Witness: Ronald Welsh

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Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – Dave Harris; Cross – Mark Geragos; Redirect – Dave Harris; Recross – Mark Geragos

Day 1 of 1 for this witness

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Direct Examination by Dave Harris

CLERK: Be seated. State and spell your name for the record.

WELSH: My name is Ronald Welsh, W-e-l-s-h.

JUDGE: Go head.

HARRIS: Thank you.

HARRIS: Mr. Welsh, can your tell us your occupation?

WELSH: I'm a criminalist with the California Department of Justice.

HARRIS: And can you explain to the jury what a criminalist is?

WELSH: Well, basically a criminalist is a scientist who specializes in examining evidence.

HARRIS: And do you have any particular, with the Department of Justice, any specialized area that you focus on?

WELSH: I have a number of areas that I'm qualified to work in, but I focus on firearms examination.

HARRIS: And can you tell us a little bit about your background, training or education in the area of firearms examination?

WELSH: Sure. Well, first of all, to be a criminalist you have to have a four-year degree in the appropriate science. And I have a degree in biological sciences from the University of California at Davis. And while I was attending school I began an internship with the California Criminalistic Institute. It's a Department of Justice lab that specializes in training and research. And while I was there they found out that I had a background in firearms and I started doing some, just helping out people around there. And towards the end of my college career, I started a paid research assistant position there where I was actually researching some statistical, statistical basis for firearms examination. And then after that I was hired by the Department of Justice. I worked in various areas. And then I, I went back to the California Criminalistic Institute to take courses in firearms examination. I've had several of those. And I have been working in firearms since 1998.

HARRIS: Now, with this background involved, were you requested to do a firearms examination by the Modesto Police Department and did you write a report based on than request?

WELSH: Yes, I did.

JUDGE: Before we do that do you want to voir dire, Mr. Geragos, or do you want to submit the matter?

GERAGOS: I'll submit it.

JUDGE: All right. All right. The Court will find that the witness is an expert in the field of firearms identification based on his qualifications. Go ahead.

HARRIS: Mr. Welsh, what I'd like to do is have some photographs marked. And while that's occurs, I'd like to show you an exhibit.

JUDGE: Now, you want to mark those like 93-A through something, or do you want to mark them all separate?

HARRIS: All separate.

JUDGE: How many have you got there?

HARRIS: I think there's --

JUDGE: 3, 4? How about 93 1 through 4?

HARRIS: That be fine.

JUDGE: Okay. 93 1 through 4.

HARRIS:

HARRIS: Can I just have you take a moment to look at that and tell us if you recognize that.

JUDGE: That should be A, B, C and D, not 1, 2, 3, 4.

JUDGE: 93.

GERAGOS: I'm sorry, judge?

JUDGE: No, it should be 93 A, B, C and D.

GERAGOS: A, B, C and D.

HARRIS: Have you had a chance to look at that?

WELSH: Yes, I have.

HARRIS: And do you recognize what's contained in People's No. 71?

WELSH: Yes, I recognize the packaging and it has my marks on it and the pistol also has my initials and an item number that I put on it just to identify it.

HARRIS: Okay. Let's back up through that. When you say the packaging has your marks on it, can you explain to us what that means?

WELSH: Well, one of the things you don't see on TV a lot, but when criminalists spend a lot of time keeping track of evidence and describing it and packaging it. So when we, when we package an item after we're done examining it, at least in my laboratory, our procedure is to put that case number, date, initials on it across the tape seal, so we when we see it again in court, we know it's the item that we have looked at.

HARRIS: And what you say you're describing you say you recognize that on the packaging for No. 71?

WELSH: That's correct.

HARRIS: Can you show us where that's at.

WELSH: Let's see here. Right here there's our case number, which was CV-02-10941 and there's a date and my initials on it.

HARRIS: So you're describing No. 71 you're holding it up so it's at the top of the document?

WELSH: That's right.

HARRIS: But that would kind of be to the right side from the top?

WELSH: It's kind of, kind of in the middle here. You can see there's a lot of different marks on it because it was marked when it came in to our laboratory and then it was marked by me as well.

HARRIS: All right. And then you also indicated there's some type of marking on this particular firearm that your recognize?

WELSH: That's correct.

HARRIS: And, again, when you received as part of your examination, you receive a firearm, do you start looking at it?

WELSH: Yeah. The first thing we do is just make general observations about the gun. We have, we have a worksheet that we fill out to make sure we don't forget anything. It just has basic information on the gun, make, model, serial number, things like that.

HARRIS: And did you document that stuff in the notes that you're talking about?

WELSH: Yes, I did.

HARRIS: And after you're all done you take those notes and convert it into a report?

WELSH: Yes.

HARRIS: And what can you, tell us about what you found when you first started to look at that gun that's depicted in People's No. 71.

WELSH: Well, the first thing I did was I made a notes again. Like I said, I noted the make, the model, the serial number and I looked for anything unusual about the gun. I looked for trace evidence, any, any blood or anything like that that might be on the gun. I, it's one with of the first things I noticed was that the grips were missing and I noticed that there was a lot of adhering material, like fibers and dust and stuff like that. Just seemed like it was dirty.

HARRIS: Now as you go through this examination do you also photograph the items you go through?

WELSH: Yes, sometimes I do. The photographs are for our notes. It's sort of things, we used to have to sketch this sort of thing. Now there's digital photography. It's easier to do it that way. So I will, I like to take a lot of digital photos of the evidence I look at. We still are required to make all of these other observations in our notes in a narrative fashion, but it helps jog my memory when I have to go back and look at a case.

HARRIS: Now, what I'd like to do now so briefly before we break is show you these photographs. Have you look at them. It will be 93 A, B, C and D. Have you look at these and see if you recognize those digital photographs.

WELSH: Yes, I do.

HARRIS: And just starting with 93-A, what does that depict in the photograph?

WELSH: 93-A is a picture I took of the gun sitting on top of the packaging that it came in so --

HARRIS: That's the same packaging that you also showed, held up for the jury?

WELSH: Let's see. Yes, it is.

HARRIS: And the second photograph, B?

WELSH: The second photograph is a picture of a loaded magazine that was submitted with the pistol.

HARRIS: Now when you say it was submitted with, were those two items packaged in the same package or do they come in two separate packages?

WELSH: They come in two separate packages. It's considered bad form to submit a loaded magazine with a gun into the crime lab.

HARRIS: Is that somewhat dangerous?

WELSH: It could be, yes.

HARRIS: All right. Looking at the next one, C.

WELSH: C is another picture of the loaded magazine. This is a more, this is a picture I took with a scale. It's a closer up picture.

HARRIS: Before I start going into it, judge, this will be a good time.

JUDGE: It will be a good time. All right. We'll take the noon recess now. We'll see you at 1:30.

JUDGE: All right. This is the case of People versus Scott Peterson. Let the record show the defendant is present with counsel. The jury is in the jury box, along with the alternates.

HARRIS: Mr. Welsh, before we took the lunch break, you were starting to tell us about the examination which you had on the firearm that's People's Number 71. That's still up there in front of you?

WELSH: Yes.

HARRIS: Put up here what's been marked as People's Number 93-A. And is this a photograph of that particular firearm?

WELSH: Yes, it is.

HARRIS: And you were describing the markings. And can you see those in the photograph?

WELSH: Which markings are those?

HARRIS: There is writing up at the top. There is writing directly beneath where the gun is at.

WELSH: Those are some markings that are on the packaging. Those aren't my marks, though.

HARRIS: When it came to you, it was already marked from the Modesto Police Department?

WELSH: The packaging?

HARRIS: Yes.

WELSH: Yes.

HARRIS: And looking at the gun, you have already described to us basically that you recognize it. Can you describe for the jury what type of gun this is?

WELSH: This is a, Llama is the brand. At least that's the name they use in the United States. It's a Llama pistol. It's not really marked with a model number. Commonly called a small frame. They make a couple different calibers.

JUDGE: Can you spell Llama?

WELSH: Double l-a-m-a.

HARRIS: We have heard it described as a pistol or a handgun. Can you give us kind of the technical classification of this gun?

WELSH: Well, the common vernacular nowadays referred to, when people refer to a pistol, they mean semi-automatic handgun. That wasn't always the case. But that is the common usage now. That's the way that I normally use it in court.

HARRIS: You mention in court. Have you testified as an expert in court before?

WELSH: Yes, I have.

HARRIS: About how many times?

WELSH: In firearms examination, about 25 times.

HARRIS: So going through this, considering your expert opinion, your expertise, as the judge has already instructed the jury. What type of semi-automatic firearm is this? Is there a caliber?

WELSH: It's a .22 Long Rifle.

HARRIS: And what does that mean?

WELSH: That's a type of cartridge. There are many cartridges, different calibers, different power levels and, they all have their own name. .22 Long Rifle is a name of a cartridge. And as this example shows, it's not only used in rifles, it's also used in many different types of firearms, including small semi-automatic pistols like this.

HARRIS: Would this, go back through this a little bit. You are talking about being a small pistol, or small frame semi-automatic, what does the term semi-automatic actually mean?

WELSH: Semi-automatic means that the firearm uses the energy from the cartridge to not only force the bullet out of the barrel, but also to uses some of that energy to cycle the firearm, which means that it extracts a spent cartridge case and eject it from the gun, and then loads a fresh cartridge, all using the power of the cartridge that was fired.

HARRIS: Now, again, to make sure there is no misunderstanding here, you are talking about the term bullet and the term cartridge. Is that the same thing, or is that something different?

WELSH: That is not the same thing, and it's very commonly confused. Even police officers, people that have a lot of experience and training with firearms will sometimes confuse those two terms. The bullet is the actual projectile that comes out of the gun. A cartridge is composed of a cartridge case, gunpowder, primer, and a bullet. So these things are different. And sometimes causes a lot of confusion in court when we testify.

HARRIS: So when you are talking about a cartridge, all those components you just described, there is some type of striking mechanism in the firearm that hits the primer, that ignites that, causes the powder inside the cartridge case to expand in kind of an extraordinary rate, that pushes the bullet out?

WELSH: Yes. The expanding gases from the burning gunpowder push the bullet out.

HARRIS: You are talking about how this works, in terms of cycling there. What does that mean, cycling the firearm?

WELSH: Well, in a pistol like this, there is a top part of the pistol moves back and forth. The power of the cartridge forces the top of the gun, which is called the slide, forces that backwards. That extracts and ejects the empty cartridge case. And then it also compresses a spring, and that spring returns the slide forward again, and it picks up a fresh cartridge from the magazine in the process.

HARRIS: You mentioned the term magazine. Let me put up on the screen 93-B. Do you recognize what that is?

WELSH: Yes.

HARRIS: Describe for us what that is.

WELSH: That is a loaded magazine that I received as part of this case.

HARRIS: Now, it's written on there, it says clip. Is there a difference between a clip and magazine?

WELSH: That is another common term. Unfortunately there is a lot of terminology involved in firearms. And clip and magazine are also commonly confused. A clip actually functions differently. But a magazine is a generic term that basically is any mechanism used by a firearm to hold extra cartridges in the firearm.

HARRIS: Now, when you are talking about the magazine in this case, let me put up the next one which is 93-C, which is a larger photograph of the same magazine. Can you describe to us what's in that photograph?

WELSH: That's the same magazine. This is on, it's on a scale, so you can get an idea of the size. It's more of a closeup, so you can see the cartridges that are in the magazine.

HARRIS: Photographs you looked at earlier and we're going through now, 93-A through D, you took those photographs?

WELSH: That's correct.

HARRIS: Do they accurately depict the items that are shown in the photographs?

WELSH: Yes, they do.

HARRIS: And when you received this particular gun from the Modesto Police Department, you told us about receiving that. It's not kind of good form in the laboratory to have the magazine with the gun. Did you receive the photograph that I just showed 93-B, where it was written with clip on the envelope, the magazine in a separate envelope?

WELSH: That's correct.

HARRIS: And was that magazine loaded, or did it have ammunition in it?

WELSH: Yes, it did.

HARRIS: How many cartridges were in that?

WELSH: Eight.

HARRIS: Did you examine that magazine to determine how many cartridges it could actually hold?

WELSH: Yes, I did.

HARRIS: What did you find?

WELSH: As part of my examination, I, at one time I had the magazine unloaded, the cartridges that were in it that were received in the laboratory, I removed those, and I used dummy cartridges, inert cartridges that won't fire in the laboratory. I loaded the magazine. This magazine has a capacity of eight.

HARRIS: When you are received it with eight cartridges that's the maximum for that particular magazine?

WELSH: That's correct.

HARRIS: And the rounds that you received from the Modesto Police Department in that gun, as it was, there were no live rounds?

WELSH: Yes.

HARRIS: And as you go through the process of examining this particular gun, tell us what you do.

WELSH: Well, in this case, I examined the gun looking for any blood or any trace evidence that needed to be collected before the gun was fired. Trace evidence, that's a broad class of evidence. It includes hairs, fibers, blood, that's very small, glass, soil, all kinds of things. So as part of my examination, I try to see if there is anything that needs to be collected before I

continue with my examination, anything that's going to be destroyed in the process of that. So in this case, the gun had a lot of adhering little fibers and hairs, or what appeared to be hairs, and of a lot of dust, and things like that. But it wasn't something that was going to be lost in the process of test firing I didn't see. So I did not collect that outside of the gun. Part of the examination, we do make sure the gun, if we are going to test fire a gun we need to make sure it's going to be safe to fire it. As part of that examination, I always check the inside of the barrel of the gun. It's dangerous to fire a gun when was it has an obstructed bore, or something in the barrel. So I always check that. And in this case I could see some debris in the barrel. Probably nothing that would be dangerous if the gun was fired, but I wanted to collect that. Part of my physical examination is, I run a cloth patch down the barrel of the gun just to observe how much, if any, gunpowder residue is in there, any other trace evidence that might not be readily apparent, just look down the barrel and do that as part of it.

JUDGE: Do this by questions and answers. That's a long, long answer.

HARRIS: Okay.

JUDGE: That's a long answer.

HARRIS: Mr. Welsh, you are talking about some terms in there. I want to go back through that. You are talking about bore. What is that?

WELSH: The bore is the inside of the barrel.

HARRIS: And you are saying, I think the term was chamber that you are referring to?

WELSH: The chamber is kind of the, it's part of the barrel where the cartridge goes into the gun, where it sits when it's fired.

HARRIS: With the gun in front of you there, can you hold that up and kind of show with that particular gun what you are talking about?

WELSH: With this particular gun, the way it's packaged right now, I can't really show the chamber. The chamber is actually being covered by the front portion of the, or by this portion of the slide. And this is the barrel. And the inside of this is a hollow tube where the bullet, the bullet goes down, and that's the inside the inside of this tube is the, what I'm referring as to the bore.

HARRIS: Let me put up the previous photograph of 93-A and compare the actual gun to that. Can you see the gun, as you have it right now, is the slide more in a rear position than it is in that photograph?

WELSH: I'm sorry, could you repeat that question?

HARRIS: If you can hold up the gun again. Is the slide in the handgun that you are holding right now, I believe that's 71. Is the slide in a more locked-back position than it's depicted in the photograph there of 93-A?

WELSH: Yes. And that picture, in the picture that on the screen, the slide is farther forward, because they retracted the slide, placed that piece of paper in, and let it close on that piece of paper.

HARRIS: Again, just so we're getting all of this on the same page. At the end of the slide there in the photograph, 93-A, what is that somewhat angular object back there?

JUDGE: Do you want to step up there? Use the pointer so he knows what you are talking about.

HARRIS: I can do that, or we can use the laser pointer.

JUDGE: Use the laser. That's even better.

HARRIS: Q. Do you understand what I'm asking you about?

WELSH: You said the end of the slide and angular portion. I'm assuming you mean the end of the slide, opposite end of the barrel on the muzzle, so it's the, you are referring to the hammer?

HARRIS: If you can hold up the gun for us. At the very back of that where your index finger is, is that the hammer for the gun?

WELSH: This is the hammer.

HARRIS: And I don't want to testify for you. But at the back end of that, that's up here visible in this particular photograph, right there, is that the hammer?

WELSH: Yes.

HARRIS: And with this type of gun, is it a, semi I mean single action or double action?

WELSH: This is a single action type of firearm.

HARRIS: What does that mean?

WELSH: That means that the hammer has to be cocked, and then, and then the hammer is released by a pull of the trigger; as opposed to a double action firearm where, if the hammer is down, you can pull the trigger and it will both cock and release the hammer.

HARRIS: If you go through this, you handle that gun, there is a cartridge in the chamber, to use your terminology, if you pull the trigger and it's not cocked, nothing happens; is that correct?

WELSH: That's correct.

HARRIS: And you have to cock the hammer and pull the trigger for it to click, for anything to happen?

WELSH: That's correct. For any, to get the cartridge in the chamber, you have to cock the hammer because of the way it's loaded. But you could lower the hammer after that, in which case, if you pulled it is trigger, nothing is going to happen.

HARRIS: All right. Now, going through this, again, in the photograph that's up there. You were describing earlier that the handgrips were missing. Where do the handgrips normally go on a gun like this?

WELSH: Normally a gun like in has wood or plastic grips that cover the frame open portion where your hand goes.

HARRIS: Let me put up another photograph, which is 93-D. You were describing some of the debris that you found in this particular gun. Can you describe for us what's in that particular photograph?

WELSH: Well, this is the chamber end of the barrel. That's where the cartridge goes into the barrel before it's fired. And I referred to that is a hair, slash, fiber in my note, because I could discount that it was a hair like fiber. To me it looks like a hair. It's a hair that's covering the chamber of the pistol.

HARRIS: Now, in terms, if you could hold up the actual firearm again. Looking at it that way, when you put the magazine into the butt of the gun and you close that slide, and a bullet moves forward because of the slide mechanism, would the bullet be pushed into that opening that's depicted in that photograph up there?

WELSH: Yes.

HARRIS: And is that hair obstructing that particular opening?

WELSH: Yes, it is.

HARRIS: Were you also asked to, as part of your examination of this particular gun, to see if it worked?

WELSH: Yes, I was.

HARRIS: Did you examine it to see if it was functional?

WELSH: Yes, I, after the dry patch that I explained, then I, and I checked it to see if it was safe to fire, I test fired the gun.

HARRIS: Can you tell us how that process works?

WELSH: Well, in this case, I took all of the cartridges that were in the magazine when it was submitted. I took those out. And I first test fired it using five cartridges from our laboratory reference ammunition. And that way I tested the function of the both the gun and the magazine. And it functioned normally.

HARRIS: Let me stop you there. Judge wants us to do the question and answer, so we'll go through it.

WELSH: Sorry.

HARRIS: When you, so you take that magazine from the second envelope that we have already looked at, you take the gun and you make it ready to fire. What's the process that you put the magazine into the gun?

WELSH: You take a loaded magazine, it goes in the magazine well, which is in the bottom of the grips of the gun. And then you pull the slide back and release it. When the slide goes forward, after you release it, it picks up a cartridge in the magazine, puts it in the chamber.

HARRIS: So you did that with this test ammunition?

WELSH: Yes.

HARRIS: That was also just another brand of .22 Long Rifle cartridges?

WELSH: I tried to use similar ammunition to the ammunition that was in the magazine and that we had in our laboratory. We keep a reference collection of many different types and brands of ammunition.

HARRIS: So you get the test ammunition, put it in the magazine?

WELSH: Goes in the magazine well, pull the slide.

HARRIS: Cartridge, does the cartridge feed into the chamber?

WELSH: Yes.

HARRIS: And you do something with it at that point?

WELSH: Yes.

HARRIS: What do you do?

WELSH: I test fired the gun. I fired it into a bullet tank in our laboratory. It's a big metal tank full of water, to stop the bullet. And I fired it five times into the tank.

HARRIS: So just so we're year about this, pointed it in the tank, you pull the trigger, gun goes off?

WELSH: Yes.

HARRIS: Does the firearm cycle through its operation?

WELSH: Yes. Then the firearm extracted and ejected the empty cartridge case, and chambered a fresh round.

HARRIS: And, again for us lay people, that means that that bullet that's been fired off of that first cartridge it spit out, and a new one goes into the chamber?

WELSH: That's right.

HARRIS: You fire it again?

WELSH: That's correct.

HARRIS: And as to the second one fire,

WELSH: Second one fires, and it extracts, ejects, chambers a new round. Does everything it's supposed to do.

HARRIS: You do this with all five rounds of the test ammunition?

WELSH: That's correct.

HARRIS: Any function problems with the gun with those five rounds?

WELSH: No.

HARRIS: Do you test any of the ammunition that came in with the gun?

WELSH: Yes, I did.

HARRIS: Tell us about that.

WELSH: Well, I wanted to see if there could possibly be an ammunition problem maybe that could be a source of malfunction. So I took five or, I'm sorry, four of the cartridges.

HARRIS: Fifty percent of them?

WELSH: Half the cartridges that were in the magazine. I put them back into the magazine and did a similar test with those cartridges.

HARRIS: What happened with those tests?

WELSH: Exactly the same. They all functioned normally.

HARRIS: So you pull the trigger, gun goes off, cartridge ejected, new cartridge feeds in?

WELSH: Cartridge case was ejected and new cartridge fed in.

HARRIS: And it fires all four times?

WELSH: That's correct.

HARRIS: When you looked at the four, the eight bullets that came with, I'm using the lay person's term, using the eight cartridges that came in, came with the magazine that's submitted by the Modesto Police Department, do you look at them to see if there is any defects or anything that might make it dangerous for you to use it?

WELSH: Yes. As I mentioned earlier, that I have a worksheet for firearms that I fill out. I have a worksheet for cartridge cases, or cartridges, in this case cartridges, and I fill out that worksheet. As part of that, I observe what brand they all are, if there is anything that I noted about them.

HARRIS: Did you notice if there were any kind of impressions that any of those cartridges had been with the bullet still intact had been hit or damaged, like they had been fired?

WELSH: I reviewed my notes, and I didn't make any observations like that. Generally, in an examination like this, I look at all the cartridges. If they are all very similar, then I describe one of them very thoroughly, and say the rest were similar to that. So that's what I did in this case. They were all similar. They didn't have firing pin impressions on them, and they were all same brand.

HARRIS: Firing pin impressions. What is that?

WELSH: That would be an impression, a dent maybe in any of cartridges that show that maybe the firing pin struck the cartridge, but maybe didn't hit it hard enough to make it go off, or maybe there was a defective cartridge. I didn't see any evidence of that.

HARRIS: Now, with this particular gun, let me just go through this real quick. With that particular gun, that particular magazine, and that particular ammunition, if somebody had tried to fire the gun and had pulled the trigger and it just clicked, would that leave that firing pin impression you are talking about?

WELSH: If there was a cartridge in the chamber, I'm assuming, really, the only way to make it click would be, the only click you would make would be the hammer falling. If the hammer falls, it should make an impression on the cartridge case.

HARRIS: Then if you were to take that same set of circumstances that we were just talking about, and the person were to say that they then ejected that round so the one that made it click, pulled the slide back, they eject that cartridge, would that feed another bullet into the chamber?

WELSH: When they released the slide again, it would feed another cartridge into the chamber.

HARRIS: If they then said they pulled the trigger and it clicked again, would you expect a firing pin impression on that second cartridge?

WELSH: Either on the cartridge or a cartridge case. I would expect it to fire. And then it would leave an impression on the cartridge case. If there was a problem with the ammunition, it might just leave an impression on a cartridge. But either way, I would expect a firing pin impression on that cartridge.

HARRIS: If somebody had taken it, tried to fire it, that cartridge for whatever reason, as they say, doesn't work, it just clicks, they eject it, try it again, for whatever reason it just clicks, they eject the second one, they leave the gun in that particular condition, would the hammer be back in a kind of cocked position?

WELSH: Yes, it would.

HARRIS: Would there be a bullet or a cartridge, as we are describing, in the barrel?

WELSH: There would be a, yes, there would be a cartridge in the chamber as well.

HARRIS: And if we start with the maximum capacity of that particular magazine being at eight, if the person ejected two rounds, how many cartridges would be in that particular magazine? I know that's simple math.

WELSH: That would be six.

HARRIS: People have no other questions.

Cross Examination by Mark Geragos

GERAGOS: Yes. Good afternoon.

WELSH: Good afternoon.

GERAGOS: The first thing that you tested for was to see if there was any blood or tissue, correct?

WELSH: That's correct.

GERAGOS: Okay. What did you find?

WELSH: I did not see any blood or tissue on the firearm.

GERAGOS: Second thing in your report that you said that you tested for was any indication as to whether it was recently fired, correct?

WELSH: That's correct.

GERAGOS: And your conclusion?

WELSH: There was no evidence that it had been fired recently.

GERAGOS: Okay. Now, you said that it contained trace amounts of debris in the barrel. Were you looking in the barrel?

WELSH: Yes.

GERAGOS: Okay. So when you say that there is trace amounts of debris in the barrel, got the pointer up here? It's hanging up. I assume you are talking about right here, if there was debris in there?

WELSH: Yes. Actually farther down, so you don't really see it in that note. But, yes.

GERAGOS: Right. Because you can't see it, because it's inside of the barrel, right?

WELSH: That's correct.

GERAGOS: Okay. And the debris that was in the barrel, and you said, and action, what do you mean by there was debris in the barrel and action?

WELSH: I meant in the slide in the inside of the gun. So,

GERAGOS: So when you say on the inside of the gun, talking about right here there was not only debris on that last picture that we saw, looking in the, is this the barrel here?

WELSH: Yup.

GERAGOS: Okay. There is debris in this, and in the action, I assume that's, does that refer to moving parts?

WELSH: All moving parts in that area where you are pointing.

GERAGOS: Okay. Now, so there is debris in there. And it appeared to you that there wouldn't have been that debris if it had recently been fired, correct?

WELSH: You could have that debris in the action. But the debris in the barrel especially suggested to me it hadn't been fired recently.

GERAGOS: Because if it had been fired it would have cleared the debris out?

WELSH: That's right.

GERAGOS: Now, the, by the way, when did you receive this, I'm holding what's been stapled to it as 71. This its how you got the gun, right?

WELSH: That's correct.

GERAGOS: Okay. You put some initials on there for when you receive it?

WELSH: No. I put my initials on it when I'm done looking at it. That's my seal when I'm done examining it.

GERAGOS: What was on there when you got it?

WELSH: Pretty much everything else, except for, except my, the initials I put on it when I got done with it.

GERAGOS: What's the earliest date that anybody appeared, wrote something on that package?

WELSH: Let's see.

GERAGOS: Look on both sides too.

WELSH: Okay. Looking. Lot of dates here. So far, January 22nd, 2003. I don't know if there is something under the tag.

GERAGOS: Looks like an AB initials, January 15th, 03?

WELSH: Yeah. I guess that's, I wasn't sure if that was a 7 or a one. I guess that is January 15th, 03.

GERAGOS: Looks like this thing was first booked into evidence on January 15th of 03. One of the reasons you put these initials on there is so that you can keep a chain of custody for who's got the item, and when you open it, and when you close it, right?

WELSH: That's correct.

GERAGOS: So yours is on this side here?

WELSH: Yes. The one that's kind of running vertically now all the way to the left side.

GERAGOS: This?

WELSH: Yes.

GERAGOS: Okay. What's, this thing here is what you wrote?

WELSH: That's the case number, item number.

GERAGOS: What's in here?

WELSH: That is the mark of our property controller. So that's when it came to our laboratory.

GERAGOS: So somebody books it into the evidence on the 15th. You guys, you deal with it on the 22nd. It gets to your lab?

WELSH: Yes.

GERAGOS: Okay. And then you test it when?

WELSH: Can I refer to my notes?

GERAGOS: Sure. I have got them if you want to take a look, if it makes it faster.

WELSH: I have got them too, so I'll take a look at mine. I personally received the evidence from the vault on the 28th of January of 2003.

GERAGOS: Okay. Now, you collected various things from the pistol itself prior to testing it, right?

WELSH: That's correct.

GERAGOS: Okay. And the evidence that you collected, you found some hairs inside of the pistol. Where were they?

WELSH: Inside the action where you are pointing previously.

GERAGOS: Got it. And then from inside the magazine, that would have been the other photo that you that we already showed the jury?

WELSH: That's correct.

GERAGOS: Okay. A swab of rusty stain from the slide of the pistol. Is that up here?

WELSH: Yes. Let's see. Let me refer to my,

GERAGOS: Did you do a drawing?

WELSH: Actually, let's see. I'll tell you where it is when I find it here.

GERAGOS: Okay.

WELSH: Here we go. Okay. I'm referring to page nine of my notes. I'm not sure what that is in the Court's numbering system.

GERAGOS: Okay.

WELSH: I'm actually referring to this picture.

GERAGOS: Would you pull that out? Because it's a better picture than I have got. Mine is just black and white.

WELSH: There you go.

GERAGOS: These are your notes of where you found things; is that correct?

WELSH: That's correct.

GERAGOS: Okay. Just walk us through it real quick. What did you find right here that you got says LMG negative. What's that?

WELSH: That's, LMG stands for Leuko Malachite Green. It's a chemical test for blood. And,

GERAGOS: So you saw a little rusty stain there, correct?

WELSH: That's correct.

GERAGOS: You tested it, and the minus sign means negative, it wasn't blood?

WELSH: That's correct.

GERAGOS: Okay. Right here same, whatever LMG, which is something stands for a presumptive test for blood, right?

WELSH: That's correct.

GERAGOS: This little discoloration I'm pointing to right here. That was a stain. That's what you were testing for. Came back negative for blood, right?

WELSH: Correct?

GERAGOS: Then there also was here, what are we looking at right here?

WELSH: That's a close up. It's the same close up of that area that I am pointing to immediately to the left.

GERAGOS: Okay. So if you blew this up right here, this is what you get, this is a close up of the stain which is negative for blood, right?

WELSH: That's correct.

GERAGOS: Then you have got another, I assume this is the blowup of this?

WELSH: That's right.

GERAGOS: So this is right above, right below the opening there?

WELSH: Actually on the bottom of the slide stop.

GERAGOS: And right in this area is what you tested, right?

WELSH: That's correct.

GERAGOS: And that also is negative for blood, correct?

WELSH: Yes.

GERAGOS: If I could, I'd like to mark that. Although I'll give it back to you, and make a copy of it, defense next in order.

JUDGE: All right. Defense next in order is,

GERAGOS: RR?

JUDGE: Right. RR.

GERAGOS: Now, you check the entire gun all the way around because you were looking to see, to see if there was any blood or tissue on this gun, correct?

WELSH: That's correct.

GERAGOS: You find absolutely no blood or tissue anywhere on this gun, correct?

WELSH: Correct.

GERAGOS: Okay. Now, one of the next things you did was, if I understand correctly, you then examined the debris. You collected the hairs, you did the swabs that we just saw, right?

WELSH: That's right.

GERAGOS: And then you got some dry patches and debris from inside of the pistol; is that correct?

WELSH: That's right.

GERAGOS: Okay. Is this worksheet that I have right here, is that, does that represent the debris and everything that's inside of the pistol?

WELSH: No. This is, actually, that is the back of the breech face. That shows the extractor, the firing pin, and the ejector. That's different.

GERAGOS: Do you have a, do you have some kind of a representation of the debris that was inside of it?

WELSH: Of the barrel?

GERAGOS: Yeah.

WELSH: That would be on page 10 of my notes.

GERAGOS: Okay.

HARRIS: We would stipulate that his original notes can go back to him when he's done testifying.

JUDGE: We don't want to take his notes, we'll have them copied, and we'll return them to the witness.

GERAGOS: Q. Okay. That's another couple of views of the gun itself, right?

WELSH: That's right.

GERAGOS: Okay. That's looking into the barrel?

WELSH: Yes.

GERAGOS: Okay. And then you said, what did you write right here, debris in barrel?

WELSH: No. Debris deeper in barrel.

GERAGOS: That would be in here?

WELSH: Yeah.

GERAGOS: Debris deeper in the barrel?

WELSH: That's right.

GERAGOS: Right there?

WELSH: Yes. Just kind of chunks you can see up there.

GERAGOS: Right. And then debris at or near, at or near the muzzle; is that correct?

WELSH: That's correct.

GERAGOS: Different view. And it says, what is that?

WELSH: Says, "Note receiver leading."

GERAGOS: What does "receiver leading" mean?

WELSH: Leading is when lead is deposited in the bore. When you shoot lead bullets in a barrel, you do collect lead in the bore. When it gets very thick, that's referred to as leading.

GERAGOS: Okay. That was also one of the indications to you that there was no recent firing; isn't that correct?

WELSH: That's not true. That really you could have recent firing, still have leading. It's the debris that I noted.

GERAGOS: The debris that you noted included small fibers, soils, dust, possible pollen, and other vegetable matter, correct?

WELSH: Yes.

GERAGOS: The two stains we talked about, and then the next thing you did was, you examined, after you examined the barrel, then you examined the breech and the chamber area; is that correct?

WELSH: That's correct.

GERAGOS: Okay. You found some more hairs, correct?

WELSH: That's right.

GERAGOS: You collected those?

WELSH: Yes.

GERAGOS: Okay. And then at that point, did you clean out the, did you clean the barrel of the gun?

WELSH: Well, I passed a dry patch through it to collect a sampling of that debris.

GERAGOS: When you say you passed a dry, I'm going to mark this exhibit, which I have just been talking about with the notes as the next in order SS.

JUDGE: SS.

Photograph Marked as Exhibit SS for identification.

GERAGOS: You say you passed a dry patch. Can we see what you did? Are you able to describe it from looking at the picture that is sitting up there, 93-A?

WELSH: Yes, I think I could.

GERAGOS: Okay. When you say you passed a dry patch, is that through here or through here?

WELSH: What I did is, I, actually we can show it better with the pistol here.

GERAGOS: With the gun itself?

WELSH: With the gun itself.

GERAGOS: Okay.

WELSH: I locked the slide back. This type of a gun has a, this is called a slide stop. It fits info a little notch in the slide, so when you pull the slide back it will stay there.

JUDGE: Let me ask you a question. You take that little guard out, can you put it, could you put it back? The little guard?

WELSH: No. It's a zip tie, like,

JUDGE: Okay. Go ahead.

WELSH: So I locked the slide back, and I, what I did is, I put the gun on a piece of paper upside down. Then I used a cleaning rod with a cloth on it, put the cloth patch down of the inside of the barrel, and just let the patch fall off on to the paper.

GERAGOS: Q. All right. I have got the pointer here. We are talking something similar, just if we have one of,

WELSH: Much smaller diameter, but very similar.

GERAGOS: If we have got something like this, what you are doing is taking the cleaner, you are pushing a dry patch through like that?

WELSH: Yes.

GERAGOS: Is that correct? And that's to see if it works? Actually to clean it prior to seeing if it works; is that correct?

WELSH: I'm taking some of the debris out so you can see it was cleaning it. But I'm not really, that's really not my intention. My intention is to collect some of the trace evidence in there. If I wanted to clean it, I would use a brush and solvent, and stuff like that.

GERAGOS: You didn't try the gun with, before you, after you collected the trace evidence, and after you had tested it for blood and for tissue, and it was negative on blood and tissue, you didn't try the gun right then and there, did you?

WELSH: I'm sorry, could you repeat that?

GERAGOS: You did this shoving of the dry patch through prior to testing the gun, correct?

WELSH: That's correct.

GERAGOS: Okay. And did you do anything else with the, did you do anything else prior to firing the gun, test firing the gun?

WELSH: Let me refer to my note really quick. But I believe that's probably about the last thing I did. Let's see.

GERAGOS: When you ran the dry patch through the bore, that would be this right here, correct? That's the bore, the inside of that barrel?

WELSH: Inside of that.

GERAGOS: Didn't that require considerable force to push it through?

WELSH: Yes, it did. The first time it did.

GERAGOS: The first time?

WELSH: Yes.

GERAGOS: So before you could test this gun, you had to run a dry patch down the bore, and it took considerable force to push the patch dry, fair statement? Actually your statement isn't it?

WELSH: Except for the first part. When you say I had to, before I tested the gun.

GERAGOS: Well, it says I followed this with a second dry patch. Correct?

WELSH: That's correct.

GERAGOS: Okay. So you not only jammed it through once and using considerable force. Then after you did that, you did it a second time, correct?

WELSH: Yes. I wanted to collect whatever, as much of the stuff in there as I could.

GERAGOS: What do you deem to be considerable force?

WELSH: What I meant by that is more force than normal. With a clean bore in normal condition, it was more force than that.

GERAGOS: Okay. So it took a little bit of effort, a little elbow grease to get this thing through there?

WELSH: It's not like I had to pound it through with a hammer, or anything like, it took a little bit of force.

GERAGOS: You used some force on it, not only did it once, you did it a second time, correct?

WELSH: I put a second patch down the bore, yes.

GERAGOS: Now, after you did that, you then took a look and saw what fell out of the bore, correct?

WELSH: Yes, basically.

GERAGOS: You would have done that by kind of holding it in this fashion, upside down?

WELSH: Yeah, I guess. I looked at it briefly.

GERAGOS: Okay. Then you collected that, right?

WELSH: Yes.

GERAGOS: The items there. No blood or tissue there, correct?

WELSH: That's correct.

GERAGOS: Okay. And then you examined the, let's see. You examined the cartridges in the magazine, correct?

WELSH: Yes.

GERAGOS: And you noticed the hairs and fibers there, right?

WELSH: Yes.

GERAGOS: Now, one of the things that you did is you saved whatever it was that was in the bore in a paper bindle, correct?

WELSH: That's correct.

GERAGOS: And you just folded whatever was dumped on here, then it was folded up so it could be tested, correct?

WELSH: So it was preserved in case we wanted to test it later.

GERAGOS: Okay. And after you did that, it was packaged and preserved, right?

WELSH: Yes, it was packaged and preserved.

GERAGOS: Okay. So after you did all of that is when you test fired it, correct?

WELSH: That's correct.

GERAGOS: Okay. Then the summary of conclusions that you had on this, you actually had a commentary, said summaries and conclusions, right?

WELSH: I usually do that in my notes, yeah.

GERAGOS: Was no blood or tissue was observed on the submitted item, the pistol, correct?

WELSH: Correct.

GERAGOS: No blood or tissue on the magazine, which would be the other item there, one right here, right?

WELSH: That's correct.

GERAGOS: Okay. No blood or tissue on that. And did you find any blood or tissue on the cartridges themselves, the cartridge cases?

WELSH: No.

GERAGOS: Okay. And you observed trace amounts of debris inside the barrel that had entered since the pistol was last fired, correct?

WELSH: That's correct.

GERAGOS: That was what we're talking about was packaged and preserved?

WELSH: Yes.

GERAGOS: That debris? And your other conclusion was, is there are, there is no evidence that the pistol was fired recently, correct?

WELSH: That's correct.

GERAGOS: Do you have a better picture of this sheet?

WELSH: My page 11 of my notes.

GERAGOS: Okay. When that came to you, did it have that zip, what did you call that a zip top?

WELSH: Zip stay or cable tie sometimes they are called. No, it did not.

GERAGOS: What did it look like when it came to you?

WELSH: When it came to me, it had the, this looks like a piece, or a folded up manila envelope. It was stuck in the chamber to show that it was unloaded.

GERAGOS: That's just a piece of paper?

WELSH: That's right.

GERAGOS: Okay. If it had had a zip tie, you would have cut that off?

WELSH: Yes.

GERAGOS: Would you have, you would have saved that?

WELSH: Usually not.

GERAGOS: Okay. You would have made some notation of it, if,

WELSH: Yes.

GERAGOS: And that would have been in your Physical Evidence Examination Report?

WELSH: Usually not. It's usually just on my worksheet.

GERAGOS: Thank you. I have nothing further.

Redirect Examination by Dave Harris

HARRIS: Mr. Welsh, just to go back through this, a lot of the debris and things that we're talking about, is that what you described earlier in your examination being on the exterior of the gun?

WELSH: There was debris on the exterior and the interior of the gun.

HARRIS: And counsel was asking you about having to shove this thing through, the dry patch, with some force. That hair across the chamber face there, is that going to prevent a bullet from

going into the chamber?

WELSH: No, it's not.

HARRIS: The stuff that you were talking about, we can see it right there. This is before you cleaned it, correct?

WELSH: Yes.

HARRIS: So where the bullet goes in, other than that hair, there is debris in that area, is there?

WELSH: There is some small debris. This is little tiny fibers, dust things like that. I certainly didn't mean to suggest in my note that the gun was so dirty that it wouldn't function without being cleaned first. That was not my intention.

HARRIS: Let's just go through that. From what you are describing earlier in the photograph that he showed with the debris further down in the barrel and up towards the muzzle -- and that's kind of the business end of the gun?

WELSH: Yeah, I guess. Depends. If it's pointed at you, it would be considered the business end.

HARRIS: So the debris that we're talking about, none of that debris interfered with how this gun would function; isn't that correct?

WELSH: In my opinion, it would not have affected the function of the gun.

HARRIS: So you should have been able to put the magazine in, put the slide back, cartridges in, pull the trigger, the gun would fire based on your examination of that gun?

WELSH: Yes.

HARRIS: People have no other questions.

Recross Examination by Mark Geragos

GERAGOS: Let me just make sure I got this correct. You didn't do that, though, did you?

WELSH: No, because that would have destroyed the trace evidence inside the barrel.

GERAGOS: The trace evidence didn't require considerable force to get out, did it?

WELSH: The dry patch required considerable force, and that's how I got the trace evidence out.

GERAGOS: Because something was obstructing the dry patch, that's why it required considerable force?

WELSH: No.

GERAGOS: No? Why did you, why was it easier the second time?

WELSH: Well, what was probably making the patch harder to go through was the leading that was in there.

GERAGOS: Well, do you know?

WELSH: Well, there was less leading in it after the first one, and the second one went easier. That's all I can say.

GERAGOS: And did you collect that? Was that part of what you collected?

WELSH: That was part of the stuff that came out in that patch, yes.

GERAGOS: And nowhere was there blood or tissue anywhere on this gun?

WELSH: No.

GERAGOS: Or on the magazine?

WELSH: No.

GERAGOS: Thank you.

HARRIS: Nothing further.