 telling you what I found on the phone and given to the
24 agents to --

25 Q. You're not testifying that you have any evidence, any

1 personal knowledge, that child -- that child porn was ever
2 viewed any time in the world by Charles Orange, are you?

3 A. That's correct, that's correct.

4 Q. Okay. Fair enough. And the phone itself that's in
5 evidence over here, it's not password protected, was it?

6 A. Correct.

7 Q. If it had been password protected, would you not have
8 had to get a search warrant to get into that phone?

9 A. Without his consent, yes.

10 Q. Yes. Okay. And you didn't need his consent to get in
11 the phone, did you?

12 A. No, we had search warrant for devices inside the
13 residence.

14 Q. Sure. Okay. And in the configuration of the house
15 itself and the way that you get to Orange's bedroom that we
16 saw on there, you have to pass through one bedroom and get
17 into his room, correct?

18 A. Yes, that's correct.

19 Q. And you said that that was the child's bedroom,
20 correct?

21 A. Correct.

22 Q. And who is the child?

23 A. It was the 15-year-old daughter of Helen and Bruce
24 Orange.

25 Q. Is that her name, Helena?

1 A. Yes.

2 Q. Okay. Besides the phone, what other property do you
3 recall being seized after that search warrant was executed?

4 A. I believe we took the two phones in his bedroom, there
5 was a laptop that we found in the closet. There was two
6 tablets and then a larger computer that was in the living
7 room.

8 Q. Okay. The computer in the living room, and I don't
9 know if you know this or not, was that considered kind of a
10 house computer that anybody could get on?

11 A. Yes, I believe that's what the -- Bruce and Helen
12 stated, that it was kind of used for the entire family.

13 Q. Okay. Did you seize any electronic devices or even
14 note any electronic devices in Helena's room, the one
15 adjacent to Mr. Orange's room?

16 A. I do not believe we did.

17 Q. Do you know if there were electronic device, tablets,
18 cellphones, anything, in her room?

19 A. I believe she had a cellphone that we checked to make
20 sure there was no illegal child pornography or anything
21 like that on it. And then if there's any other devices,
22 you know, we'll scan a thumb drive or anything like that
23 that we find in a living room or -- to make sure it's
24 clear, because we don't like to seize a whole bunch of
25 stuff if we're not going to use it or if it's not -- have

1 evidentiary value.

2 Q. Okay. And were you able to -- that morning, early on
3 that morning, that cellphone that Helena Thompson had --
4 not Helena Thompson -- that Helena Orange had, did you have
5 the ability to scan that that morning to determine whether
6 or not there was any illegal images on it?

7 A. I believe so.

8 Q. And did you do that?

9 A. On that phone I can't really tell you if it was done or
10 not. I know that most times on a child's phone we will do
11 it via not a forensic examination. We'll go through the
12 phone and look at the photos and videos and go through text
13 messages and stuff like that. So we -- (video disruption.)

14 Can you hear me?

15 Q. Let's go quick.

16 During your search back in Orange's bedroom, did
17 you see any other duffle bags or anything of various colors
18 that had any electronic devices in them?

19 A. I know a laptop was found, talking about
20 Charles Orange, in the bedroom in the closet there was a
21 laptop found.

22 Q. Do you know if any forensic analysis was done on those
23 devices to determine whether they contained child
24 pornography?

25 A. Nothing was done on scene. I'm not sure if the CFA

1 later on did an analysis on the computer. I have no direct
2 knowledge of anything found on that laptop.

3 Q. If they were seized and sent off under investigation of
4 child pornography, pretty good chance they get forensically
5 analyzed?

6 A. That's correct.

7 Q. And so, for our purposes of this trial, out of all the
8 stuff that's been seized and had analyses run, the only
9 thing that had child pornography was this cell -- this
10 Samsung cellphone that you say you took out of Orange's
11 bedroom; is that correct?

12 A. That's correct.

13 Q. And no analysis was done on any of the devices that
14 belongs to Helena Orange at all, correct?

15 A. That's correct.

16 Q. Okay.

17 MR. MIMS: That's it. I'm going to pass you
18 before we lose you. Thank you.

19 THE WITNESS: Thanks.

20 REDIRECT EXAMINATION

21 BY MS. MILLER:

22 Q. Mr. Peters, you used a term a few minutes ago, CFA.
23 What is CFA?

24 A. Computer Forensic Analyst. We have one come out on
25 search warrants, if not two, to help assist.

1 Q. Mr. Peters, are you a CFA?

2 A. No, I'm not.

3 Q. Did you yourself personally perform any of the forensic
4 analysis of any of the devices that Mr. Mims just asked you
5 about?

6 A. No, ma'am.

7 Q. Okay. So when he asked you questions about forensics
8 on the child's phone, is that something that you, yourself,
9 have personal knowledge of?

10 A. No.

11 Q. Okay. And your testimony about clearing the device,
12 looking through different devices, is that based on your
13 knowledge of standard HSI search practices?

14 A. Correct.

15 Q. All right. Talking about the entry team clearing the
16 house, approximately how long did it take the team to clear
17 the house?

18 A. No more than a few minutes.

19 Q. Okay.

20 A. They just go in the bedroom, look and come out.

21 Q. Pretty quick process?

22 A. Yes.

23 Q. All right. And then Mr. Mims had asked you -- and I
24 just want to make sure that we're very careful about
25 terminology -- he asked you about when you turned the phone

1 on. So I just want to clarify between activating the
2 screen versus actually powering on the device, which did
3 you do or did you do something else?

4 A. I just activated the screen. It was in, like, a sleep
5 mode where I pick up the phone and hit the Home button and
6 then it appears.

7 Q. All right. Mr. Mims asked you about you would need a
8 search warrant for any of the devices in the residence.
9 Mr. Peters, did you and the other agents have a search
10 warrant that day?

11 A. Yes, we did.

12 Q. Did the search warrant cover electronic devices?

13 A. It covered all the electronic devices in the house,
14 computers, data storage devices, anything that could
15 contain any kind of child pornography or digital evidence.

16 Q. Also any device that could connect to the internet?

17 A. Correct.

18 Q. Thank you.

19 RE-CROSS-EXAMINATION

20 BY MR. MIMS:

21 Q. To be clear, the last point that counsel made, if a
22 phone has a password on it and even if you have a search
23 warrant for that phone, don't you also have to get an
24 additional search warrant to search that phone without
25 consent?

1 A. It would depend. If the phone has a password, we have
2 devices at our office that will sometimes break through a
3 password phone and we already have the search warrant to
4 get in that phone.

5 Q. Okay. The other thing I want to know -- okay, let's
6 ask it this way. All the electronic devices that were
7 capable of accessing the internet through that IP address
8 at Electra out there, y'all didn't seize all of them, did
9 you?

10 A. That's correct.

11 Q. Okay. And the ones you didn't seize were whose?

12 A. I'm not positive but I believe the daughter did not --
13 had a phone that we did not seize and we did not seize a
14 phone belonging to the mother or the father.

15 Q. Okay. You remember only targeting Charles Orange; is
16 that correct?

17 A. Well, I cannot tell you if the mother and father had a
18 phone. I just know we didn't seize it.

19 MR. MIMS: Okay. Pass the witness.

20 THE COURT: Ms. Miller.

21 MS. MILLER: Nothing further, Your Honor. We ask
22 this witness be excused.

23 THE COURT: May the witness be excused, Mr. Mims?

24 MR. MIMS: No objection, Your Honor.

25 THE COURT: All right.

1 Thank you, sir.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: Government may call its next witness.

4 MR. KUMMERFELD: Government calls Special Agent
5 Chris Hunt.

6 (Witness sworn.)

7 THE COURT: You may be seated.

8 CHRIS HUNT, GOVERNMENT'S WITNESS,

9 DIRECT EXAMINATION

10 BY MR. KUMMERFELD:

11 Q. Good morning, Special Agent Hunt.

12 A. Good morning.

13 Q. Would you please pull that microphone close and speak
14 into it so the Court can hear you.

15 Please introduce yourself to the ladies and
16 gentlemen of the jury.

17 A. Special Agent Christopher Hunt.

18 Q. And HSI is what?

19 A. Homeland Security Investigations.

20 Q. How long have you been employed with Homeland Security
21 Investigations?

22 A. Special Agent for one year.

23 Q. Why don't you pull that mic up just a little bit.

24 All right. What is your position with Homeland
25 Security?

1 A. Criminal investigator.

2 Q. And is your title Special Agent?

3 A. Yes.

4 Q. Did you have a title before that?

5 A. I did.

6 Q. What is that?

7 A. Computer forensic analyst.

8 Q. What is a computer forensic analyst?

9 A. Extracts data from various devices to include phones,
10 laptops, computers, and presents the case.

11 Q. How long did you do that?

12 A. One year employed with HSI prior to the 18-month
13 internship.

14 Q. All right. Prior to coming to HSI, what did you do?

15 A. I spent eight years in the Army, special operations
16 assigned to 3rd Ranger Battalion.

17 Q. Were you deployed during your time with the Rangers?

18 A. I did. I deployed six times to Afghanistan.

19 Q. How did you become involved with Homeland Security?

20 A. I applied to an internship. It was in the HERO program
21 put on by a nonprofit organization. HERO acronym stands
22 for Human Exploitation Rescue Operative. It targets
23 disabled veterans to fill a niche position, computer
24 forensic analyst, within the federal government
25 specifically targeting child sexual exploitation.

1 Q. Well, thank you for doing that and thank you for your
2 service.

3 Would you describe your duties as a HERO agent
4 during your internship and your subsequent employment?

5 A. The fortunate thing about the internship is the
6 internship and employment are the same. So as soon as I
7 started my internship following my training, I was a
8 computer forensic for HSI. So I was assigned various cases
9 to extract data and present it to the Special Agent for the
10 case.

11 Q. Okay. Now you're a Special Agent, so what are your
12 duties as Special Agent?

13 A. My duties as Special Agent would be to understand
14 federal statutes, investigate federal crimes, execute
15 federal search warrants, and bring forth said crimes to --
16 (inaudible.)

17 Q. Okay. Where are you stationed now?

18 A. Dallas, Texas.

19 Q. All right. Let's talk about your computer forensic
20 training. Did you receive training as an analyst?

21 A. I did. I received 350 hours.

22 Q. Where did you take that training?

23 A. At HSI's Cybercrimes Center in Fairfax, Virginia.

24 Q. All right. Let me turn to topic of forensic
25 examinations. Could you describe generally to the folks

1 here what that is?

2 A. Extracting data from whatever device it may be,
3 computer, laptop, mobile device, extracting the data and
4 putting it in easily readable format.

5 Q. Okay. What kind of tools do you use to extract data?

6 A. You can use -- you have to have a computer. You can
7 use -- there's various mobile devices that have various
8 software to extract the data.

9 Q. What happens specifically with respect to a cellphone
10 extraction? What happens during that process?

11 A. Prepping your computer, looking the device up and
12 choosing the best extraction for the device and it extracts
13 it out.

14 Q. Okay. Now, what is the Axiom tool?

15 A. Axiom is a widely-used forensic tool that we use for
16 mobile devices and pretty much everything else.

17 Q. When you say "we," you mean HSI?

18 A. HSI and law enforcement in general.

19 Q. Did you use that tool in this particular case?

20 A. I did.

21 Q. And had you used that tool prior to the time you used
22 it in this case?

23 A. Yes.

24 Q. Approximately how frequently did you use the Axiom tool
25 as a computer forensic analyst?

1 A. I would say over my time probably depends. It could be
2 either 5 times a week to 20 times a week. Depends on how
3 many cases come up.

4 Q. All right. Let me turn your attention to the case
5 here. Were you asked to participate in the execution of a
6 search warrant in Longview, Texas on December 20, 2018?

7 A. Yes, I was.

8 Q. And how did you become involved in that case?

9 A. My group supervisor Andrew Peters reached out to the
10 forensics lab and asked for -- would I like to be assigned
11 the case and I said I would like to be assigned the case
12 about a week prior to the HSI search warrant.

13 Q. And you participated in the execution of this search
14 warrant?

15 A. I did.

16 Q. All right. To your knowledge, were devices found
17 during the execution of the search warrant?

18 A. Yes.

19 MR. KUMMERFELD: Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 BY MR. KUMMERFELD:

23 Q. Agent Hunt, I'm showing you what's been previously
24 admitted as Government's Exhibit 4. Would you take a look
25 at the device there before you? Sorry. I have to set you

1 up.

2 A. That's all right.

3 Q. Let me walk back there.

4 You take a look at that device in the exhibit bags
5 that it's contained in. Is that one of the devices that
6 was attained during the execution of the search warrant?

7 A. Yes.

8 Q. And what is the -- what is the brand of that device?

9 A. It's a Samsung.

10 Q. And what type of phone is it?

11 A. Galaxy.

12 Q. Okay. Now, this -- as part of your examination, did
13 you physically inspect the Samsung Galaxy cellular phone?

14 A. Prior to the extraction, yes.

15 Q. Okay. Is that your typical process?

16 A. It's a standard process.

17 Q. Did you also take photographs of the device?

18 A. I did.

19 Q. I'm going to show you what's been previously admitted
20 as Government's Exhibit 5. Agent Hunt, what does this
21 photograph depict?

22 A. That's the back of the device.

23 Q. That's the back of Exhibit 4, the physical device that
24 was seized in the execution of the search warrant?

25 A. Yes.

1 Q. What is the name brand indicated there on the back of
2 that device?

3 A. Samsung.

4 Q. Let's go to the next page of the exhibit, please.

5 What does this photograph depict?

6 A. That's the back of the device with the back cover off
7 and the battery removed.

8 Q. Okay. There on the bottom half where the battery is
9 removed, is there what appears to be a white plate with
10 some inscriptions?

11 A. Yes, there is.

12 Q. Okay. And I think that we have a bigger photograph of
13 it.

14 MR. KUMMERFELD: Zoom back out and go to the next
15 picture of the exhibit.

16 BY MR. KUMMERFELD:

17 Q. Is this just a larger picture of what was depicted
18 there on the picture before?

19 A. Yes.

20 Q. Okay. This is 5003 and the previous was 5002. Let me
21 ask you about this. Is there a model number indicated
22 there on the back of the device?

23 A. Yes, there is.

24 Q. What's that model number?

25 A. Gulf 530 tango.

1 Q. Is there also an IMEI number?

2 A. Yes, there is.

3 Q. Would you read the IMEI number again for the record?

4 A. 359128060553191.

5 Q. Agent Hunt, what is an IMEI number?

6 A. It's an international mobile equipment identifier.

7 It's a very specific number associated with the device.

8 Q. Does that number associate with multiple devices or one

9 specific --

10 A. It's a very specific number that is only associated

11 with one device.

12 Q. Also below that model number there's an inscription as

13 well. What does that inscription read?

14 A. That the device is made in China.

15 Q. Okay. And China is not inside the United States of

16 America?

17 A. That's correct.

18 Q. It's overseas in Asia?

19 A. Southeast Asia, yes.

20 Q. After conducting the physical examination of this

21 device and taking the photographs, did you go on to conduct

22 a forensic examination?

23 A. I did.

24 Q. Was your examination conducted in the same way that you

25 conducted your other forensic examinations?

1 A. Yes.

2 Q. What software tools did you use in your examination?

3 A. Axiom and I used Cellebrite.

4 Q. Did you have authority to conduct the examination?

5 A. I did.

6 Q. What was that authority based upon?

7 A. The search warrant.

8 Q. Search warrant that's been mentioned previously?

9 A. Yes.

10 Q. Now, before you conduct your examination, do you take
11 certain steps to safeguard and control and share the
12 liability and integrity of the examination?

13 A. I do. I ensure my operating system in my computer is
14 up to date and I ensure whatever software I'm using to
15 extract the data is up to date as well.

16 Q. Why do you do that?

17 A. To ensure optimum efficiency of the device and the
18 software.

19 Q. Do you regularly update the software prior to your
20 examinations?

21 A. I check for updates and, if an update is needed, then
22 yes, I update it.

23 Q. Is it important to you in your examinations to be
24 accurate and reliable?

25 A. Very, yes.

1 Q. All those steps that you described, did you take all
2 those steps in this case?

3 A. Yes.

4 Q. Let's talk about the extraction itself. Are there
5 different types of extractions?

6 A. There is.

7 Q. And what are those different types?

8 A. File system and a logical extraction.

9 Q. What type of extraction did you perform in this case?

10 A. A logical.

11 Q. And tell us what logical extraction is.

12 A. It essentially grabs the file system of the device.

13 Q. What types of information is obtained during a logical
14 extraction?

15 A. Phone numbers, user data, emails, text messages.

16 Q. Photographs?

17 A. Yes.

18 Q. Okay. Let's look at some of the information derived
19 from that extraction. I'll show you what's been previously
20 admitted as Government's Exhibit 6. It's kind of small.
21 There's an exhibit book there next to you that might be
22 helpful to you.

23 A. I have to grab my glasses.

24 Q. Okay. Okay. So about half-way down the page there's
25 some references to the term "hash." What does that mean?

1 A. A hash is generated -- if you're comparing hash to
2 image of a device, essentially collecting ones and zeros.
3 And the hash is multiple types of actions but a hash is,
4 once a zero is ran through an algorithm prior to the
5 extraction and following the extraction to ensure the
6 integrity of the device, that no data has been changed
7 prior to the extraction.

8 Q. Okay. So is it -- is it a check on the front end and
9 on the back end?

10 A. That's correct.

11 Q. Okay. And did you perform hashing in this case?

12 A. I did.

13 Q. Okay.

14 MR. KUMMERFELD: And in fact, we could go to the
15 second page of that exhibit. Bottom line actually.

16 BY MR. KUMMERFELD:

17 Q. What is indicated there?

18 A. It said the image hashing was successful.

19 MR. KUMMERFELD: Let's go back to the first page,
20 Ms. McCullars.

21 BY MR. KUMMERFELD:

22 Q. This extraction information contained other information
23 about the device; is that correct?

24 A. It does.

25 Q. Does it include information about the brand or the

1 model of the device?

2 A. It does.

3 Q. What is the brand and model of the device?

4 A. Samsung Galaxy. Model was gulf 530 tango.

5 Q. I'm sorry?

6 A. The model number was gulf 530 tango.

7 Q. Okay. In the course of your examination, what type of
8 files did you locate?

9 A. Emails, access to certain websites, pictures,
10 communications.

11 Q. Information about applications?

12 A. Yes.

13 Q. Could you tell the jury generally about some of the
14 items you found, and specifically directing your attention
15 to some of the identifiers that you observed in your
16 examination?

17 A. Yes. Identified the name Charles Orange associated
18 with the device. The email address,
19 charlesorange173@gmail.com was also located in the device.
20 The phone number, 903-240-7100, was located on the device,
21 associated with the device. And the address for the
22 execution of the search warrant was conducted for was 431
23 Electra Street, Longview, Texas.

24 Q. In addition to those identifiers, you indicated also
25 pictures or image files. Is that correct?

1 A. That's correct.

2 Q. Would you like an opportunity to review some of those
3 pictures and files?

4 A. I did.

5 Q. How did they appear? What was the general nature of
6 some of those image files?

7 A. I observed approximately 387 suspected child sexual
8 exploitation material.

9 Q. In the form of images?

10 A. Yes.

11 Q. After completing your examination, what did you then do
12 with the device?

13 A. I repackaged it and then -- (indecipherable.)

14 Q. It's been maintained in custody since?

15 A. That's correct.

16 MR. KUMMERFELD: Pass the witness, Your Honor.

17 THE COURT: Cross-examination?

18 MR. MIMS: Yes, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. MIMS:

21 Q. Good morning, agent. My name is Bobby Mims and I
22 represent Charles Orange. We've never met?

23 A. No, sir.

24 Q. Never talked about this case at all, have we?

25 A. No.

1 Q. You did meet with one of our experts, though, didn't
2 you, Mr. Edwards, Chris Edwards?

3 A. I did not.

4 Q. You did not? Okay.

5 Were you -- did I understand you were actually on
6 the scene when the search warrant was executed the morning
7 of December 20, 2018?

8 A. That's correct.

9 Q. Okay. So you know where that location is?

10 A. Yes, sir.

11 Q. Physically out there?

12 A. I can't say that I know exactly where it is.

13 Q. All right. The evidence seized -- well, the devices
14 seized, were they all brought to you up in Dallas for
15 forensic analysis?

16 A. Yes. Once everything was collected it was eventually
17 brought to the lab --

18 Q. Would you tell the ladies and gentlemen of the jury
19 what devices other than the one there that you had
20 analyzed?

21 A. I obviously can't recall at this time. I need my
22 forensic examination to recall all the devices that were
23 analyzed.

24 Q. Okay. And I noticed you were looking at something.
25 Are you testifying from some notes up there to fresh your

1 memory?

2 A. (Indicating.)

3 MR. MIMS: Okay. Can I have a quick look at those
4 notes?

5 May I approach the witness?

6 MR. KUMMERFELD: Your Honor, I have no objection.
7 That's the exhibit notebook for the witness stand.

8 THE COURT: That's just the exhibits, Mr. Mims,
9 but you're welcome to look at it.

10 MR. MIMS: I'll take his word for it.

11 BY MR. MIMS:

12 Q. Now, in your whatever you've got up there, do you have
13 any custody receipts for seized property in evidence form?
14 The chain of custody form?

15 A. If I do, I don't know what to reference. Is it
16 possible it's in here?

17 MR. MIMS: May I approach the witness?

18 THE COURT: Yes, you may.

19 BY MR. MIMS:

20 Q. I'll show you real quick.

21 A. Okay.

22 Q. Did you have a look --

23 MR. MIMS: Are those just exhibits, counsel?

24 BY MR. MIMS:

25 Q. Have you ever seen that form before?

1 A. Yes, my signature is on it.

2 Q. As a matter of fact, it's the chain of custody form
3 where you say you took it, this device here, somewhere
4 around December 21st --

5 A. Yes.

6 Q. -- is that correct? Okay. And that would be a day of
7 or the next day after this phone was seized, correct?

8 A. Yes.

9 Q. Okay. And then it was turned back some months later in
10 May; is that correct?

11 A. That's correct.

12 Q. And during that time, these forensic analysis were run;
13 is that right?

14 A. Yes.

15 Q. Okay. Just -- every detail makes a difference in a
16 trial, but would you look and tell the jury what that
17 document says that device was seized from? What address?

18 A. Address: 304 Lake Lamond, 45, Longview.

19 Q. I couldn't hear you. I'm sorry. Can you repeat?

20 A. Piece from Charles Orange, 304 Lake Lamond, 45,
21 Longview, Texas.

22 Q. Lake Lamond? Is that the address where you were
23 executing the search warrant?

24 A. I don't recall. I don't believe so.

25 Q. So it was not?

1 A. I truly don't recall.

2 Q. It could be a clerical error or maybe you analyzed a
3 different device?

4 A. I'm not the property-seized specialist.

5 MR. MIMS: May I retrieve the document?

6 THE COURT: You may.

7 BY MR. MIMS:

8 Q. Do you also have a computer forensic examination
9 worksheet up there in your notes that you're looking at? I
10 don't think you do, because if it's just the exhibit list
11 you don't.

12 MR. MIMS: May I approach the witness, Your Honor?

13 THE COURT: You may.

14 BY MR. MIMS:

15 Q. Take a look at that. And while you're looking at that
16 document -- it's not in evidence or anything, but it's for
17 you to take a look at -- let me ask you something. When
18 you analyzed this Samsung phone up in Dallas apparently on
19 December 21, 2018, from wherever it comes from, was there a
20 notation that the time on the device was not accurate?

21 A. That's correct, yes.

22 Q. And tell the jury why, if anything, does that make a
23 difference?

24 A. Well, I can explain why the time is different, and
25 actually the time difference is because when you analyze

1 the device through Axiom, it gives it a UTC and that's
2 universal time --

3 Q. Let me stop you there. Universal time based on the old
4 Greenwich mean time, that's over in England, starts there
5 and goes back -- several hours, you know, back -- Daylight
6 Savings Time; is that correct?

7 A. That's correct.

8 Q. In December what would be the UTC deduction time, six
9 hours or five?

10 A. I don't recall.

11 Q. Okay.

12 A. It's six hours.

13 Q. It makes some difference, though, in whenever you
14 analyze when these alleged things were accessed? It'll
15 make a difference an hour or two one way or the other,
16 wouldn't it?

17 A. Can you repeat that question?

18 Q. Well, in other words, if somebody is testifying to a
19 jury that a device was accessed at a certain point in time,
20 making a calculation based on UTC, it would be important to
21 know if it was five hours or six hours deduction, wouldn't
22 it?

23 A. Well, the issue was that UTC was not -- I didn't assign
24 at the beginning of the extraction. I identified it
25 afterwards.

1 Q. Sure.

2 A. But when you go back -- when you go back in the Axiom,
3 when I produced the report, it was before the UTC. If you
4 can go -- if you identify the correct UTC, it is correct.

5 Q. All right. In the report that you have in front of you
6 there, it says -- or at least it appears to say that the
7 device was showing the date five days and some hours after
8 you had analyzed it?

9 A. Sir, when you put in the UTC, like I just stated, it is
10 correct.

11 Q. Yeah. So the phone didn't have a good clock on it is
12 what it amounts to?

13 A. No, that's actually not correct, sir. The UTC was not
14 assigned prior to the extraction, so when you go back into
15 the program and you assign the correct UTC, the time aligns
16 properly.

17 Q. Okay. What is the notation on there about the clock --
18 the device is approximately five days, six hours ahead of
19 the date of extraction, what -- what does that mean?

20 A. That means the UTC was not added prior to the
21 extraction.

22 Q. Okay. This is just something so we'll all know. These
23 devices have some sort of little lithium battery in them
24 that keeps the time and date current; is that correct, or
25 is this done off the internet?

1 A. I don't know that. That's not my field of expertise.

2 Q. You don't know that? Okay.

3 MR. MIMS: May I retrieve the --

4 THE COURT: You may.

5 BY MR. MIMS:

6 Q. As you sit here today, you do not know who used that
7 phone to download those images, do you?

8 A. To download the images?

9 Q. Or to access the images?

10 A. No.

11 Q. And because of that, they were not downloaded, were
12 they, to the phone?

13 A. Before they were extracted on the phone in data, which
14 was 1s and 0s, sir, that were found on the device.

15 Q. But they were on the device in some sort of hard drive
16 or some memory?

17 A. It would be on the device, yes, internal storage.

18 Q. Okay. Is there a difference between having it on the
19 phone and having a notation that was accessed a certain --
20 that would say that was accessed?

21 A. Yes, it's a very big difference because if it wasn't
22 located on the phone, there would not be --

23 Q. Access? Okay. All right.

24 And a hashtag, just so we know, what is a hashtag?

25 You said there's some kind of hash. What is that?

1 A. It's a number that is generated once the 1s and 0s are
2 run through an algorithm, it's a very unique number that
3 comes up and it's a hash, hash ID.

4 Q. Okay. For those of us that that are not as trained as
5 you are on this, what does that really mean, lay terms?

6 A. It's a very unique number that cannot be changed.

7 Q. Okay. And it's something you rely on?

8 A. Yes.

9 Q. Okay.

10 MR. MIMS: Pass the witness.

11 THE COURT: Redirect?

12 REDIRECT EXAMINATION

13 BY MR. KUMMERFELD:

14 Q. Agent, just a couple of followup questions.

15 Mr. Mims asked you a couple questions about a form
16 that's not in evidence, but the form that is a custody
17 form. The address on that form was printed on and you did
18 not write the address on there, correct?

19 A. No, I'm not the property specialist.

20 Q. And the address where you participated in the execution
21 of the search warrant before the device was seized was what
22 address?

23 A. 431 Electra Street, Longview, Texas.

24 Q. All right. And that's also, you mentioned earlier, one
25 of the identifiers that you found on the phone indicating

1 that address as well.

2 Mr. Mims asked you a question about whether or not
3 you know or knew that the defendant, Charles Orange, viewed
4 child pornography on that phone. You did say that
5 identifiers were downloaded on that phone; is that correct?

6 A. Yes.

7 Q. And it was your testimony that Charles Orange's
8 identifiers were on that phone?

9 A. Yes.

10 MR. KUMMERFELD: Pass the witness.

11 MR. MIMS: If I could have a minute, Judge.

12 THE COURT: Yes, sir.

13 MR. MIMS: Judge, I don't have any more questions,
14 subject to recall.

15 THE COURT: Okay. Very well.

16 Mr. Kummerfeld, the witness I think has completed
17 his testimony right now. Mr. Mims has asked that he be
18 subject to recall.

19 MR. KUMMERFELD: We'll instruct him appropriately.
20 May he be excused at this time?

21 THE COURT: May he be excused right now, Mr. Mims?

22 MR. MIMS: Sure.

23 THE COURT: Very well. You may step down.

24 Mr. Kummerfeld, who is the Government's next
25 witness?

1 MR. KUMMERFELD: The Government's next witness is
2 the expert witness Chris Taylor. I expect his testimony
3 will be rather lengthy.

4 THE COURT: Okay. Would now be an appropriate
5 time to break for lunch?

6 MR. KUMMERFELD: Yes, sir.

7 THE COURT: Let's do that.

8 Ladies and gentlemen of the jury, we're going to
9 break for lunch. Your lunch is here in the jury room. As
10 a reminder, don't discuss the case or any of the testimony
11 that you have heard so far until all the evidence has been
12 submitted to you and I have instructed you on the law.

13 So have a nice lunch and we'll see you back in
14 about an hour.

15 (Jurors exit.)

16 THE COURT: Okay. Anything we need to discuss?

17 MR. KUMMERFELD: No, Your Honor.

18 THE COURT: Anything we need to discuss, Mr. Mims?

19 MR. MIMS: (Nonverbal response.)

20 THE COURT: We'll be in recess.

21 (Recessed.)

22 THE COURT: Let's go on the record.

23 The requested cautionary instruction I should give
24 to the jury prior to the display of the images that are the
25 subject of this matter with respect to the testimony of the

1 next witness, Detective Taylor with the Longview Police
2 Department, the attorneys and I have visited and it's the
3 Court's intention by agreement of the parties that I will
4 just issue a brief caution prior to the display of those
5 images to the jury, that the images they are about to see
6 may contain potentially sexually explicit conduct and they
7 are one piece of evidence for them to consider in this
8 matter and their display will be brief.

9 Is that agreeable to the parties, Mr. Mims?

10 MR. MIMS: Yes, Your Honor.

11 THE COURT: Would you like that caution?

12 MR. MIMS: Yes, Your Honor.

13 THE COURT: All right. Mr. Kummerfeld, no
14 objection?

15 MR. KUMMERFELD: No objection.

16 THE COURT: All right. Anything else we need to
17 resolve before we --

18 MR. MIMS: Will the caution come after we make our
19 objections on the admissibility?

20 MR. KUMMERFELD: Yeah -- (inaudible) -- and we can
21 object to that.

22 THE COURT: Yeah, we'll rule on the admissibility,
23 of course, before we get to that.

24 All right. Let's have the jury brought in,
25 please.

1 (Jury enters.)

2 THE COURT: Please be seated. Okay. Welcome
3 back, ladies and gentlemen, from lunch.

4 At this time, the Government may call its next
5 witness.

6 MR. KUMMERFELD: Your Honor, the Government calls
7 Detective Chris Taylor from the Longview Police Department.

8 (Witness sworn.)

9 THE COURT: You may take a seat over there in the
10 jury box.

11 You may proceed.

12 CHRIS TAYLOR, GOVERNMENT'S WITNESS

13 DIRECT EXAMINATION

14 BY MR. KUMMERFELD:

15 Q. Good afternoon, Detective Taylor. How are you, sir?

16 A. Good. How are you?

17 Q. Doing well. Would you introduce yourself to the ladies
18 and gentlemen of --

19 A. Detective Chris Taylor.

20 Q. Which department do you work for?

21 A. For the Longview Police Department.

22 Q. How are you employed with the Longview Police
23 Department?

24 A. I'm sorry, say again.

25 Q. In what role are you employed by them?

1 A. The Criminal Investigation Division. Within that, the
2 Cyberlab as a computer forensic examiner.

3 Q. How long have you been with the Longview Police
4 Department?

5 A. In April will be 19 years, about 18 and a half years
6 now.

7 Q. You mentioned Cyberlab. What is your role in Cyberlab?

8 A. So the Cyberlab at Longview PD consists of three of us,
9 myself being the most senior. So within that role, I
10 oversee the day-to-day operations of the lab, which would
11 consist of incoming cases, whether from Longview PD or
12 other outside agencies. Once the case has been submitted,
13 maintaining the integrity and security of the evidence,
14 along with actual processing devices for evidence.

15 Q. Does your department partner with other law enforcement
16 agencies in the region?

17 A. Yes, sir.

18 Q. How does it do so?

19 A. We're also assigned to the ICAC Task Force out of
20 Dallas. Within the task force, it opens our lab up for
21 other agencies to submit evidence. We can also respond out
22 to cities and assist with a search warrant, warrants that
23 pertain to digital evidence.

24 Q. What is ICAC mean?

25 A. Internet Crimes Against Children.

1 Q. All right. What is a forensic examiner?

2 A. Someone who has special training, uses special tools
3 that allows us to acquire, preserve, analyze important
4 digital evidence in a forensically sound manner that can be
5 duplicated and used in standard methodology.

6 Q. How long have you been working as a forensic examiner?

7 A. Next month will be eight years. I transferred over in
8 October of 2008 -- 2012.

9 Q. So prior to being a forensic examiner, what were your
10 other roles?

11 A. I started out my career in 1998 as a jailer with the
12 Gregg County Jail, which is where I worked until 2002.
13 Became employed with Longview Police Department and from
14 2002 to 2008 I worked as a patrol officer. And then in
15 2008 I transferred over to the Criminal Investigation
16 Division as a crime scene detective and maintained that
17 from 2008 to 2012, which is when I transferred over to the
18 Cyberlab and still currently hold that position.

19 Q. Detective Taylor, what's the difference between a
20 forensic examiner trainee and a certified forensic
21 examiner?

22 A. To become a forensic examiner, you first have to attend
23 some basic classes, classes that will allow you to be
24 familiar and learn the tools. These are the guys that --
25 what we say as a trainee, the guys that have successfully

1 completed that but not yet obtained certifications. So
2 myself, being a computer forensic examiner, I do hold
3 certifications and -- and along with the standard basic and
4 some advanced classes.

5 Q. Are you certified?

6 A. Yes, I am.

7 Q. How many certifications do you hold?

8 A. Right now holding three certifications.

9 Q. Did you receive specialized training in computer
10 forensics?

11 A. Yes, I have.

12 Q. And who have you received that from? Just name some of
13 them.

14 A. Yeah, some of them is IACIS, which is International
15 Association of Computer Investigative Specialists. The
16 NW3C, Cellebrite, Magnet Forensics, Geocell, some classes
17 for DOJ, Department of Justice.

18 Q. Approximately how many hours do you have of training in
19 computer forensics?

20 A. I have somewhere around 900 hours of classroom
21 instructor-led training, along with about 370 certification
22 training for testing.

23 Q. Do you participate in other training and experience
24 involving computer forensics with other law enforcement
25 agencies?

1 A. Yes, I have.

2 Q. And which agencies are those?

3 A. The Secret Service is the main one. That's the NCFI,
4 National Center Forensic Investigation.

5 Q. What are your certifications?

6 A. I hold CLFF, which is Cellebrite Level Forensic
7 Fundamentals; ECO, Cellebrite Certified Officer; and CBE,
8 Certified Blacklight Examiner.

9 Q. Have you had the opportunity to lecture before?

10 A. Yes, I have.

11 Q. In what context have you lectured?

12 A. So I've trained other agencies in basic collection of
13 digital evidence, how to handle digital evidence, and then
14 public awareness.

15 Q. And have you testified as an expert witness before?

16 A. Yes, I have.

17 Q. About how many times?

18 A. About 20 times.

19 Q. And what kind of testimony did you offer?

20 A. In those 20 that I referred to, it's going to be for
21 computer forensics in the investigation of phones and
22 computers.

23 Q. And were those in state court or federal court?

24 A. Both.

25 Q. And prior to your testimony as an expert on those

1 occasions that you mentioned in computer forensics, did you
2 have any opportunity to testify as an expert in other
3 areas?

4 A. Yes, I have.

5 Q. What areas are those in?

6 A. When I was assigned to Crime Scene, I've been sworn in
7 several times as an expert in general crime scene work,
8 blood stain pattern analysis, and fingerprint expert.

9 Q. Okay. But you're here today to testify as an expert in
10 computers and cellphone forensics; is that correct?

11 A. That's correct.

12 MR. KUMMERFELD: Your Honor, at this time the
13 Government would offer Chris Taylor as an expert in
14 computer forensic and forensic data extraction.

15 THE COURT: Any objection?

16 MR. MIMS: May I ask voir dire?

17 THE COURT: You may, yes.

18 BY MR. MIMS:

19 Q. Mr. Taylor, we know each other from another trial.

20 A. I think we do.

21 Q. What this is about is to not cross-examine you but to
22 voir dire you how this evidence came before us, okay?

23 A. Yes, sir.

24 Q. Did you do the extraction yourself of this -- of this
25 evidence you're about to talk about?

1 A. No, sir.

2 Q. Who did that?

3 A. Agent Chris --

4 Q. Would that be --

5 A. -- Hunt.

6 Q. -- Agent Chris Hunt?

7 A. I'm sorry?

8 Q. Agent Chris Hunt?

9 A. Yes, sir, I believe that's correct.

10 Q. He is in Dallas?

11 A. Yes, sir.

12 Q. Okay. Are you testifying today based on the extraction
13 evidence Chris Hunt provided?

14 A. Yes, sir.

15 Q. Okay. And you did not do the analysis yourself?

16 A. Correction on that. You said analysis.

17 Q. Sorry. You didn't extract yourself?

18 A. I did not do the extraction, but I did do the analysis.

19 Q. And the fact that it's brought here today, is it for
20 the purposes of providing testimony for this jury?

21 A. I believe so, yes.

22 Q. It's generated for testimonial purposes; is that
23 correct, to present evidence in court?

24 A. That's my understanding, yes.

25 Q. Okay. And you did not do the analysis yourself?

1 A. I did do the analysis.

2 Q. You didn't do the extraction yourself?

3 A. That's correct.

4 Q. And you're testifying off the work of another analyst
5 of or expert in Dallas, Agent Chris Hunt?

6 A. That's correct.

7 MR. MIMS: All right.

8 Judge, we would make an objection, Crawford v.
9 Washington, 541 U.S. 36 2'05, Melendez-Diaz -- I've got the
10 citation here, Melendez-Diaz versus Massachusetts, 557
11 U.S.A. 13 --

12 THE COURT: Could you go to the microphone.

13 MR. MIMS: Sorry. Judge. Our objection goes to
14 confrontation. It has to do with the Crawford case,
15 Crawford v. Washington, 541 US 2d, 36, 2004, everybody
16 knows the case.

17 The other case is the Melendez-Dias v.
18 Massachusetts and I'll get you the cite in the minute, but
19 my understanding of the case law is that the actual analyst
20 or the person that generated the evidence for purposes of
21 testimonial evidence must be -- must be dispositive of the
22 evidence. Agent Taylor is not that agent and we would
23 object to it as improper credit, a lack of confrontation --
24 violation of confrontation clause, 6th Amendment. So we
25 would object at this time.

1 THE COURT: Mr. Kummerfeld or Ms. Miller.

2 MR. KUMMERFELD: Your Honor, I'll respond.

3 Your Honor, this expert was noticed in the
4 appropriate time and the appropriate manner. There was no
5 objection from the defense as is typically required under
6 the law.

7 However, with respect to the Crawford objection
8 and the Melendez-Diaz objection, it's in opposite. The
9 agent that did the extraction was here, he just testified,
10 Christopher Hunt. He can be cross-examined as to the
11 nature of his extraction, whether or not it was conducted
12 appropriately and reliable manner. And --

13 THE COURT: Let me ask you, Mr. Mims. Did you ask
14 any questions of Mr. Hunt about the extraction process?

15 MR. MIMS: I don't recall, Your Honor. I don't
16 recall. I don't know that I did.

17 THE COURT: Okay. Well, he did step down subject
18 to recall.

19 MR. KUMMERFELD: And I asked him many questions
20 about the extraction process and what he went through.
21 This witness is here as an expert to testify his expert
22 opinion about his analysis. So just to be clear, he is not
23 testifying about the extraction. He is testifying about
24 the analysis of the materials that were extracted.

25 THE COURT: Very well. I'm going to overrule the

1 -- allow the testimony subject to the objection. I'll take
2 a look at cases, Mr. Mims, that you have cited, but it's my
3 recollection that the previous witness was not
4 cross-examined by you at all on the process of the
5 extraction. And, you know, the record will stand for what
6 it is and he did step down subject to recall.

7 So if you have any further questions about the
8 process of the extraction, not the analysis, which is what
9 this witness is testifying about, but about the extraction,
10 you certainly can bring those up if you think it's, you
11 know, appropriate to do so on recall.

12 MR. MIMS: Very well. Just to finish my citation,
13 we're relying on *Melendez-Diaz v. Massachusetts*, 557 U.S.
14 305.

15 THE COURT: Thank you, Mr. Mims.

16 All right. You may proceed.

17 MR. KUMMERFELD: Your Honor, at this time the
18 Government would offer Chris Taylor as an expert in
19 computer forensics and computer data extraction.

20 THE COURT: Subject to the objection that Mr. Mims
21 has made, the Court will allow you to proceed.

22 MR. KUMMERFELD: Thank you, Your Honor.

23 BY MR. KUMMERFELD:

24 Q. All right. Detective Taylor, will you tell the ladies
25 and gentlemen of the jury what a forensic examination is in

1 a general way and then go into more detail?

2 A. Yes. It's the acquiring, the preserving, analyzing,
3 reporting digital evidence in a forensically sound manner
4 using the standard methodology.

5 Q. Can you describe what happens during a computer
6 forensics examination?

7 A. Yes. Depending on which device or which electronic
8 devices actually being extracted from depends on which
9 steps we take. But generally speaking, the device is
10 connected to the acquisition computer, then I use the
11 software of my choosing, which will allow my acquisition
12 computer to talk to the device and vice-versa, at which
13 point the extraction will begin. The extraction is going
14 to be pulling the data from the device and then preserving
15 it on the acquisition computer to be analyzed after that.

16 Q. All right. What types of computer tools do you use?

17 A. So the main three is going to be Magnet Forensics
18 Axiom, Cellebrite 4PC and Cellebrite U Touch -- or Touch2.
19 And then, depending on which device it is, I'll also use an
20 FTK Imager.

21 Q. Detective Taylor, what is hashing?

22 A. Hashing is an algorithm that creates a fixed link
23 string and sometimes referred to -- or commonly referred to
24 as a fingerprint of a file, meaning that that hash value is
25 unique to that file and that file only.

1 Q. Okay. What is the purpose or significance of that?

2 A. The hash value allows us to validate and document the
3 fact that we do have a complete and true copy of that file
4 for that data set and that no changes or alterations have
5 occurred.

6 Q. Is the process you just described the accepted
7 procedure in the field of computer forensic examination?

8 A. Yes, it is.

9 Q. That's the procedure conducted by trained forensic
10 examiners?

11 A. That's correct.

12 Q. At some point did you have the opportunity to perform a
13 forensic analysis related to this investigation, the
14 investigation of Charles Orange?

15 A. Yes, I did.

16 Q. And did you receive an item into evidence to conduct an
17 analysis?

18 A. One more time.

19 Q. Did you receive an item in evidence to conduct an
20 analysis on?

21 A. Yes, I did.

22 Q. When did you receive that?

23 A. May 27th of 2020.

24 Q. What did you receive?

25 A. A Samsung Galaxy phone.

1 Q. You did receive a copy of the forensic extraction; is
2 that correct?

3 A. Yes, and also a document of the forensics.

4 Q. So in furtherance of your forensic analysis, what did
5 you review?

6 A. So, what -- on the forensic extraction, I reviewed it
7 and then analyzed it using Magnet Forensic Axiom.

8 Q. Okay. You were previously involved in a limited
9 capacity in this investigation as well; is that right?

10 A. That's correct.

11 Q. What was that -- the capacity you were involved in
12 previously?

13 A. I assisted Homeland Security with the execution of the
14 search warrant.

15 Q. Where was that?

16 A. 431 Electra Street, Longview, Texas.

17 Q. So you were present with the Homeland Security agent
18 when they executed the search warrant?

19 A. My primary role was going to assist with the extraction
20 of devices on scene, but in this particular instance I was
21 having issues with the acquisition computer and never was
22 able to extract any devices.

23 Q. So you primarily had some kind of backup role to the
24 local agency?

25 A. That's correct.

1 Q. So this -- when you received that item of evidence you
2 testified on May 27th of '20, the extraction, you then
3 performed the analysis. That's the first time you
4 substantively began to review the evidence in this case; is
5 that fair?

6 A. Yes, that's correct.

7 Q. Now, before you conduct analysis, do you use any
8 safeguards to make sure that your analysis is reliable?

9 A. Yes, I do.

10 Q. What do you use?

11 A. So I ensure that the forensic sweep that I'm using, in
12 this case Magnet Forensic Axiom, is up to date with the
13 latest version, and also confirm that the hash value is
14 correct and has not changed.

15 Q. Did you do that in this case?

16 A. Yes, I did.

17 Q. You had the opportunity to verify the hash values?

18 A. Yes, I did.

19 Q. How did you do that?

20 A. At the end Magnet Forensic has the hashing tool, and as
21 it's being loaded up, it'll recalculate the hash and
22 provide the original hash to the new hash.

23 Q. All right. I want to turn to some specific questions
24 about your analysis, starting with the information you
25 received about the extraction. I'm going to show you

1 what's been marked and admitted as Government's Exhibit 6.
2 Agent Taylor, there's a notebook to your right that has the
3 exhibits printed if that's helpful to you.

4 This document, does it contain information about
5 the brand and model of the device?

6 A. Yes, it does.

7 Q. Okay. And what's the brand and model indicated here?

8 A. So it's a Samsung Galaxy Grand Prime SM-G530T.

9 Q. That's the model number. Okay. And you mentioned the
10 hash. Is there on that page -- and we can expand it once
11 you tell us what you're looking at -- is that hash
12 indicated there that you were testifying about?

13 A. Yes, that's correct.

14 Q. Whereabouts on that page is it?

15 A. Yeah, so it's -- the first one of interest is going to
16 be there at segment 1. It'll be the relevant segment.

17 Q. It says relevant segment. Is this the area you're
18 referring to, Detective Taylor?

19 A. Yes, that's correct.

20 Q. Okay. What's of significance here to you?

21 A. This right here is giving us two different hash sets,
22 an NV5 and SHA-1, which is the two different standard hash
23 values that we use. It covers the hash value. Like I said
24 earlier, the hash is unique to that file, and by "unique
25 to," we can be assured there's no changes and that it is a

1 complete and true copy.

2 Q. Now, you went on to conduct an analysis of the
3 extraction document. What types of materials generally did
4 you identify? What types of files?

5 A. So this case, there were videos and image files, user
6 information, internet history, application installs.

7 Q. Okay. Could you tell the jury generally about some
8 items that you found? And I'll turn your attention to
9 identifiers on the phone. Are there identifiers on the
10 phone that you see?

11 A. Yes. There's a Charles Orange account that had some
12 initial information within this user account, such as an
13 email account of charlesorange173@gmail.com. There's a
14 phone number associated with it that ends in 7100, and
15 address of 431 Electra Street, Longview, Texas, 75602.

16 Q. Were there also image files?

17 A. Yes, there were.

18 Q. In your training and experience, have you had the
19 opportunity to view images of child exploitation?

20 A. Yes, I have.

21 Q. And are you familiar with the federal definition?

22 A. Yes, I am.

23 Q. Okay. And in this case, in your forensic analysis of
24 this extraction, did you identify images that you believe
25 to be child pornography images?

1 A. Yes, I did.

2 Q. Approximately how many of them did you identify?

3 A. About 130.

4 Q. About 130 unique images?

5 A. That's correct.

6 Q. Okay. What was the general nature of those images?

7 A. They were younger boys, prepubescent, with genitals
8 exposed with some sexual contact.

9 MR. KUMMERFELD: Your Honor, may I approach the
10 witness?

11 THE COURT: You may.

12 BY MR. KUMMERFELD:

13 Q. Detective Taylor, I'm showing you what's been marked as
14 Government's Exhibit 7A. Would you take a look at that
15 and, of course, you're welcome to take it out of the
16 sleeve.

17 What is that?

18 A. Yes, it is a CD.

19 Q. Do you recognize that CD?

20 A. Yes, I do.

21 Q. Do you know what that CD contains?

22 A. It contains some images of the child porn that was
23 found on the device.

24 Q. Have those images been altered or changed in any way
25 from the time that you viewed them in your analysis?

1 A. No, they have not.

2 Q. Did you initial that disc indicating that you viewed
3 this item of evidence and that those images were among the
4 images located during the process?

5 A. Yes, I did.

6 MR. KUMMERFELD: Your Honor, at this time the
7 Government would offer Government's Exhibit 7A.

8 THE COURT: Mr. Mims.

9 MR. MIMS: We would just renew our objection, Your
10 Honor.

11 THE COURT: Okay. Anything further about that you
12 want to discuss?

13 MR. MIMS: No.

14 THE COURT: Okay. All right.

15 Mr. Kummerfeld, is it your intention now to
16 publish the images in Exhibit 7A?

17 MR. KUMMERFELD: It is, Your Honor.

18 THE COURT: All right. The -- subject to the
19 objection, the images will be admitted as Exhibit 7A.

20 I do want to say a word very briefly,
21 Mr. Kummerfeld.

22 Ladies and gentlemen of the jury, the images that
23 are contained in the exhibit you are about to see are a
24 series of images that contain what is potentially sexually
25 explicit conduct. They are but one piece of the evidence

1 that will be introduced in this trial, and I will give you
2 further instructions about how to weigh all of that
3 evidence at the conclusion of all of the testimony and the
4 admission of the -- of the exhibits before you begin your
5 deliberations. As I say, these are one piece of evidence
6 in the trial. The display of the images will be relatively
7 brief.

8 Hold on, Mr. Kummerfeld.

9 You may proceed.

10 BY MR. KUMMERFELD:

11 Q. Detective Taylor, on the first --

12 MR. KUMMERFELD: And I'll ask Ms. McCullars to
13 publish an exhibit, but I'm going to refer to it just for
14 our reference as we're talking about the same image.

15 BY MR. KUMMERFELD:

16 Q. This image that I'm referring to is an image ending in
17 4686.jpg.

18 A. Yes, sir.

19 Q. Okay.

20 MR. KUMMERFELD: I'm going to ask Ms. McCullars to
21 publish that image -- I apologize. It's on the disc.

22 Okay. Ms. McCullars, would you pull that image
23 up, 4686.

24 BY MR. KUMMERFELD:

25 Q. Agent Taylor, would you please describe this image for

1 purposes of the record?

2 A. This is a young male, probably about ten years old,
3 with his hands holding an erected male's penis performing
4 oral sex.

5 Q. Okay. We're going to have to put that back up in a
6 moment because I think we had some difficulties publishing
7 it, but we'll move on to another topic while we set that
8 up.

9 I'm going to ask you to look at what's been
10 previously exhibited -- admitted as Government's Exhibit

11 7B. You have a copy of it there in your notebook, I
12 believe.

13 A. 7B? Yes, that's correct.

14 Q. And this -- this document, this is in order that we're
15 going to discuss. This contains image details from the
16 forensic analysis pertaining to the image that we just
17 showed and some other images that were shown subsequent; is
18 that correct?

19 A. That's correct.

20 Q. And the information contained in this document, does it
21 accurately represent the data in the image details from the
22 forensic analysis?

23 A. Yes, it does.

24 Q. Has it been altered or changed in any way?

25 A. It has not.

1 Q. Agent Taylor, what is metadata?

2 A. So metadata is simply put as data or data. What that
3 means is, let's say you have an image, a thumbnail image.
4 Within that photo is buried information that we refer to as
5 metadata, containing information sometimes like timestamps
6 and geolocation, or maybe even what camera model was used.
7 At the end of the day, it's data about data, data about the
8 photograph.

9 Q. Okay. So we're going to talk about some data about
10 data in the context of these images; is that right?

11 A. That's correct.

12 Q. All right. Let's first turn to Exhibit 7B 001.

13 MR. KUMMERFELD: 7B 001, please.

14 BY MR. KUMMERFELD:

15 Q. All right.

16 MR. KUMMERFELD: Ms. McCullars, if you would put
17 -- Your Honor, may I have a moment?

18 THE COURT: Yes.

19 (Discussion held off the record.)

20 MR. KUMMERFELD: Okay. 7B 001, please.

21 BY MR. KUMMERFELD:

22 Q. All right. It's still kind of small for my eyes but
23 we'll zoom in.

24 Agent Taylor, why don't we do it this way --

25 MR. KUMMERFELD: Why don't we take the top half of

1 that and expand it, Ms. McCullars. That's better.

2 BY MR. KUMMERFELD:

3 Q. Agent Taylor, is there a file name indicated here?

4 A. Yes, that's correct.

5 Q. Okay. Why don't you read that one out for purposes of
6 the record?

7 A. Yes. This file name is 1545312204686.jpg.

8 Q. Is this the file name that we just saw and you just
9 described?

10 A. Yes, that's correct.

11 Q. All right. What date is indicated there, the last
12 modified date?

13 A. 12/20 of 2018 at 0723, which is a.m.

14 Q. Okay. What type of file is it?

15 A. It's a jpg.

16 Q. What is a jpg?

17 A. It's going to be a compressed image file, probably one
18 of the most common image files that you will see.

19 Q. Agent Taylor, what is a thumbnail image?

20 A. A thumbnail is going to refer to a smaller-sized,
21 abridged version of the original picture. What that means
22 is -- we see them all the time, so let's say that you go to
23 your -- your phone and you go to some pictures that you
24 have taken in your gallery. And if you go to the option
25 that shows rows and columns of pictures, the pictures that

1 you have taken and sent to your computer or your phone,
2 those are going to be the thumbnails, the smaller, regular
3 versions of the original picture. If you want to look at
4 the original picture from that setting, simply tap on the
5 email -- I mean, simply tap on the thumbnail and it'll then
6 render a full-size image on the string.

7 Q. How is a thumbnail generated?

8 A. It's created at the operating level. When you take a
9 picture, it's saved to the device. At that point the
10 operating system would then create the thumbnails for that
11 image.

12 Q. Okay. So a thumbnail is not created until an image is
13 actually saved?

14 A. That's correct.

15 Q. Okay. Is it -- can it be created from simply viewing
16 an image on the internet?

17 A. No, not a thumbnail.

18 Q. What about from an internet pop-up?

19 A. Nope.

20 Q. What about from a spam email?

21 A. No.

22 Q. Is there a corresponding photo on the device that you
23 observed in your analysis that depicted the same conduct
24 that you just described and we just observed?

25 A. Yes, there is.

1 Q. Okay.

2 MR. KUMMERFELD: Ms. McCullars, I'll ask you to
3 turn to 7B 002.

4 BY MR. KUMMERFELD:

5 Q. Is this another image file?

6 A. That's correct, yes.

7 Q. This is a corresponding image to the one that we just
8 saw before?

9 A. That's correct.

10 Q. Okay. Does it show a picture of the same conduct?

11 A. Yes, it does.

12 Q. Would you tell the file name here?

13 A. Yes. This is file name is DSCN0244.jpg.

14 Q. Okay. And what is the last modified date and time
15 here?

16 A. 12/20/2018 at 0059, which is going to be 12:59 a.m.

17 Q. On December 20th? On December the 20th?

18 A. Yes, that's correct. December 20th.

19 Q. All right. Further down at the bottom, there's a -- an
20 entry that says Source. What is this -- what does this
21 information tell you?

22 A. So the source is going to be where the file is saved on
23 the operating system.

24 Q. Where was this file saved? What folders -- folder is
25 it in?

1 A. About midway through is where it starts, the
2 shared/0/pictures/Thaiboys/ and then that's the name of the
3 file.

4 Q. Okay. So --

5 MR. KUMMERFELD: Could you expand that,
6 Ms. McCullars, so we can see it better? I may be the only
7 one struggling with it.

8 BY MR. KUMMERFELD:

9 Q. Where it says Source, is this what you're referring to,
10 Agent Taylor, where it says pictures/Thaiboys, and then the
11 image file?

12 A. That is correct, yes.

13 Q. Is this the folder that that file was located in,
14 according to your analysis?

15 A. Yes, it is.

16 Q. All right. I want to show you another image from
17 Exhibit 7A. This is an image ending in 4791.jpg. Okay.

18 MR. KUMMERFELD: You can take that down,
19 Ms. McCullars.

20 BY MR. KUMMERFELD:

21 Q. Agent, can you describe that image for the folks on the
22 jury?

23 A. Yes. That's going to be a young boy who has his
24 genitals exposed, appears to be prepubescent, with his
25 hands holding an erect adult male's penis performing oral

1 sex.

2 MR. KUMMERFELD: 7B 003, please.

3 BY MR. KUMMERFELD:

4 Q. Is this metadata about that particular image?

5 A. Yes, it is.

6 MR. KUMMERFELD: Can you set it up, Ms. McCullars?

7 BY MR. KUMMERFELD:

8 Q. And Agent Taylor, would you tell the jury what the file
9 name is on that particular file that we just observed and
10 you just described?

11 A. Yes. This is 1545312204791.jpg.

12 Q. What is the date -- last modified date and time for
13 this particular image?

14 A. 12/20/2018 at 0723, which is a.m.

15 Q. In your analysis, were you able to identify another
16 corresponding image of one particular to the image we just
17 saw?

18 A. Yes, I did.

19 MR. KUMMERFELD: Ms. McCullars, can we look at 7B
20 004.

21 BY MR. KUMMERFELD:

22 Q. Agent Taylor, is this message, the metadata described
23 here, is that the corresponding image that you just
24 described?

25 A. Yes, it is.

1 Q. And could you tell the jury about what this file name
2 is?

3 A. DSCN0251.jpg.

4 Q. What was the last modified date and time for this
5 particular image?

6 A. 12/20/2018 at 0059, which is, again, a.m.

7 Q. Okay. If we could look a little further down the page
8 again to where it says Source, what folder is this
9 indicating it was saved in?

10 A. Also would be in that shared/0/pictures/Thaiboys.

11 Q. Okay. And maybe just a question to clarify, this is a
12 folder that's resident on the device itself; is that
13 correct?

14 A. That's correct.

15 Q. It's not in the cloud storage or something like that?

16 A. No. In fact, it resides on the phone and the backslash
17 is going to represent another subfolder. So if you imagine
18 -- if you double click on the shared folder, it'll open up.
19 And then inside that shared folder will be another
20 subfolder called 0, and you double click on that and
21 another subfolder called Pictures and so on.

22 Q. All right. Next we're going to observe another image
23 that you located in your analysis. This one ends in
24 7962.jpg.

25 Agent Taylor, would you please describe, for

1 purposes of the record, the image that was just projected?

2 A. Yes. It's going to be a prepubescent boy laying on his
3 back, prone, with the erect adult penis penetrating his
4 anus.

5 MR. KUMMERFELD: Ms. McCullars, go to 7B 005,
6 please.

7 BY MR. KUMMERFELD:

8 Q. Does this page show the metadata file details for the
9 image that we just showed and you just described?

10 A. Yes, it does.

11 Q. What is the file name associated with that image that
12 you just observed?

13 A. 1545312197962.jpg.

14 Q. What is the last modified date and time?

15 A. 12/20/2018 at 0723, which is a.m.

16 Q. In your analysis, were you able to identify a
17 corresponding folder on the device depicting the same
18 conduct that you just described and we just observed?

19 A. Yes, I did.

20 MR. KUMMERFELD: 7B 006, please.

21 BY MR. KUMMERFELD:

22 Q. Does this contain the file details of that
23 corresponding file?

24 A. Yes, it does.

25 Q. And what file is this?

1 A. It's DSCN0102.jpg.

2 Q. What is the last modified date and time of this
3 particular image file?

4 A. 12/20/2018 at 0059, which is a.m.

5 Q. And if we scroll down a little further and take a look
6 at the source folder, what source folder do you observe
7 there?

8 A. The same as the previous, the Shared, the 0, Pictures,
9 Thai Boys.

10 Q. All right. Next we'll show you another image from the
11 Exhibit 7A. This is the image ending in 3082.jpg.

12 Okay. Agent, would you describe that image that
13 we just observed for purposes of the record?

14 A. It's another prepubescent boy sitting on a half wall
15 outside with his genitals exposed.

16 MR. KUMMERFELD: Exhibit 7B 007, please.

17 BY MR. KUMMERFELD:

18 Q. Is this the metadata on that particular image we just
19 observed and you just described?

20 A. Yes, it is.

21 Q. Would you tell the jury the file name of this
22 particular image we just saw?

23 A. 1545312193082.jpg.

24 Q. Okay. What is the last modified date and time?

25 A. 12/20/2018 at 07:23 a.m.

1 Q. Were you able to identify a corresponding photo on the
2 device that -- that depicted the same conduct as we just
3 saw?

4 A. Yes, I did.

5 Q. All right.

6 MR. KUMMERFELD: Exhibit 7B 008, please.

7 BY MR. KUMMERFELD:

8 Q. What is the file name of this image?

9 A. It's going to be IMG_20181218_233518.jpg.

10 Q. Okay. What is the last modified date and time of this
11 image?

12 A. 12/18/2018 at 2335, which is 11:35 p.m.

13 Q. And if you look an the source folder, what do you
14 observe in the source folder?

15 A. This one is going to reside in a different folder,
16 starting with Shared/O/Photo Editor.

17 Q. Okay. What is Photo Editor?

18 A. Photo Editor is an app that's been installed on the
19 device.

20 Q. Did you observe if that app was installed on the
21 device?

22 A. It is.

23 Q. Is this folder different from the other folder, the
24 Pictures/Thaiboys?

25 A. Yes, it is.

1 Q. All right. The last image that we showed from
2 Exhibit 7A, this is the image beginning in 0022.

3 MR. KUMMERFELD: Okay. You can take that down.

4 BY MR. KUMMERFELD:

5 Q. Agent Taylor, would you please describe this image,
6 please?

7 A. It's an underage prepubescent male sitting on a chair
8 with his legs spread and his genitals exposed.

9 MR. KUMMERFELD: If we can go to 7B 009.

10 BY MR. KUMMERFELD:

11 Q. Okay. Is this metadata about the image we just
12 observed?

13 A. It is.

14 Q. What's the file name?

15 A. DSCN0022.jpg.

16 Q. What is the last modified date and time of this image?

17 A. 12/20/2018 at 1:04 in the morning, a.m.

18 Q. Is that local time in Longview, Texas?

19 A. That's correct.

20 Q. If you look down further to the source folder, where
21 did this imagery reside?

22 A. This one starts with Shared/0/Pictures/Thaiboys.

23 Q. Okay. And did you identify a corresponding thumbnail
24 on the device that depicted the same conduct we just
25 observed and you just described here?

1 A. Yes, I did.

2 Q. In addition to the images that we've just seen and that
3 you've described, as well as the corresponding images, were
4 there also images -- other images of child pornography?

5 A. Yes, there were.

6 Q. Were some of those images images of clothed children?

7 A. Yes, they were.

8 Q. And based on your review and your analysis of those
9 images, were you able to make some determinations about the
10 general timeframe of those images?

11 A. Yes, I was.

12 Q. What is the timeframe?

13 A. Generally speaking, December of 2018, with -- a few of
14 which that I know for sure are going to be December 19,
15 2018.

16 Q. Did some of the images contain latitude and longitude
17 coordinates?

18 A. They did.

19 Q. What are latitude and longitude coordinates?

20 A. So they're going to be for a GPS fixed location based
21 at where you're at on the globe. It's the lateral and
22 vertical lines that separate the globe into different
23 sections, and within that would be your GPS location.

24 Q. In your experience, have you observed in some cases
25 that image files contain latitude and longitude

1 coordinates?

2 A. Yes.

3 Q. All right. I'm going to show you what's been
4 previously admitted as Government's Exhibit 8.

5 MR. KUMMERFELD: And we'll start with page 8004,
6 please.

7 I misspoke, Your Honor. 8 is not admitted. I'll
8 ask the agent a few questions about that.

9 THE COURT: That will be fine.

10 BY MR. KUMMERFELD:

11 Q. I'm sorry. I misspoke, Agent Taylor.

12 Agent Taylor, take a look at your notebook there
13 for a moment and review the pages identified in Exhibit 8.

14 A. Okay.

15 Q. Okay. There were four images indicated there?

16 A. Yes, sir.

17 Q. Are those images that you observed in your analysis of
18 the forensic extraction?

19 A. That's correct.

20 Q. That resided on the device in the extraction?

21 A. Yes, they do.

22 Q. There is a rendering of the exhibits here in the
23 exhibit notebook. Do these photographs that are shown
24 fully and accurately depict the images as you observed them
25 during your analysis?

1 A. Yes, they do.

2 Q. Have they been altered or changed in any way?

3 A. They have not.

4 MR. KUMMERFELD: Your Honor, at this time the
5 Government will offer Government's Exhibit 8.

6 THE COURT: Any objection?

7 MR. MIMS: Voir dire, please.

8 THE COURT: All right.

9 BY MR. MIMS:

10 Q. Mr. Taylor, that image that you just identified, when
11 was it taken?

12 A. December 19th at 4:10 p.m.

13 Q. In your analysis that you just testified to, did you
14 find that the clock on that phone was off?

15 A. Run that by me one more time.

16 Q. Well, how can you testify when it was -- when it was --
17 the picture was made and the hour it was made, I don't know
18 if you have or not, but if the phone itself clock was off,
19 it was ahead or behind time. Do you know whether or not it
20 was?

21 A. Yes. There is -- I can explain that pretty easily.

22 Q. Sure.

23 A. So what -- when a picture is taken, it creates a -- a
24 timestamp based off of that time, and the -- depending on
25 whether your phone was off or not, it is still going to

1 have the same time difference. And as far as the -- when
2 the picture was taken, I can tell you when the timestamp
3 was created.

4 Q. Let me ask you this way -- and this is voir dire, not
5 cross. Is the time that you testified to from the carrier
6 or from the phone's own internal clock system, the time?
7 Was it the carrier or what?

8 A. Yes, the actual timestamp does come from the device
9 itself. The device itself will then update its time based
10 on clock time.

11 Q. So we wouldn't -- if the clock was off, the internal
12 clock on the device itself was off, then your testimony
13 about when it was taken would be off? Might be off?

14 A. Well, I had verified the time in another means.

15 Q. How did you do that?

16 A. So there at the search warrant, one of the agents
17 opened up the gallery and was looking at the thumbnails
18 like I explained earlier. And in doing so, it has reset
19 the modified time and that was the same time that we were
20 there at the same time the agent was flipping through the
21 phone.

22 So, based off of the thumbnails that were updated
23 then refer to the fact the time on the phone was correct.

24 Q. Remember when we were talking earlier about the
25 extraction versus the analysis? It's a different process,

1 right? Extraction?

2 A. Almost.

3 MR. MIMS: Judge, that's all I have on voir dire.

4 THE COURT: So is there any objection, Mr. Mims?

5 MR. MIMS: Yeah. We would object to it on the
6 basis that the agent cannot testify to the actual time,
7 accurate time that the pictures were made.

8 THE COURT: Mr. Kummerfeld.

9 MR. MIMS: Your Honor, we're not asking the agent
10 to testify to the user that last took the images or any
11 other user. We're asking him to testify about what he
12 observed in his analysis.

13 THE COURT: So is the question you're not asking
14 the agent about the time? Would you be asking the agent
15 about the time or would you be asking the agent about --
16 the detective about the date?

17 MR. KUMMERFELD: I'll be asking the agent -- I
18 will be asking the detective about the date and time the
19 analysis indicates the photo was --

20 THE COURT: Fair enough. Mr. Mims, that's a
21 proper subject for cross-examination.

22 MR. MIMS: Are we overruled?

23 THE COURT: You are overruled.

24 BY MR. KUMMERFELD:

25 Q. All right. Agent Taylor, with the admission of that

1 exhibit, I'm going to show you what's marked as
2 Government's Exhibit 8.

3 MR. KUMMERFELD: And we'll start on page 4,
4 please.

5 BY MR. KUMMERFELD:

6 Q. Agent Taylor, what does this image depict?

7 A. It's a young boy in Walmart.

8 Q. How do you know it's in Walmart?

9 A. You can see the blue sign up there at the top left, and
10 the GPS coordinates embedded in the metadata of the file.

11 Q. So this particular file had the latitude and longitude
12 coordinates that you testified about a moment ago?

13 A. That's correct.

14 Q. Were you able to make a determination where those
15 latitude and longitude coordinates landed when you observed
16 that?

17 A. Yes.

18 Q. Where was it?

19 A. 2440 Gilmer Road, Longview, Texas at the Supercenter
20 Walmart.

21 Q. Can you also tell from your review of the file here
22 what device this image was made on?

23 A. Yes, I was.

24 Q. What device was this image taken on?

25 A. An SM-G530 T.

1 Q. What kind of device is that?

2 A. That's going to be the same kind of device that was
3 extracted. It's going to be a Samsung Galaxy Grand Prime.

4 Q. Can you testify about generally when this photograph
5 was obtained or taken on this device?

6 A. Yes.

7 Q. When was that?

8 A. December 19, 2018, at 4:10 and -- the series was 4:10,
9 4:11 p.m. That's the day before we executed the search
10 warrant.

11 Q. Okay. Let's turn back to page 1 of that particular
12 exhibit. What is this image we're showing?

13 A. The same boy at Walmart still.

14 Q. Okay. And we'll go to page 2, please. What about this
15 image?

16 A. It's also the same young kid in Walmart.

17 Q. And let's go to page 3 of that exhibit, 8 003. What,
18 if anything, do you notice different about this picture?

19 A. It has a timestamp on the bottom right side.

20 Q. Okay. Is it the same image except for the timestamp as
21 8 002, the one we saw just a moment ago?

22 A. Yes, it is.

23 Q. Based on your forensic analysis, were you able to
24 determine how this timestamp was -- ended up on this
25 picture?

1 A. Yes, I was.

2 Q. And what did -- what determination did you make?

3 A. This particular image was opened up in Photo Editor and
4 then the timestamp was added and then saved to the new file
5 location of Photo Editor.

6 Q. Do you know about the date and time that occurred?

7 A. Yes. This -- there is three of these that were saved
8 on 12/20 of 2018. One was saved at 1:08, 1:11 and then
9 1:12 a.m.

10 Q. Okay. I'm going to ask you to review Exhibit 9 in your
11 notebook. Are you familiar with those images?

12 A. Yes, I am.

13 Q. There's three separate images?

14 A. That's correct.

15 Q. Okay. Are those images that you observed in your
16 forensic analysis?

17 A. Yes, they are.

18 Q. And the way they appear here in Government's proposed
19 Exhibit 9, do they fairly and accurately depict the same
20 conduct, same images that you observed in your analysis?

21 A. Yes, they do.

22 Q. And had these images that altered or changed in any
23 way?

24 A. They have not.

25 MR. KUMMERFELD: Your Honor, at this time

1 Government would offer Government's Exhibit 9.

2 THE COURT: Any objection?

3 MR. MIMS: Just a brief voir dire, Your Honor.

4 THE COURT: Okay.

5 MR. MIMS: Detective, the Government's Exhibit
6 Number 7, I asked you on voir dire certain questions. Do
7 you recall those? And if I ask you the same questions
8 regarding Government 8, would your answer be the same?

9 THE WITNESS: Yes, sir.

10 MR. MIMS: Judge, I renew my previous objection.

11 THE COURT: Explain to me exactly what the basis
12 of your objection is.

13 MR. MIMS: The objection was he was not able to
14 determine the exact time that the pictures were taken
15 because of the resetting of the clock on the device was
16 incorrect. That's the basis of the objection.

17 THE COURT: All right. I'll overrule you subject
18 to cross-examination which, of course, you can do.

19 The exhibit will be admitted.

20 BY MR. KUMMERFELD:

21 Q. All right. Agent, if you would, please, look at
22 Government Exhibit 9 starting at page 3.

23 Okay. What is portrayed here?

24 A. So this is the picture shot of a young kid at Game X
25 Change in Longview.

1 Q. How do you know it's Game X Change in Longview?

2 A. It also had GPS embedded in the metadata.

3 Q. You were able to take that GPS information, latitude
4 and longitude coordinates, and narrow it down to this
5 location?

6 A. That's correct.

7 Q. Could you also tell from the metadata from this image
8 on what device this image was taken?

9 A. Yes, I was.

10 Q. What device was this image taken?

11 A. The same SM-G530T, the Samsung Galaxy Grand Prime.

12 Q. Are you aware of the date and time the coordinates of
13 the analysis in the files that you have that was -- these
14 images were apparently taken?

15 A. Yes.

16 Q. What was that date and time?

17 A. December 19, 2018, at 6:08 p.m., which is about almost
18 two hours after the Walmart photo was taken.

19 Q. Now if we could turn over to page 1 of that exhibit.

20 Would you describe page 1 of Exhibit 1?

21 A. Yes. So this is -- this is going to be the same kid at
22 Game X Change, this time, instead of the rear, to the left
23 side of him.

24 Q. If you will turn over to page 2 of this exhibit, does
25 that appear to be almost the same image?

1 A. Yes, it does.

2 Q. Is there anything different about that image?

3 A. The difference is going to be, again, the timestamp at
4 the bottom right.

5 Q. Okay. And what does the timestamp say?

6 A. 12/19/2018.

7 Q. Okay. Flipping back, I thought I asked you this on
8 Exhibit 8, page 3, what is the timestamp indicated on that?

9 A. So this particular one was, again, taken on 12/19/2008
10 at 4:10 and one was taken at 4:11 p.m. which, again, is two
11 hours prior to the boy in the red shirt at Game X Change.
12 Same day, just two hours earlier.

13 Q. 2008 or 2018?

14 A. 2018.

15 Q. Okay. And what is the timestamp on the bottom of
16 Exhibit 8?

17 A. 12/19/2018.

18 Q. Okay. Let's go back to Exhibit 9, page 2, please.

19 Were you able to determine from your analysis how that
20 timestamp was placed on that image?

21 A. Yes, I was.

22 Q. How was that done?

23 A. The previous file was opened up in Photo Editor. The
24 timestamp was applied to the picture and saved in the
25 default folder and saved.

1 Q. You indicated it was on a Samsung photo?

2 A. That's correct.

3 Q. Do you have the date and time where you believe most of
4 the analysis of this image is saved?

5 A. Yes, sir. In a View default folder in the Photo Editor
6 app, there's a total of four files, three of which are
7 going to be these young boys in the store. Out of those
8 three boys in the store, one was -- they were all saved on
9 12/20 of 2018. One was saved at 1:08 a.m., then 1:11 a.m.
10 and then 1:12 a.m.

11 Q. All right. Would you look at the exhibit real quick at
12 Government's Exhibit 10. Are you familiar with those
13 images?

14 A. Yes, I am.

15 Q. Okay. Are those images images that you observed in
16 your analysis of the Samsung extraction?

17 A. Yes, they are.

18 Q. Do the images in Government's proposed Exhibit 10
19 fairly and accurately depict the images that you observed
20 in your analysis?

21 A. Yes, they are.

22 Q. Have these images been altered or changed in any way?

23 A. They have not.

24 MR. KUMMERFELD: Your Honor, at this time the
25 Government would offer Government's Exhibit 10.

1 THE COURT: Any objection?

2 MR. MIMS: Similar voir dire, Your Honor?

3 THE COURT: Okay.

4 MR. MIMS: Same question, Detective, that I asked
5 you earlier. Would your answer be the same with respect to
6 the voir dire in this exhibit?

7 THE WITNESS: Yes.

8 MR. MIMS: Judge, we'll renew our objection,
9 improper plaintiff, and we object on that basis.

10 THE COURT: And the basis, again, is the fact that
11 the witness can't testify exactly what time or date they
12 were taken?

13 MR. MIMS: The time -- it's our belief that the
14 evidence shows arguably that the clock on the -- on the
15 device itself is not accurate. That's my objection.

16 THE COURT: Right. All right. And I think that's
17 a proper subject for cross-examination and I will overrule
18 the objection and admit the exhibit.

19 BY MR. KUMMERFELD:

20 Q. All right. Agent Taylor, I'll ask you to look at
21 Government's Exhibit 10 001, please. Would you please
22 describe this image to the ladies and gentlemen of the
23 jury?

24 A. Yes. This is going to be a young kid which appears to
25 be inside of a store.

1 Q. Did this image contain latitude/longitude data that you
2 were able to determine the location?

3 A. No, it did not.

4 Q. If you will turn to page 2 of Exhibit 10, is this --
5 does this appear to be the same image except for the
6 timestamp at the bottom?

7 A. That's correct.

8 Q. Okay. And, again, what program, based on your
9 analysis, was used for that timestamp?

10 A. Yes. The original photo was opened up in the Photo
11 Editor app, timestamp applied in and saved to the default
12 folder where the others are at.

13 Q. Do you know when approximately this happened, what
14 date?

15 A. Yes. So we have just seen the three files that were
16 saved on 12/20 of 2018, one at 1:08, one at 1:11, and one
17 at 1:12. So within minutes apart, all three of these were
18 opened, edited and saved.

19 Q. Earlier you mentioned there were four files in the
20 folder. What is the fourth file?

21 A. The fourth one is going to be a file that contains
22 child pornography, the one that you already looked at in
23 Exhibit 7.

24 Q. Do you recall which particular one it was?

25 A. Yes. It's one where the boy is sitting outside on the

1 half wall, his genitals exposed.

2 Q. Is that photo also in Photo Editor?

3 A. That's correct.

4 Q. I want to ask you about some more questions about your
5 analysis and, in particular, your review of some of the
6 applications that you were found on the device. Tell the
7 folks here about what device applications you observed, not
8 all, just some of the ones that caught your attention that
9 you thought were important to bring up.

10 A. Yes. Within the device we had a Photo Editor, a Video
11 Editor, a Dropbox, Google Chrome, YouTube.

12 Q. What is the Google Chrome?

13 A. Google Chrome is going to be a web browser that
14 accesses the internet.

15 Q. Okay. Agent Taylor, I'm going to ask you to turn to
16 Government's 28. 28 has been previously admitted and I'll
17 ask you some questions about that exhibit.

18 THE COURT: Mr. Kummerfeld, can I ask you, are we
19 looking at photographs? My question is really, can we turn
20 the overflow camera back on?

21 MR. KUMMERFELD: Yes, sir, we may. Absolutely.

22 THE COURT: Okay. Thank you.

23 BY MR. KUMMERFELD:

24 Q. All right, Agent. Are you ready?

25 A. Yes, sir.

1 Q. Okay. Government Exhibit 28, go to the first page and
2 we'll bounce around. What is this -- what is this exhibit
3 -- what kind of information does it include?

4 A. Well, this will be a computer printout of the report
5 for the Samsung Galaxy device and it's been categorized as
6 Chrome logins.

7 Q. Okay. And when it talks about Chrome logins, are we
8 referring to Google Chrome logins and you just described
9 Google Chrome as a browser?

10 A. That's correct.

11 Q. Okay. Let's turn to -- I'm on page -- Exhibit 28,
12 page 1. We highlighted the top part.

13 All right. Agent Taylor, tell the folks here what
14 you observed about this Google Chrome login.

15 A. This is going to be the Chrome login information for
16 kilgore.edu.

17 Q. Do you know what kilgore.edu is?

18 A. Yes.

19 Q. What is it?

20 A. Kilgore College.

21 Q. Kilgore High School?

22 A. Kilgore College.

23 Q. Kilgore Junior High School?

24 A. No, sir.

25 Q. All right. Let's look down to record three, please.

1 What information does record three from the Google Chrome
2 logins indicate?

3 A. It's another Chrome login for Phoenix.edu.

4 Q. Do you know what that is?

5 A. Yes, I do.

6 Q. What it is?

7 A. The University of Phoenix.

8 Q. What is that?

9 A. A college.

10 MR. KUMMERFELD: Let's go to record 22,
11 Ms. McCullars, and I don't know the page number -- on
12 page 5.

13 BY MR. KUMMERFELD:

14 Q. Okay. What is indicated on record 22?

15 A. Another Chrome login from Vistacollege.edu.

16 Q. What is the date indicated there?

17 A. 8:30 of 2018.

18 Q. Do you know what Vista College is?

19 A. It's a college, university.

20 Q. Where is that located?

21 A. I'm not sure.

22 Q. Okay. Do you know if there's a Vista College in
23 Longview, Texas?

24 A. I'm pretty certain there's not.

25 Q. No? Okay.

1 Let's go to record 28. What information is
2 contained here on record 28?

3 A. Again, another Chrome login for Purdueglobal.edu.

4 Q. What is Purdue Global?

5 A. Another college, university.

6 Q. What date is indicated there?

7 A. 9/23 of 2018.

8 Q. Let's look at one record just above that, record 27.
9 What do you observe here?

10 A. This would be a website login for Fafsa.ed.gov.

11 Q. Are you familiar with that?

12 A. Yes, I am.

13 Q. What is it?

14 A. It's going to be a student aid, student-loan type of
15 federal website.

16 Q. Okay. And what is the record date there?

17 A. 9/13 of 2018.

18 Q. Let's go look at record 29, same page, bottom of the
19 page. What does this record indicate?

20 A. It's a login for fsaid.edu.gov.

21 Q. Do you know what that is?

22 A. It's another federal website for student aid, student
23 loan.

24 Q. Okay. While we're here, why don't we flip to

25 Exhibit 26 as well -- not Exhibit 26, I apologize -- record

1 26, and that's on page 6 as well.

2 What is indicated there on record 26?

3 A. It's another login for studentloans.gov.

4 Q. Okay. So these last few we have been discussing appear
5 to be student loan websites, something along those lines,
6 and the previous group appear to be colleges. Is that
7 fair?

8 A. That's correct.

9 Q. All right. I want to turn over to page 2 of this
10 exhibit. And I'll ask you what you observe on record six,
11 what website is indicated there?

12 A. This is going to be another login for boyxzeed.net.

13 Q. Could you spell that out for the record, please?

14 A. B-o-y-x-z-e-e-d.n-e-t.

15 Q. What date does it show for the login for this
16 particular record?

17 A. 7/24/2017.

18 Q. Okay. Let's go to the next page, page 3, of Exhibit 28
19 and look at record 13. What's indicated here on record 13?

20 A. So this is another login for boyxzeed2.net.

21 Q. Would you spell that out for the record, please?

22 A. B-o-y-x-z-e-e-d-2.n-e-t.

23 Q. What word is indicated after the forward slash, after
24 that?

25 A. Member.

1 Q. What is the date?

2 A. 10/9 of '17.

3 Q. Go to record 20 at the top of page 5. What information
4 is indicated here?

5 A. It's another login for boyvids -- it's probably better
6 spelling this one out to you. It's a login for website
7 b-o-y-v-i-d-s-t-c-k-e-v-q-e-d-z.t-o-r.o-e-n-l.

8 Q. What's the date indicated there?

9 A. 2/20 of 2018.

10 Q. Okay. When you said login, and you said it a couple
11 times, is this access different or distinct from simple
12 web-browsing history?

13 A. That's correct.

14 Q. How so? Would you please explain that?

15 A. So if you go to Google Chrome and let's say you go to
16 Walmart.com and you have created an account, you want to
17 add stuff to your shopping cart, you have the option of
18 logging in or Google Chrome can log you in. And if you
19 have ever saved a password -- a username and password
20 before, these are the records that are looking at
21 containing the previously saved accounts. So what that
22 means is somebody has logged into this site, created an
23 account, and told Google to save it for the next time I
24 visit it.

25 Q. And that wouldn't happen simply from simple web

1 browsing, would it?

2 A. No, that does not happen. It's a user-created entry
3 that is -- a lot of times a window will pop up saying, do
4 you want to save this information.

5 Q. Okay. Look at page nine -- record nine, rather,
6 page 2. What's indicated here?

7 A. This is another login record for I-m-g-s-r-c.r-u, which
8 is the image source website.

9 Q. Okay. What does it say after the R-U there?

10 A. Main, m-a-i-n, and then passchk, which is
11 p-a-s-s-c-h-k.

12 Q. Okay. And what date is indicated there?

13 A. 8/15/2017.

14 Q. Let's also go to record 21 on page 5. This appears to
15 be a similar record, does it not?

16 A. Yes, it does.

17 Q. Same website?

18 A. Yes, it does.

19 Q. Okay. Are you familiar with that website?

20 A. It's i-m-g-s-r-c.u-r. It's an image source website,
21 primarily designed for sharing videos or photos.

22 Q. Okay. Now, in your review and analysis, were you able
23 to identify a number of different accesses to that website?

24 A. Yes, I was.

25 Q. And what kind of information did you observe in your

1 review?

2 A. There's different albums along with a username.

3 Q. Okay. What was the username?

4 A. Loverboy9.

5 Q. What were some of the names of the albums you observed?

6 A. There was one that was called Boys 2, another called
7 Black Boys 3, another one Black Boys 4, and then Hispanic
8 Boys.

9 Q. Detective Taylor, I want to ask you about the
10 chronology -- based on your analysis, the chronology that
11 you observed the use of that Samsung device in the early
12 morning hours of December 20, 2018. So would you tell the
13 ladies and gentlemen of the jury what you observed when you
14 analyzed the files?

15 A. Yes. So December 20, 2018, around 12:05 a.m. to
16 12:36 a.m., the files of the boys in the store were
17 accessed. Shortly in time after that at 12:50, there was a
18 Google profile picture that contained a C. Most commonly
19 that looks like it would be a default profile picture for
20 Google, and that is created at the point that the gmail
21 account gets set up. If you don't select a picture for
22 your profile account, it'll take the first letter of your
23 gmail account and create that profile picture for you.

24 So at 12:50 that was accessed. And then at
25 12:57 a.m., a file was downloaded called T-V-S-0-0-1.7-Z.

1 That's a zip file that came from the internet. So that
2 file was downloaded at 12:57. Then from 12:59 to 1:06, the
3 child porn files were accessed. And then from 12 -- from
4 12:59 to 1:06, those files were accessed.

5 Shortly after that at 1:07 to 1:12, we had both of
6 the child porn and the boys in the store opened up using
7 the Photo Editor, which is the same time those files that I
8 talked about earlier were saved before they were saved in
9 the default folder.

10 And then at 12 -- excuse me -- 1:12 there's an
11 internet search for 12 Most Reliable Cars at a Reasonable
12 Price or something to that effect, and that lasted from
13 about 1:12 to 1:13.

14 Q. And then what happened after 1:13? Was there any other
15 activity that you observed?

16 A. At 1:34, there's two entries and some cache that was
17 internet related. I can't determine if that was background
18 traffic or if it's user behavior traffic, but at 1:13 -- I
19 know the internet search of the 12 cars was from 1:12 to
20 1:13.

21 Q. So the last activity that you can say that was
22 definitively caused by a user of the device was around
23 1:12, 1:13?

24 A. That's correct.

25 Q. Okay. Now, that zip file that you mentioned you said

1 edited, 7Z, is that a zip file extension?

2 A. It's a -- yes, it's a -- it's the most common way to
3 download multiple files on the internet. It's designed for
4 faster, easier downloading of files.

5 The other remarkable thing about it is it was --
6 the name of it was capital T, capital B, with a lowercase
7 S. And within less than two minutes after that file was
8 downloaded, the files -- the child porn files that were
9 accessed was from the Thai Boys folder.

10 Q. Was that file password protected?

11 A. Yes, it was.

12 Q. The zip file?

13 A. Yes. The file that was downloaded is password
14 protected.

15 Q. How would someone unzip the file that was password
16 protected?

17 A. So the most common way would be knowing the password
18 and entering it in to unlock the zip file, which I guess --
19 you either guess or have software that would crack the
20 password.

21 Q. And in this case, however that password was known or
22 guessed, you can say that it was opened?

23 A. Yeah. So if that file is, in fact, the Thai Boys
24 folder, within two minutes those files were being accessed
25 and viewed.

1 Q. Okay. And the images that were accessed and viewed,
2 they are the images that you observed in your analysis that
3 contained what you believe to be child pornography?

4 A. Yes, that's correct.

5 Q. If this activity is all occurring between midnight and
6 early, 1:00 on December 20, 2018, how long prior to the
7 execution of the search warrant was the event?

8 A. It's probably about five hours prior to us executing
9 the search warrant.

10 MR. KUMMERFELD: Your Honor, at this time, I pass
11 the witness.

12 THE COURT: Cross-examination.

13 CROSS-EXAMINATION

14 BY MR. MIMS:

15 Q. Detective, were you out there when they executed the
16 search warrant? Were you with the officers?

17 A. Yes, I was.

18 Q. Okay. Did you have any decision-making with respect to
19 what devices to take for analysis?

20 A. I did not.

21 Q. You did not? And when the devices were taken, I think
22 the evidence is there were four or five devices the taken,
23 one of which is in evidence here, why did you not -- why
24 was your office not requested to do the extractions?

25 A. The Homeland Security was working the case and they had

1 their own forensic guy on scene.

2 Q. Mr. Hunt?

3 A. Yes, sir.

4 Q. Okay. Did you know him?

5 A. Not 'til then.

6 Q. Not until after this case started?

7 A. I don't believe so. I don't think I knew him before.

8 Q. Okay. We had obviously many concerns about the time on
9 the device itself, okay? We've talked about that. And I
10 think there's some evidence or some testimony earlier that
11 the device was not keeping accurate time itself. I don't
12 know if you know that or not. But when you analyzed -- in
13 your analysis, did you have any of that information, that
14 the device was losing time, gaining and losing time and
15 all?

16 A. No, but that's pretty standard in our operation because
17 one of the first things we want to do is isolate the phone
18 from the network for the main purpose of preventing a
19 remote login as in, if you have my phone, I can log into my
20 account and remotely wipe that phone while I'm not in
21 possession of it. So that's our number one concern.

22 And as soon as we lose network connection, the
23 phone is no longer able to reach out to the -- the eye, or
24 the Cloud at the time, to update itself, and these phones
25 do not do very well with keeping time on their own without

1 being updated. So it's not uncommon at all by the time the
2 phone gets into the lab for it -- for the time to be off.

3 But in this particular instance, I was able to
4 verify that the time was completely accurate whenever we --
5 before we put the phone in airplane mode.

6 Q. How did you know that?

7 A. Like I said earlier, the agent on scene said that he
8 went through the gallery of the phone looking at the
9 images, and I was able to verify the ones that he was
10 looking at on my extraction because it updated the date and
11 time for those pictures, the modified time, which was on
12 the same day of the search warrant at 7:20, or shortly
13 after 7:00, which was somewhere around an hour after we had
14 been on scene.

15 So that was my verification that the time was, in
16 fact -- because he manipulated the phone, that updated the
17 time, which was accurate with the time that we were there.

18 Q. Okay. And the time is important to try to narrow down
19 when somebody is accessing and using the phone to get
20 internet porn. Is that a fair statement?

21 A. Yes, that's correct.

22 Q. Okay.

23 MR. MIMS: Now, if we could ask Ms. McCullars to
24 pull up record number 1 in the Government's Exhibit 28,
25 please. Would you expand that, please.

1 BY MR. MIMS:

2 Q. I don't know what that is other than what you're going
3 to testify and tell us, okay, so help me out here. This
4 was an analysis of something pulled off of a Samsung,
5 SM-G50 -- 530T, correct?

6 A. That's correct.

7 Q. And when I say was that -- is that an analysis of a
8 search or something? What is that?

9 A. Yes. So this is going to be the Google logins.

10 Q. Okay. And it would be from a Samsung G530T?

11 A. Yes.

12 Q. Is there any VIN numbers there to tie this particular
13 Samsung SM-G530T to that phone there that I'm referring to
14 in evidence?

15 A. Yes. So as I said earlier, this right here is going to
16 be a figure-generated portion of the report for this
17 device. So if we were to need or want the information, we
18 could go at the beginning of this page -- because the
19 report is many pages long. This is just a few pages out of
20 the many long report -- in the beginning of the report it
21 would give us that information.

22 Q. But what does it actually tell us?

23 A. Okay. So what this is telling us is this was a Google
24 Chrome login that was created on 7/6 of 2013 for
25 Kilgore.edu.

1 Q. Okay. And on 7/6/2013 at 9:00 in the morning, was the
2 Government's exhibit whatever it is of this phone even
3 made? Was it in existence?

4 A. Yeah, I can't answer that.

5 Q. You don't know, do you? But can you say on July 6,
6 2013, who accessed that?

7 A. I do not.

8 Q. Did you -- in your analysis, did you go back and look
9 at where this file had been on, off, back from the time it
10 was created?

11 A. I did not.

12 Q. Did you go back and find out that it was made in some
13 Wangxian, China sometime in 2016?

14 A. I did not.

15 Q. Okay. Did you go back and see whether or not the thing
16 was activated somewhere in Illinois by another fellow?
17 Another -- I don't remember his name, another owner, this
18 Samsung phone?

19 A. I did not.

20 Q. Did you know that this phone was purchased some time in
21 July of 2016 by Torie Smith? Did y'all check that out?

22 A. Let me explain it this way --

23 Q. Well, hold on. Let's --

24 THE COURT: Hold on, Mr. Mims. You have to let
25 him finish his answer, all right? You asked him the

1 question and you have to give him a chance to answer.

2 BY MR. MIMS:

3 Q. Go ahead.

4 A. So let's say my investigation was narrowed down to the
5 day of and just prior to the execution of the search
6 warrant. I wasn't interested in 2013 dates.

7 Q. And that's fair enough, but you don't know of any other
8 agent or investigation or anything went back and see when
9 this phone was owned before Charles Orange allegedly owned?

10 A. I did not.

11 Q. Wasn't your responsibility?

12 A. Yeah. My focus and responsibility was the day of and
13 prior leading up to the execution of the search warrant.

14 Q. But you testified on July 6, 2013, somebody accessed
15 this -- used a Google search on a Samsung phone?

16 A. What I testified to is the -- is indicating the
17 creation date of 7/6/13 for Kilgore.edu.

18 Q. And that's a Kilgore Junior College, right?

19 A. Yes, sir.

20 Q. I think counsel said junior high but it's junior
21 college?

22 A. That's correct.

23 Q. And beyond the -- this analysis here in these various
24 records and testifying of what Agent Hunt's extraction was
25 today, that's all you're involved with the case; is that

1 correct?

2 A. Yes, that's correct.

3 Q. Okay. And we could go through some of these others but
4 there's other analyses here, or whatever these things are,
5 for other days that are not even close to December 20th of
6 2018, isn't there?

7 A. That's correct.

8 Q. Okay. And when someone does a Google search, does that
9 search appear on every other device that is synced with
10 that particular email?

11 A. Depending on that setup at the device level.

12 Q. Well --

13 A. Just because it syncs at the email level doesn't mean
14 that it's going to share all the data across the devices.

15 Q. As far as you know, did anybody do an analysis of that,
16 to see if any other devices included in this particular
17 search? And I'm talking about July 6, 2013.

18 A. I have not.

19 Q. It would be pretty important to the Government and to
20 the defendant to know who did that search back in 2013 when
21 this so-called phone here, wouldn't it? Pretty important
22 to know that?

23 A. I can't answer that question.

24 Q. Okay. Nothing that you -- you don't know or can't
25 testify who made any of these searches, can you?

1 A. I can tell you what is on the device.

2 Q. The device itself? Okay. No problem there. You don't
3 know that Charles Orange did it, do you?

4 A. I do not.

5 Q. And you don't know whether or not back in July somebody
6 in Illinois made a search off this phone for that
7 particular image or whatever it is, do you?

8 A. Yeah, I'm not even sure what you're talking about.

9 Q. Well, let's take record one. It should be on the
10 screen there.

11 A. Yes.

12 Q. Okay. And I don't see anything on there that indicates
13 that it may be access to child porn. The image, whatever
14 the -- what do y'all call these things, subfiles?

15 A. Which are you talking about?

16 (Simultaneous crosstalk.)

17 A. Yeah, it's a Google Chrome login.

18 BY MR. MIMS:

19 Q. Right.

20 MR. MIMS: Okay. Pass the witness, Your Honor.

21 THE COURT: Redirect?

22 MR. KUMMERFELD: Just briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. KUMMERFELD:

25 Q. Agent Taylor, I want to try to clear up any confusion

1 that may exist here with respect to the Google Chrome
2 history. Is Google Chrome history unique to a gmail
3 address?

4 A. Yes, it is.

5 Q. Okay. It's not unique to a phone, is it?

6 A. No, it is not.

7 Q. And as you said, depending on the settings, that
8 history can travel with devices depending on what email
9 address is used to log in to those phones; is that correct?

10 A. Yeah. So most commonly, if we each have a phone and
11 we're sharing the same email account, we both have to log
12 in to Google Chrome under that email account. And there's
13 a second layer of security -- if you actually want to share
14 your browser history, your saved tabs, that kind of stuff
15 or your login information, there's a secondary login that
16 you have to complete to do that.

17 So there's actually two different ways -- well,
18 three if you count no link, a semi link, or a full link
19 across your devices.

20 Q. Okay. And in your training and experience, have you
21 encountered situations where some internet history or
22 Google Chrome logins or any other number of forensic
23 artifacts actually predate the creation and the manufacture
24 and acquisition of the phone?

25 A. Yes.

1 Q. Why is that?

2 A. So if I have an email account that I have owned for
3 let's say ten years now, and eight years ago I decided to
4 turn on this Autosave My Accounts -- or Autosave My History
5 and keep up with all that stuff, and if I log into my phone
6 in that same account, enter in my credentials to get logged
7 in and told it to sync my previous ten-year-old account to
8 my device, then those saves, those passwords and stuff that
9 I did eight years ago would then show up on my phone
10 because it's sharing that information from the cloud across
11 all my devices.

12 Q. And then if you chose next month to upgrade and get a
13 new phone and you used your same email address to register
14 that phone, then that information would help you there as
15 well. Is that true?

16 A. Yes, that's correct.

17 Q. It wouldn't perhaps be on the new phone because that
18 activity predates the new phone?

19 MR. MIMS: Objection. Leading.

20 THE COURT: Can you rephrase the question,
21 Mr. Kummerfeld?

22 MR. KUMMERFELD: Certainly, Your Honor.

23 BY MR. KUMMERFELD:

24 Q. I'll just ask one more. What email address was
25 associated with this account?

1 A. The charlesorangel73@gmail.com.

2 MR. KUMMERFELD: Pass the witness.

3 THE COURT: Any cross?

4 MR. MIMS: No further questions.

5 THE COURT: You may step down.

6 May the witness be excused?

7 MR. KUMMERFELD: Yes, Your Honor.

8 MR. MIMS: Subject to recall.

9 THE COURT: All right. Very well.

10 You may step down.

11 Ladies and gentlemen of the jury, I think now is
12 probably a really good time for us to take an afternoon
13 break. Don't visit among yourselves until all the evidence
14 has been submitted to you and I have instructed you on the
15 law.

16 We'll be in recess about 15 minutes.

17 (Recess taken.)

18 THE COURT: Okay. Let's have the jury brought in,
19 please, sir.

20 (Jury enters courtroom.)

21 THE COURT: Please be seated. The Government may
22 call its next witness.

23 MR. KUMMERFELD: Your Honor, at this time the
24 Government calls Special Agent Elmore Armstrong.

25 THE COURT: Raise your right hand to be sworn.

1 (Witness sworn.)

2 ELMORE ARMSTRONG, GOVERNMENT'S WITNESS

3 DIRECT EXAMINATION

4 BY MR. KUMMERFELD:

5 Q. All right. Good afternoon, Special Agent Armstrong.

6 A. Good afternoon.

7 Q. Let me get a microphone so the court reporter can get
8 me, one of the portable microphones.

9 THE COURT: Did you get one, Mr. Kummerfeld?

10 MR. KUMMERFELD: I believe so.

11 THE COURT: Okay. Are you going to move around?

12 MR. KUMMERFELD: I don't intend to, but she
13 captures the audio better if I have all the mics.

14 BY MR. KUMMERFELD:

15 Q. Good afternoon, Special Agent Armstrong. How are you,
16 sir?

17 A. I'm doing well.

18 Q. Good. I noticed as you walked up there you walked a
19 little bit slow. Do you have a knee brace on?

20 A. Yes, I do.

21 Q. What happened to your knee?

22 A. I tore my knee tendons and also tore my quad, an old
23 injury from college.

24 Q. I'm sorry to hear that. If you get uncomfortable and
25 you need to move around in the chair and resituate

1 yourself, feel free to do that.

2 A. Yes, sir. Thank you.

3 Q. Agent Armstrong, can you tell the ladies and gentlemen
4 of the jury how you're employed?

5 A. Homeland Security Investigations. I'm a Special Agent
6 and also a criminal investigator.

7 Q. What is your current title right now?

8 A. My current title now is acting group supervisor over
9 the Darknet Group Investigations and also to the computer
10 forensic lab.

11 Q. And in those roles, what do your responsibilities there
12 entail?

13 A. I oversee leads -- oversee leads for the dark web group
14 for investigation, dealing with cryptocurrency or any
15 negative online. And also, too, I'm in charge of handling
16 forensic duties, mainly assigning agents cases in the
17 forensic lab.

18 Q. How long have you been with HSI?

19 A. I've been with HSI since 2008 so around 12 years.

20 Q. What did you do before becoming an HSI agent?

21 A. Before becoming an HSI agent, I worked eight years with
22 AT&T as a network engineer.

23 Q. All right. What was your education?

24 A. I attended Sam Houston State and obtained a bachelor's
25 degree in biology.

1 Q. After becoming an agent with Homeland Security, did you
2 have go to training?

3 A. Yes, I did.

4 Q. What kind of training did you do?

5 A. I went to the Federal Law Enforcement Training Center,
6 also known as FLETC, for about six months and went to
7 Criminal Investigative Training School. And in addition, I
8 did the second part of the HSI school where we learn about
9 criminal violations we investigate.

10 Q. Have you had ongoing opportunity to continue your
11 training since becoming an agent?

12 A. Yes, I have.

13 Q. How many investigations, if you could give us a
14 ballpark, have you participated in?

15 A. I've been in child exploitation probably -- going back
16 to about 2010, right around 2010, so over those years
17 probably in the thousands.

18 Q. Okay. So in some of those cases, you have been
19 operating as supervisor, right?

20 A. That's true.

21 Q. And you oversee a lot of other agents?

22 A. Yes, I do.

23 Q. Okay. I'll turn your attention to the investigation of
24 Charles Orange and ask you some specific questions about
25 that.

1 How did you first become involved in that
2 investigation?

3 A. Yes. I was requested to assist the investigation as an
4 interviewer on the search warrant.

5 Q. Where was that search warrant?

6 A. The search warrant I recall was at 431 Electra Street
7 in Longview, Texas.

8 Q. That's in the Eastern District of Texas, correct?

9 A. That's correct.

10 Q. Do you recall when that warrant was executed?

11 A. Yes. 12/20/2018.

12 Q. What was your role in the execution?

13 A. Yes. I was just called to assist in the interview of
14 Mr. Charles Orange.

15 Q. And did you have the opportunity to contact the
16 defendant on scene that day?

17 A. Yes, I did.

18 Q. Were you -- how were you able to identify him at that
19 time?

20 A. Basically from the background investigation. His
21 driver's license was included in the package and it matched
22 the description when I saw him on scene.

23 Q. Okay. Are you able to identify him here in court
24 today?

25 A. Yes, sir, I am.

1 Q. Would you point to him and identify him by an article
2 of clothing?

3 A. Yes. Mr. Orange is sitting at defense counsel and he
4 is wearing a navy blazer with a white shirt.

5 MR. KUMMERFELD: Your Honor, will the record
6 reflect the witness has identified the defendant?

7 THE COURT: It will so indicate.

8 BY MR. KUMMERFELD:

9 Q. Let's talk about that, Agent Armstrong. I'll show you
10 what's been previously admitted as Government's Exhibit 11.
11 What is this document?

12 A. Yes, this is the driver's license photo of
13 Mr. Charles Orange.

14 Q. Okay. And on that -- on that document on page 1 -- by
15 the way, there's an exhibit notebook to your right in case
16 it would be helpful for you to look at that -- but on that
17 document, is there a name indicated there on the driver's
18 license?

19 A. Yes, it is.

20 Q. What's the name?

21 A. Last name Orange, Charles Eugene.

22 Q. Do you see an address indicated there?

23 A. Yes, I do.

24 Q. What is the address?

25 A. 431 S, meaning South, Electra Street, Longview, Texas,

1 with a zip code of 75602.

2 Q. All right. And is there a digital signature?

3 A. Yes, it is.

4 Q. Okay. What does that signature appear to say to you?

5 A. Charles Orange.

6 Q. Let's turn to page 3, please. What does this portion
7 of the exhibit --

8 A. It looks like the application for renewal, replacement,
9 change of a Texas driver's license or identification card.

10 Q. And this portion -- as compared to the last portion,
11 this portion is handwritten in the top box. Is that
12 correct?

13 A. That's correct.

14 Q. What does the resident's address indicate?

15 A. 431 Electra Street, Longview, Texas.

16 Q. What about the mailing address?

17 A. It says same as above.

18 Q. Is there a phone number indicated there?

19 A. Yes, it is.

20 Q. What does the phone number say?

21 A. 903-240-7100.

22 Q. At the bottom of the page, does a signature appear?

23 A. Yes, it does.

24 Q. What does it say there before the signature block?

25 A. It says, I do solemnly swear, affirm or certify that I

1 am the person named herein and that these statements on
2 this information form are true and correct.

3 Q. Okay. After you contacted Mr. Orange on the search
4 warrant, what happened?

5 A. We asked him to come to our vehicle to proceed with the
6 interview.

7 Q. And did he agree?

8 A. Yes, he did.

9 MR. KUMMERFELD: Your Honor, may I approach the
10 witness?

11 THE COURT: You may.

12 BY MR. KUMMERFELD:

13 Q. All right. Agent Armstrong, I'm showing you what's
14 been marked for identification purposes as Government's
15 Exhibit 12A. Do you know what's contained on that CD?

16 A. Yes, I do.

17 Q. What is that?

18 A. That's the recorded interview of Mr. Charles Orange and
19 myself and Special Agent Burton Reavis.

20 Q. That was my next question. This interview was
21 recorded?

22 A. That's true.

23 Q. And you had the opportunity to review this recorded
24 conversation?

25 A. Yes, I did.

1 Q. Do you recognize the voices on the recording?

2 A. Yes, I do.

3 Q. Who are the voices?

4 A. Special Agent Burton Reavis, myself and Charles Orange.

5 Q. And you listened to it again since the time that you
6 conducted the interview?

7 A. Yes, I have.

8 Q. Do you believe it to be, based upon your review, an
9 accurate recording of the conversation that took place on
10 December 20, 2018?

11 A. Yes, I do.

12 Q. That disc contains a recording?

13 A. Yes.

14 MR. KUMMERFELD: Your Honor, at this time the
15 Government would offer Government's Exhibit 12A.

16 THE COURT: Is 12A the transcript or the
17 recording?

18 MR. KUMMERFELD: This is the recording,
19 Your Honor.

20 THE COURT: All right.

21 Mr. Mims?

22 MR. MIMS: No objection.

23 THE COURT: Very well. It'll be admitted.

24 MR. KUMMERFELD: Thank you, Your Honor.

25 Concurrent with that, the Government would

1 offer Government's 12B.

2 THE COURT: Mr. Mims, no objection?

3 MR. MIMS: No objection, Your Honor.

4 THE COURT: Very well. It'll be received as well.

5 MR. KUMMERFELD: We ask the Court for permission
6 to publish.

7 THE COURT: Yes.

8 (Audiotape played.)

9 BY MR. KUMMERFELD:

10 Q. Okay. Agent Armstrong, there was just an indication
11 about a Miranda rights form. What are Miranda warnings?

12 A. Miranda warnings are legal rights, Fifth Amendment
13 legal rights.

14 Q. Could you explain when these are given, when law
15 enforcement may give these to an individual being
16 interviewed?

17 A. Yes. We know by law if we attempt to interview someone
18 who is in custody, we read these rights to let them know
19 the understanding of these rights. And in this case, I
20 read them just at the search warrant.

21 Q. Did Mr. Orange appear to have any trouble understanding
22 what you explained to him?

23 A. No, he didn't.

24 Q. You feel he could appreciate what you were saying?

25 A. He did.

1 Q. Did he agree to the interview?

2 A. Yes, he did.

3 MR. KUMMERFELD: All right.

4 (Audiotape resumes.)

5 MR. KUMMERFELD: May I have one moment to visit
6 with opposing counsel?

7 THE COURT: Yes.

8 (Discussion held off the record.)

9 MR. KUMMERFELD: Your Honor, I believe I have 20
10 or 30 more minutes with this witness and then Mr. Mims
11 would have his cross-examination, so would it be the
12 Court's preference to finish direct?

13 THE COURT: I'll rather plow ahead and finish
14 direct, Mr. Kummerfeld.

15 BY MR. KUMMERFELD:

16 Q. Agent Armstrong, I'll try to be brief but I want to
17 follow up on a few things you talked about in your
18 interview with Mr. Orange. At various points in the
19 interview, there were references made to Vista College. Do
20 you recall that?

21 A. Yes.

22 Q. Okay. And I'm going to show you what's been marked and
23 previously admitted as Government's Exhibit 13. Do you see
24 that on your screen?

25 A. Yes.

1 Q. All right. And we've blown that document up a little
2 bit. What is that document?

3 A. It's a Vista College enrollment agreement form.

4 Q. What is the name that appears on that document?

5 A. You said a date?

6 Q. The name, sir.

7 A. The name? Charles Orange.

8 Q. What about the physical address?

9 A. Yes, it's 431 Electra Street, Longview, Texas.

10 Q. What email address is indicated?

11 A. Charlesorange173@gmail.com.

12 Q. Do you see a cellphone number?

13 A. I do.

14 Q. What's the cellphone number?

15 A. 903-240-7100.

16 MR. KUMMERFELD: Ms. McCullars, if you'll turn to
17 page 4 of that Exhibit, at the top.

18 BY MR. KUMMERFELD:

19 Q. Agent Armstrong, what do you see here?

20 A. Looks like a signature.

21 Q. An electronic signature?

22 A. Electronic signature.

23 Q. What name is there with the electronic signature?

24 A. Charles Orange.

25 Q. Let's turn to Government's Exhibit 14, which has

1 previously been admitted, and we'll go directly to page 2.
2 Let's look at the top there, that portion. What does this
3 document say at the top?

4 A. 2018 to 2019 Institutional Student Information Record.

5 Q. Do you see a name indicated there on the top left?

6 A. Yes, I do.

7 Q. What's that name?

8 A. Charles Orange.

9 Q. Is there an address?

10 A. Yes.

11 Q. What's the address?

12 A. 431 Electra Street, Longview, Texas.

13 Q. What about a phone number?

14 A. Yes. 903-240-7100.

15 Q. And email address?

16 A. Yes.

17 Q. What is the email address?

18 A. Charlesorange173@gmail.com.

19 Q. Okay. Now, let me ask you a question about the
20 discussion you had about where the phone came from. Early
21 in the interview, Mr. Orange indicated that he found it.
22 Would you describe where he was talking about -- you heard
23 the audio and you heard the audio description, but for
24 those of us who didn't see it, it's hard to visualize where
25 he was gesturing and to what area he was pointing to in

1 relation to the house. Can you set the scene for us?

2 A. Yes. We were out in front of his resident in a
3 vehicle. We were looking forward at his house. He pointed
4 to the right towards -- towards a ditch. It had a little
5 bridge and it was probably, like, maybe 400 -- probably 400
6 yards, maybe two houses down.

7 Q. Okay. Did it appear to you to be an easement or a
8 vacant lot or what did it -- how did it appear to you as
9 you sat there?

10 A. It looked like a vacant lot and, like, a little bridge
11 on a vacant lot.

12 Q. Okay. At some point in the interview -- at a couple
13 points, it appeared you went back in the residence and
14 retrieved different digital items?

15 A. That's true.

16 Q. Is one of the items you retrieved that's been
17 previously admitted as Government's Exhibit 4 the Samsung
18 Galaxy phone?

19 A. Yes, I did.

20 MR. KUMMERFELD: Your Honor, may I approach?

21 THE COURT: You may.

22 BY MR. KUMMERFELD:

23 Q. Agent Armstrong, I'll ask you to take a look at what's
24 been previously admitted as Government's Exhibit 4. You
25 can take it out of the bag and examine it.

1 Is that one of the devices that you retrieved from
2 inside the house and brought back during the course of your
3 interview with Mr. Orange?

4 A. Yes, I did.

5 Q. All right. Later in the interview, there was a portion
6 where there was a discussion about whether or not there
7 would be anything -- any information related to Mr. Orange
8 on the device. And I'm going to show you at this point
9 what's been marked and previously admitted as Government's
10 Exhibit 15. Let's maybe take the first half, the top
11 portion, and then we'll go down the page.

12 Agent Armstrong, I know it's probably hard to see,
13 but you have the full exhibit in your notebook there. What
14 is this document?

15 A. That looks like a subpoena return from Samsung, the
16 manufacturer.

17 Q. All right. And is there specific information about the
18 Samsung device included in this subpoena return?

19 A. Yes, there is.

20 Q. Is there a description of the device make and model
21 there in the top portion?

22 A. Yes.

23 Q. How is that described?

24 A. It's described as a Galaxy Grand Prime with model
25 number of G530T as in tango.

1 Q. Is there an IMEI number indicated there?

2 A. Yes.

3 Q. What is that number? Could you read that into the
4 record?

5 A. Yes. The IMEI number is 359128060553191.

6 Q. All right.

7 MR. KUMMERFELD: Ms. McCullars, if you will expand
8 the table in the lower portion of that page.

9 BY MR. KUMMERFELD:

10 Q. Agent Armstrong, is there additional information
11 indicated here as well?

12 A. Yes.

13 Q. Okay. So again, we have the device make and model
14 there in abbreviated format; is that correct?

15 A. That's correct.

16 Q. What information is included adjacent to the
17 manufacturer location?

18 A. Yes, it includes where it was made and includes Samsung
19 Electronics and the address as well.

20 Q. Would you read that whole box into the record, please?

21 A. Okay. I may have a problem pronouncing some of these
22 words. Samsung Electronics Huizhou Company -- looks like
23 company -- Limited Factory -- sorry -- LTD. Factory, Sehz,
24 No. 256, Zhongkai 6 Road, Chenjiang Street, Zhongkai
25 High-Tech, Huizhou City, Guangdong, People's Republic of

1 China, 56 -- I'm sorry -- 516229.

2 Q. Okay. That address is not in the state of Texas, is
3 it?

4 A. No, it's not.

5 Q. It's not in the United States of America?

6 A. No.

7 Q. What is the box next to "ship to vendor" say?

8 A. It says Brightpoint/T-Mobile with the address 6001
9 Global Distribution Way, Suite 101, Louisville, Kentucky,
10 with a zip code of 40228.

11 Q. And that's also not in the state of Texas?

12 A. Yes, that's correct.

13 Q. Next to "delivery date," what date is featured?

14 A. 7/22/2015, July 22, 2015.

15 Q. And who is the mobile service provider?

16 A. T-Mobile.

17 Q. Okay. Let's turn over to the second page, just that
18 top portion. There is a purchase date indicated. What is
19 the purchase date indicated there?

20 A. Purchase date is 3/21/16, or March 21, 2016.

21 Q. Who is the purchaser's name indicated?

22 A. Torie Smith.

23 Q. Do you know who that is?

24 A. Yes.

25 Q. Who is Torie Smith?

1 A. Charles Orange's sister.

2 Q. All right. Let me turn your attention back to
3 Government's Exhibit 4, the device. There's a portion in
4 the audio transcript where Mr. Orange exclaimed, What the
5 heck. What was going on at that time during the interview
6 when he made that exclamation?

7 A. At that time I went into the house to retrieve the
8 phone and I was alerted that child pornography was found on
9 the phone. So I retrieved it and came back to the vehicle
10 and showed Mr. Orange the image of child pornography.

11 Q. And that was his response, that exclamation? What the
12 heck, was his response to observing the image of child
13 pornography that you showed on the phone?

14 A. Yes.

15 Q. All right. Agent Armstrong, I want to ask you a
16 question in relation to the portion of the conversation
17 that occurred between yourself and Mr. Orange and
18 Agent Reavis. Mr. Orange said, I can honestly tell you the
19 phone has not worked since I got it. You responded,
20 gotcha. He answered, since it's been in my possession,
21 that's why I'm so shocked when you had it on, and you
22 answered, gotcha.

23 So that's the context of the next question I'll
24 ask you, and I'll show you what's been previously marked as
25 Government's Exhibit 16. Let's start at the top of that

1 document.

2 What is this device -- what is this document?

3 A. Looks like a response from an Android device
4 configuration service data, like a response.

5 Q. Okay. And is that IMEI number indicated there?

6 A. Yes, it is.

7 Q. Is it the same IMEI number that you read not long ago
8 in response to the -- was it Government's Exhibit 15?

9 A. Yes, it is.

10 Q. If you will look, you have in your notebook there, if
11 you will look at Government's Exhibit 5, the third page of
12 it, would you also compare the IMEI number on Exhibit 16,
13 page 1, to the IMEI there on Exhibit 5?

14 A. Yes.

15 Q. What was --

16 A. It's the same.

17 Q. Okay. So this record, Exhibit 16, is referring to the
18 same IMEI -- the IMEI number that you were referring to is
19 the IMEI number for Government's Exhibit 5; is that
20 correct?

21 A. That's correct.

22 Q. Okay. Is there a username indicated or associated with
23 this Android device configuration service data record?

24 A. Yes.

25 Q. What is the email address?

1 A. Charlesorange173@gmail.com.

2 Q. If you look down at the next third on that same page,
3 there's a -- a section titled Device Attributes, and
4 there's one entry that indicates IP address and last data
5 connection. Could you tell the jury what that IP address
6 is?

7 A. Yes. That IP address is 162.201.231.247.

8 Q. Below that we have a model number. Is that right?

9 A. Yes.

10 Q. What is the model number?

11 A. S as in Sam, M as in Mike, G as in Gary, 530, T as in
12 tango.

13 Q. And the brand?

14 A. The brand is Samsung.

15 Q. And if we go to the top of the next page, page 2, is
16 there a registration time indicated?

17 A. Yes, it is.

18 Q. What does that date and time indicate?

19 A. August 3, 2018.

20 Q. And does that indicate -- what does that indicate to
21 you from this record?

22 A. Indicates somebody with charlesorange173@gmail.com
23 registered that device at that time.

24 Q. So it registered this Samsung device with that IMEI
25 number to that email account?

1 A. Yes, that's correct.

2 Q. What is the first data connection time that they gave
3 you?

4 A. Yes. The first data connection time is August 3, 2018.

5 Q. What is the last time, the time of last time of data
6 connection?

7 A. Last time of data connection is December 20, 2018.

8 Q. What about the time?

9 A. I'm sorry. At 12:48 and 38 seconds p.m. UTC.

10 Q. Do you know approximately what time that would be
11 Central Time?

12 A. I don't. Maybe Central Time I want to say is minus
13 five, so give or take, I'm not sure.

14 Q. Okay. Okay. If you look at the subsequent pages, the
15 following pages, 2 to 4, are you able to tell the jury what
16 months and years that these records indicate service to
17 that phone associated with that email address?

18 A. Yes, yes, I can. The months and years that's
19 associated with this one is August, October -- I'm sorry --
20 August, September, October, November and December.

21 Q. What year?

22 A. 2018. I'm sorry. All of them are 2018.

23 Q. All right. Now, I want to ask you about your review of
24 the contents of that phone on scene that day. I want to
25 understand your process.

1 So what did you do when you obtained the phone?
2 Do you recall who you obtained the phone from inside the
3 residence?

4 A. Yes, I do.

5 Q. Who was that?

6 A. Andrew Peters.

7 Q. The same Andrew Peters that was here testifying on the
8 VTC in court?

9 A. Yes.

10 Q. And do you recall what happened after you obtained the
11 device from the Special Agent?

12 A. Yes. I obtained the device and I personally went
13 through the phone.

14 Q. Can you tell the jury how you went through the phone,
15 what you -- what you did?

16 A. Okay. Yes. The first thing I did is that I clicked on
17 the home -- home screen or the home button and it was
18 already unlocked. It wasn't password protected.

19 The next thing I did was go to the gallery look to
20 see if there was any files. In addition to that, I went to
21 the My Files folder. It's an app on Samsung phones that
22 can tell you -- that has like images, videos, downloads and
23 everything like that, so I reviewed all those and tried to
24 get data or anything I could see.

25 Q. And let me ask the question about what you found, but

1 before I do, was the phone on when you received it?

2 A. It was on.

3 Q. Was it unlocked?

4 A. Yes.

5 Q. When you began navigating that phone, visiting the
6 different portions you just described, what did you see?

7 A. I saw -- actually saw child pornography. I saw images
8 of young, prepubescent Asian boys engaging in sexual
9 activity. Some was just display, no sexual activity, and
10 some of the images I saw were engaging in sexual activity
11 with an adult male.

12 Q. Could you tell us from your review when the child
13 pornography was accessed?

14 A. Yes.

15 Q. What could you tell?

16 A. I can tell just based off the exit data that it was
17 accessed probably hours before we arrived with the search
18 warrant.

19 Q. Okay. I'm going to show you now what's been previously
20 admitted as Government's Exhibit 17.

21 MR. KUMMERFELD: Highlight just the phone and pull
22 that up.

23 BY MR. KUMMERFELD:

24 Q. All right. Agent Armstrong, what does this exhibit,
25 17, show?

1 A. Yeah. This exhibit is a picture I took in a controlled
2 setting in our lab, which illustrated what I saw that day.

3 Q. What -- what portion of the phone is this? Where as
4 you navigate through the phone is this image?

5 A. It appears on the home screen.

6 Q. Okay. I'll show you what's been marked and previously
7 admitted as Government's Exhibit 18, and I'll start it with
8 page 1.

9 What does this show, Agent Armstrong?

10 A. It shows the next picture with the gallery and some
11 other applications on it, on this phone.

12 Q. Okay. And is there -- this one of several different
13 screens that we're going to see a part of Exhibit 18?

14 A. Yes. And also, too, I would like to add it also has
15 the Google settings, but yes.

16 Q. Okay. I was going to ask, what applications there of
17 interest did you observe?

18 A. I observed the gallery, of course, the Chrome browser,
19 and also, too, the Google setting along with the Gmail.

20 Q. All right. Let's -- let's turn over to page 2 of that
21 exhibit. What does this screen show?

22 A. It shows other applications on there as far as
23 settings, in addition to the My Files app on here.

24 Q. Is that the same My Files app that you mentioned a
25 moment ago?

1 A. Yes.

2 Q. And then let's turn to page 3. What does this image
3 show?

4 A. This image shows other apps on there, includes --
5 includes the YouTube app, in addition Orfox, Orbot,
6 Dropbox, in addition, Photo Editor and AndroVid.

7 Q. Okay. Agent Armstrong, do you have any familiarity
8 with Samsung phones?

9 A. Yes, I do.

10 Q. Is that how you can navigate through and locate
11 different items on the phone?

12 A. Yes.

13 Q. So after identifying the My Files --

14 MR. KUMMERFELD: Can you turn to page 2,
15 Ms. McCullars, I'm sorry --

16 BY MR. KUMMERFELD:

17 Q. -- this My Files application, what did you do next?

18 A. I clicked on My Files folder and accessed that app --
19 application.

20 MR. KUMMERFELD: Your Honor, may I approach?

21 THE COURT: You may.

22 BY MR. KUMMERFELD:

23 Q. Agent Armstrong I'm showing you what's been marked for
24 identification purposes as Government's Exhibits 19
25 through 26. Those exhibits were -- if you could talk

1 specifically about each one.

2 A. These are images that I have taken personally in the
3 controlled labs of images I found on his phone going
4 through the My Files app and uncovering other images.

5 Q. Okay. And the images that were taken there kind of
6 show and portray the steps that you took on scene as you
7 investigated that phone -- during the course of your
8 investigation of that phone and the contents?

9 A. Yes, that's true.

10 Q. Okay. With respect to Exhibit 19, the photographs of
11 the Samsung Galaxy My Files, you reviewed those images?

12 A. Yes.

13 Q. And are they a fair and accurate depiction of what you
14 observed?

15 A. Yes.

16 Q. Have those images been altered in any way?

17 A. No.

18 Q. And next turn to Exhibit 20, photographs of the Samsung
19 Galaxy images screens. Have you reviewed those images on
20 that disc?

21 A. Yes, I have.

22 Q. Are those images fair and accurate depictions of what
23 you observed in the course of your investigation?

24 A. Yes.

25 Q. Okay. In Exhibits 21 through 26, are those all

1 specific images that you identified and took photos of
2 those, both of the images and of the data associated with
3 the images showing your process?

4 A. Yes.

5 Q. Are those all fair and accurate depictions of what you
6 observed?

7 A. Yes.

8 Q. Any alterations made to any of the -- the pictures
9 shown in Exhibits 19 through 26?

10 A. No alterations.

11 Q. You reviewed them on that disc?

12 A. Yes, I have.

13 Q. Did you initial that disc indicating that you reviewed
14 them and they're all accurate?

15 A. Yes.

16 MR. KUMMERFELD: Your Honor, at this time the
17 Government would offer Government's Exhibits 19 through 26.

18 THE COURT: Any objection?

19 MR. MIMS: Just a quick voir dire.

20 BY MR. MIMS:

21 Q. Agent, the exhibits that are requested, 21
22 through 26 -- 19 through 26 that you've just testified are
23 images of photographs and photographs, and the part where
24 -- from where, a cellphone?

25 A. Yes, photographs from the cellphone, yes.

1 Q. Okay. And you took those yourself?

2 A. Yes.

3 Q. Do you have any information how they got there?

4 A. Do I have any information how they got there?

5 Q. How they got on the phone.

6 A. Well, I took pictures of -- of the images. How they
7 got on the phone --

8 Q. Okay.

9 A. Yeah.

10 THE COURT: I think he is saying photographs of
11 the phone, not from the phone.

12 MR. MIMS: Yes. I would object. It's basically
13 -- basically hearsay, Your Honor. It would be hearsay that
14 -- these images themselves, I object to them on the basis
15 of hearsay.

16 THE COURT: Mr. Kummerfeld.

17 MR. KUMMERFELD: Your Honor, it's not a statement,
18 it's a photograph, and the agent has just testified to what
19 he saw as he conducted his investigation.

20 THE COURT: All right. Overruled.

21 MR. KUMMERFELD: Your Honor, at this time the
22 Government is going to publish images that appear to be
23 child sexual exploitation materials and we ask the screens
24 for the gallery be turned off.

25 THE COURT: Very well. We'll do that.

1 Okay, Mr. Kummerfeld. You may proceed.

2 MR. KUMMERFELD: Thank you, Your Honor.

3 BY MR. KUMMERFELD:

4 Q. Agent Armstrong, I'm going to show you what's on the
5 screen and you can walk us through the process. And the
6 first image that we'll pull up is image 1493 which is
7 Exhibit 19. Tell the jury where you are in navigating
8 through the phone when you observe this -- this screen
9 right here.

10 A. Okay. Yes. I went past the home screen and got to the
11 My Files. I hit the My Files app and this is what is
12 displayed on the My Files app as you see.

13 MR. KUMMERFELD: Ms. McCullars, can you expand the
14 section where it says Category.

15 BY MR. KUMMERFELD:

16 Q. So above this, were there some -- some images, and it
17 continues to show these, obviously, but did you see some
18 images there?

19 A. Yes, I did.

20 Q. What -- what are the images or how did the images
21 appear?

22 A. They -- they are child pornography.

23 Q. Okay. And you're familiar with that, obviously,
24 through your training and experience; is that correct?

25 A. That is correct.

1 Q. Now, below those images, there's some other categories.
2 What are these categories?

3 A. These categories are how the Samsung My Files organize
4 them so you see Images, you see Videos, Audio, Documents
5 and Download History.

6 Q. Okay. So your next step would have been to click on
7 which tab?

8 A. The next tab I clicked on was Images.

9 Q. Okay. Above -- do you recall that above those images
10 on the screen that we saw, what the heading writing --

11 A. I recall some of it. I recall some of it was like
12 either I-M-G or D-S-C or something like that that the file
13 names.

14 MR. KUMMERFELD: Zoom back out, Ms. McCullars.

15 BY MR. KUMMERFELD:

16 Q. At the very top where it says My Files, what is that?

17 A. Yes. Recent files.

18 MR. KUMMERFELD: You can take that down now.

19 BY MR. KUMMERFELD:

20 Q. So you indicated that you clicked on exhibit -- you
21 clicked on Images, the Images tab, and that took you to
22 another series of images; is that correct?

23 A. That is correct.

24 Q. Okay. Now, I'm going to walk us through some of those
25 screens that you observed and just click through them and,

1 Detective, I'll let you describe what you saw.

2 So we'll start with this is Exhibit 20. And we're
3 going to look at --

4 MR. KUMMERFELD: Ms. McCullars, 1530.

5 BY MR. KUMMERFELD:

6 Q. Okay. The images are rather small so just -- as we
7 walk through here, Ms. McCullars can tab through page 1 to
8 13 of this exhibit, 1514. What are you seeing here as you
9 scroll through -- these are subsequent screens; is that
10 correct?

11 A. Yes.

12 Q. So tell the jury what you did and how you were
13 capturing this.

14 A. Okay. So after I went through My Files as to those
15 four images, videos, download history, all that, I clicked
16 on the Images folder and these are the images that are
17 displayed.

18 Q. There's an image and then there's some information next
19 to it?

20 A. Yes.

21 Q. What is the information next to it?

22 A. The information next to it is the file name of the
23 images.

24 Q. Okay. And how did you capture this?

25 A. Oh, I captured that through just a photograph, a

1 picture.

2 Q. Okay. So you -- would you scroll through and take a
3 photograph and scroll a little ways down and take another
4 photograph?

5 A. Yes, I did.

6 Q. Okay. Over the course of your review, you identified
7 some specific images and went further into the information
8 behind those images; is that correct?

9 A. That's correct.

10 Q. How would you do that? If you were on the Images
11 screen, how would you get to the -- to the next screen?

12 A. Okay. I would select the image that I would want to
13 further review and then there's another -- like another --
14 I don't want to say icon, but another, like, choice where
15 you hit Details, and once you click that, most of the
16 metadata on the image --

17 Q. All right. Let's look at Government's Exhibit 21, and
18 we'll start at 1529 and to 1531 you can walk us through the
19 process --

20 THE COURT: Mr. Kummerfeld, we're at 30 minutes
21 now, so how much longer is this going to --

22 MR. KUMMERFELD: I have five to ten minutes.

23 THE COURT: All right. Can we move it along?

24 MR. KUMMERFELD: Yes, sir.

25 1529, please.

1 BY MR. KUMMERFELD:

2 Q. Is this the image that you observed?

3 A. Yes.

4 Q. Moving to the next, and then you clicked the button
5 that does what?

6 A. It gives you -- it gives you more choices to go
7 further. Like I said, details.

8 Q. Okay. And then you click that and what happens?

9 A. It shows the details of the photo, the metadata of the
10 photo.

11 MR. KUMMERFELD: Ms. McCullars, zoom in on the
12 top, the writing portion.

13 BY MR. KUMMERFELD:

14 Q. Okay. Can you tell the jury what information is
15 indicated there as far as the date is concerned?

16 A. Yes, the date shows December 20, 2018 at 12:59 a.m.

17 Q. Is there a file path below that --

18 MR. KUMMERFELD: Scroll down Ms. McCullars, the
19 properties, a little further.

20 A. Yes, it is.

21 BY MR. KUMMERFELD:

22 Q. What is the file path?

23 A. The file path shows /storage/emulated/0/pictures Thai
24 Boys.

25 Q. All right.

1 MR. KUMMERFELD: Take that down, please.

2 BY MR. KUMMERFELD:

3 Q. This is the same process that you use on data reviews
4 and certain dates and times?

5 A. Yes.

6 Q. Okay. What did that image depict?

7 A. The image depicted a prepubescent or a minor engaged in
8 oral sex with an adult male.

9 Q. Okay. We're going to move to Exhibit 22, 1548
10 through 1550.

11 MR. KUMMERFELD: Go to the next screen, please,
12 and then the next. And you can take that -- just the top
13 date area.

14 BY MR. KUMMERFELD:

15 Q. Okay. Could you describe that into the record, please?

16 A. Yes, that's the image of a prepubescent boy engaging in
17 oral sex.

18 Q. Okay. What is the date here?

19 A. The date shows December 20, 2018.

20 Q. And time?

21 A. At 12:59 a.m.

22 Q. And if you scroll down, when you go to the file path,
23 was it the same as previous the file path?

24 A. Yes.

25 Q. Okay. We'll scroll up really quickly and you can tell

1 us with certainty if it is or isn't.

2 A. Yes, it is.

3 Q. Okay.

4 MR. KUMMERFELD: You can take that down.

5 Exhibit 23, please. 1545 to 15, next picture,
6 next, and then just the top portion there.

7 BY MR. KUMMERFELD:

8 Q. What did that picture display?

9 A. A prepubescent male engaging in oral sex.

10 Q. What is the date indicated here?

11 A. December 20, 2018, and the time is 12:59 a.m.

12 Q. Do you recall the file path from this particular file?

13 A. I don't.

14 Q. Okay.

15 A. It's the same as the previous one, previous two.

16 Q. Thank you.

17 MR. KUMMERFELD: Exhibit 24, please.

18 BY MR. KUMMERFELD:

19 Q. 540, 543, 544, you see the date there?

20 A. Yes, December 20, 2018, 12:59 a.m.

21 Q. And would you describe that image, please?

22 A. Looks like a male engaging in anal sex with a
23 prepubescent boy.

24 Q. And was that the same file path?

25 A. Yes.

1 MR. KUMMERFELD: All right. Exhibit 25, please.
2 1536, 1537 and 1539.

3 BY MR. KUMMERFELD:

4 Q. Okay. What did this image portray?

5 A. It portrays a prepubescent male sitting exposing his
6 genital in a lewd and lascivious manner.

7 Q. What is the date and time indicated here?

8 A. December 18, 2018, 11:35 p.m.

9 Q. Okay. Exhibit 26, please, 1552, 1558, 1559. What does
10 this image portray?

11 A. Image portrays a prepubescent male lifting his legs up
12 and exposing his genitals in a lewd and lascivious manner.

13 Q. Okay. And could you tell us, as far as the file name,
14 what's the file name there?

15 A. The file name is DSCN0022.jpg.

16 Q. What's the path of this file?

17 A. Same path, Storage/Emulated/0/Pictures/Thai Boys.

18 MR. KUMMERFELD: You can take that down.

19 BY MR. KUMMERFELD:

20 Q. This is the process that you used on scene to review
21 these images; is that correct?

22 A. That's correct.

23 Q. The images that you just described and the jury just
24 observed, did you observe all those images on scene during
25 your review?

1 A. Yes, I did.

2 MR. KUMMERFELD: Your Honor, I would pass the
3 witness.

4 THE COURT: Okay. Very well.

5 Ladies and gentlemen of the jury, we're going to
6 recess at this time and we'll begin our cross-examination
7 of the witness first thing in the morning. I'll ask you to
8 be back about 8:45 so we can start promptly here in the
9 courtroom at 9:00.

10 As a reminder, don't discuss the case with anyone,
11 don't discuss any of the proceedings that you have seen or
12 any of the witnesses so far. Don't do any independent
13 investigation of the case, the parties, or the subject
14 matter.

15 Hope you all have a pleasant evening and we'll see
16 you back here in the morning. Thank you.

17 (Jury exits.)

18 THE COURT: Okay. Y'all be seated.

19 I know that Mr. Mims filed I guess a response on
20 the 4014 matter and I would like to hear from the
21 Government about that. I don't have to hear from you this
22 evening about it. If the Government wishes to file a short
23 response to what Mr. Mims filed, it's -- y'all are
24 certainly welcome to do that. It's really up to you. But
25 Mr. Mims did raise some important questions I think that

1 have not been addressed by the Government yet and must be
2 addressed by the Government. So we can either do that now
3 orally, we can do it first thing in the morning orally, or
4 you all may file a written response over the night. It's
5 really up to you all.

6 MS. MILLER: Your Honor, I think that we -- this
7 -- obviously this issue over 414 has come up a few
8 different times because I think we addressed it in
9 Texarkana. I think Mr. Mims's motion is --

10 THE COURT: I think you're losing your power.

11 MS. MILLER: I don't think the microphone likes
12 me.

13 THE COURT: Let's see if we can get you another
14 one.

15 MS. MILLER: Okay. This one is better.

16 I think we had originally addressed it before the
17 Court. I think Mr. Mims's argument is slightly different.
18 I'm prepared to argue it before the Court now and I have
19 some case law that I can cite if the Court wants to
20 consider it overnight.

21 Alternatively, if the Court prefers short
22 briefing, we can do that, too. But I'm happy to proceed
23 how the Court prefers.

24 THE COURT: It's really up to you, Ms. Miller,
25 whichever you're more comfortable doing. If you want to

1 give me some case law I'll be happy to look at that case
2 law overnight. And, in fact, that's probably the better
3 way to do it and it'll give us a chance to look at the law.

4 MS. MILLER: That's excellent, Your Honor. Would
5 the Court prefer Mr. Mims to go first since it's his
6 motion?

7 THE COURT: I'm happy to hear, Mr. Mims, if you
8 have anything to add to what you filed.

9 MR. MIMS: I'll stand on my motion, Your Honor.

10 THE COURT: That would be fine.

11 Ms. Miller, how about you go to the podium for me.

12 MS. MILLER: Certainly, Your Honor.

13 This is very strange, Your Honor. I feel as
14 though I have had my back to the Court all day, which is
15 unusual and disrespectful.

16 But I think that Mr. Mims and the Government start
17 from the same place and that we all understand and
18 recognize that this analysis starts with first determining
19 the applicability of Rule 414 which I think we all
20 recognize that the statutes are what they are and this is a
21 case where it would be applicable.

22 The next determination then would be really one of
23 relevance. And while I think that Mr. Mims has addressed
24 that somewhat, I think that the crux of his argument really
25 is the 403 balancing test. And with all due respect to

1 counsel, because I do appreciate his arguments, I think
2 that he has extended Rule 403 to a place where the Courts
3 have not necessarily done so. In fact, looking at the text
4 of Rule 414, it explicitly says that it is by no means
5 itself abrogating another rule.

6 So I think that the test for 414 is going to be
7 the same looking at -- excuse me -- the test for 403 is
8 going to be the same regardless of which circumstance we're
9 looking at in this. And so we're -- we're basically
10 looking at a simple balancing test; considering the
11 probative nature of the evidence versus the prejudice to
12 Mr. Orange.

13 And let's all be clear about this. I think it was
14 the Second Circuit in *United States versus Larson*, which I
15 can provide a cite for. It said something along the lines
16 of, we recognize that this is prejudicial evidence and
17 Congress has told us that they intend it to be. The
18 question is just, is it unduly prejudicial.

19 So beginning first with the probative nature, this
20 is information that was -- the 11th Circuit, I believe, in
21 *U.S. versus Bailes*, and at the end I'll provide a citation
22 for the Court's clerks and legal staff. It said that
23 essentially that this is information that is to help the
24 jury to determine whether the defendant was properly
25 charged, and they have actually -- some courts have phrased

1 it in terms of knowingly.

2 So the other side of it is whether a jury would
3 determine if, just because there was a prior offense, if --
4 if that would somehow be damning to the defendant, in this
5 case Mr. Orange.

6 Now, Mr. Mims relies heavily upon a Ninth Circuit
7 case, LeMay. And to be quite candid with the Court, both
8 Mr. Mims and the Government have relied on the Guidry case
9 from the Fifth Circuit because it's the only published
10 case. There are two other case in the Fifth Circuit that
11 are unpublished, Moore and it may be Bailes, actually
12 B-A-I-L-E-S is the other one. We do look to other
13 circuits. I don't know that we need a test as formal as
14 LeMay, certainly because the Fifth Circuit has not adopted.

15 But the Fifth Circuit, along with other circuits,
16 have looked at other factors. They have questioned first
17 whether the defense had an opportunity to review the
18 information; second, whether we're going to prevent having
19 a trial within a trial -- that often comes up in the
20 circumstance where it is uncharged acts of prior misconduct
21 that the Government seeks to allege, whether the Court
22 issues a limiting instruction, and Your Honor, I have an
23 instruction that I can offer to the Court.

24 THE COURT: Yes, I would like to have that.

25 MS. MILLER: Whether -- and that -- that

1 instruction would come from United States versus Moore,
2 which is a Fifth Circuit unpublished case, and they quote
3 from the district court, which they did affirm. Courts
4 often look to what the content is going to be, whether it
5 is graphic or extensive, they look to the point of -- of
6 whether there will be the ability for the defendant to
7 engage in any sort of robust cross-examination and the
8 issue of similarity as well as I think the issue of
9 timeliness.

10 I will tell you I know that timeliness, the
11 connection of time between the conviction and the current
12 offense is of great concern to the defense. I will note
13 that from the date of conviction to -- to the date of the
14 offense here was about ten years, give or take, which is
15 certainly not prompt but there have been other cases I have
16 seen up -- up to even 20 years. Again, I think that was
17 from the Second Circuit, but I think some of the concerns
18 can be easily assuaged here.

19 THE COURT: Can you address the similarity for me?

20 MS. MILLER: Yes, absolutely I can address the
21 similarity. That was discussed at length in the Moore case
22 from the Fifth Circuit, as well as I would urge the Court
23 to take a look at a case from the Sixth Circuit called the
24 LaBona case, and the thought with both of those would be
25 that the incident conduct, while not exactly the same --

1 I'm going to go back to the microphone, Your Honor.

2 THE COURT: I thought you would just use the
3 podium and then you could put the lapel mic down. That's
4 what I was suggesting.

5 MS. MILLER: Then I would be happy to do that. I
6 can just turn to the side.

7 THE COURT: You can swivel that podium.

8 MS. MILLER: Okay. Excellent. So I want to just
9 quote directly here to -- the issue that was discussed is
10 the fact that even though it's not the same, they depict
11 children of the same gender at approximately the same age
12 and show that particularly when there is a question at
13 issue -- so the case in Moore, the Fifth Circuit talked
14 about lot about the fact that it was the defendant's
15 stepdaughter who testified about a prior incident of abuse
16 and that the current allegation involved a female child of
17 approximately the same age.

18 And Your Honor, in this case, I would note that
19 the evidence the Government has put forth to this point has
20 been prepubescent boys approximately 10 to 11 years old.
21 The exhibit that the Government seeks to offer that
22 judgment does list on the front that his victim was ten
23 years old and a male at the time of the offense. So that
24 shows a similarity.

25 THE COURT: So I believe that's redacted from the

1 copy I have apparently. Is that --

2 MS. MILLER: It's at the very bottom, Your Honor.
3 Right underneath the redactions on the first page it says,
4 age of child at the time of the offense. Under -- it's
5 going to be 27 and, Your Honor, it's right under the
6 portion that says Sex Offender Registration Requirements
7 Apply, that's the part that's been redacted out and there
8 should just be a line that says the age of the victim at
9 the time of the offense was ten years.

10 THE COURT: I'm sorry. I don't have that. I
11 don't have that. I'm not looking at it with you.

12 MS. MILLER: Do we have the witness binder that we
13 could -- or, Your Honor, since it's just us in the
14 courtroom can we pull it up?

15 THE COURT: Sure. Yes.

16 MS. MILLER: Okay.

17 THE COURT: Yes, I'm sorry. That's redacted from
18 the copy I have.

19 MS. MILLER: Oh, that's certainly problematic. We
20 need to get the Court a corrected copy.

21 THE COURT: That would help.

22 MS. MILLER: So there is that similarity. And I
23 know too in this case, because there is a question about
24 identity and whether there was knowing, the fact that there
25 was -- I'm just going to use the word because in this

1 context we often try to stay away from the word
2 "propensity" but that really is the point of 414.

3 I'll note further that the Second Circuit in the
4 United States versus Spoor, which was from 2018, they noted
5 that some of the images involve the lascivious display of
6 the genitals, and the Court is well-familiar with the Dost
7 factors. One of the Dost factors involved, was the image
8 intended to elicit a sexual response in the viewer, and it
9 was the Second Circuit's comment that, given that that is
10 something that the jury needs to consider, that the
11 defendant's background and his position in obtaining or
12 seeing the images may be probative toward that.

13 So I think that those two cases are the strongest,
14 although I would like, with the Court's indulgence here --

15 THE COURT: So just so I understand what you're
16 saying, Ms. Miller, it's the age of the child involved in
17 the offense of which Mr. Orange was convicted in 2008 and
18 the ages of the images that were contained on the devices
19 and the similarity between those two; is that what -- is
20 that the connection?

21 MS. MILLER: That is the connection.

22 THE COURT: You're talking about two different
23 charges. This is an indecency charge and the Government in
24 this case alleges pornography.

25 MS. MILLER: And that regularly happens, Your

1 Honor. In fact, most of the case law that exists, we
2 rarely see a situation where it is prior child pornography
3 and prior child pornography. Almost all of these cases
4 involve hands-on abuse, and I think that one of the ways
5 that the Government has tried to mitigate any potential
6 prejudice to Mr. Orange in this case is that, number one,
7 we are not calling his victim. Many of these cases, the
8 victims themselves actually testified in detail about what
9 happened to them.

10 Number two, we are not looking to show any videos
11 of past abuse. There was another case, shockingly from the
12 Second Circuit called Schaffer, where they played videos
13 depicting the defendant's prior abuse of a child at trial
14 as part of their 414.

15 We're looking for none of that. In fact, it's my
16 expectation that the original investigator is going to come
17 in, testify that he was made aware that there was an
18 allegation of hands-on abuse, that he was aware of the age
19 of the child, where the offense occurred, he testified at
20 trial, he was not present for the victim's testimony, and
21 that he will then bring in the judgment from that point.

22 So we're not looking to have a trial within a
23 trial. We are not looking for an opportunity to go into
24 detail about that, what that abuse was.

25 THE COURT: What is the witness's name?

1 MS. MILLER: Detective Kevin Freeman. He has
2 recently gotten a promotion, but at the time he was a
3 detective. He is now with the Gregg County Sheriff's
4 Office.

5 THE COURT: Okay. I'm sorry. I interrupted.

6 MS. MILLER: So, Your Honor, I think that's the
7 Government's biggest point in all of this is that there are
8 a number of ways that we can limit any potential damage to
9 Mr. Orange, but I do think that I take the greatest
10 disagreement with Mr. Mims in saying that there's some sort
11 of different balancing analysis when we're talking about
12 Rule 403. Rule 403 is Rule 403.

13 And I think the concern in this case is that if
14 Rule 414 is used in the way that Mr. Mims has urged the
15 Court, I'm not sure what 414 evidence would ever be
16 admissible in any court.

17 And so, again, this is -- this is evidence that
18 goes to the direct issues that Mr. Orange has raised in
19 this case, namely his identity, his knowledge of the child
20 pornography on the devices. This is probative evidence and
21 goes directly to the case at issue, and I think that we can
22 take some steps to mitigate that.

23 THE COURT: All right. Does -- as I understand
24 it, the document that's been handed up, Mr. Orange's
25 conviction back in '08, did that occur after a trial or did

1 he plead guilty?

2 MS. MILLER: It was after a trial and I don't know
3 if it's redacted on the Court's copy, but it does indicate
4 that it was a jury verdict, at least on the portion -- oh,
5 the Court may not have it because it says punishment is
6 assessed by a jury.

7 THE COURT: Okay. And for purposes of my
8 analysis, does that make a difference?

9 MS. MILLER: I actually think, Your Honor, that it
10 errs to Mr. Orange's favor because, had he pleaded guilty,
11 then there would be some idea to the jury that he had
12 previously admitted what he was -- done and, therefore, if
13 he had admitted in that case and he's admitting it in this
14 case, then I don't doubt that in this case Mr. Mims could
15 argue to the jury that this is a man who has been unfairly
16 targeted twice.

17 THE COURT: All right. That's very -- let's hear
18 a response.

19 MS. MILLER: Your Honor, I pulled up the
20 instruction in front of me. Would it be helpful for me to
21 put it on the record?

22 THE COURT: Yes.

23 MS. MILLER: Again, it's the United States versus
24 Moore, 425 Fed. Appx. 347, Fifth Circuit 2011 and I am
25 reading from that very -- from page 349.

1 And so the Court's instruction was to the jurors
2 that they should consider the testimony for the limited
3 purpose of determining Moore's propensity to download child
4 pornography and whether he was correctly charged, but not
5 for any unlawful or improper other purpose.

6 THE COURT: Okay. All right. Helpful.

7 Anything more, Ms. Miller?

8 MS. MILLER: No, thank you, Your Honor.

9 THE COURT: Okay. I will take a look at the cases
10 that you have cited to me.

11 Mr. Mims, I gather you have been provided this
12 information well in advance of our first trial, fair
13 enough?

14 MR. MIMS: I think so. We had a copy of the
15 judgment here. I didn't go any deeper than that. I did a
16 lot of research on this and there's an article I relied
17 heavily on from University of Illinois, and I want to make
18 clear to the Court a couple things. I'm not saying that
19 the Court is bound by the LeMay case at all. That's a
20 Ninth Circuit case.

21 THE COURT: I understand.

22 MR. MIMS: I'm just submitting that as a possible
23 analysis in the 403 balancing act. I'm just submitting it
24 to the Court to --

25 THE COURT: It's certainly some factors to

1 consider.

2 MR. MIMS: Some judges felt that that was
3 appropriate, you know. I believe that they at least have
4 some respect from other circuits and stuff like that. I'm
5 not saying the Fifth Circuit adopted that. I don't believe
6 it has. I think 403, like counsel said, is the prevailing
7 rule in our circuit. I'm just saying that we don't know
8 what analysis a judge goes through in making that balancing
9 test. I'm throwing that to the Court to suggest that could
10 be a mechanism to make that decision.

11 The other thing is just as far as timeliness goes,
12 the judgment was actually some time in -- the offense was
13 August 1, 2003. Well, that's all -- more than 15 years
14 prior to the allegations we're here for. That's the only
15 other issue that I think I need to cover.

16 THE COURT: Okay. So in terms of what Ms. Miller
17 said, though, anything particularly you want to respond to
18 other than -- I understand your argument about the LeMay
19 case.

20 MR. MIMS: The instruction satisfies LeMay.

21 THE COURT: You're happy with that? In other
22 words, if I -- if I decide to go in the direction that they
23 should come in and the witness should so testify, the
24 instruction is agreeable to you?

25 MR. MIMS: Sure. Yes.

1 THE COURT: So Ms. Miller, let me ask you about
2 LeMay. If you were to apply putting aside whether it's the
3 law in The Fifth Circuit or not, does this still come in
4 under LeMay?

5 MS. MILLER: I think so, Your Honor, because --
6 and I don't have -- unfortunately LeMay is the one case I
7 don't have in front of me right now, but it's my
8 recollection that many of the factors are the same ones we
9 discussed right here. I think there are a couple of
10 differences in between, but I think the image points that
11 we're all looking at here and appropriately should be
12 concerned with are the connections of the conduct and the
13 ways that, if this is admissible, that it can be mitigated
14 in a way that is most favorable to Mr. Orange.

15 THE COURT: All right. Fair enough. Thank you,
16 Ms. Miller. I will look at those cases tonight. I would
17 ask that you provide a copy if you all do a joint limiting
18 instruction. I'm not telling you where I'm coming out but
19 in the event that I do permit the document and the
20 testimony to come in, it would be helpful if you all worked
21 out the exact phrasing of the instruction.

22 MS. MILLER: May we email that to your attorney?

23 THE COURT: That would be very helpful. If you
24 would send it to Miss Stradley, that would be great.

25 What else do we need to address?

1 Mr. Kummerfeld, I'm sorry I urged you along there
2 at the end.

3 MR. KUMMERFELD: I deserved it. Thank you.
4 Sometimes we need reminders.

5 THE COURT: We got it done.

6 MR. KUMMERFELD: Yes, sir.

7 THE COURT: Anything else from the Government?

8 MR. KUMMERFELD: I think we're good. We expect to
9 have one witness tomorrow depending on the Court's ruling
10 after Mr. Armstrong's testimony is completed.

11 THE COURT: Sure. Okay.

12 Mr. Mims.

13 MR. MIMS: Just that we haven't asked about the
14 time the Government's case is going to close. I don't know
15 if they have it ready or not.

16 MR. KUMMERFELD: Yeah, so as soon as Mr. Armstrong
17 is finished, depending on the Court's ruling in this issue,
18 we would call Kevin Freeman, and after his testimony we
19 rest.

20 MR. MIMS: All right.

21 THE COURT: Okay. Fair enough.

22 Thank you. See you in the morning.

23 MR. KUMMERFELD: What time in the morning do you
24 want to see us?

25 THE COURT: I'll tell you what. We'll look at the

1 cases. You all work on the limiting instruction. I think
2 we should probably address this before we start the
3 cross-examination. I'm not -- I'm not -- I don't know how
4 long your cross is going to be, but whatever it is, if
5 it's, you know, relatively short period of time, we might
6 go straight into the next witness, assuming I'll allow
7 that. We'll just see where we go.

8 But I would prefer to get my ruling on the record
9 in the morning, so let's say -- let's say let's be prepared
10 to go on the record at 8:30. Would that be okay?

11 MR. MIMS: Yes, Your Honor.

12 MR. KUMMERFELD: Yes.

13 THE COURT: Okay. See you all in the morning.

14 (Time noted 5:50 p.m.)
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COURT REPORTER'S CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct transcript from the stenographic notes of the proceedings in the above-entitled matter to the best of my ability.

/s KATHRYN McALPINE/
KATHRYN McALPINE, RPR, CSR, CCR