

RECORD OF PROCEEDINGS OF A
COURT OF INQUIRY
CONVENED AT
TRIAL SERVICE OFFICE PACIFIC
BY ORDER OF
COMMANDER IN CHIEF
UNITED STATES PACIFIC FLEET
TO INQUIRE INTO A COLLISION
BETWEEN USS GREENEVILLE (SSN 772) AND
JAPANESE M/V EHIME MARU THAT OCCURRED
OFF THE COAST OF OAHU, HAWAII
ON 9 FEBRUARY 2001
ORDERED ON 17 FEBRUARY 2001
AS AMENDED ON 22 FEBRUARY 2001;
26 FEBRUARY 2001;
1 MARCH 2001; AND
9 MARCH 2001

At Trial Service Office Pacific
Naval Station, Pearl Harbor, Hawaii
Monday, 5 March 2001

The court met at 0800 hours for preliminary matters.

Present:

Vice Admiral John B. Nathman, U.S. Navy, President;
Rear Admiral Paul F. Sullivan, U.S. Navy, member; and
Rear Admiral David M. Stone, U.S. Navy, member.

Rear Admiral Isamu Ozawa, Japan Maritime Self-Defense
Force, advisor and non-voting member.

Captain Bruce E. MacDonald, JAGC, U.S. Navy, Counsel for
the Court;

Commander Michael I. Quinn, JAGC, U.S. Navy, and
Lieutenant Commander Barry L. Harrison, U.S. Navy,
Assistant Counsels for the Court, certified in accordance
with Article 27(b) and sworn in accordance with Article
42(a) of the Uniform Code of Military Justice.

PRES: CDR Waddle, LCDR Pfeifer, Mr. Coen, counsel, ladies
and gentlemen, good morning. I'm VADM Nathman, I'll be
presiding over this Court of Inquiry into the collision
between USS GREENEVILLE and the motor vessel EHIME MARU that
occurred on 9 February 2001.

Let me introduce the members of the court, to my right is
RADM Sullivan, United States Navy, and to his right is RADM
Stone, United States Navy. To my left is RADM Ozawa of the
Japan Maritime Self-Defense Force. RADM Ozawa is here at
the invitation of the Convening Authority, ADM Fargo,
Commander in Chief, U.S. Pacific Fleet, to participate as an
advisor and non-voting member of the court. RADM Ozawa will
consult with the court's members and propose questions to be
asked of the witnesses. He will also deliberate, but will
not vote. RADM Ozawa is not subject to challenge and I
welcome his active participation in this court.

The court has been directed to examine four issues for the
Convening Authority. First, to inquire into the facts
surrounding the collision between the GREENEVILLE and the
EHIME MARU on 9 February 2001 and access responsibility;
second, to examine the policies and the practices of
Commander, Submarine Force, U.S. Pacific Fleet's
implementation of the Distinguished Visitor Embarkation
Program; third, to examine the propriety of GREENEVILLE's
assigned operating area; and finally, to inquire into

whether the Chief of Staff, Submarine Force, U.S. Pacific Fleet, and senior officer onboard GREENEVILLE on 9 February 2001 was in a position to intervene and prevent the collision.

The court will accomplish these directives by ascertaining the facts in an open, fair, and thorough manner by protecting the rights of the parties throughout the proceedings, by protecting the integrity of the process by gathering facts and hearing evidence guided by established Navy rules and regulations pertaining to Courts of Inquiry. We will proceed with diligence.

At the end of these proceedings, the court will forward its findings of fact, opinions, and recommendations to the Commander in Chief, U.S. Pacific Fleet, for his consideration and review.

The tragic consequences of the collision has impacted the lives of both Japanese and American families. While this inquiry cannot change what has happened, a thorough understanding of what occurred can serve to prevent its reoccurrence.

This Court of Inquiry is called to order at Naval Station, Pearl Harbor. CAPT MacDonald, will you proceed?

The appointed reporter, Legalman First Class (Surface Warfare) Robert N. Leather, U.S. Navy, and the members of the court, were sworn by the Counsel for the Court.

The Counsel and Assistant Counsel for the Court were sworn by the President.

The Counsel for the Court read the appointing order, original prefixed, marked "A"; an amendment thereto, original prefixed, marked "B"; an amendment thereto, original prefixed, marked "C"; and an amendment thereto, original prefixed, marked "D".

Commander Scott D. Waddle, U.S. Navy, entered as a party to the inquiry, was represented by Commander Jennifer S. Herold, JAGC, U.S. Navy, and Lieutenant Commander Kimberlie Young, JAGC, U.S. Navy, as his counsel, certified in accordance with Article 27(b) and sworn in accordance with Article 42(a) of the Uniform Code of Military Justice, and Mr. Gittens, civilian counsel, admitted to practice before the Supreme Court in the State of Virginia and also before the District of Columbia Court of Appeals.

Lieutenant Commander Gerald K. Pfeifer, U.S. Navy, entered as a party to the inquiry and was represented by Lieutenant Commander Timothy D. Stone, JAGC, U.S. Navy, as his counsel, certified in accordance with Article 27(b) and sworn in accordance with Article 42(a) of the Uniform Code of Military Justice.

Lieutenant (Junior Grade) Michael J. Coen, U.S. Navy, entered as a party to the inquiry and was represented by Lieutenant Commander Brent G. Filbert, JAGC, U.S. Navy, and Lieutenant Marcus N. Fulton, JAGC, U.S. Naval Reserve, as his counsel, certified in accordance with Article 27(b) and sworn in accordance with Article 42(a) of the Uniform Code of Military Justice.

CC: I will now advise the parties of their rights during these proceedings:

CDR Waddle, LCDR Pfeifer, and LTJG Coen, you are advised that you have the following rights as a party to this investigation:

- (1) To be given due notice of designation as a party;
- (2) To be present during the proceedings, except when you waive your right to be present during any portion of the proceedings and when the investigation is cleared for deliberations by the members;
- (3) To be represented by counsel;
- (4) To be informed of the purpose of the investigation and provided with a copy of the appointing order and the amendments to the appointing order;
- (5) To examine and to object to the introduction of physical evidence and written statements;
- (6) To object to the testimony of witnesses and to cross-examine witnesses;
- (7) To request that the Court of Inquiry obtain documents and testimony of witnesses or pursue additional areas of inquiry;
- (8) To introduce evidence;
- (9) To not be called as a witness, but to testify at your own request;

(10) To refuse to incriminate yourself; if accused or suspected of an offense, to be informed of the nature of the accusation and advised that you do not have to make any statement regarding the offense of which you are accused or suspected, and; that any statement made by you may be used as evidence against you in a trial by court-martial;

(11) To make a voluntary statement, sworn or unsworn, oral or written, to be included in the record of proceedings;

(12) To make an argument at the conclusion of the presentation of evidence;

(13) To be properly advised concerning the Privacy Act;

(14) To challenge members of the Court of Inquiry for cause stated to the court, pursuant to Article 135 of the Uniform Code of Military Justice.

PRES: Do Counsel for the Parties desire to question individual members of the court concerning possible grounds for challenge?

Counsel for CDR Waddle, party (Mr. Gittins): Sir, Charles Gittins. I may have been mistaken, but in your opening statement you indicated that RADM Ozawa, who is participating as an advisor and non-voting member will not be subject to challenge. Did I hear that correctly?

PRES: Yes, you did.

Counsel for CDR Waddle, party (Mr. Gittins): Very well, sir. If I may, we had prepared to voir dire RADM Ozawa. Is it your decision that we would not be able to question him on voir dire and issue a challenge?

PRES: Counsel, do you wish to make a comment?

CC: Yes, sir. The Convening Authority's appointment of RADM Ozawa is that he is a non-voting member and would have no vote in the findings of fact, opinions, or recommendations this court will arrive at. For that reason, he is not subject to challenge.

Counsel for CDR Waddle, party (Mr. Gittins): May I place my objection on the record then, sir? I would just like to make it with specificity. RADM Ozawa, I have no doubt that you are an honorable officer. My objections are solely to

the procedure, not to your qualifications as a naval officer.

Sir, paragraph 0211d states that advisors are subject to challenges to the same extent as members. Subparagraph h of 0211d of--of 0211(6), states that persons other than official members, counselors, advisors, and administrative support personnel may participate in a hearing. That--since RADM Ozawa is a--an advisor and a member, that paragraph just simply does not apply to his participation. Our concerns are that members of this Court of Inquiry were required to take an oath that--that is provided in paragraph 10(e)(1) to enclosure (2) of JAG Instruction 5830.1. RADM Ozawa did not take the oath. Moreover, as a Japanese naval officer, he is not a person who has taken an oath to the Constitution of the United States. The JAG Manual and the JAG Instruction both provide that parties to a Court of Inquiry have the right to challenge members. It appears that that right is being abrogated, at least with respect to RADM Ozawa.

In addition, because RADM Ozawa has not taken an oath, is not subject to cross-examination, and will not testify, what he says to you free behind closed doors is not a matter that Counsel for any of the Parties would have any idea what he said, would not have the opportunity to examine or cross-examine him. As the JAG Instruction provides, the testimony received at a hearing like this must be taken in accordance with the Rules for Courts-Martial, which provides for an oath and that's--that's an additional concern. So, our concerns are, sir, that the--that the Convening Authority has created a situation not contemplated in the--in the rules and has denied my client specific rights that are provided in the JAG Manual, and we would object on those grounds, sir. I have a written objection that I would ask be appended to the record as an exhibit.

CC: Bailiff, would you please hand that to Petty Officer Leather? Would you mark that the next court exhibit letter in order?

[The bailiff and court reporter did as directed.]

PRES: Mr. Gittins, thank you. RADM Ozawa is a non-voting participant. He has been appointed by the Convening Authority. There's precedent for his participation in a Naval Court of Inquiry, so your objections are noted for the record and we'll proceed.

Counsel for CDR Waddle, party (Mr. Gittins): Yes, sir. Sir, I would just also point out that the precedent that has been cited to counsel has--was the case of the missile firing onboard the USS SARATOGA. I have a copy of the--of the executive summary signed by RADM R. G. Guilbault, U.S. Navy, who was the President of the Court, which states in part, "A flag officer of the Turkish Navy was also formally recognized as an official observer of the proceedings, but was not present and did not participate in the deliberations of the court." I just wanted to bring that to the attention of the court, because I'm--I've cited to that precedent as--as what you're referring to, sir. It is clear that that officer did not participate in deliberations. Thank you, sir.

PRES: Very well.

CC: Sir, if I may make a comment. The Convening Authority in this case, Commander in Chief, U.S. Pacific Fleet, specifically cited to JAGMAN provision 0211 delta and hotel for RADM Ozawa's participation. It does say under delta that advisors are subject to challenge; however, to be an advisor, you must be full-time Federal personnel, military or civilian, of the U.S. Government. It is obvious that RADM Ozawa does not fit that description; however, the Convening Authority also cited to provision 0211 hotel, "Participation by Non-Parties," and it specifically states, "The Convening Authority," in this case, ADM Fargo, "in the case of a Court of Inquiry, may permit the participation of an individual or organization that has an interest in the subject under inquiry." It is obvious that RADM Ozawa and the Japanese Government have an interest in this Court of Inquiry, so I just wanted to state that for the record.

PRES: Very well. Well, let's have some ground rules here. Let's proceed in this manner. We'll have the individual counsel, starting with CDR Waddle, then counsel for LCDR Pfeifer, and we'll have counsel for Mr. Coen. If you have questions for me, we'll proceed with questions and then you can state the basis for a challenge, if there's a challenge for the President of the Inquiry. What I would like to do then is have RADM Stone and RADM Sullivan leave to--they'll hear the basis for--they will then leave to debate and vote on whether or not I should remain a member of the court, so with that, let's proceed.

PRES: Do counsel for CDR Waddle have any questions for the President?

Counsel for CDR Waddle, party (LCDR Young): Yes, sir. Sir, LCDR Young. Sir, we can start with--are we going to do these individually?

PRES: What I would like you to do is do everything for me. I'll--I'll go through all three parties--Counsel for the Parties, for the President, and then we'll go to RADM Sullivan and then RADM Stone, in order.

Counsel for CDR Waddle, party (LCDR Young): Yes, sir.

PRES: Okay.

Questions by counsel for CDR Waddle, party (LCDR Young):

Q. Sir, can you explain if you have any special training in military justice or military legal procedures?

A. Special training to my--no, I wouldn't call it special. I was a Commanding Officer of a squadron and a couple of ships. I had the opportunity, of course, to preside as the Captain at nonjudicial punishment, that's been the basis of my experience.

Q. And sir, have you ever been involved in a Court of Inquiry or a Board of Inquiry in any way, whether as the Convening Authority, a witness, the preliminary investigator?

A. No.

Q. Sir, have you ever been involved or played a role in any previous accidents involving a naval vessel and a civilian vessel?

A. No.

Q. What about a safety investigation involving a naval vessel or a civilian vessel?

A. No.

Q. Sir, can you explain what your understanding is of your role here at the Court of Inquiry?

A. My--I think I'm here, obviously, to guide this fact-finding body, it's an administrative fact-finding body. The intent here, I believe, is to make sure that we get to the root causes and facts, so that we can present findings of fact and opinions to the Convening Authority. And, I think my role here as the President is to make sure that we're efficient, that we move with diligence and that we proceed in a very thorough and fair manner, for both the parties and for the members.

Q. Sir, how were you informed of this role or how did you come to that conclusion, by talking with others, by written guidance?

A. Actually, I received a phone call on, I think it was Friday, the 16th of February, from ADM Fargo. I was in Washington, D.C. at that time attending a Flag Officer Conference, received a phone call from ADM Fargo who told me I would be President of the Court of Inquiry. When I received that phone call, I placed a phone call with RADM Guter the JAG--Judge Advocate General for the Navy, and we talked about procedural matters for the court. First, we talked about a Board of Inquiry and then we talked about the Court of Inquiry, and then--I've had extensive conversations since then with my two counsels--three actually, but initially there were CDR Quinn and CAPT MacDonald, then LCDR Harrison.

Q. Sir, when you first received that phone call from ADM Fargo, were you made aware that this would be a Board of Inquiry or a Court of Inquiry?

A. Initially, we thought it might be a Court of Inquiry. We discussed--a Board of Inquiry, we discussed both. The decision hadn't been made, it was made, I believe, several hours later. I was informed of it when I--when I reported to Hawaii.

Q. Yes, sir. Were there ever any meetings between yourself and RADM Guter since you were in D.C. at the time?

A. No----

Q. To discuss the procedures?

A. No. I've had two phone calls with RADM Guter about procedural matters.

Q. Can you describe, besides the issues that you just discussed, sir, can you describe the content of the phone calls with RADM Guter?

A. RADM Guter took me through, first, discussions about a Board and then--and then extensive discussions about what a Court of Inquiry was empowered to do. How would we call witnesses--like I said, it was a fairly extensive phone call on matters of procedure in trying to get the court together, how to organize it, and a lot of my questions as President, how do, you know, how do we proceed, how do we make sure we are organized. There are a number of matters and then, of course, who would be my counsel. I was informed that CAPT MacDonald would be my counsel and I asked for CDR Quinn to be my counsel.

Q. Okay, sir. Do you recall when the second phone call was that you had with RADM Guter? I believe you said the first was 16 February?

A. The second one was probably Wednesday of last week-- Tuesday of last week was my second phone call.

Q. Okay, sir. Can you describe--I mean basically, the same type of information discussed in the phone call?

A. I would characterize it as almost a discussion of procedural matters, what our--what I--what we thought the court should be doing to describe, you know this--this has a lot--a lot of public interest----

Q. Yes, sir----

A. And to make sure that people--people understood, you know it is open in the sense you have extensive press coverage and that you have a closed circuit TV. We wanted to make sure that--that individuals understood what a Court of Inquiry was going to do and that people didn't get out in front of it. By that I meant, people would reach conclusions as we are finding out facts and I wanted to make sure that--RADM Guter and I were both concerned about that and how we would make the case that the court was going to proceed in a very thorough and fair way.

Q. Okay, sir. Was there any discussion about CDR Waddle's right to counsel in those conversations?

A. We certainly discussed Mr. Gittins would be coming to the court as counsel, but it was a fact and that had been announced, and when he'd be showing up on the island. There was, of course, a request for a delay for the 5th of March based on his coming to be counsel for CDR Waddle and that they wanted to know what I felt, could I be organized, would I support a delay to the 5th, and my recommendation was that we should do that.

Q. Sir, were there any substantive--during your conversations with--with RADM Guter, were there any substantive matters discussed regarding the collision itself?

A. No, there's no--the substantive matters we covered were--as a Court of Inquiry, as an example, you can subpoena civilian witnesses and I wanted to make sure what that meant and how we should proceed, but there has been no discussion of the facts of the case.

Q. Thank you, sir. Sir, did you have a chance to discuss the fact that--that RADM Ozawa would be present and what his role would be with RADM Guter?

A. I don't remember specifically speaking with RADM Guter about the--the role of RADM Ozawa. I think that was done with the Convening Authority, with ADM Fargo, most of that discussion.

Q. And could you tell us about that discussion, sir.

A. I have had two meetings with ADM Fargo, actually one conversation and two meetings. Both meetings were as the President and he acting as the Convening Authority, those meetings were again to discuss procedural matters. In this case, we had one request for a delay, as I recall to--from a Thursday to the next Monday, I can't remember a specific date and would I support it, and could I be organized to start Monday and I think that delay was based again on the Counsel for the Parties' ability to get ready for the court. And we, of course, have a lot to do to get ready and it was--I felt it was supportive to delay until that--until that Monday from the Thursday----

Q. Right----

A. And, the other conversation was again about procedural matters and I was informed at the first meeting with ADM Fargo about the role of RADM Ozawa as a--as an advisor and non-voting member and it has been characterized that--he's been--his participation has been characterized as consistent.

Q. And, did he give you guidance on what that meant? In other words, for him to be an advisor to the court, what exactly would he be doing?

A. No, he didn't. I did that through my counsel.

Q. Alright, sir. You mentioned that you had two meetings with ADM Fargo?

A. Yes.

Q. Were those in person meetings?

A. Yes.

Q. Sir, who else was present during those meetings?

A. CAPT Hinkley, his JAG and my counsel.

Q. CAPT MacDonald and CDR Quinn?

A. Both times, just CAPT MacDonald.

Q. Thank you, sir. Sir, other than what you've just stated, how else have you prepared for the Court of Inquiry?

A. Well, I've been reading the--what I consider the pertinent part of the JAGMAN. We've done quite a bit of what I would call preparation in terms of members of the court. The best way I could describe that is if you look at the Convening Authority's letter and you look at the charges in that that suggest what I would call obvious areas that we should investigate, so we spent a significant amount of our time--I asked the members to look at those and to start thinking about questions that we should be asking based on those particular courses of action. We should be looking at whether it was a collision or the role of the Chief of Staff----

Q. Yes, sir----

A. Or the sonar, how effective that was, and we did what I would call--commonly I call them branches and sequels. Look at where this would possibly go, how were they connected to each other, and then look at the type of questions we wanted to make sure we got to the facts.

Q. Okay, sir. Did you--did you or the other members place a priority on the different directives of ADM Fargo in the Convening Authority--in the convening orders?

A. No--no.

Q. Sir, what is your understanding of the role of the Counsel for the Court, CAPT MacDonald and CDR Quinn, LCDR Harrison?

A. I think--accurately describe them as a--facilitator both for the parties and the members to make sure we get to the facts, and CAPT MacDonald has actually been very forthright in making sure that that's the role that he acts in and at the same time to help us get organized because he is the Counsel for the Court.

Q. Thank you, sir. Sir, you obviously know ADM Fargo. Can you explain the nature of your relationship with him?

A. ADM Fargo and I are classmates from the Naval Academy in 1970, it was a long time ago.

Q. So, have you maintained contact since then?

A. On and off, yes, and we've played golf casually together, several times maybe in the last 2 years. He is actually my boss now. I work for him as Commander, Naval Air Forces, Pacific.

Q. Directly for him?

A. Yes.

Q. Alright, sir. Sir, briefly, do you have a relationship with CINCPAC, with ADM Blair at all?

A. No.

Q. This is a subjective question, but sir, why do you believe you were chosen as the President for the Court of Inquiry?

A. I think I was selected primarily because of the--of a certain stature in terms of being a Vice Admiral. I think it was important for Admiral--from the Convening Authority's standpoint to make sure that this was a high level court and I think that is the way he saw it. That's my guess, that he sought to elevate the seniority of the court and knowing that we had several Rear Admirals as members.

Q. Sir, do you or what--what results or outcome do you think that ADM Fargo expects from the Court of Inquiry?

A. Well, I think that his biggest expectations are--is that we really get to the facts, that, you know, that whatever our recommendations and opinions are, they are supported by the facts. I think his--his biggest hope is that we are very thorough and work facts when they come.

Q. Alright, sir. Sir, is there any special expertise that you feel that you bring to this Court of Inquiry?

A. Well, I think I bring a certain competence as a naval officer.

Q. Other than that? For example, perhaps any special knowledge in submarine operations, did you do a midshipman cruise on a submarine?

A. No.

Q. Alright, sir. Okay, Admiral can you tell us when you first heard of the collision?

A. I probably heard it on the national news on the day that it occurred.

Q. Television, sir?

A. Yes.

Q. And, your initial thoughts upon hearing about it?

A. Well, I go--I go back to--back to an experience I had on one of my ships where I almost had a collision and one of the things I was thinking about was the--first, this is a really tough day for the U.S. Navy, because obviously we lost a lot of lives, civilian lives, so it is going to be a

tough day for a lot of folks, it was going to be a tough day for the Captain because the Captain is going to have to answer a lot of questions and this is going to keep a lot of people busy was kind of my reaction.

Q. Sir, did you see any message traffic regarding the collision?

A. Actually, I didn't see any message traffic.

Q. Sir, prior to your appointment as a member did you receive any email traffic or any phone calls about the collision?

A. You know, you've got--we have people that push email and I think I am just one of probably a thousand people that have--occasionally are on someone else's addressee list that they push and I typically delete those because I don't have time. I get too many emails. I have to do real business with--most of the time I'd see it, so I don't remember--recall getting any email on the collision.

Q. And, if you did, it would have been as a group addressee, not anything personally addressed to you?

A. Correct.

Q. After your appointment as a member, sir, was there--did you receive any email traffic, specifically to you as--about the collision?

A. I received a couple emails, yes.

Q. Can you describe those?

A. Two from good friends, both civilians who said you know, we're going to--we're proud that you got picked or something like that, you're the right guy, that was basically the message of the email.

Q. No official emails?

A. No.

Q. Okay. How about any phone calls, sir? I know that you said that you had a phone--two phone calls with RADM Guter. Other than to discuss procedural matters, did you have any other phone calls?

A. Well, I got a couple of phone calls from individuals that knew I was going to do it. One guy said, "I'm glad you got it instead of me," that was basically his message. The other guy said basically, "You're the right guy and go out there and do a good job."

Q. Sir, have you had an opportunity--I'm sure you've had an opportunity to look at the witness list that CAPT MacDonald and the Counsels of the Court have put together. Do you personally know any of the folks on the witness list?

A. I know RADM Griffiths, not well.

Q. Not well? Can you explain the nature of your relationship? Classmate or----

A. No, we have been kind of around each other. I've seen him in--I've seen him in Washington, D.C. a couple of times. I've never really worked with RADM Griffiths, but I certainly know who he is and I could recognize him.

Q. RADM Konetzni?

A. RADM Konetzni is--I consider a friend. In fact, as an example, when I--in Washington, D.C., I had just finished giving a briefing--his briefing on retention and attrition to the All Flag Officer Conference, and I called him afterwards--after I had received a phone call from ADM Fargo that told me that I was going to be the President, I called RADM Konetzni to tell him how well his briefing had gone at the All Flag Officer Conference and I told him that I would probably have to do something--I'd be doing something pretty tough.

Q. Did you have any discussions with the Admiral about this at all?

A. Nope.

Q. Okay, sir. Sir, are you familiar with any of the parties or do you know any of the parties?

A. No.

Q. Have you heard of their reputation other than, you know, as a result of this?

A. No.

Q. Sir, do you have a previous relationship with any of the Counsel for the Court, CAPT MacDonald, CDR Quinn?

A. CDR Quinn was my JAG on NIMITZ when I was Commanding Officer, he was my JAG.

Q. When was that?

A. That was '92 to '94. Mike wasn't there the whole time, but it was--I call it a substantial relationship because it was over deployment when your JAG is going to see a lot of work hit the deck.

Q. Yes, sir. Did you specifically request----

A. Yes, I did.

Q. Okay, thank you, sir. Do you have a--has--is there any previous relationship with CAPT Hinkley or CDR Fink, the counsel for the Convening Authority?

A. I--I met CAPT Hinkley for the first time when I believe he was a Lieutenant Commander at Middle East Force or a Lieutenant at Middle East Force. He was on the staff of--of RADM Fogerty, Middle East Force, when I was the Flagship Captain in 1990.

Q. Sir, have you had any discussions with CAPT Hinkley about this Court of Inquiry?

A. Only procedural matters and that he was at both the conversations with ADM Fargo.

Q. Alright, sir. Sir, do you have--I believe one of the Admirals is a classmate of yours?

A. RADM Sullivan is, yes.

Q. Yes, sir. Have you all maintained contact since you all went to school together?

A. Not really. He's been in the submarine community, I've been in the aviation community. We rarely cross paths, but we've seen, you know, seen each other on and off over the last 30 years, obviously.

Q. Class reunion?

A. I've never made a class reunion.

Q. Sir, do you--RADM Stone, previous relationship with him or did you know him----

A. I met RADM Stone for the first time in OPNAV in Washington at the Pentagon when he got assigned to then OPNAV Code N86, which is the surface OPNAV code. I was running N88, which is an aviation warfare code, and that is the first time I met RADM Stone.

Q. When was that please?

A. That was about 2 years ago--a year and a half ago.

Q. Do you know RADM Ozawa, sir? Had you met prior to this Court of Inquiry?

A. No.

Q. Thank you. Did you--sir, was there any discussions between you and ADM Fargo about who else should serve on the Court of Inquiry? I mean, did you have input into the selection of RADMs Stone and Sullivan?

A. No.

Q. Sir, I understand, and I don't know how successful you've been, but I understand that you've avoided media and the press since your appointment on the Court of Inquiry. Did you read or did you hear or watch news coverage, television or radio, newspaper, about this collision before your appointment on the Court of Inquiry?

A. Yes, I did.

Q. Just briefly, can you talk--I mean extensive reading about it or----

A. No, I would call it the kind of the headline coverage; something you would see in the Washington Post or in the San Diego Union Tribune. I would read the article on it, and of course, the CNN coverage, you know the typical--you know, sound bite kind of coverage I had before.

Q. Okay, so that would have been from the day of the collision on the 9th until your notification on the 16th, sir?

A. Yes.

Q. Have you--sir, are you familiar with the Washington Times articles?

A. I don't read the Washington Times. I will read the Washington Post, not the Times.

Q. Okay, so what about the Early Bird? Familiar with the information?

A. I don't have time to read the Early Bird.

Q. Sir, are you familiar with any of the information that came out of the NTSB investigation?

A. I have heard sound bites to the NTSB. I might want to add, after I was appointed President, under the advice of the Counsel for the Court, CAPT MacDonald, had said you've got to make an effort to avoid getting the news, so I had looked at headlines in the Honolulu papers. I've seen those because when I walk out the door, the papers are there and I try to avoid listening to a news report on TV, it has been kind of hard.

Q. Yes, sir. I understand. Sir, have you learned anything about this case from any other source other than the Counsel for the Court of Inquiry, such as a member of your staff or your own JAG?

A. No, in fact, I think we have been very careful not to get into the practice of such.

Q. Thank you, sir. And sir, either before or after your appointment to the Court of Inquiry have--have there been any communications between yourself and the SECNAV or his staff at all?

A. I have spoken with RADM Guter, he's not on the SECNAV staff, but he is on the CNO staff and I have spoken to RADM Pietropaoli, who's Head Public Affairs Officer for the U.S. Navy----

Q. And, can you tell--I'm sorry.

A. Yes, well, we spoke again about the same thing as the conversation with RADM Guter, about procedural matters and how--how the court should set the stage for what it was going to do--to make sure--I wanted to make sure that--that the OPNAV staff understood how important I thought this was. That they--they needed to provide top cover to the court in terms of what we are going to do and they should make it very clear to the press outside because this is going to be a long process and my concern was that people would start jumping to conclusions. They were going to get way ahead of the court about the way it is going to do its business and in the process of getting ahead of the court, they would arrive at a conclusion that I thought would be, you know, just unsound to start arriving at conclusions until we had gotten to--to the witnesses and the parties had had a chance--I wanted the process to play out and I wanted them to make sure that they would support, and they are, but to support how the court needed to proceed.

Q. Sir, any communications between yourself and the CNO, ADM Clark?

A. No.

Q. Sir, was RADM Pietropaoli present with the--when you had your conversation with RADM Guter?

A. At one of them, yes.

Q. Okay, so--and one of them was a separate conversation?

A. No, at both times it was either with RADM Lohr or RADM Guter. We've only had two conversations and at both times it was with the Office of the Judge Advocate General, with RADM Pietropaoli.

Q. Okay, sir, could you describe your conversations specifically with RADM Lohr.

A. RADM Lohr was the same conversation I had with RADM Guter.

Q. With--about the procedures----

A. Review, how we were doing, here's where we are, what type of support I needed in terms of counsel, some ideas--CAPT MacDonald obviously worked with the Office of the JAG on procedural issues and then I think it was important for me to do a follow-up with RADM Lohr and RADM Guter, which I did twice.

Q. And those were in person meetings?

A. No--no, it was on the phone.

Q. Both of them were on the phone?

A. Yes.

Q. Sir, can you tell us what preliminary written briefs, if any, you've received about--with regard to this Court of Inquiry?

A. Written briefs?

Q. I mean--received a written brief on procedures or has it basically been all just speaking with CAPT MacDonald and the other Counsel for the Court.

A. No, we've done--we've developed a list of questions, those were--I wanted to make sure I saw those as President because I wanted to make sure that--I wanted to see their thinking of how we were going to go down these branches and sequels.

Q. And you participated in drafting those questions?

A. Yes, I did. I also reviewed the questions of the--of other members in terms of--to make sure that we covered the right--we were covering the right ground, but do we have the opportunity to explore and to find these, you know, these facts. So, I wanted to make sure that we--our view of how we were going to proceed was going to be covered with those kinds of questions and then I did procedural matter review that were written with CAPT MacDonald on how we run a Court of Inquiry.

Q. Sir, did you receive any briefs, written briefs, or material on media coverage for the Court of Inquiry?

A. Well, we received a brief on how we would seat the courtroom. We received briefs on how we organize this building. We received briefs--now this is all from PACFLT PA on where the press--how the number of the press would

be--how could they be satisfied in terms of having access to the court.

Q. Changing subjects, **sir**, have you had any previous assignments in Japan?

A. No.

Q. Do you have any close family members or friends who are Japanese?

A. No.

Q. Sir, do you--I don't know if you know, but what are your plans or what are the Navy's plans for you for your next assignment?

A. I've only been in the job I have right now for about 6 months so there is a lot of work to do, so I think I'll be there for awhile.

Q. Alright, sir. I assume that you have a DV Program at your command or within your command as well?

A. Yes.

Q. Can you basically describe or tell us your opinions on the Navy's DV Program?

A. My opinions on the Navy's DV Program----

Q. Or how about specifically the DV Program within your command?

A. Probably----

Q. Under your guidance---

A. Under my guidance, one of the concerns I had when I looked at my DV Program was to make sure that the--that the level of visitor was the right level of visitor, and I'll explain that for a second. In some cases, you--we have congressional delegations that visit, those need to be supported. I was very concerned that at times we're asking too friendly of an audience to come to our program and I wanted to make sure that we were getting the people like superintendents of schools that should--would have--if they came and watched in this case, an aircraft carrier work and the way the squadrons work and they'd see that there is a lot of mentorship inside the U.S. Navy, and it was a great opportunity for them I say, well for a young man or woman in high school maybe the service is a good place to go. I was very interested in that message--that message was getting out and I would often participate myself on briefs to the DVs to make sure they knew what my headquarters did, what we are responsible for and what the aviation force of the Pacific Fleet did.

Q. So, is it fair to say that you feel good about the DV Program or you think it is an important program?

A. I think it is a very important program to the U.S. Navy.

Q. Alright, sir. Did you--were you personally involved in the decisions about who which--would DV would make these embarks?

A. Not always. In some cases, I wanted to make sure the visit was the right level visit and some cases, I would receive a request from other individuals that wanted me to support a particular DV. If I thought that person was deserving, I would pass that name to my PAO and have him coordinate.

Q. Sir, at this moment, do you have a view as to the culpability of CDR Waddle based purely on his role as the Commanding Officer of the GREENEVILLE?

A. I'm sure CDR Waddle would probably agree with this comment. We've both been Captains of ships and a boat and we feel that as a Captain we are responsible for the conduct of your crew and your ship, and that ultimately you are responsible for whatever happens and you bear some responsibility. I think we share that as a Captain. You have to look after your ship and you have to look after your crew.

Counsel for CDR Waddle, party (LCDR Young): One second, sir.

PRES: Sure.

Counsel for CDR Waddle, party (LCDR Young): Sir, since we will not be--we don't have the ability to question RADM Ozawa, we would request that you ascertain RADM Ozawa's knowledge of and possible participation in the collision or the investigation of the motor vehicle FUJI MARU, a ship similar to the EHIME MARU, in a collision with the Japan Maritime Self-Defense Force submarine NATUSHIO. Would you be able to do that so that we would have a frame of reference from which to operate, sir?

PRES: Counsel, do you wish to comment on that?

CC: Sir, I can take that and take a look at it, sir.

PRES: Okay, would that be sufficient?

Counsel for CDR Waddle, party (LCDR Young): Yes, sir, thank you very much.

Questions by CDR Waddle, party (LCDR Young):

Q. Sir, going back to the question I have with regard to CDR Waddle, do you also--what would your views be on the culpability of the XO with regard to this incident?

A. Well, I won't discuss specifically his culpability. I would say the Executive Officer is typically responsible for training on the ship and that is one area that I think that we would be looking into, how well was the crew trained, were the members of the crew qualified at their watchstations, if they are not, or if they are, that is good on the XO. If they are not, then that is an XO responsibility he should watch after. I don't know what the XO was doing at the time of the operation, so I have no facts.

Q. I don't mean the factual, I just meant overall.

A. Overall, yes.

Q. Same with your views as to the OOD's role onboard?

A. Well, the OOD has a watchstanding commitment so was he-- did he perform his watchstanding duties properly or not.

Q. Sir, other than what you've stated regarding, if you will, the statutory role of CDR Waddle, do you have any preconceived notions about the criminal culpability of CDR Waddle with regard to the collision?

A. No.

Q. Sir, do you believe that disciplinary action in the form of either Admiral's Mast or a court-martial is a necessity in the case of a collision involving a loss of life?

A. No.

Q. Thank you----

A. I think the facts--you got to find out what the facts are.

Counsel for CDR Waddle, party (LCDR Young): Thank you very much, sir.

PRES: LCDR Pfeifer?

Counsel for LCDR Pfeifer, party (LCDR Stone): I just have one or two follow-ups on questions asked by CDR Waddle and then a few others, sir.

PRES: Certainly.

Questions by counsel for LCDR Pfeifer, party (LCDR Stone):

Q. You originally said when you first heard of the collision, one, that you thought it was a tough day for the Navy and then you thought it was also that the Commanding Officer would probably have to answer some questions?

A. I actually said it was a tough day for the Navy and it was a tough day for the Captain, it was a tough day for a lot of families. I think that is what I specifically said.

Q. Did you think of the Executive Officer in that?

A. No.

Q. What is your understanding of the Executive Officer's role underway watchstanding? Where does he fit?

A. My experience typically is Executive Officers of aircraft carriers don't normally get to stand underway watches because you are busy running the administration of the ship, you are coordinating that for the Captain and those are significant duties. Because what you are really doing around --just to give you an example, if you are at Sea and Anchor Detail, you are going to spend a lot of your time walking around the ship making sure it is ready. So, you are there to observe and make sure that things are on track and if you have to push people to get things done more quickly or make sure that things are done efficiently to support the Captain, so that he can do what he is supposed to do.

Q. And did you ever have a CO that you did not trust to make the right tactical decisions?

A. No.

Q. Have you ever doubted the decisions of one of your previous Commanding Officers and then found out that the Commanding Officer's decision turned out to be correct?

A. Yes.

Q. And in your time as an XO in your career, did you ever feel that you had to confront your Commanding Officer in front of other members of the crew or officers onboard?

A. Well, you know, in the aviation community--I'm sure it is this way in the submarine community, I think if--I think there is a certain sense of openness when you deal with your officers. An Executive Officer has a clear role and if he feels like things aren't going particularly well, his first obligation, I think, is to make it known to the CO, but that is best done privately though because you are more effective as an XO, an Executive Officer, if you do it privately because you have an opportunity to rule the day with the

Commanding Officer or to make your point clear, so that you can make sure that it is fully considered. I don't think that it is necessarily the right thing to do, but if you--things aren't going well, I think you need to speak up.

Q. Have you ever--have you ever recommended the Commanding Officer or Executive Officer be relieved of their duties?

A. No.

Q. Have you ever been a witness to a startling event, for example a car accident, and then were pressured to report what happened to a superior?

A. Well, you asked two questions. I have been a witness to many startling events. I have never felt pressured to make a statement. I mean, I have been asked to write a statement down based on what I saw, but I didn't feel any pressure just to write it down.

Q. Have you ever been orally questioned?

A. Yes.

Q. Have you made any recommendations or endorsements regarding the Commanding Officer/Executive Officer's duties in your role--various JAGMANs or anything that you may have reviewed or endorsed?

A. Yes, I've frequently made endorsements to accident investigations--aircraft accident investigations.

Q. Have you had to host civilians, or host--give tour guides yourself?

A. Yes.

Q. Do you think that it ever interfered with your operational readiness? Have you ever taken any underway, I guess?

A. Well, I have taken many as Captain of an aircraft carrier, we had many visits. Typically, I didn't see that as an impact. I saw that as an opportunity, frankly, to do the right thing on both sides. You get to demonstrate--what you get--convey a very important message to the public about how professional your force was and it was an opportunity there to have the right kind of interface with significant members of the community. And, at dinner, you have the opportunity to make--to answer their questions, so I didn't see it as an impact on my readiness, no.

Q. Do you believe that there is a possible outcome of this case that will appease the international outcry?

A. No, I mean, I haven't thought about an outcome. I don't think that's our--I think we've got to let the facts fall where they may and see where it takes us.

Q. Do you believe any high ranking--higher ranking military officer or civilian in the U.S. Government believes that there should be a particular outcome and have they discussed it with you in any way?

A. They haven't discussed it with me.

Q. Do you believe that it is an individual's duty, whether it may be the CO or the XO, to take blame regardless of any individual fault coming out?

A. To take blame, no.

Q. Do you feel that the presence of RADM Ozawa in the courtroom and the deliberation room will impact your exercise of any free or impartial judgment at all?

A. No, I don't see any effect. I think RADM Ozawa will contribute.

Q. What do you feel the role of the Technical Advisor is?

A. Well, the Technical Advisor, I think, specifically his role, he's a qualified submariner. He understands submarine operations along with RADM Sullivan, who has a significant amount of experience, and the type of questions I think we are going to be able to get to as members will allow us to get to the facts.

Q. How much experience do you have in operating with submarines in foreign operating areas?

A. Well, as Battle Group Commander for a Carrier Battle Group, I have some experience. Operating, I had two submarines in my battle force, the OLYMPIA and the BREMERTON, and we operated in the Hawaiian OPAREA when we deployed, that is my only experience in the Hawaiian OPAREA with submarines.

Q. Through this and other areas, how familiar are you with the ocean environmental conditions in the Hawaiian OPAREA?

A. I'm not familiar at all.

Q. Have you had the opportunity or are you familiar with submarine target motion analysis based on passive broadband?

A. No.

Q. And, would you believe that this would be an area that you would probably use your Technical Advisor in?

A. I think we'll use the Technical Advisor in the questions, yes.

Q. Are you also familiar with periscope operating techniques?

A. No.

Q. Do you understand the reconstruction data is information that may or may not have been available to operators during real time operations?

A. I don't know that.

Q. Just one other question about RADM Ozawa, sir. Do you believe he speaks for himself or speaks for the Government of Japan when he is in the deliberation room?

A. I have been working with RADM Ozawa for about 9 days and it is very clear that I think he is on the--feels the same charge the other members feel and is going to ask the right question to get to the facts and that is the level which we've acted and participated in.

Counsel for LCDR Pfeifer, party (LCDR Stone): I have no further questions, sir.

PRES: Counsel for Mr. Coen, questions?

Questions by counsel for LTJG Coen, party (LCDR Filbert):

Q. Yes, sir. You've had a lot of questions, I understand about things that you've been told and learned, but the question hasn't been asked about what is your understanding at this point about what happened between GREENEVILLE and EHIME MARU?

A. What I know is--what I think I know is that they were doing an emergency surfacing operation on USS GREENEVILLE and they collided with a motor vessel EHIME MARU, that is what I think I know from the newspaper.

Q. So, just the basic facts that there was a collision?

A. Yes, and that they were doing what I assume is emergency surfacing.

Q. Thank you. As part of your duties as AIRPAC, you were not--were you briefed on anything regarding this collision?

A. No.

Q. I believe all the counsel were provided with a list of witnesses for the court--that will be called for the court, and you discussed your relationship with RADM Konetzni and RADM Griffiths. Were there any other witnesses that you knew on the witness list?

A. I don't think so. I recall the list and the only two members I recall knowing were RADM Konetzni and RADM Griffiths.

Q. Okay. Will the fact that you know those two officers effect your ability to impartially evaluate their testimony?

A. No.

Q. Were any units of AIRPAC involved in the rescue or SAR efforts?

A. Well, I believe--I don't know specifically, but I believe some P3's and helicopters supported the SAR.

Q. Were you briefed on what they had done or----

A. No, I wasn't.

Q. Now prior to today--I know that you've had some discussions about the procedures, which are very involved, but did you have any discussions with the other members about the basic facts of the case?

A. No, we haven't discussed anything.

Q. You mentioned earlier, I believe you said while you were a Commanding Officer or in some kind of command, that you were almost involved in a collision at sea. Was there any kind of investigation done in that situation?

A. No, we didn't have a collision, but I just remember how close it was, and I remember there was very little I could do about--I felt there was very little I could do about it at the time and I felt lucky.

Q. Have you ever been involved in any way in an investigation of a collision at sea?

A. No.

Q. Obviously you have been involved in aircraft mishap investigations, probably in many different ways. Were you ever in a situation where there were deaths involved in an aircraft mishap and you had to decide whether or not there would be disciplinary actions for any officers involved?

A. No.

Q. Is it your understanding, sir, that all of the board members have an equal vote, an equal voice in what the recommendation and findings of the court will be?

A. I intend to support them that way.

Q. Each one will have the same----

A. Yes.

Q. Sir, I know you have been asked a lot a questions and I'll ask the final question. Is there anything that comes to mind or that you can recall that counsel should know about your ability to impartially sit as a court member?

A. No, I would go back to one of the questions that we had in here earlier from CDR Waddle's counsel, you know, I just think I bring a certain amount of competence from 31 years of service in the U.S. Navy and understanding of Navy operations, and I hope to bring that competence to the court as the President.

Counsel for LTJG Coen, party (LCDR Filbert): Thank you, sir. I have no further questions.

Counsel for CDR Waddle, party (LCDR Young): Sir, one follow-up, if I might?

PRES: Certainly.

Questions by counsel for CDR Waddle, party (LCDR Young):

Q. Sir, you mentioned that as the Battle Group Commander that you had two subs in your Battle Group, the OLYMPIA and the BREMERTON. Were you ever onboard when they performed an emergency surfacing procedure?

A. No.

Q. You've never been involved in one on any submarine, would that be fair to say? Or you have?

A. I have as Battle Group Commander, I did an orientation visit on the OLYMPIA to understand how that ship works and how the ships were outfitted. We did not do an emergency surfacing.

Q. So, you've never been onboard any submarine for an emergency surfacing?

A. No.

PRES: Counsel, comments? Questions?

CC: No, sir, Counsel for the Court has no questions.

PRES: Alright, at this time I will ask if there are any challenges then for the President of the Court of Inquiry?

The parties had no challenges for VADM Nathman, the President of the Court of Inquiry.

PRES: Let's proceed then in the same manner for questions for RADM Sullivan. Counsel for CDR Waddle?

Counsel for CDR Waddle, party (LCDR Young): Good morning, Admiral.

MBR (RADM SULLIVAN): Good morning.

Questions by counsel for CDR Waddle, party (LCDR Young):

Q. I am going to basically ask you the same questions that I asked of VADM Nathman beginning with, do you have any special training in military justice or military legal procedures?

A. Similar to VADM Nathman, I certainly had some during my junior years in the Navy. Part of qualifications of commanding a submarine, you have some, and I've certainly had some nonjudicial punishments as Commanding Officer of the submarine.

Q. Yes, sir. Have you ever sat on a Board or a Court of Inquiry before?

A. No, I haven't.

Q. You ever convened one?

A. No.

Q. Or, been a Preliminary Investigating Officer for one?

A. No, I have not.

Q. Thank you, sir. I'm sure that you've been involved in some way, considering your submarine background, in collisions involving submarines. Is that an accurate statement?

A. In what sense?

Q. Have you ever been involved in an investigation involving a mishap or a collision with a submarine?

A. I have never been directly involved. I've been on a submarine that has had a collision.

Q. What submarine was that?

A. The USS DACE in 1978 in the Straits of Gibraltar.

Q. Can you tell us what happened, sir?

A. At the time--we were coming up to periscope depth for a navigational fix and struck a--did not hear him on acoustic sensors, but struck a large merchant. It was inbound into the Mediterranean and followed--of course, surfaced in attempt to locate them. The ship went into Gibraltar and we were sent into Rota. At the time of the collision, I was asleep in my rack, so I was not really too much involved.

Q. What was your job onboard the submarine at the time?

A. At the time, I was the Main Propulsion Assistant.

Q. What came out of that incident? What happened as a result of that?

A. It was a long time ago, but I certainly remember a very thorough investigation by the Submarine Commander--Submarine Group Commander, Submarine Group EIGHT in Naples, and I don't remember much beyond that.

Q. Do you remember if your Commanding Officer was relieved as a result of that?

A. No, he was not.

Q. Do you recall if there was any disciplinary action against him as a result of that?

A. No, there wasn't, in fact, he was the one who probably saved the ship.

Q. Thank you, sir. I assume no loss of life in that case?

A. That's correct.

Q. Minor damage to the submarine?

A. Fairly minor, it required repair, probably a 2 or 3 week repair.

Q. Any other times you were onboard when there has been an accident or a collision?

A. No, once is enough.

Q. Convening Authority at any time for a JAGMAN investigation where there was such an accident like that?

A. No.

Q. Sir, what is your understanding of your role as a member on this Court of Inquiry?

A. My role is to listen to the facts, try to ascertain what happened, and to make recommendations and so forth to the Convening Authority.

Q. Do you recall when exactly you were informed of the decision that you would sit as a member?

A. Similar to the Admiral, I was informed while in Washington at the Navy's Flag Officer Conference. I was informed by my CINC, ADM Mies. He called me and told me that I was going to be appointed to this board--court.

Q. Do you recall what day was that, sir?

A. It was the 16th of February, Friday the 16th, 1500 eastern time.

Q. Is that basically the gist of the conversation?

A. That is correct.

Q. And while you were in D.C., sir, did you have any conversation with anyone else about your sitting as a member on this Court of Inquiry?

A. It happened at near the very end of the conference and we basically broke up. The only other individual I talked to about it was RADM Stone who happened to be sitting next to me and he also had received a similar call from--from I believe ADM Fargo.

Q. So, you knew basically about the same time that you would both be sitting?

A. That is correct.

Q. When you were--I assume that shortly after that as it was Friday, you returned back to your place of command, your duty assignment?

A. That is correct, back to Omaha, Nebraska.

Q. Did you have any discussions with any of your staff back in Nebraska about your appointment as a member?

A. I did with my Executive Assistant, CDR Wright. I told him to make the necessary plans for me to come out here to Hawaii and I informed him that I was going to bring him with me so that I would have another submariner to help assist me in ascertaining the facts.

Q. I'm sorry, you brought him with you?

A. Yes.

Q. And what is his name again, sir?

A. CDR Doug Wright, he is right behind you.

Q. Sir, how is--what assistance has he provided you so far?

A. Well, we have been here for approximately 2 weeks and we have not, the members, including myself, have not been

privy or not made any effort to find out the actual facts of the incident and CDR Wright has assisted our counsel in preparing information, and he's basically been our serving technical expert. He's doing the job that I envisioned I would be doing or I will be doing once this court starts.

Q. Alright, sir. Sir, do you write his fitness report?

A. Do I write his fitness report----

Q. Yes, sir.

A. Yes, I do.

Q. Okay, sir, other than what you just talked about, have you had any other conversations, for example, with RADM Guter or RADM Lohr about this Court of Inquiry?

A. I have not talked to them personally. I did sit down at a teleconference at the invitation of VADM Nathman as he described earlier discussing procedures.

Q. Have you had any communications with the SECNAV or anyone in his office regarding this?

A. No, I haven't.

Q. The CNO or anyone in his office?

A. No, I haven't.

Q. Have you personally discussed this case with ADM Fargo in any way or met with ADM Fargo?

A. I met him in passing last Friday and just said hello to him, and that was the extent of it.

Q. And no phone conversations with him?

A. No, I did not--have not talked to him about this case or even the fact I was appointed to the court.

Q. Alright, sir. Why do you think that you were chosen as a member? I mean, obviously, you are the one submariner on the board, but there are other submariners, so----

A. I have thought quite a bit about that. I think I have a fairly good reputation on the submarine waterfront of being fair. I've certainly had every one of the three jobs that these three individuals have had. I understand submarine operations. I understand the complexity and I believe I can look at this case and provide a sound judgment and support to this court.

Q. I assume in your role as a Commanding Officer of the submarine that you've commanded that you--actually, I'm not sure, but I wonder were DV embarks done when you were the Commanding Officer?

A. Yes, they were.

Q. Many? Few? Had the Navy just started or----

A. Quite a few, both on the USS BIRMINGHAM from operating out of here, Pearl Harbor, and the USS FLORIDA, both out of Puget Sound area, and we would come out here frequently and do embarks out here.

Q. Okay and, sir, would a typical DV embark, when you were Commanding Officer, involve angles, dangles, high-speed maneuvers?

A. It was always up to my judgment and often times it would be based where we were in the Sound area and I would conduct them if I felt it would be deemed safe. I have done them, but not necessarily is it always a given.

Q. Did you ever do an emergency surfacing procedure with DVs onboard?

A. Not with DVs. I have done it once with a dependent's cruise scenario.

Q. And, were any of the subs that you served on a Los Angeles class 688 I submarine?

A. No, not on--I've been on--sailed a Los Angeles class, but not a 688 improved class.

Q. Alright, sir. Sir when you--when any of these DV cruises were done at any time say, for example, when you did the dependent's cruises, did you ever let one of the DVs or dependents sit at the helm or help drive the ship with the--obviously, with the help of another crew member?

A. Yes, I did.

Q. Sir, when did you first hear of the collision?

A. I heard about it probably about 2100 central time. My Executive Assistant called me and told me that he had been watching CNN and that there had been a collision out in Hawaii.

Q. What facts were given to you or did you ascertain at that time?

A. Just again, what I saw--of course, as a senior submariner, I was very interested in trying to ascertain how this happened and I watched various news channels and read various stories over that first weekend of the collision.

Q. Certainly, sir, up until the 16th you didn't know that you would be involved as a member, so as you said you were very interested. I assume you were following the news on this?

A. That is correct.

Q. Were you reading--was there message traffic?

A. I wasn't privy to any message traffic that--on this particular incident that I can recall.

Q. Any email traffic?

A. No email traffic.

Q. Phone calls about the accident?

A. No, I purposely felt knowing that the amount of effort and investigation that was going on here in Pearl Harbor, that they certainly didn't need an Admiral from Omaha asking questions or interfering with the process of what's being done. I felt that eventually the facts would come out and that I'd learn what happened.

Q. Sir, from the information that you read--I guess it was exclusively through the news media, what is your understanding of what happened?

A. My understanding is again, based on what I've read, that a collision did occur, that nine people lost their lives, that GREENEVILLE was operating in local OPAREA, South of Oahu, with a distinguished visitor embark and that the Chief of Staff of SUBPAC was onboard.

Q. I imagine that as a submariner you--it must have gone through your mind, how did this happen?

A. Yes, that's how I would characterize it was. Having done this many times, it's a safe evolution if done correctly. I was trying to ascertain how could it happen. I was certainly anxious to eventually learn how it could've happened.

Q. Did you have any preconceived notions from what you read about how it happened?

A. No.

Q. Sir, your boss is a four-star submarine Admiral?

A. That's correct.

Q. Did you have any discussions with him about the collision?

A. Yes, we both read the newspapers, and in fact, at the Flag Conference that we mentioned, we sat and talked at

his--he was at the same mind--as I mentioned, way to the facts. He himself told me that he had not made any contact with the GREENEVILLE's chain of command to ascertain any more information that was in the press.

Q. Okay, sir, after your appointment as a member, did you have any discussions with your boss?

A. Yes, I did. Of course, he told me that I was coming out here and I told him--basically we discussed my role and some types of things to make sure we looked at.

Q. For example?

A. The reconstruction of the track, ensure it was done in a quality manner. Those types of issues, but nothing more that really pertained to the details of the actual collision.

Q. Can you elaborate more on the reconstruction and making sure it was done in a qualified manner--I mean, how exactly would that be done?

A. I don't know how it was done yet, but I wanted to ensure that it was done by folks that do reconstruction on submarine tracks on a routine basis, that their credibility and their qualification is considered excellent.

Q. Did you discuss the role of CAPT Kyle in the reconstruction?

A. I didn't know he was involved in the reconstruction until I was here on island.

Q. And did you discuss with your boss the fact that CAPT Kyle was doing the reconstruction?

A. I didn't know--I had no idea who was doing the reconstruction when I talked to him. It was again, an overarching and general discussion to ensure that it was done correctly.

Q. Okay, sir, other than his suggestions regarding the reconstruction, did he make any other suggestions or recommend any other things that should be done with regards to the investigation or things you should look at during the Court of Inquiry?

A. No, other than I would say to ensure that, of course, being a submarine Admiral, I don't need a lot of guidance on how to look into the situation, but ensure we examine all the facts, all the individuals who were on watch, those types of things.

Q. Sir, did you discuss with him the impact on the submarine community as a result of this collision?

A. No, we did not----

Q. Or on retention amongst personnel?

A. No, we did not.

Q. Alright, sir. Sir, other than the procedural conversations that you've had with the Counsel for the Court and the other members, have you had any substantive conversations about the actual facts of the accident?

A. No, I have not.

Q. Other than what you talked about with regard to your EA?

A. I have not had any conversations with any of the SUBPAC staff or any of the members that would have knowledge right now of the situation.

Q. And you may have just answered my next question, but no conversations with any other member of the STRATCOM staff with regards to this collision?

A. Again, prior to my being appointed, being the senior submariner, certainly some of the more junior submariners asked me what I thought had happened or any speculation.

Q. Your response?

A. I always prefaced my discussions with "Hey, let's wait until the facts come out. I certainly know CDR Waddle has a very good reputation as Commanding Officer, let the facts speak and let's not jump to any conclusions."

Q. Did you get into that discussing this could have happened, this might've happened?

A. Certainly.

Q. What was your response--or what did you think at the time?

A. That I had to see what happened because I--just for this to happen, it's a very unusual situation to occur.

Q. Were there theories discussed amongst you and these junior officers as to how exactly this happened.

A. Not really, just other than speculation.

Q. Sir, when you were at SUBGRU NINE, was ADM Fargo CINCPACFLT?

A. No, he wasn't, he was Fifth Fleet, I believe.

Q. Sir, you mentioned that you had read a number of news articles prior to your appointment, Washington Times articles?

A. No, I mean I read mostly the Early Bird and the Washington Post, I read that on-line pretty much.

Q. New York Times?

A. No, I don't read New York Times.

Q. I'm embarrassed to ask, People Magazine?

A. No.

Q. You didn't read the article in the magazine?

A. I have not--again, on the advice of counsel, we have made every effort the last 2 weeks of being on island here not to read the articles----

Q. I was speaking prior to that, sir. Sir, do you have a relationship or previous relationship with either any three of the Counsel for the Court of Inquiry?

A. I know the Captain, CDR Waddle.

Q. I'm sorry, Counsel for the Court of Inquiry, CAPT MacDonald, CDR Quinn or LCDR Harrison?

A. No, I met them for the first time when I arrived here on, actually the 19th of February.

Q. Alright, sir. Did you know CAPT Hinkley or CDR Fink, ADM Fargo's JAGs?

A. No.

Q. Do you have a JAG?

A. Yes, we do.

Q. A Navy JAG?

A. No, well there is a junior Navy JAG, CDR Riley, George Riley at STRATCOM.

Q. Obviously, sir, you've seen the witness list and you stated that you know CDR Scott Waddle. Can you tell us about the nature of your relationship with him, how exactly you know him, how long you've known him?

A. Submarine force is a small community and certainly we know folks of his seniority. I've known him on a professional basis, he rode my ship once as an inspector for the Nuclear Propulsion Examining Board back in probably 1993 or so and----

Q. How did you do on that inspection?

A. How did I do? We passed. I knew him then and I met him a couple of times having we--are a business again in a social forum. He's called me trying to encourage a selection of one of his Squadron's Master Chiefs to come out to STRATCOM for a key position, to be an advocate for the individual, that's the basis of knowing Scott.

Q. What is his reputation in the submarine community?

A. GREENEVILLE's reputation along with CDR Waddle's is excellent.

Q. Reputation for taking care of his people?

A. I couldn't comment on that part of it, I just know that professionally they have a great reputation. I believe they were selected to be the platform for SUBPAC change of command.

Q. Yes, sir. Any other witnesses that you personally know?

A. I know RADM Griffiths.

Q. And how do you know him, sir?

A. We served together in Omaha in STRATCOM for about a year.

Q. You relieved him?

A. No, he's----

Q. You served laterally together?

A. He was the Deputy of J5, Director of Plan and Policy and I was at the time, the Director for Operations and Logistics. And, I know RADM Konetzni, he's a close personal friend of mine for a number of years.

Q. Any conversations with RADM Konetzni about this?

A. I had no conversations with RADM Konetzni.

Q. Sir, did you know RADM Stone, I'm assuming you knew him, but did you know him well before this Court of Inquiry.

A. No, I didn't.

Q. Just met at the Flag Conference in D.C.?

A. That's correct.

Q. Did you---

A. Excuse me, but I also know CAPT Brandhuber when he was a Squadron Commander at Squadron SEVEN and as Chief of Staff of SUBPAC.

Q. Now, how many years?

A. Probably in the order of 8 to 10 years.

Q. Just professional reputation?

A. Superior.

Q. Sir, do you know why RADM Konetzni chose the GREENEVILLE for his change of command?

A. No, I do not.

Q. Who did you hear that from?

A. I heard it from RADM Konetzni.

Q. Did he indicate why?

A. No, he just said that they had done a good job and I believe the Captain asked for the honor and RADM Konetzni accepted, that's my understanding.

Q. Sir, have you ever met RADM Ozawa before?

A. I've not met him, he did say that he remembers me, that we both were operating submarines in 1992. I was on the FLORIDA and he was out here on his submarine in RIMPAC '92, but he must've remembered me, but I can't say I remember him.

Q. Sir, are you familiar with any of the information from the NTSB investigation--again, this would be prior to your appointment as a member?

A. Just what I--a few news conferences that they conducted that first week. I know since then that they reached somewhat of a preliminary report or some sort of press release that was in the paper yesterday, but I didn't read it.

Q. Sir, have you ever been assigned in Japan?

A. No, I have not.

Q. I'm assuming, have you done a WESTPAC?

A. Yes, I have.

Q. How many would you say?

A. WESTPACs?

Q. Yes, sir.

A. One, I believe.

Q. Were you Commanding Officer?

A. No, I was a junior officer.

Q. Do you have any close Japanese family or friends?

A. No.

Q. And, sir, do you know what your next assignment will be yet?

A. Yes, I do.

Q. And what would that be?

A. I'm going to return to Washington to be the Navy's Director of Submarine Warfare.

Q. And when will that be, sir?

A. Probably in April.

Q. Sir, can you talk a little bit about DV Programs that operated when you were a Commanding Officer? Your view of them, good opportunities?

A. Certainly, I think the Distinguished Visitors Program was what I consider a win-win situation. We were able to expose our Navy to our fellow civilians. We would take some of what VADM Nathman described, the various groups from Congressmen, their staffs, political appointees, Navy Leaguers, various other groups to expose them to what their taxpayers--what their tax money buys, and I felt they were always a very important part, both inport--not just the embarks at sea, but the majority of our visitors actually visit the ship pier side. Both submarines I was command of, and as the Group Commander in Bangor, I certainly encouraged it. It was clear that when I was Commanding Officer, and certainly the guidance I would give my Commanding Officers, is always do things safely and smartly.

Q. Sir, I asked this question of VADM Nathman and I'll ask it of you as well, what is your view of the culpability of the Commanding Officer in an accident like this?

A. Well, certainly the Commanding Officer's authority is absolute and is his responsibility to assume it, but having not been privy to the facts, I have to see what the facts are--that's part of our Navy tradition, but certainly there could be extenuating circumstances. I mentioned the one collision that I experienced as a junior officer, the Commanding Officer was actually found in a sense that he prevented a worse situation from occurring, so I don't know the facts of the case and I'm interested to find them out.

Q. Can you elaborate a little bit more, how exactly did the Commanding Officer recover the situation?

A. He was at the periscope stand when he noticed the junior officer, who was the Officer of the Deck, hesitate during a periscope sweep as we just broke the surface and as

soon as he saw him hesitate, he ordered the ship to go down quickly to do an emergency deep. It wasn't until seconds after that, that acoustic detection of the surface ship was heard, so was able to get the ship down as fast as he could.

Q. Sir, I noticed in your bio that you were the Anti-Submarine Warfare Officer in USS VREELAND--oh, I'm sorry that was RADM Stone, forgive me.

A. I don't remember that one.

Q. Other than normal submarine operations, do you have any special expertise in sonar operations, other than what the normal submarine officer would know?

A. By the time you're Commanding Officer in one of our submarines, you're fairly competent at operating sonar systems and certainly I fall into that category. I have worked at Submarine Development Squadron TWELVE prior to my command tour in the Tactical Development Group--Analysis Group where we would conduct tactical development exercises but certainly I don't consider my qualifications on sonar any more or any less than any other person who has had the privilege to command a submarine.

Q. Same questions with regard to fire control, the Attack Center?

A. Same thing.

Q. One second, sir. Sir, I'm not sure if you know the answer to this, about the collision that you were involved in--you said when you were on a submarine--did you ever learn what caused the CO to take action? I mean, was it simply the hesitation of the OOD on the periscope or was there acoustic contact? Or perivisual? Or is it simply that hesitation?

A. It was his hesitation. It was the Commanding Officer--my read of it, he never told me, this was looking back on it, was knowing his boat, knowing his crew. Submarine operations are operations that have to be done with care, they're not simple, they're not easy.

Counsel for CDR Waddle, party (LCDR Young): Thank you very much, sir.

PRES: Counsel for LCDR Pfeifer?

Questions by counsel for LCDR Pfeifer, party (LCDR Stone):

Q. You had mentioned that the Commanding Officer of this collision you were involved in was not disciplined. Was anyone else on the ship disciplined?

A. Not that I recall.

Q. You said that you had read some stories and that you were very interested in terms of how this collision might've been. Before you were appointed to the court, what thoughts went through your mind regarding the ship or the crew of the GREENEVILLE? You mentioned something about the Commanding Officer, any speculation as to responsibility on other members on the ship?

A. I certainly didn't emphasize responsibility, I was more interested what the facts were, how this could have happened. The--placing responsibility was something that could be done after the fact, I was more concerned for their health and safety. Certainly having done--been through something very similar to that, it's a very traumatic experience on the ship and the crew.

Q. You have stated that you have speculated before your appointment, terms of how this may have happened and since you've received a copy of your appointing order, you've known that the Executive Officer was named as a party. Did you ever put the two of them together and speculate as to why the Executive Officer may have been named a party to this inquiry?

A. No, other than he's the Executive Officer, number two on the ship.

Q. You have also stated that you're aware of the reputation of the GREENEVILLE as being excellent or the reputation of CDR Waddle as being excellent. Do you attribute that to any one else besides CDR Waddle?

A. I certainly do. I fully recognize that a submarine is not a one person crew, but in the submarine force, you tend to associate the ship and Commanding Officer in one sentence, but certainly he had a crew behind him to earn that reputation.

Q. Do you have any ideas or feelings with regards to the potential culpability of an Executive Officer during an underway collision?

A. I have no preconceived notions on what his role is.

Q. I think that you stated that the Commanding Officer is ultimately responsible. Do you hold that same position for the Executive Officer?

A. Not necessarily, I don't know what his role is.

Q. So, it's not based on the fact that he's purely the Executive Officer--would be some actions that he may or may not have taken during the course?

A. I'd have to wait to see the facts.

Q. Sir, did you ever have a Commanding Officer that you did not trust to make the right tactical decisions?

A. In what role, as junior officer?

Q. As junior officer, whether it be Executive Officer or junior officer?

A. No.

Q. Have you ever doubted the decision of the Commanding Officer and then later found that the decision turned out to be correct?

A. Again, as a crew member? As one of his officers?

Q. As one of his officers, as Executive Officer?

A. Certainly, I couldn't recall, but certainly you always--as a junior, you're always questioning why things are done, that's a part of the business to always try to understand.

Q. What is your understanding of the term tripwire?

A. In what sense?

Q. As with regards to understanding or the term of forceful backup and tripwires, is that a term that you're familiar with?

A. I've heard tripwires used in--my experience at sea is certain parameters you set out: distance, minimum range or size, closeness of a contact, word phrases or some sort of thing like that, that if it occurs or, for instance, a sounding, the ocean floor gets to a certain level that will cause the ship to immediately carry out a casualty action.

Q. You have any belief that there is a possible outcome of this case that will appease the international outcry?

A. No.

Q. Do you believe that the CNO of the Navy desires a particular outcome of this case?

A. No. I'll restate that, yes, they would like to have us investigate this, have the facts laid out in a logical fashion, and go from there, in no preconceived direction.

Q. What sense--you do have a personal knowledge of--personal relationship with the Technical Advisor, what do you anticipate his role being in this case?

A. He was very helpful the last 2 weeks because I could not--the three of us could not be exposed to--given the Preliminary Investigation reading of the facts that was gathered already by our predecessors, so they could help the lawyers. I look at it, I lost an EA and the President of the Court gained a Technical Advisor.

Q. So, CDR Wright to your knowledge has been exposed to basically all the--right number of information in regard to the bulletin?

A. I believe he was.

Q. But has he discussed any of that information with you at all?

A. No, none of the particulars.

Q. What do you perceive RADM Ozawa's role to be?

A. Well, RADM Ozawa is another fellow submariner who has had extensive experience at sea and I expect him to be--he has been to date--been very helpful trying to sort out when we get into the particulars of the collision and I see him as a colleague.

Q. Do you anticipate yourself and potentially RADM Ozawa becoming a quasi-technical expert with the non-submarine members of the court?

A. I wouldn't say--I wouldn't say the lines are that bright, that clear. We all speak pretty good together as a group, all of us are free to speak up or add as see appropriate. Clearly with our backgrounds, both of us as submariners would have more knowledge or previous experience in the area of submarine operations.

Counsel for LCDR Pfeifer, party (LCDR Stone): Thank you.

PRES: Counsel for LTJG Coen?

Counsel for LTJG Coen, party (LCDR Filbert): Thank you, sir.

Questions by counsel for LTJG Coen, party (LCDR Filbert):

Q. RADM Sullivan, I wanted to ask about the--you made some comments about the reconstruction, have you been given any information since you've been appointed to the court about--if there were a reconstruction going on and how it was going?

A. I certainly knew from my experience of submarine operations that there would be a reconstruction. We do that not just for collisions or incidents at sea or anything, close encounter at sea, and so I knew, I assumed the mechanics of what would be happening out here in Hawaii.

Q. In your position as Commanding Officer and other positions of command, have you ever been in a situation where you had to assess whether or not an officer who was a subordinate had been derelict in his duties?

A. I would say not--what do you mean by derelict?

Q. I mean derelict in relation to shipboard something that he was doing onboard the submarine.

A. I've had a lot of officers work for me that certainly I have had to provide counsel. As Group Commander, I've relieved one Commanding Officer and recommended his relief for cause on one of my submarines, but nobody I've ever questioned dereliction of duty.

Q. I'll make that more clear in the sense of looking at it from the point of disciplinary action or relieved for cause as the Commanding Officer. Anybody outside the Commanding Officer would you ever do that?

A. I had to review a number of cases, my Commanding Officers--recommended maybe one or two individuals being relieved of their duties for lack of professionalism once, Department Heads typically.

Q. You said the Commanding Officer or a Commanding Officer had to be--or you recommended that he be relieved. Did it involve his operation of the submarine?

A. It involved the operation of the submarine and his demeanor, command climate, the way he was able to deal with his crew. I felt the communications I was receiving--my investigation revealed to me that he was not taking feedback from his crew, that he basically was not getting that forceful backup that every Commanding Officer at sea needs.

Q. Was that when you were at SUBPAC NINE, I believe?

A. I was at--yes, Submarine Group NINE.

Q. I'm sorry, Submarine Group NINE. And how long ago was that?

A. 1997.

Q. Now--you mentioned earlier that you are familiar with CDR Waddle and some of the senior officers who would maybe testify at this Court of Inquiry. Do you see any problems in assessing their testimony with your understanding of either their reputation or your personal knowledge of them?

A. Not at all.

Q. You would be able to look at what they would have to say and see whether or not it's creditable based upon what they say in relation to the facts?

A. That's correct.

Q. Sir, your next assignment, I believe it to be Director of Submarine Warfare back in D.C., are any of the witnesses including the senior officers, scheduled to report to you there at the Pentagon?

A. No, not that I'm aware of.

Q. Is there anything that you can think of that hasn't been asked that would--be important to know about your ability to sit as a court member here?

A. No, I think you all have asked good questions. I certainly have naturally a vast amount of experience at sea on submarines. I guess I mentioned before, I held all three of their jobs and I feel I can add a lot to this Court of Inquiry to be able to understand what happened on the 9th of February.

Counsel for LTJG Coen, party (LCDR Filbert): Thank you.

PRES: Counsel for the Court, any questions?

CC: No questions, sir.

PRES: With respect to RADM Sullivan are there any challenges from any Counsel for the Parties?

The parties had no challenges for RADM Sullivan, a member of the Court of Inquiry.

PRES: We have gone on for awhile here folks, I think what we could do now is recess for approximately 10 to 15 minutes and then proceed with our questions for RADM Stone. This court is in recess.

The court recessed at 1028 hours, 5 March 2001.

The court opened at 1040 hours, 5 March 2001.

PRES: Counsel, let's go ahead and proceed as we did for questions for RADM Stone. Counsel for CDR Waddle?

Counsel for CDR Waddle, party (LCDR Young): Thank you, sir.

Questions by counsel for CDR Waddle, party (LCDR Young):

Q. Good morning, Admiral. Sir, have you ever been involved in a Board or Court of Inquiry in any way?

A. No, I have not.

Q. Have you ever been involved in any types of accidents involving a submarine?

A. No.

Q. Or--not on a board or any type of investigatory matter?

A. A submarine incident, no I have not.

Q. Sir, what is your understanding of your role here on the Court of Inquiry?

A. As a member here, I'm part of the process that's going to be an open and fair one in discovery of the facts related to the incident.

Q. How were you informed of your role, a phone call?

A. I was in Washington, D.C. on Friday the 16th of February. I received a phone call from ADM Fargo informing me that I'd be a member.

Q. Alright, sir, prior to that, had you any knowledge of the accident?

A. No, just from sound bites and of course, you'd look through the newspapers at the incident. I first heard when I was onboard the Third Fleet Flagship serving as a Commander of an exercise there and that was my first notification.

Q. Was that the 9th, 10th you recall?

A. Yes, the 9th.

Q. So, basically your knowledge about the incident was gathered from sound bites from radio, television?

A. Right, I was involved in that exercise and then onboard for that exercise and then flew to Washington, so I really didn't have a lot of access to newspapers during that exercise, so just the headlines.

Q. And what about once you arrived in Washington, before you were appointed?

A. Right, I glanced through the articles in the Washington Post had had some brief conversations with family members about it, but not extensive ones.

Q. Washington Times?

A. No.

Q. Sir, when you were on the Flagship, did you hear about the accident via satellite communications?

A. No, from the Third Fleet Commander, VADM Buckey informed me that there had been that incident.

Q. Sir, how have you prepared to sit as a member of this Court of Inquiry?

A. Preparation process since I've arrived on Sunday, the 18th of February is one, reading about what a Court of Inquiry is and the duties of the members, and also to prepare some line of questioning regarding the letter that was issued by AFM Fargo on the areas that he would like us to focus on.

Q. Sir, were you involved in helping create a witness list?

A. Not in terms of specific names, I was a party to discussions about good questions that might be asked to various witnesses and particularly focused on the letter about the Court of Inquiry, what we're supposed to look into.

Q. Alright, sir, can you tell me about the nature of your discussion with ADM Fargo on the day that you were notified you would be appointed a member?

A. Certainly, he--I got the phone call and went out, he said that I needed to proceed and report on Sunday afternoon, the 18th, to be a member of the court and did I have anything that would prevent me from doing that. I said, "No," and that was the end of the conversation and so I'd report as ordered. So, it was about a 30 second phone call.

Q. Did you have any further conversations with him, sir?

A. I saw him briefly on the sidewalk here out in front of the PACFLT Headquarters and he just asked how am I doing. I told him I'm doing fine and that was about the end of the conversation, very short one.

Q. Did you have any conversations with any of his staff about this Court of Inquiry?

A. No, no direct conversation with the CINCPACFLT staff.

Q. Do you know how you were chosen for the court?

A. I think it's because I'm in an operational position as the Cruiser Destroyer Group FIVE NIMITZ Battle Group and also, I've had extensive operational commands in the last 10 years, I think that would qualify me.

Q. Sir, Cruiser Destroyer Group FIVE, you took over in October 2000, right?

A. That's correct.

Q. Can you tell us the names of the submarines attached to your Battle Group?

A. Currently they're being updated, the Battle Group deploys in the summer of 2003, so it's a ways off.

Q. Have you been onboard any submarines as Cruiser Destroyer Group FIVE?

A. I have not.

Q. What about in your Navy career?

A. Yes, I've been onboard submarines that have visited in the Persian Gulf while I was assigned to Bahrain for 2 years, but those were pier side visits, so I've not been out to sea on a submarine.

Q. Never underway?

A. No.

Q. As a midshipman?

A. Yes, midshipman cruise, that was the last time I was underway on a submarine was midshipman training.

Q. What was that a couple weeks, the whole summer?

A. A few days.

Q. Sir, did you know RADM Ozawa prior to this Court of Inquiry?

A. I did not.

Q. I guess--you agree with the nature of your relationship with RADM Sullivan and VADM Nathman as discussed by them?

A. Yes, I concur.

Q. Any prior relationship with CDR Quinn or CAPT MacDonald?

A. None.

Q. Or CAPT Hinkley or CDR Fink, the JAGs for ADM Fargo?

A. No.

Q. Sir, who is your JAG?

A. Right now Michael Jackson is my JAG on the Group FIVE staff.

Q. Sir, did you have any discussions with your JAG about this Court of Inquiry or procedures?

A. None.

Q. Other than with the Counsel for the Court of Inquiry and other members of the Court of Inquiry, have you discussed the procedures of the Court of Inquiry with anyone else?

A. No.

Q. RADM Guter or RADM Lohr?

A. No, I've had no communications with either of those two officers.

Q. And, *sir*, can you tell what your chain of command is above you?

A. VADM Buckey, the Third Fleet Commander, is my reporting senior.

Q. And he reports to?

A. ADM Fargo.

Q. VADM Buckey writes your fitness report?

A. That's correct.

Q. Do you personally know ADM Fargo?

A. I worked for ADM Fargo when I was the Commander of the Middle East Force, Destroyer Squadron FIFTY in Manama, Bahrain for about a month. He had recently relieved and then I detached after that month to be the Chief of Staff at Sixth Fleet.

Q. What year was that, *sir*?

A. '96.

Q. Sir, have you had any conversations with anyone in the SECNAV Office, SECNAV or the SECNAV's Office, about this Court of Inquiry?

A. No, I have not.

Q. Or the CNO, ADM Clark, or his office?

A. No.

Q. And, substantively, what did you know about the accident prior to being appointed a member?

A. Only that it took place on 9 February and it involved the collision between that Japanese vessel and our submarine, the GREENEVILLE.

Q. Did you read the articles or basically just saw the headlines?

A. I glanced through the articles, that was the gist of it. I didn't get in any of the details of it, only that I was aware that the collision took place, that there was loss of life involved in it.

Q. Yes, sir, do you know any of the parties to the Court of Inquiry or CDR Waddle?

A. No, I do not.

Q. Have you heard of them before?

A. No.

Q. Sir, do you feel you have any special expertise in submarine operations?

A. No.

Q. Or that you would transfer your expertise to submarine operations, for example, fire control arena or the sonar arena.

A. I have from the war fighter's prospective, have knowledge of the tactics, techniques and procedures involved in the submarine operations as part of my operation tours that I've had at sea, but no special submarine qualifications.

Q. Do you have anyone who works directly for you who is a submariner?

A. Yes.

Q. Who would that be?

A. He--the billet was gapped on my staff for about a year and since I've been here reporting for the Court of Inquiry, he just reported to my staff, so I've never met him.

Q. What position would that be?

A. He's the Command and Control Communication, the N6 on my staff.

Q. Sir, who would that be?

A. I think CDR Parris is the name, and we can check that name and get back to you on it.

Q. Well, I assume--then you probably have not had any conversations with him?

A. I've never talked to him or met him.

Q. Sir, you indicated I think, you were on the Flagship when you first heard about the collision?

A. That's correct.

Q. What went through your head or what were your initial thoughts when you heard of this collision?

A. First of surprise because I think we have the most professional submarine force in the world and to hear that it collided with that vessel, I was surprised by that and then when I heard that there was loss of life, saddened by that, and that was my initial response.

Q. Did you ever discuss theories about how this could've happened with anyone?

A. I think the comment I heard most is how did this happen when we have such a talented force, how could such an incident take place and normally when I was asked that by folks, I would say we're going to investigate it thoroughly to get to the facts and find out, that I don't know how it happened.

Q. I understand that you didn't theorize, sir, but did anybody give you theories as to how it happened?

A. No.

Q. Sir, do you believe that a submarine could not have a collision if it is operated professionally?

A. I think I would have to look at the facts on each individual case before I make a general statement like that.

Q. Sir, forgive me, I'm not sure if I asked this, did you read any message traffic that I asked about.

A. I don't think you asked me that, but I haven't read any message traffic about the incident.

Q. Or have you received any email traffic about the accident?

A. Only from friends that said you're the right person for the job, good luck sort of thing.

Q. Sir, do you personally know any of the witnesses on the witness list, for example RADM Griffiths?

A. No.

Q. RADM Konetzni?

A. No.

Q. CAPT Brandhuber?

A. No.

Q. Any of the other--I don't know if you recall any of the other witnesses listed.

A. No.

Q. Are you familiar with the reputation of the GREENEVILLE?

A. I've not until just hearing both good things about the CO's professional reputation being excellent and the GREENEVILLE having an excellent reputation, that's all I've heard.

Q. And has that been since your arrival here?

A. Yes.

Q. Sir, do you read the Early Bird?

A. No.

Q. And do you have any information or gained any insight from any of the NTSB releases?

A. No, I've stayed away because my participation as a member for now.

Q. Or prior to your appointment as a member?

A. No.

Q. Sir, have you ever been assigned in Japan?

A. No, I have not.

Q. Did a deployment in Japan?

A. As a midshipman, I went to Yokosuka, that was my last visit there.

Q. Do you have any close Japanese family or friends?

A. No.

Q. And do you know what your next job assignment will be?

A. Since I've only been in this job for 4 months, I've got a lot of work to do here at Group FIVE.

Q. Sir, at Group FIVE, I assume you all have an active DV Program?

A. We will since my Flagship, the NIMITZ, is in overhaul and finishing that up this year, I'm sure we will evolve into a more active program.

Q. Have you been involved in the past in DV Programs? I assume you have?

A. Yes.

Q. Can you give us generally your opinions or feelings about the DV Programs and embarkations?

A. I'm a strong believer in the DV Program of our Navy, whether it's family cruises in which we bring our families onboard our ships and show them how the equipment operates and how we live at sea, whether it's special distinguished embarks such as this one or simple Tiger Cruises where our sons and daughters come onboard our ships at the end of deployment. I think it's part of who we are as a Navy, it's America's Navy, and that we need to continue that program and make sure we do it safely.

Q. Okay, you were the Anti-Submarine Officer on the VREELAND, can you explain what expertise you gained from that billet?

A. I think the primary focus of that billet is to be able to employ the sensors of the Frigate that I was ASW Officer on in an ASW environment. So, general education and training with regard to water space management, the employment of our weaponry onboard our ships. It was all entailed in that assignment, so tactics, techniques and procedures from war fighting is what that job was all about.

Q. Specific use of sonar equipment?

A. Yes.

Q. Which specific equipment?

A. The 26 Sonar, I think it's a surface oriented approach to that with a general background information on sonar sensor capabilities of the submarine forces that we might face.

Q. Alright, sir, fire control?

A. Right, only from a fire control perspective of the ship I was on, not from the submarine.

Q. Yes, I understand. What other type of expertise--or do you feel that you have any other type of expertise that might be pertinent to this case with regards to the operations of the submarine, for example, sonar issues were one, anything else?

A. During my 2 years in the Middle East in Bahrain, I operated extensively in what we call SHAREMS, which are ASW exercises, there to take a look at our sensors and our capabilities, so I'm operationally very familiar with how

our surface ships and submarines interact from that perspective, so I bring that to bear.

Counsel for CDR Waddle, party (LCDR Young): Thank you very much, sir.

PRES: Counsel for LCDR Pfeifer?

Counsel for LCDR Pfeifer, party (LCDR Stone): Yes, sir.

Questions by counsel for LCDR Pfeifer, party (LCDR Stone):

Q. Sir, do you feel you'll need to use the Technical Advisor for the board to explain technical information?

A. Certainly, I think that would be useful.

Q. How familiar are you with ocean environmental conditions around the Hawaiian OPAREA?

A. The sound velocity profile and the importance of it in anti-submarine warfare, I'm familiar with. However, in the Hawaiian OPAREA, I have no background on that.

Q. And are you familiar with submarine target motion analysis?

A. Yes.

Q. Familiar with periscope operating techniques?

A. No.

Q. Have you had any experience with reconstruction data?

A. Only from ASW exercises that I've participated in.

Q. When RADM Ozawa speaks, does he speak for himself or does he speak for the official position of the Government of Japan?

A. I take his inputs as one of a professional mariner. Of the time I've known RADM Ozawa--to have great respect for him as a professional naval officer, so I take his input as one from a professional mariner.

Q. As you are the junior member of the board, do you feel any timidity or reluctance to speak your mind being the fact that you are in fact junior to the other members?

A. Absolutely none.

Q. Do you feel that you have any problems at exercising your own free judgment or open discussion because you are the junior member?

A. No problems.

Q. You may be aware that RADM Griffiths was the Preliminary Investigating Officer and as he testifies, he may provide his own opinions and conclusions. The fact that you are not a submarine officer, what weight would you tend to give his opinions that he may give regarding causation or responsibility?

A. I think I would respect those opinions, also to give thoughtful analysis to them and weigh them against all the other facts that are presented.

Q. And you do realize that they just may be thoughts and opinions without--based on a 72 hour look of the event and not 1 month or however long it may take?

A. I think it's important that we differentiate between opinion and fact.

Q. Have you ever recommended a Commanding Officer or Executive Officer to be relieved from duties?

A. Yes.

Q. And could you please explain?

A. When I was assigned as Commander, Middle East Force, late '95 early '96, we had a case where a Commanding Officer struck a Sailor and so I recommended to Commander Fifth Fleet that that officer be relieved.

Q. Have you, sir, ever been a witness to a startling event, for instance, a car accident?

A. Yes.

Q. And, were you ever pressured or required to report what you noticed or what you remembered with regards to any of those events?

A. Never pressured. I remember wanting to make a statement so that the facts would be known.

Counsel for LCDR Pfeifer, party (LCDR Stone): I have no further questions, sir.

PRES: Thank you.

PRES: Counsel for Mr. Coen?

Counsel for LTJG Coen, party (LCDR Filbert): Thank you, sir.

Questions by counsel for LTJG Coen, party (LCDR Filbert):

Q. RADM Stone, at the end when LCDR Pfeifer's counsel was asking a question, you were talking about recommending the relief of the CO. Have you ever been in a situation where you had to recommend or relieve an officer for dereliction based on what he was doing onboard the ship operationally?

A. Not operationally, I've had a case where an officer was given letters of instruction because he was overwhelmed by the job that he was in as Department Head and he was eventually relieved.

Q. What about an Officer of the Deck, have you ever had to take any action with regard to what an Officer of the Deck has done who had worked for you?

A. Certainly, just on a mentoring basis and teaching role as a Commanding officer of a ship, that happens frequently in the course of any given day, but never have I had a case where I had to relieve an Officer of the Deck for something that was adverse.

Q. Have you ever had a situation where you relieved an Officer of the Deck because you didn't think that he was doing it competently?

A. I can't recall for a teaching point whether I said to an officer through my various operational commands that I would like that officer--take the watch, so I could talk to that officer. It's never been anything of an adverse nature.

Q. Okay, have you ever been involved in an investigation into a collision at sea in any capacity?

A. No.

Q. How about an investigation where there were deaths involved?

A. No.

Q. Any units under your command at Group FIVE who were involved in the search and rescue efforts after the collision?

A. No, no units from Group FIVE were involved in the rescue effort.

Q. I asked this of the other members as well, is there anything that would make you question whether or not you could sit fairly and impartially on this court?

A. No.

Counsel for LTJG Coen, party (LCDR Filbert): Thank you, I have no further questions.

PRES: Any follow-ups? Counsel for the Court, do you have any questions?

CC: No questions, sir.

PRES: With respect to RADM Stone, do any of the parties have a challenge for cause?

The parties had no challenges for RADM Stone, a member of the Court of Inquiry.

CC: Sir, I have one procedural matter. During the break, I had an opportunity to talk to RADM Ozawa specifically about any involvement he may have had with the collision--he may have had with the FUJI MARU and the Japan Maritime Self-Defense Force submarine NATUSHIO. He indicated he had no involvement, that he had only read about it in the newspaper.

PRES: Thank you. The Court of Inquiry is now in session. Counsel for the Court, are there any procedural matters to discuss before we start?

CC: None from us, sir.

PRES: Counsel for CDR Waddle?

Counsel for CDR Waddle, party (Mr. Gittins): Yes, sir. Sir, we would like the opportunity to voir dire CDR Wright. I believe the JAGMAN allows it because as a Technical Advisor, he is subject to challenge.

PRES: Very well.

CC: CDR Wright, would you come forward please and take a seat in the witness box?

[CDR Wright approached the witness box and was sworn by the Counsel for the Court.]

Questions by counsel for CDR Waddle, party (LCDR Young):

Q. Sir, we don't have the advantage of having your bio ready, so could you just basically go through your career, what submarines you've been stationed on, what billets you've held?

A. I was a Division Officer on the USS BENJAMIN FRANKLIN in refueling overhaul in Charleston. I was the Electrical Officer, Communicator, Reactor Controls Assistant and Sonar

Officer. After that, I was a Naval Science Instructor at the University of Illinois. I was the Engineer of the USS BERGALL, a 637 class submarine from 1992 to '96 for 4 years. After that, I was the Squadron Engineer for Submarine Squadron ELEVEN in San Diego that had mostly 688 class submarines and one 637 class. After that, I was the Executive Officer, USS ASHEVILLE (SSN 758) attack submarine out of here in Pearl Harbor, and after that assignment, I was assigned to be Executive Assistant to RADM Sullivan at U.S. Strategic Command in Omaha.

Q. Alright, sir, you mentioned you were on a 688 class, is that the same as a 688 I class?

A. In ASHEVILLE's case it was.

Q. Sir, when exactly did you report to work for RADM Sullivan?

A. May of 2000.

Q. And your specific duties for him would be?

A. Typical Executive Assistant to any Admiral. I run his daily schedule, I ensure the people that need to get in to see him, get in to see him. We have a flag writer that does most of his travel, so I don't typically travel with him, but I have on occasion. Typically, I'll run the office staff for the Admiral.

Q. Sir, when did you first learn of the collision between the Japanese vessel and the GREENEVILLE?

A. As RADM Sullivan mentioned, I got a call from our flag writer that said a submarine had a collision on--he had seen a trailer on Fox News, so I turned on the TV and started monitoring CNN and that's when I saw the header about the GREENEVILLE had a collision. At that time all it said was with a fishing vessel.

Q. I assume that was the 9th of February?

A. February 9th, that's right. In our time, it was evening, central time. I called RADM Sullivan and told him what had happened. I called our Command Center at Strategic Command to make sure that they had informed the CINC. I think that's all I called.

Q. And why would you want to inform the CINC?

A. Well, on recommendation from the Admiral, just to make sure--because this story had just broken--to make sure they knew about it.

Q. So, not necessarily because he was a submariner, but because of his role at STRATCOM?

A. His role as Commander in Chief, that's right.

Q. Alright, sir, RADM Sullivan has alluded to the fact that you all did have some discussions about this incident. Other than the one that you just discussed where you briefed him about it, what other discussions have you had? And, this would be prior to you and he knowing that you were going to be on the board.

A. Just as the Admiral said, just the general what had transpired, I watched--I also didn't review any message traffic or see anything on that nor any emails, but I looked at the news, read the paper and came to the same opinion that, I didn't know the facts, it would be interesting to see what actually happened for this.

Q. Certainly, some of the facts were in the articles and things eventually made their way prior to the 16th of February, so did you speculate about how this could've happened?

A. Not more than a general speculation because the details were very sketchy.

Q. After you were appointed--well let me go back, were you appointed as their Technical Advisor at the same time that RADM Sullivan was appointed on the 16th of February?

A. No, I was not.

Q. When did you get appointed?

A. I think the date was the 22nd, but it was somewhere around there. What actually happened was, when we came on island, I was purely coming as the Admiral's Assistant, an aide. When we got here, that's when counsel advised the members that they couldn't be involved in reviewing the Preliminary Inquiry Report or any of the details involved, in fact they couldn't read the paper or get involved with anything. It became apparent to counsel that they were at a disadvantage in that just going through the rather arcane submarine lingo and technological nomenclature and they needed some assistance to decipher that. So, advisor is probably, although that's the technical word for it, a better word is clerk. What I do is help them find the references that describe what the acronyms stand for and that type of thing.

Q. Did you provide tutorial, if you will, on the sonar systems and how it works or on the fire control system and how it works?

A. Well I have no--ASHEVILLE had a BSY-1 Fire Control System, which is similar to what GREENEVILLE had, but we didn't have the advanced A-RCI System that they had, so I have no practical knowledge of their sonar system specifically, so I couldn't give them that kind of technical knowledge.

Q. So, your four consoles, two of them weren't specifically tied to the towed array?

A. At the time ASHEVILLE has subsequently upgraded to that, but that was after I departed.

Q. So your experience was?

A. The legacy system.

Q. Okay, going back, other than the sonar system, any other--have you had the opportunity or chance to describe for them, the workings of the submarines, how periscope depth works, how procedures are performed? I guess I'm interested in finding out what specific technical advice you've provided so far in getting references for them.

A. Well, the references sort of speak for themselves, we reviewed the CO's Standing Order for going to periscope depth, for example, and I showed them the portions of that. Reviewed the Submarine Organization and Regulations Manual that determined watchstanding requirements, we discussed the sonar deployment for watchstanding, those types of things, it was a variety of items.

Q. Sir, the discussions that you're talking about, they were done with the members--with the Admirals or with the counsel?

A. No, only with counsel.

Q. Have you had any discussion with the members about the technical operations of a submarine?

A. No.

Q. Not so far?

A. The counsel prepared a reference list, I believe they worked that through their Headquarters on general submarine construction and operation, but nothing specific to GREENEVILLE. For example, the CO's Standing Orders both for the GREENEVILLE itself and SUBPAC were not reviewed by the members because they determined that would be too specific for them.

Q. Forgive me if I touched on this, I'm not sure if I covered it completely. Did you and RADM Sullivan discuss substantively about what happened or what might've happened or how this could've happened prior to the appointment of the board?

A. No, nothing more than we've described.

Q. Sir, do you know CAPT Kyle?

A. Yes.

Q. And how do you know him?

A. He was a known Commodore and he was the Prospective Commanding Officer Instructor. And during the time that I was Executive Officer on ASHEVILLE, he rode our ship as N7 at SUBPAC during a tactical development exercise.

Q. RADM Griffiths, do you know him?

A. Yes, I do. He was at Strategic Command when I was.

Q. You weren't his EA?

A. No.

Q. He just worked there?

A. Yes, he was in another directorate.

Q. Sir, I'm sure you know RADM Konetzni. How well do you know him or how do you know him?

A. I was an XO on a boat in his Force, other than that, no.

Q. Were you at--you said that you were the XO on the ASHEVILLE, so are you familiar with the water space assignments in the Hawaiian operating area?

A. Yes.

Q. Sir, have you reviewed the Preliminary Investigation?

A. Yes.

Q. And all its enclosures?

A. For the most part, I primarily focused on technical data, I didn't really review the statements very much because that wasn't germane to my assignment.

Q. The reconstruction data, did you review it with CAPT Kyle or on your own?

A. Both.

Q. What other information have you reviewed other than those two things?

A. I looked up--as I reviewed the Preliminary Inquiry Report, I went back to the Ship's System Manual, for example, to research heights of periscope, head windows research, ESM bands. I've done some extensive research on their A-RCI Sonar Data Logger and where that information comes from, and I think that information was provided to all the other Technical Advisors, so we could understand the baseline where the data was coming from. I also reviewed the Ship's Logs for that day to compare those to the archived data from the ship.

Q. Sir, do you expect to provide technical advice to the members on those issues?

A. Actually, my role is going to shift now that the members can review the--I assume the Preliminary Inquiry will be introduced into evidence at some point. Once that happens, they'll be able to look at the data for themselves and I will truly be more of a clerk. I mean obviously the Admiral's are the experts. I'm not a served CO, haven't even been to Prospective Commanding Officer School, so it wouldn't be appropriate for me to advise on matters of the Commanding Officer. I will continue to run down references for them.

Q. So are you saying you don't feel it would be appropriate for you to give your opinion as to what happened or the causes of what happened?

A. No, I don't believe so.

Q. Alright, sir, thanks. You mentioned that you had read some of the enclosures to the Preliminary Inquiry. I'm interested in particular, in knowing if you read the enclosures which summarized the interviews with LTJG Coen, LCDR Pfeifer and CDR Waddle?

A. I skimmed those. I read through CDR Waddle's lightly.

Q. Did you--have you yourself interviewed or spoken directly with any of the witnesses or proposed witnesses to this court?

A. Witnesses, yes.

Q. Who for example?

A. RADM Griffiths, I talked to--I think CAPT Kyle who's going to be a witness, I talked to him.

Q. About what they intend to testify? I mean about what specifically?

A. To ensure what reconstruction we were using is the baseline that will eventually come out, but there is a number of reconstruction--there are different organizations doing reconstructions. I wanted to make sure what the baseline was for all that was technical.

Q. What is your understanding--what different organizations are you aware of that are doing reconstruction?

A. Two under SUBPAC, one is the CSTT, which is Tactical Training Team, they're one reconstruction, and then another organization, N72, also under Captain Kyle, I guess I would say a corroborating reconstruction using the same type of data you will find because they did it a little later in the process when more information came out.

Q. And your understanding is which of those reconstructions would be used here in the Court of Inquiry?

A. The N72 reconstruction.

Q. Sir, can you be a little more specific about your discussion or your meeting with RADM Griffiths, did you have the Preliminary Inquiry with you when you spoke with him and you went through the findings?

A. Yes.

Q. And you discussed what exactly?

A. I asked him questions about, where did the reconstruction come from, where did this data come from.

Q. Are you aware if any of that data has been updated since RADM Griffiths wrote the Preliminary Inquiry?

A. Yes, it has.

Q. And did you speak with him about the updated data?

A. Yes.

Q. How many times have you met with RADM Griffiths prior to today?

A. I think three major times, this last Saturday was for about 8 hours, the previous weekend, I think it was 6 to 7 hours, and then, I talked to him on the phone about some updated data during the week when he was back in Bangor.

Q. Did you discuss with him, his interviews with crew members?

A. No.

Q. Did you discuss his opinions with regards to findings of fact?

A. No, I did not.

Q. Did you discuss specifically CDR Waddle and his reputation with RADM Griffiths?

A. I didn't discuss that, he mentioned it to counsel, counsel was in all of these discussions.

Q. So, in the meetings with RADM Griffiths, it was never you and he alone?

A. No.

Q. It was in conjunction with the Counsel for the Court?

A. Yes.

Q. Your phone conversation, were they--you and he alone?

A. That was he and I alone just to say that I had sent him an email. I also provided technical data that talked about where the Sonar Data Log information came from and I told him this was Confidential and he said okay.

Q. Did you assist the Counsel for the Court or the members in forming questions for RADM Griffiths for his testimony here?

A. I sat in when they did that, they would ask a question like what does this term mean, for instance, A-RCI and I would show them the acronym designation for that.

Q. Sir, have you met with RADM Konetzni?

A. No.

Q. Talked to him on the phone about this?

A. No.

Q. Sir, have you ever been in any collisions or grounding on a submarine?

A. Not personally. I was a Squadron Engineer when USS LA JOLLA collided with and sank a fishing trawler off of Korea. I believe that was in '98. Only as the Squadron Engineer, I was involved in reviewing the technical data from the ship and damage in determining--and was involved in discussions with speed limitations or items of that nature, all technical type things, but nothing involved personalities, with people.

Q. Sir, did you ever serve on a submarine where the CO or XO was relieved?

A. No.

Q. Were you involved with the NTSB and their investigation in any way?

A. No.

Q. Did you ever get a chance to speak with them about their investigation or read their investigation?

A. I did, I read the press reports, nothing beyond what's written in the paper.

Q. Did you discuss with CAPT Kyle the testimony of the NTSB?

A. Not directly. I think the extent of the conversation-- this was the data that was provided to the NTSB, for instance, the A-RCI data, this data that we were using for our reconstruction was provided to the NTSB, just that kind of question.

Q. Go back a little bit, your meetings with CAPT Kyle, did you meet with him alone?

A. No.

Q. Who would be present during your meetings?

A. LCDR Harrison was present and that was it.

Q. And you were--that was to discuss specifically the reconstruction?

A. Yes.

Q. Were you involved with the SUBPAC Combat System Training Team reconstruction at all?

A. I went--I think also with LCDR Harrison, I spent approximately an hour up with them discussing how they did their reconstructions as well.

Q. What about the Mishap Board that's being run by CAPT Puryear?

A. No, I haven't made contact with him.

Q. Did you witness any of the Attack Center reenactment of the accident?

A. No, I have not.

Q. When you were the XO of the ASHEVILLE, who was your Commanding Officer, sir?

A. I had two, CDR Bruce Grooms and CDR Kerry Ingalls.

Q. And, could you describe your relationship with them?

A. I would say it was good, they liked my service, I guess.

Q. You got along well with them?

A. Yes.

Q. Sir, when you were on the ASHEVILLE, did you have DV embarks onboard your submarine?

A. Yes, we did.

Q. How many would you say?

A. The most distinct one I remember is when we took the senior military hierarchy, to include the Defense Secretary on down to their CNO of the Philippines out from Subic Bay for a DV cruise. It was a 1 day cruise. We went out and submerged, surfaced, came back in.

Q. Did you perform angles, dangles, high-speed maneuvers?

A. Yes, we did.

Q. Did you an emergency deep procedure?

A. No, I don't believe so. I'm not positive about that one.

Q. Emergency surfacing procedure?

A. No, we did not because we didn't have time to recharge our air banks from that. We were just coming in dropping off our DVs and then going right back out to sea. We anticipated we'd be submerging right after that.

Q. What about in any of the other DV cruises that were done?

A. I know we've done emergency surfacing procedures for dependent's cruises not only on ASHEVILLE, but on previous boats, so it's relatively common in my experience.

Counsel for CDR Waddle, party (LCDR Young): Thank you very much, sir.

Question by the President:

Q. CDR Wright, are you currently screened for command of a submarine?

A. Yes, I am.

PRES: Questions from counsel for LCDR Pfeifer?

Counsel for LCDR Pfeifer, party (LCDR Stone): Yes, sir, one moment.

Questions by counsel for LCDR Pfeifer, party (LCDR Stone):

Q. Sir, you stated that you had not been involved in any collisions at sea when you were onboard a submarine. How many near misses?

A. Not really, not really. I mean we've had contacts within 2,000 yards.

Q. How close?

A. About 2,000--1,800 yards.

Q. Were you XO of the ASHEVILLE, sir, when they came much closer than 2,000 yards?

A. No, it wasn't me. I know the incident you're referring to, no it wasn't, that was my predecessor.

Q. Okay, and your background seems to be heavily engineering weighted. What is your tactical background?

A. Nothing more than the ordinary submariner serving on the ships I did. I was never a Weapons Officer as you noted, so just the general submariner.

Q. You had any tactical operational background deployments or anything else?

A. Three full length deployments and a number of operations up to 56 days.

Q. Aside from--should you have extensive knowledge of the various reconstructions in regards to this incident? Prior to this, how much experience have you dealt with in terms of submarine reconstruction?

A. Just the shipboard reconstruction that we'll typically do for advancing and analyzing reconstructions from--I earlier mentioned that we had done a tactical development exercise reviewing the reconstructions that were done to support that, torpedo firing ranges and different tactical scenarios.

Q. No specialized knowledge?

A. No specialized knowledge.

Q. How many hours would you say total that you've worked with LCDR Harrison?

A. Well, for the last 2 weeks, I've spent most of my time with the counsel, LCDR Harrison being the prime one who accompanied me when I would go down to the waterfront and try and do research. We went down to ASHEVILLE to look at their A-RCI, which is different than GREENEVILLE as I understand, but I wanted to get a basic knowledge of how their data archiving worked. He came with me, of course, to

SUBPAC when I talked to CAPT Kyle and his reconstructors. We also went up to CSTT together.

Q. Have you formed an opinion with regards to the events that led to the collision of the EHIME MARU?

A. No, I have not, even in the 2 weeks going through the technical data, there are still questions to be answered.

Q. Now, you've heard the questions of the--in terms of the answers of some of the board members where they said they would rely on a technical expert for many different areas in terms of submarine operations, what is your--how would you assess your ability to provide that information to them?

A. I'd like to clarify that. I never set myself up as a technical expert, I'm not a served CO. I'm more of a clerk and particularly now that the board will be able to analyze the data first hand. I mean, obviously, RADM Sullivan is a technical expert on submarine operations, so again, I'm primarily a clerk helping them run down data. I will show them how the reconstruction was done and then I'm sure they will have questions about how that was done. I assume that will be answered during witness testimony.

Q. Where do you anticipate showing them where the reconstruction would be done?

A. It should be done for them by their witnesses and then if they have questions based on that, I will provide them the information I was given by OPNAV staff.

Counsel for LCDR Pfeifer, party (LCDR Stone): I don't have any further questions, sir.

Questions by the President:

Q. CDR Wright, let me make sure I'm clear on this one. You did not develop or do any of the tracks or any of the reconstruction events, is that correct?

A. No, sir, I did not.

Q. What you did do though was understand technically how that reconstruction was put together?

A. Yes, sir, then describe that to our counsel.

Q. Alright, do you have recent experience as an Executive Officer on a deployed submarine?

A. Yes, sir, I left from Japan in May of 2000 from my ship.

PRES: Okay, I understand. Counsel for Mr. Coen, questions?

Counsel for LTJG Coen, party (LCDR Filbert): Yes, sir.

Questions by counsel for LTJG Coen, party (LCDR Filbert):

Q. CDR Wright, I want to make sure I understand your purpose of meeting with CAPT Kyle was what, can you tell me that?

A. To understand the reconstruction.

Q. Okay, not to be involved in how it was done or to help him in any way?

A. No, it was already completed by that time.

Q. And with RADM Griffiths, what was your purpose in meeting with him on those two occasions?

A. I wanted to understand what information he had available to him during his reconstruction.

Q. So, then you could pass that on to Counsel for the Court?

A. Yes, to say what had been updated.

Counsel for LTJG Coen, party (LCDR Filbert): No further questions, sir.

PRES: Counsel for the Court, you have any questions?

CC: No, sir, I have no questions.

PRES: Follow-up?

Counsel for CDR Waddle, party (LCDR Young): Yes, sir.

Questions by counsel for CDR Waddle, party (LCDR Young):

Q. Commander, during your meeting with LCDR Harrison--the fact that LCDR Harrison was present when statements were taken from CDR Waddle?

A. He mentioned it, but actually I don't know if he mentioned that he was there for CDR Waddle. He didn't talk specifically, he said that he had been in on some of the statements.

Q. And, sir, when you were the XO on the ASHEVILLE, did you have the opportunity to form relationships with members of the Japan Maritime Self-Defense Force?

A. We did one exercise, I can't remember the name. We pulled into Yokosuka a couple of times on a deployment. We were hosted by a Japanese submarine, they brought us down

for lunch in the Wardroom, tour of the submarine, that type of thing, social.

Q. Sir, do you know RADM Ozawa?

A. No, I do not.

PRES: Counsel, does any of you wish to make challenge for CDR Wright? Counsel for CDR Waddle?

Counsel for CDR Waddle, party (LCDR Young): Sir, could we have just a 5 minute recess in place?

PRES: Okay, I assume the other counsel need some time also. Okay----

Counsel for LCDR Pfeifer, party (LCDR Stone): No, we don't need any time. We don't have a challenge.

PRES: Okay, we'll recess in place for 5 minutes.

The court recessed in place at 1110 hours, 5 March 2001.

The court opened at 1113 hours, 5 March 2001.

PRES: Let's go ahead and proceed. Counsel, do you choose to make an argument or challenge for CDR Wright?

Counsel for CDR Waddle, party (LCDR Young): Sir, can we ask a few more follow-up questions?

PRES: Sure, go ahead.

Counsel for CDR Waddle, party (LCDR Young): Thank you.

Questions by counsel for CDR Waddle, party (LCDR Young):

Q. Commander, these questions basically go to your 13 hours spent with RADM Griffiths, and I would like you, if you could, to please go in more detail about what was done during those 13 hours and why you needed to be there.

A. The big concern was that RADM Griffiths had a limited time to do his Preliminary Inquiry, and the heart of the matter, the reason I was involved is, the reconstruction data available to him was missing a significant piece. In other words, there was a second data file available from the ship that was not available to RADM Griffiths. Therefore, the reconstruction effort that was ongoing, and is still ongoing, as far as I know, was missing a piece. So, I was to sit in there to provide the counsel the opportunity to say when the data that RADM Griffiths was discussing,

whether or not it had been updated or not, and that's what I provided.

Q. So you personally updated him about the incorrect or missing data?

A. Yes.

Q. For the Preliminary Investigation?

A. That's correct.

Q. And based on that information that you provided him, did he then change his opinion or fact finding--or findings of fact?

A. They were not formally changed, as far as I know.

Q. Did you help him--I mean did you change--did you help him so that when he's on the stand testifying, his opinion will be different than that in the Preliminary Inquiry?

A. That's a tough question. I know he did state that upon--even with the addition of the new reconstruction data, it didn't significantly change the overall--his overall findings, is what he said. He didn't specify facts or opinions. It was just a more refined solution, but it did not change his overall view of the reconstruction.

Q. In this first meeting, who exactly was present?

A. I believe it was RADM Griffiths, of course; Commodore Byus, from Submarine Squadron SEVEN; and I believe all the court counsel were there, CDR Quinn may or may not have been in that meeting. That was last weekend, I think it was last weekend.

Q. You said Commodore Byus was there?

A. Yes.

Q. Did you all go through Commodore Byus' testimony as well as RADM Griffiths?

A. No.

Q. Okay. And the second meeting was?

A. This Saturday morning.

Q. And who was present at that meeting?

A. It was--Commodore Byus was present for portions of it, he left early. The meeting was actually in two sessions. There was a meeting here, in the courtroom, and there was a meeting back in the Admiral's room at the BOQ.

Q. How long was the meeting in the BOQ?

A. It was approximately 3 hours, something in that nature.

Q. What was discussed during that meeting, sir?

A. It was just finishing up the information that we hadn't completed in the courtroom, during the courtroom period, the morning session, the 4 hours we spent there, the 4 or 5 hours in there.

Q. And I assume, because you spent such a great length of time with them, that you went over the findings of fact with a fine tooth comb. Is that what took so long?

A. No, it was more of a review of his testimony that he intends to give here.

Q. Practicing question and answer, that type of thing?

A. Yes.

Q. Is it your understanding that RADM Griffiths is going to testify about what he knew at the time he made the Preliminary Investigation or what he knows now?

A. I think both. In other words, I think he will state what he knew at the time of his investigation and then state it has subsequently been updated with this following information that wasn't available to him during his investigation.

Q. Did you question him about why he reached certain conclusions, during your meetings?

A. No, I didn't question him at all.

Q. You just basically sat and listened?

A. Yes.

Counsel for CDR Waddle, party (LCDR Young): Alright, sir. Sir, we don't have any challenges.

PRES: Very well. Counsel for LCDR Pfeifer?

Counsel for LCDR Pfeifer, party (LCDR Stone): No, sir.

PRES: Counsel for Mr. Coen?

Counsel for LCDR Coen, party (LCDR Filbert): Sir, no challenge, but I do want to make sure that evidence that's presented to the court, or that the court considers, actually comes in at court as presented here through testimony or documents. It isn't coming in through any other means by, let's say, from CDR Wright providing information that he's learned on his own. Is that how the process will work?

PRES: I will ask the Counsel for the Court to comment on that.

CC: Yes, *sir*. The intent will be that evidence will come in through witnesses, that's both their own testimony and any documentary evidence that the court wishes to present. There may be questions by the members of the court to various witnesses throughout the proceedings where they request documents be provided by witnesses, that they don't currently have on them. I would anticipate that the way that would work is that CDR Wright or Counsel for the Court, would then go and get those documents, but bring them into court and introduce them at the start of the morning session or the afternoon session, whenever we get them, and that they would be made available to all the parties and Counsel for the Parties at that time. So, there is no intent to go and get documents and evidence and simply hand them to the members of the court.

Counsel for LCDR Coen, party (LCDR Filbert): Thank you. That was my concern and that's fine. No challenge, *sir*.

The parties had no challenges for CDR Wright, the Technical Advisor of the Court of Inquiry.

PRES: Thank you. Counsel, do you want to discuss any procedural matters?

Counsel for LCDR Pfeifer, party (LCDR Stone): Sir, we have no procedural matters.

PRES: Okay, Counsel for CDR Waddle, any procedural matters you want to discuss at this time?

Counsel for CDR Waddle, party (Mr. Gittins): Yes, *sir*. Sir, at this time we have written objections to participation of----

PRES: Mr. Gittins, I'm sorry. We're going to let CDR Wright stand down, okay,?

Counsel for CDR Waddle, party (Mr. Gittins): Yes, *sir*.

PRES: I apologize. He'd be there for awhile anyway, thank you.

CC: Mr. Gittins, do you want to hand those to the bailiff? This is for inclusion in the record?

Counsel for CDR Waddle, party (Mr. Gittins): It is, *sir*.

CC: Bailiff, would you hand those documents to the court reporter?

[The bailiff did as directed.]

CC: And would you mark those as the next Court Exhibits in alphabetical order?

[The court reporter did as directed.]

Counsel for CDR Waddle, party (Mr. Gittins): Sir, can we identify what the letters would be for those?

PRES: Petty Officer Leather?

CR: This will be Exhibit Foxtrot.

Counsel for CDR Waddle, party (Mr. Gittins): Which one, Petty Officer Leather?

CR: It would be the objection to LCDR Barry Harrison, and the next one would be Golf.

Counsel for CDR Waddle, party (Mr. Gittins): Thank you.

PRES: Go ahead, sir.

Counsel for CDR Waddle, party (Mr. Gittins): Sir, objection to--this proceeding is governed by Article 31 of the Uniform Code of the Military Justice, it does apply. LCDR Harrison was present when statements were taken from the parties and others onboard the USS GREENEVILLE very shortly after the accident, at which time statements were taken in--without prior Article 31(b) warnings being given. LCDR Harrison is privy to that information. He was present for some, if not all, of the interviews that were given by at least the parties and other additional witnesses, and we expect that he may be called as a witness because of his participation in those interviews before this court. Therefore, his participation as a witness and as counsel is inappropriate and he should be--he should not be permitted to serve in both capacities.

PRES: Can I ask a question here? Do you expect to call him as a witness?

Counsel for CDR Waddle, party (Mr. Gittins): I do not, sir, but I expect it--well I can't rule it out, sir. I would believe that one of the other parties is going to call him,

if that happens, I would intend to cross-examine him concerning the information that he may have been privy to as a result of coming aboard the GREENEVILLE immediately after the accident.

Counsel for LCDR Pfeifer, party (LCDR Stone): If I might interject, I have a request for the production of LCDR Harrison as a witness, so that will answer your question as to whether or not someone will ask, so you can mark that as an exhibit.

PRES: Go ahead, sir.

Counsel for CDR Waddle, party (Mr. Gittins): That was really all I had. It was just a challenge to LCDR Harrison. It's in writing, sir. The second issue I had was the issue of the denial of Individual Military Counsel for my client, CDR Waddle. He requested to be provided LCDR Christian Reismeier, who's presently assigned to the NLSO at Norfolk. And I would not, just for the record, that counsel for the-- and the denial was based on the 100 mile rule, sir, which is set forth in the JAG Manual. It was appealed, those documents are attached to our motion, sir, and our objection.

PRES: Okay.

Counsel for CDR Waddle, party (Mr. Gittins): I would note that CAPT MacDonald was assigned to the Naval Legal Service Office at Bremerton, Washington, as the Commanding Officer at Bremerton, Washington. That is a duty station outside of 100 miles. And then, CDR Quinn who was specifically requested as your counsel, sir, came from Washington, D.C. We would just note that it doesn't seem very fair that if Cap--the board can have their own counsel that CDR Waddle couldn't have counsel of his choice, sir. Given that the airline ticket from Norfolk to Hawaii is not substantially different than the airline ticket from Washington, D.C. to here, sir. Thank you.

PRES: Counsel for the Court, do you wish to make comment on--first let's comment on LCDR Harrison.

CC: Yes, sir, I'll take the challenge to LCDR Harrison's participation first. Mr. President, this court has no authority to respond to the challenge to LCDR Harrison. LCDR Harrison was specifically detailed as a Counsel for the Court by the Convening Authority, ADM Fargo. This issue was brought to his attention approximately a week and a half to 2 weeks ago and he chose to keep LCDR Harrison on. If

Counsel for the Parties have a challenge to LCDR Harrison, they need to continue to take that up with ADM Fargo and not the court. With respect to the IMC request, the same argument applies.

PRES: I have one question. Well, then tell me about the intent then to call him as a witness. How do you see--is there a conflict there if he is called as a witness?

CC: No, sir, I don't see that there's a conflict if he's called as a witness.

PRES: Okay.

CC: With respect to the application of Article 31(b) rights. Those apply to this proceeding, not to statements that were taken outside of this Court of Inquiry. Those statements will come as the Military Rules of Evidence do not apply and those statements can come in. Counsel are free to renew their challenge should this go to a--should this be referred at some future date to trial by court-martial. They can certainly raise that challenge again and attempt to exclude the statement. But as far as this court is concerned, those statements can be received.

PRES: Comments?

Counsel for LCDR Pfeifer, party (LCDR Stone): Sir, if I may have the opportunity to make argument with regards to the challenge.

PRES: Yes.

Counsel for LCDR Pfeifer, party (LCDR Stone): LCDR Pfeifer's challenge for cause with regards to LCDR Harrison is basically folded into three sections. Paragraph 3(b) of JAGINST 5830.1 defines the role of Counsel for the Court of Inquiry is one in which the counsel is required to act in a fair and impartial manner and not to assume an adversarial role, of course, which in this case, is the assisting in preparation of evidence. Now in this case, LCDR Harrison has performed the following acts: First, he is the senior prosecutor in TSO Pacific, he is a witness to the proceeding. I have asked for him to, in fact, be a witness to the proceedings. And while he was assigned to Commodore Byus, he interrogated my client on 10 February 2001, without reading him his 31(b) rights and the results of that unwarranted interrogation are going to be admitted here as the Counsel for the Court just has stated.

Now, the second part of which I--the concern that I have is that he guided RADM Griffiths with regards to this Preliminary Investigation. It was determined--in which it was determined that some members would be named parties and may face disciplinary action. LCDR Harrison was present on two other occasions when RADM Griffiths told my client that he was suspected and may be charged with dereliction of duty and read his rights. At one of these, RADM Griffiths also mentioned that he was going to recommend my client to be relieved for cause.

It is my intention to call him with regards to the surroundings that happened with this instance. Now, where this is relevant with regards to LCDR Harrison as a witness is: First, LCDR Harrison may be called to explain those instances after RADM Griffiths would testify, which I intend to go on to that same line of questioning. And standard courtroom procedure, and I know this is not a court-martial, but courtroom procedure, you will warn other witnesses not to discuss their testimony with other people. But what you're doing by allowing LCDR Harrison to sit here while I question RADM Griffiths about it, is you're circumventing that process. Now when that applies as it comes into the idea of whether or not we have a fair hearing and not just open. Now I personally have no reason to suspect that LCDR Harrison would lie or change his--it's--it's--that's not the issue. But the question of it is, if he's sitting in the courtroom while somebody's testifying against issues that he's--it's might refresh his memory--it might passively impact his ability to recall what he actually remembers. Now if you deny the challenge for cause, what I would also ask as the backup measure then is to have LCDR Harrison not be present in the courtroom when we go over those issues in which he would be called as a witness.

PRES: Is this specifically when RADM Griffiths is testifying?

Counsel for LCDR Pfeifer, party (LCDR Stone): Yes, sir. With--at least with RADM Griffiths. Now I've also asked for the production of Commodore Byus and so it would specifically be with those. Because right now, I see that relationship is the one that I need to get to in terms of--there's also evidence that LCDR Harrison possesses that the board is not going to be made--is not being presented to the board, particularly his notes at that time. And so as of right now, it is my intention to call him. That may change if all--everything happens that I need to have happen with RADM Griffiths, but right now, I would request that LCDR

Harrison be at least removed from the courtroom during those parts of inquiry.

PRES: Okay. Counsel?

CC: Sir, again, I--I go back and restate that this is the--a matter for the Convening Authority and not a matter for the court. The Convening Authority is the entity that detailed him to this court in the first place in his capacity. They were fully aware of the parties discomfort with that and their objection to it and they chose to allow him to remain on.

PRES: Counsel, go ahead.

Counsel for LCDR Pfeifer, party (LCDR Stone): That's absolutely 100 percent true, sir. However, I also add that your charge in your appointing order is to conduct a fair and open hearing. And my request is not be open, that's very obvious, it's the fair part, sir.

PRES: I understand.

Counsel for CDR Waddle, party (Mr. Gittins): We would just request that you address this with the Convening Authority. Not having had the benefit of hearing the objections on the record that everybody wants to do this right, sir, and I have no doubt that you do too, sir. And, we just want to make sure that our client's rights are protected and that the other parties' rights are protected, and that the hearing is conducted in a way that not only is fair, but appears to be fair. And so we would ask that you bring this to the attention of the Convening Authority and address it to him, sir. Thank you.

PRES: Alright. Counselor?

CC: Sir, I still haven't had an opportunity to address the IMC request. Again, that's this---

PRES: I'd like to take--I'd like to rule on this one first--or discuss this one and then go to the IMC request.

CC: Okay.

PRES: Do you have any more comments you want to make about LCDR Harrison?

CC: No, sir.

Counsel for LTJG Coen, party (LCDR Filbert): Sir, if I might?

PRES: Yes.

Counsel for LTJG Coen, party (LCDR Filbert): I would just say on LTJG Coen's behalf that we join in the objection. Especially given the fact that LCDR Harrison is apparently going to be called as a witness. And with that dynamic in the court, it would be inappropriate for him to sit as counsel. Nothing personally against him at all, but that situation I think requires his removal.

PRES: I think Counsel for the Court has made it clear that the Convening Authority is responsible for the detailing of the Assistant Counsel and Counsel for the Court. However, I agree with counsel in your comments that we should make sure that this is raised in a manner that was raised in the court to the Convening Authority and we'll do that. Okay, so the objection is noted and we'll proceed now to the IMC contention.

CC: Sir, with respect to the Individual Military Counsel request. The argument obviously from the--our perspective is the same, is that that is a matter for the Convening Authority to decide. It's not one that the court has the power to grant or deny. That's specifically within the purview of the Convening Authority, ADM Fargo, and he has decided to deny that request. And that denial, as I understand it, is based on the provisions that are contained in the applicable instruction and the JAG Manual Instruction.

PRES: When counsel for CDR Waddle raised the request, that was in writing, is that correct?

CC: Yes, sir.

PRES: Same thing--Counsel--I see it the same way. The Convening Authority is responsible for the detailing of the Counsel for the Court. So we'll note your objection for the record and we'll proceed. We've gone for some time, in fact, we're normally at our normal recess time for the court. But I'd like to remind the Counsels for the Parties, we're moving along a little bit more quickly than we anticipated and tomorrow morning we intend then--we'd look--we're probably looking at yesterday--the next day, but I think what we'll do now is look at tomorrow morning going for our orientation visits. And I wanted to give you a heads-up on that because this afternoon we'll probably see

RADM Griffiths in testimony as a witness. And to give you a heads-up we can probably anticipate tomorrow morning for those orientation visits. So if you want to get ready for those over your lunch time then you won't have it late in the day when you may--might be able to get a hold of someone. Okay, alright.

The court recessed at 1133 hours, 5 March 2001.

The court opened at 1300, 5 March 2001.

PRES: This court is now in session.

The appointed reporter, Legalman Second Class (Surface Warfare/Air Warfare) Monica R. Wright, U.S. Navy, was sworn by Counsel for the Court.

PRES: Will Counsel for the Parties--just before the recess we had a discussion of an IMC request, the discussion of the role of LCDR Harrison. I'd like Counsel for the Court to discuss where we are in those matters and then we'll proceed.

CC: Yes, sir. Over the lunch hour we forwarded the IMC request to ADM Fargo at CINCPACFLT for a reconsideration. We also forwarded the request by the parties to exclude LCDR Harrison as Counsel for the Court. We have sent that backup to CINCPACFLT and expect a response some time today or tomorrow on those requests. In addition, if the request comes back denied, specifically with respect to LCDR Harrison, the President of the Court has decided that LCDR Harrison will be excluded from the court during those portions of cross-examination of RADM Griffiths and Commodore Byus that involve the statements taken by the parties, or from the parties, during the Preliminary Inquiry.

PRES: Counsel, thank you, proceed.

CC: At this time the court calls RADM Charles Griffiths to the stand.

Charles H. Griffiths, Jr., Rear Admiral, U.S. Navy, was called as a witness for the court, was sworn, and examined as follows:

DIRECT EXAMINATION

Questions by Counsel for the Court:

Q. Admiral, will you please state your full name spelling your last name for the record, please?

A. Charles Henry Griffiths, Junior. G-R-I-F-F-I-T-H-S.

Q. And what is your rank, sir?

A. Rear Admiral Lower Half.

Q. Sir, what is your current duty station?

A. Commander, Submarine Group NINE.

Q. And what are your duties and responsibilities as Commander, Submarine Group NINE?

A. I have several hats. The top four I'll mention. I'm Commander, Submarine Group NINE, that's the administrative Commander of the submarines associated with that Submarine Group, which includes eight Trident ballistic missile submarines and the 16 crews that are on those submarines. I'm also the Commander of the submarines of the West Coast. In this hat, I'm the senior submariner on the West Coast of the United States and act for Commander, Submarine Force, Pacific in that regard, and I liaison with all military and civilian activities.

I also have Commander, Submarine Training Group Northwest, which is CTG 14.9 and Commander, Submarine Training Activities West Coast, which is CTG 14--I think I mixed that up 14.9 and 14.6, and in that regard, I exercise operational command over submarines and the waters that are contiguous to the West Coast of the United States to a certain point towards Hawaii where I pass that responsibility onto the Commander, Submarine Force, Pacific.

Q. Sir, how long have you been at Submarine Group NINE?

A. Approximately 6 months. I relieved on 25 August the year 2000.

Q. Sir, could you describe to the court your various duty assignments previous to your assignment--current assignment at SUBGRU NINE?

A. Just prior to this command assignment, I served on the staff of ADM Mies, who is the CINC--who is the Commander, Strategic Command in Omaha, Nebraska, at Offutt Air Force

Base. I was there for approximately a year and a half as the Deputy Chief of J5 or Deputy for Plans and Policy, and my primary duty there was to prepare the nation's nuclear war plan for Naval bases. Prior to that assignment, I served for approximately 2 1/2 years on the Joint Chiefs of Staff in the J5 Directorate, which is the Plans and Policy Directorate. A number of assignments in that 2 1/2 years in that Directorate culminating with being Deputy Director for International Negotiations, a job focused on arms control in the military, and also a second assignment incumbent in that job is to be in charge of political-military activities with Russia and the states of the former Soviet Union.

Q. Previous to that, sir?

A. Prior to that I served for 8 months as the Executive Assistant to the Chief of Naval Personnel in Arlington, Virginia, and then ADM Bowman, and prior to that I served as the Commander of Submarine Squadron TWO in Groton, Connecticut. This is an operational Submarine Squadron of attack submarines with approximately, at that time, 16 nuclear submarines assigned, these were single crew submarines. Prior to that assignment, I served for just over 3 years in the Headquarters of Naval Reactors NAVSEA 08, which directs the Navy's Nuclear Propulsion Program in Washington, D.C., and primarily I focused on training and personnel involved in that assignment. Prior to that assignment, I was the Commanding Officer of an attack submarine, an earlier version of the GREENEVILLE, a Los Angeles Class submarine, SSN 720, and served for about 3 years, just under 3 years in that assignment, also in Groton, Connecticut, Squadron TWO. Prior to that assignment, I served on shore duty in Washington, D.C. for about 3 years and had a number of assignments within that office in the Bureau of Naval Personnel where I either managed nuclear enlisted program personnel or I acted as the number two detailer for the officers in the Submarine Force, XO Detailer.

Q. Sir, how many years have you been qualified in submarines?

A. Including the assignments that I had prior to the last one I mentioned, a total of approximately 17 1/2 correction, approximately 27 1/2 years.

Q. And, sir, of those assignments, have any been operational sea duty assignments?

A. Roughly half of my assignments have been sea duty or operational duty, about 14 years and counting right now.

Q. Admiral, I would like to direct your attention to the 10th and 11th of February 2001. Were you assigned temporary additional duty away from COMSUBGRU NINE?

A. I was.

Q. And what was that TAD assignment?

A. In the wee hours of the 10th of February, I received a call from RADM Konetzni's staff at SUBPAC alerting me that I was to report as soon as possible to Hawaii and become the Preliminary Investigating Officer for the collision between the GREENEVILLE and the EHIME MARU and I proceeded to Hawaii the following day, now Sunday the 11th, arriving in Hawaii about noon, local time.

Q. Sir, had anyone begun the Preliminary Investigation prior to your arrival in Hawaii?

A. Yes, Commodore Fred Byus, the Commander of Squadron SEVEN, Pearl Harbor, had commenced the investigation upon the arrival of the submarine GREENEVILLE back in homeport the 10th of February, Saturday morning, I believe.

Q. So when you arrived, you took over the investigation from Commodore Byus?

A. Yes, I did.

Q. Did he continue to assist you in that investigation and provide support?

A. Yes. The manner in which I conducted the investigation commenced on my arrival Sunday. I was able to get to SUBPAC offices at about 1400 local, and at that time met with Commodore Byus and RADM Konetzni, received my charter, which was in writing and verbally from the Admiral and then commenced meeting with Commodore Byus to assimilate all of what he had done to date, which included discussions and reviewing the material he assembled including interview statements from the interviews he conducted.

Q. Yes, sir. Sir, you mentioned the charter you received from RADM Konetzni, could you describe for the court what your charter was?

A. Well, it evolved. On my arrival on Sunday, the 11th, my initial charter dated that day in writing, consisted of doing a dual purpose investigation called a Litigation Investigation, and that was my initial understanding of my tasking and the due date for that to be completed was the 10th of March, roughly a month after I'd arrived. By Monday, the following day in the morning, my tasking had changed. I received a new written direction from RADM Konetzni and it detailed that I should conduct a Preliminary Investigation, per the JAG Manual, for the collision, and my

due date had moved up to the next day, Tuesday, which would be the 12th.

Q. Did you ever get an extension on that due date, sir?

A. I did. On the 12th, I reported my state of progress to RADM Konetzni and he extended me until 2000 on the 13th, which was a--let's see now, let me get the dates correct here, the 14th. It was extended until 2000 on the 14th and I actually did complete my Preliminary Investigation 4 hours after that at about midnight on the 14th, on Wednesday.

Q. Sir, do you feel that you were given sufficient time to fully investigate the matter?

A. I feel I was given sufficient time and resources to get a good cut at what happened. I would have preferred to have more time and obviously could have done a more thorough job had I had more time. However, I think I was given sufficient time to have a good preliminary understanding of the nature of the collision and what happened and provide appropriate recommendations to the Admiral at that time for the subsequent course of events.

Q. Sir, what areas did RADM Konetzni ask you to investigate in the Preliminary Inquiry?

A. RADM Konetzni directed that I investigate the aspects of the collision that would pertain, what was its cause, and how can we develop recommendations to prevent it from happening in the future. Also to evaluate injuries, damage, and circumstances of the search and rescue evolution after the collision, and finally to evaluate the aspects peripheral perhaps to the direct collision itself that may have a bearing, such as the embarkation of a senior officer and distinguished visitors.

Q. When you say a senior officer, do you mean CAPT Robert Brandhuber?

A. I do.

Q. Sir, did you look at any other areas during your Preliminary Inquiry other than the ones you just outlined for us?

A. Yes, I understood my tasking to be also whatever I considered under my discretion appropriate to evaluate, so I looked at the operating areas, I looked at--to the degree I had time, the date of training and qualification of the crew and manning of the ship on the day in question. The communications associated with shore activities and the Coast Guard, particularly in conjunction with search and rescue assignment, the nature of the mission, the plan for

the day, its reasonableness, and whether it was executed properly, and aspects such as that.

Q. Sir, what types of evidence did you consider in preparing and completing the Preliminary Investigation?

A. First of all, I tried to assemble all relevant data that the ship would normally generate, associated with operations at sea such as logs and recordings. I additionally reviewed the Plan of the Day the ship generated. I reviewed the operation orders that might apply from higher authority to govern distinguished visitor embarkations. I looked at the waters assigned and the operating area and the charts. I also somewhat broadly assumed I had the authority to deputize significant members of the staff of COMSUBPAC, and did so. So I would--for example, I tasked the Material Shop, the N4 Shop at SUBPAC staff, to develop and test the ship's sensors to determine if they were fully operable. I tasked the N3 Shop, the Operations and Plans Shop of SUBPAC, to provide examples of other attack submarines from Pearl Harbor that had conducted visitor's programs to determine if similar agendas existed and make comparisons to that of the GREENEVILLE, and I also asked for the amount of time those other ships were provided to conduct those operations to compare to the amount of time provided to the GREENEVILLE to see if it was a reasonable agenda.

I tasked the Communication Shop, N6 at SUBPAC, to provide a record of the communications the GREENEVILLE participated in that were associated with the search and rescue phase of the operation. And most importantly, I tasked the N7 Shop, led by CAPT Thomas Kyle, who also participated in the National Transportation Safety Board Investigation, to provide a significant amount of analysis of the tactical data pertinent to the time the ship was operating in the proximity of the EHIME MARU, such as an evaluation of the passing sonar information and the ship's tracks, geographically.

Q. So, sir, you had access to much of the same information, through CAPT Kyle, that the National Transportation and Safety Board had access to?

A. Very much so. I would say, in general, although they were conducting interviews that I was not able to participate in, the intent of the JAG Manual was for my investigation to be very much separate and independent, but not interfere with the National Transportation Safety Board investigation. So, in general, this documentary data was commonly available to both investigations and parallel although provided separately.

Q. So, did you eventually compile all of this data that you retrieved from GREENEVILLE and the witness statements? Did you compile that into a report that you forwarded to RADM Konetzni at SUBPAC?

A. Let me table that question for a moment to make sure I answered the previous question thoroughly. You asked earlier what evidence I considered and I want to make sure it's clear to the court I also considered all the documentation of interviews that had been conducted by Commodore Byus prior to my arrival, in addition to the few interviews I was able to conduct. So, I digested his rendition of those oral interviews that he conducted with several members of the crew and considered that as part of my body of evidence.

Now back to your most recent question. Yes, I provided a written report of my Preliminary Investigation at about midnight I completed it. RADM Konetzni rogered over the telephone that it was complete and said he would review it first thing in the morning. I provided it to his staff to give him first thing in the morning and he came in that Thursday at 0600 in the morning, digested it, and I met with him at 0900, so at that point he read it and we had a chance to discuss it.

Q. Admiral, I would like LCDR Harrison to show you what has been marked as Court Exhibit 1, which is the Preliminary Inquiry, which you conducted.

[LCDR Harrison did as directed.]

Sir, would you take a look at those binders and the evidence that supports them and tell us, is that the Preliminary Inquiry that you submitted to RADM Konetzni?

A. [Reviewing documents.]

CC: For the information of the court and the parties, I would note that in the Preliminary Inquiry, without enclosures, the Admiral is looking at, the opinions and recommendations that RADM Griffiths made for the Preliminary Inquiry, have been redacted and taken out. What remains are the findings of fact and the enclosures that support those findings of fact.

WIT: Well, CAPT, without reviewing the enclosures in detail, this appears to be the report I submitted and its enclosures.

Q. Sir, I would like to talk about the factual determinations that you were able to make as a result of your Preliminary Investigation. Did a collision between a U.S. submarine--involving a U.S. submarine and a Japanese motor vessel occur on 9 February 2001?

A. Yes, it did.

Q. Sir, what submarine was that?

A. The USS GREENEVILLE.

Q. And what time did the collision occur on the 9th of February?

A. Approximately 1343 and 15 seconds local time.

Q. Do you know the name of the Japanese motor vessel that was involved?

A. Yes, it was the EHIME MARU.

Q. Sir, where did the collision take place?

A. Approximately 9 to 10 miles south of Diamond Head, in the waters south of Oahu.

Q. Admiral, are you aware of the rules of the road provisions related to who is the stand-on and give-way vessel as between a submerged submarine and a surface vessel?

A. Well, I know the submarine is always burdened when it's submerged, and so a submarine that was operating submerged or surfacing would be burdened to avoid contact with surface vessels so it----

Q. I would like to show you now what has been marked as Court Exhibit 2, which are excerpts from FXP 1 and COMSUBLANT/COMSUBPAC Instruction 3120.25.

[LCDR Harrison handed documents to witness.]

Sir, would you read to the court what is contained in FXP 1 with respect to the give-way and stand-on vessel?

A. Citing FXP----

Counsel for CDR Waddle, party (Mr. Gittins): If I might? If we are going to use documents that--I mean we were provided Preliminary Inquiry as documents, can we get copies of them so all folks are on the same sheet here?

CC: They were provided to CDR Herold yesterday.

Counsel for CDR Waddle, party (Mr. Gittins): Marked----

CC: All counsel should have received those yesterday. LCDR Harrison, if you would retrieve Court Exhibit 2 and show all the parties, please.

[LCDR Harrison did as directed.]

PRES: CDR Herold, did you get a copy?

Counsel for CDR Waddle, party (CDR Herold): Yes, sir, we did.

Q. RADM Griffiths, again, if you could read for the court FXP 1?

A. I'm citing para. 3.2.1, Responsibility for Avoiding Collision in FXP 1, Revision J. When submerged, a submarine accepts the responsibility for avoiding collision with the surface ship.

Q. Okay, sir, and would you also look at the COMSUBLANT/COMSUBPAC Instruction 3120.25, and would you read for the court from that document?

A. The pertinent paragraph here is, the responsibility for collision avoidance rests solely on the submerged submarine.

Q. Thank you, sir. Sir, on 9 February 2001, who was GREENEVILLE's Commanding Officer?

A. CDR Scott Waddle.

Q. And her Executive Officer?

A. LCDR Gerald Pfeifer.

Q. OOD?

A. The OOD was LTJG Michael Coen.

Q. Sir, what is GREENEVILLE's administrative chain of command?

A. GREENEVILLE's administrative chain of command passes from CDR Waddle north to the Squadron Commander, Submarine Squadron ONE, who is CAPT Rich Snead; and then passes to COMSUBPAC, RADM Konetzni; then to ADM Fargo, the Pacific Fleet Commander; and back to Washington to the Chief of Naval Operations.

Q. And how about GREENEVILLE's operational chain of command?

A. Her operational chain of command is more streamlined. Passes directly from CDR Waddle on the GREENEVILLE north to COMSUBPAC as their operating authority; and then the Fleet Commander for the component for the area CINC; and then to ADM Blair, who is CINCPAC.

Q. Sir, what was GREENEVILLE's mission on 9 February?

A. GREENEVILLE's mission predominately was to embark distinguished visitors and operate for a period of time in local waters and then return to port that same day.

Q. And who assigned her that mission?

A. Commander, Submarine Force, Pacific Fleet, RADM Konetzni's staff.

Q. And, was there an itinerary associated with that--with her mission that day?

A. There was, it was as published in the Plan of the Day for the USS GREENEVILLE. I might add that the underway, in addition to an embark for visitors, of course, accomplished simultaneous missions of training and proficiency for the crew, training for people who were qualifying and proficiency for those who were already qualified. Every underway always has that purpose and it's an important purpose.

Q. Admiral, I'd like LCDR Harrison to show you part of enclosure (24) in Binder 2, the Plan of the Day, on the 9th of February that was published by GREENEVILLE.

[LCDR Harrison did as directed.]

WIT: [Reviewing document.]

Q. Can you tell us what GREENEVILLE was scheduled to accomplish on the 9th of February?

A. The GREENEVILLE was to prepare the ship to get underway, which includes some preliminary activities on the ship before the guests would arrive; and then to embark the guests and get underway at 0800; conduct a dive, that's a deep dive; serve lunch; then conduct angles; and an emergency blow to the surface; and then return to port to moor at approximately 1500.

Q. In your experience, Admiral, was that a fairly typical distinguished visitors embark schedule?

A. That was a good question for me to resolve when I arrived, because I have little experience from Pearl Harbor. It would not be a good schedule in my homeport right now in Bangor, Washington, with my class of submarines, the Tridents, because of unique restraints of geography and the configuration of that ship. So, I pursued whether it was reasonable in this area and I obtained samples of other ships that had performed a similar evolution to determine the evolutions that they conducted and I think I had two

other submarines that I reviewed, and I also looked at about a year and a half's worth of data of the duration of those underways for attack submarines from Pearl Harbor, and I believe it averaged 1/10 of an hour less than that same period assigned to GREENEVILLE this time, so from my reviews, I determined that it was a very reasonable scope and duration mission for the day for GREENEVILLE.

Q. Sir, what time of day did the ship actually get underway on the morning of the 9th?

A. Approximately 0759, recorded in the Deck Log, as I recall.

Q. Admiral, what is "Papa Hotel" time?

A. "Papa Hotel" time is an orientation point time for exiting and entering Pearl Harbor. "Papa Hotel" is an imaginary place; that is, there's no object there, it's a point in the ocean that is south of the entrance channel to Pearl Harbor and it's routinely used by local operating authorities to orient ships to when they will enter and leave port and to arrange services in support of their arrival.

Q. And what's the significance of "Papa Hotel" time to a submarine?

A. If you're running your submarine without problem, in a smart and seaman-like manner, you would want to be at "Papa Hotel" when directed. If you are late, then you'll probably need to make arrangements to let the port know so that they can make changes as necessary, and other ships that are due to enter or leave port or the services that are provided to you, like tug services, line handlers and so forth. So, there are arrangements that need to change if you're late, and you just pretty much avoid being early because early could have the same problems as being late.

Q. Who controls or assigns "Papa Hotel" time?

A. My understanding is that "Papa Hotel" time is assigned by the Regional Commander through the port authorities that he directs under the auspices of CINCPACFLT, but in close coordination with the Type Commander, SUBPAC. So in other words, there is one person who makes the assignment, but it's in close collusion with the other authorities here, so that there is an agreement, a consensus.

Q. Admiral, you mentioned, I think earlier in your testimony that GREENEVILLE was scheduled to return to port at 1500 on the 9th?

A. Yes, her mooring time was 1500.

Q. What was her "Papa Hotel" time?

A. 1400 local.

Q. 1400, sir?

A. Yes.

Q. What time did she embark her distinguished visitors?

A. To be honest, I don't know, but it would have been some time prior to the 0759 underway and logically, not much before that, because of not wanting to inconvenience the guests on having to get up too early, so I--but I think that will have to be pursued with other witnesses. My guess is 0730.

Q. Admiral, do you know how many distinguished visitors embarked that morning?

A. Yes, she embarked 16 distinguished visitors and one senior officer, CAPT Brandhuber, who is the Chief of Staff at SUBPAC.

Q. How many GREENEVILLE crew members and officers were onboard that morning?

A. I reviewed the Sailing List provided to me by Commodore Byus, and it appears that 95 enlisted members of the 146 enlisted members assigned to the crew were aboard that day and approximately 11 of the 17 officers assigned were aboard that day, so a total of 95 plus 11 or 106 members of the ship got underway with GREENEVILLE that day.

Q. Admiral, in your experience, would that be a standard--a pretty standard underway compliment for a 1 day DV cruise?

A. Yes, that would be a reasonable number. The actual ingredients of how that crew is made up would, of course, be important and do they have the right types and qualification levels of Sailors in that crew and so forth. But as a rough order of magnitude, that's about right because you would not want to take everybody in the crew to sea that day for a couple reasons: First of all, these are relatively confined submarines, internal to the decks, and additional people would take up more room and would somewhat get in the way of these visitors trying to get around and see the forward end of the ship; and secondly, you try to give some of the crew a break. Life on an SSN is arduous and even when you're not at sea, you have the ship to maintain and to train on and qualify on, so when you have an occasion when you can give a subset of the crew the day off for these daily underways, ships normally avail themselves for that, and so for these reasons, 106 is about what I would have expected the ship to take to sea that day.

Q. Where was GREENEVILLE assigned to operate on the 9th?

A. The operating area she was assigned was a generous amount of water space generally south of Oahu, commencing just a little north of where the collision occurred and continuing south for scores of miles.

Q. Was there any particular location that she operated in? Did your investigation discover where she actually operated?

A. It would be helpful, I think, to look at the chart at some point to describe this more fully, but in general, she biased her operations to the northern portion of her operating area, predominantly because this was deep water, safe to operate in, not in a shipping lane, reasonable place to operate a submarine, and yet not far from homeport, so she could keep to her schedule to get her visitors back on time.

Q. In your opinion, sir, a smart decision by GREENEVILLE to operate there?

A. If I were Captain of the GREENEVILLE, that's the area I would have chosen to operate, given the circumstances.

Q. Sir, I would like to turn your attention to the morning events on GREENEVILLE. Were you able to determine which distinguished visitor evolutions were accomplished that morning?

A. Yes.

Q. And, could you describe those events to the members of the court?

A. It generally went according to the Plan of the Day. They got underway on time, they submerged when they reached their operating area, they conducted an excursion to test depth, which is limiting depth the ship could operate at to demonstrate that capability to the guests, they then came more shallow and they conducted tours of the ship, and they fired water slugs from the torpedo tubes, which are ejecting pulses of water from the torpedo tubes, but it provides similar indications as if you were ejecting a weapon like a torpedo, and then they led into the lunch time period.

Q. Sir, according to the Plan of the Day that we showed you previously, did she complete her morning events on time?

A. Yes, according to the Plan of the Day, and to the best I could determine, she did.

Q. And, sir, when was lunch scheduled that day?

A. Well, lunch was scheduled from 1100-1200 on the Plan of the Day, but that requires some explanation. In the Wardroom--in one of these submarines, you can only seat ten

people around the table at most, we call that seating arrangement of ten. Because she had more than ten distinguished visitors, it was clear that they needed what we call a second setting in the Wardroom, so in the case of the Crew's Mess you would expect them to feed within the confines of the schedule on the POD of one hour, 1100-1200; but it would be reasonable to expect that to extend somewhat in the Wardroom.

Now on these small ships, nuclear submarines, we eat out of the same galley, it's the same food for the officers and the crew and they eat at generally the same times because of convenience for the cooks who have to prepare this food to not extend their duty hours, so I would guess that starting at 1100 in the Wardroom would be appropriate to run the first setting through when the Captain was done with the first setting, he would excuse those guests, bring in the remainder of the guests and have a second setting in the Wardroom and that would extend beyond then.

Q. Sir, what time were the afternoon DV events scheduled to begin, and that's in accordance with the POD?

A. Looking at the Plan of the Day again, the first scheduled event after lunch would be 1230 and it's called angles high-speed or large angles.

Q. Sir, during your investigation did you determine what time angles actually began that day?

A. Yes, they began at approximately 1316, and I would imagine that the reason for this primarily was the need to feed the second setting of guests in the Wardroom and then also to clean-up from that arrangement because the angles will cause things to move around in a submarine if they're not properly secured, so you need to take time to clean-up from the meal before conducting angles. And, if I might add, the Captain emphasized spending considerable quality time with the guests at the lunch time period in the Wardroom, and that's very appropriate.

One of the highlights of, in general, of visitors coming aboard a submarine is the opportunity to spend some time conversing with the Commanding Officer, and there's no better setting than on an attack submarine, which are very small and confined--there's no better setting to conduct that quality time, that informal ability to really converse than there is at a meal in the Wardroom, so I think the Captain was wisely emphasizing this portion of the day's events and he took this time, and I'm sure had some very valuable conversation with the guests in the two sittings. So, that ran over and now we're beyond 1300, there were some

other activities on the ship including in the Propulsion Plant to be in a condition to be ready for these angles, and I believe that completed at about 1315 and hence they commenced the angles at 1316.

Q. Okay, sir, so you testified earlier that GREENEVILLE had a "Papa Hotel" time of 1400, is that correct?

A. Yes.

Q. And, she actually began her afternoon events at 1316?

A. Yes, and by her original schedule, she wanted to conduct the emergency blow at about 1300, so she was running about 45--well it turns out it will be about 45 minutes late.

Q. Sir, during your investigation, did you--did you discover that anyone on GREENEVILLE was concerned or worried about how far behind they were?

Counsel for CDR Waddle, party (Mr. Gittins): Objection, calls for hearsay.

CC: Military Rules of Evidence do not apply with respect to hearsay, sir.

Counsel for CDR Waddle, party (Mr. Gittins): Witness does not have firsthand knowledge.

PRES: Objection noted for the record. We'll hear the question.

Q. Yes, the--I don't know if I would say concerned, I would say a professional reminder was provided from the Navigator through the Exec to the Commanding Officer that the ship was behind schedule and the Captain acknowledged that input.

Q. Okay, so that was the Navigator, LT Sloan?

A. Yes.

Q. And he notified the Executive Officer, LCDR Pfeifer?

A. That's my recollection, that the chain of events was to pass that notification via the XO to the CO.

Q. Sir, do you know during your investigation whether or not the Commanding Officer, CDR Waddle, acknowledged the comment from the Executive Officer that they were behind?

A. Yes, based on my review of the interviews that Commodore Byus conducted, the Captain acknowledged that input with a "I have it under control" response--something to it, "I have it under control."

Q. Admiral, from your Preliminary Investigation, were you able to determine the major sequence--the DV events--that the ship performed from 1316 until the time of collision?

A. Yes, I was.

Q. And was your investigation able to reconstruct the tracks of the GREENEVILLE and the EHIME MARU starting at approximately 1230 on the 9th of February?

A. Yes, I was able to have that accomplished by delegating that task to N7 at SUBPAC, and CAPT Kyle had his folks generate those tracks.

Q. Sir, can you describe for us, generally, how the reconstruction was accomplished, and let's begin first with the EHIME MARU? What information went--or what data went into the reconstruction of the track of the EHIME MARU?

A. The most important source of data that generated the track of the EHIME MARU was the comments of the EHIME MARU's Master that he relayed to the National Transportation Safety Board, and which were then indirectly relayed to me through the office of CAPT Kyle who was in attendance of the National Transportation Safety Board, and that comment, to wit, was that we know he had set a course and a speed to the auto pilot of the EHIME MARU, upon exiting Honolulu Harbor and provided the basis for us to generate that track. This was during the time I conducted the investigation that I knew that much.

Q. Sir, have you subsequently learned of any other input from any other organization with respect to the reconstruction of the EHIME MARU's track?

A. There were subsequent--the answer is, yes. There was subsequent inputs from the Master, which indicated that there was a period of time upon her initially exiting Honolulu Harbor, and I believe that was commencing at 1215 local, which she passed Buoy Hotel, the exit point of Honolulu Harbor heading south. That she proceeded at a slower speed initially, 3 to 4, correction 4 to 5 knots in order to safely secure and store her anchor for sea, an evolution that requires a slower speed, and this proceeded for about 1/2 an hour, roughly, and then at around 1250 she then accelerated to her normal transit speed of 11 or so knots.

Q. Alright, sir, how about the GREENEVILLE, what----

A. I'm sorry, there's an additional part of that answer. In addition to that input from the Master, we had some confirmation from a radar at Honolulu Airport operated by the Federal Aviation Authority, FAA, which confirmed the

last 3 miles of the EHIME MARU's track was consistent with that reports--with those reports from the Master.

Q. Sir, generally how was the GREENEVILLE's track reconstructed?

A. The GREENEVILLE's track was reconstructed from all of the data that we had. Predominantly, we used the Deck Log, we used the Position Log, and we used a computer algorithm combining the SINS or Inertial Navigator, the ESGN position with the orders we noted in the Deck Log and orders of course and speed and depth and a computer algorithm to account for advance and transfer of acceleration and deceleration to execute those orders with this particular class of submarine, to basically dead reckon the ship on ahead from the 1300 ESGN position to the point of the collision. And, we also combined sonar data that was logged on paper logs and then later from the ship's Digital Recording Logs from fire control and sonar to correlate that data to the track of the GREENEVILLE.

Q. Sir, did you include the reconstruction of the EHIME MARU and GREENEVILLE's track in your Preliminary Inquiry Report?

A. Yes, I did, it's enclosure (1) to the Preliminary Inquiry.

CC: I'd ask the court reporter to mark----

WIT: While that's occurring, I want to mention that putting that initial set of data together, we came up with the reported collision point of 750 yards to the southwest of that collision point, so we provided a graduated vector correction to the GREENEVILLE's track of that 750 yards, so that it was fully accomplished over that last 43 minutes of track, and we did it along the entire length of her track to move her position in that 750 yards where the EHIME MARU was known to collide with her.

CC: Alright, sir. The court reporter has marked this exhibit as 4--Exhibit 4.

[LCDR Harrison handing Exhibit 4 to the witness.]

Q. Sir, do you recognize this exhibit?

A. Yes, I do.

Q. And, sir, is this the track reconstruction that you included as enclosure (1) to your Preliminary Inquiry Report?

A. It's close, but it is not the same.

Q. How is it different, sir?

A. There were some corrections that were, I would call refinements, made to the GREENEVILLE and the EHIME MARU's tracks since I generated my report. This issue of the initial 4 or 5 knots speed exiting Honolulu Harbor of the EHIME MARU was not known to me at the time I generated my report, so the track correction for EHIME MARU that you see here does accommodate that. Additionally, with regard to GREENEVILLE's track, the log data that's digitally recorded in the Sonar fire control system was not fully analyzed by me at the time that I did my report, but it includes own ship's parameters and it's recorded every second, so that degree of refinement exists in this GREENEVILLE track that you see here [pointing at Exhibit 4], so it slightly altered the track by making it more accurate.

Q. Sir, since the time that you did the original reconstruction in your Preliminary Inquiry Report to now, have you had an opportunity to look at the additional data?

A. Yes, I have, and frankly, this is a better chart as you would expect because it used more refined data. It also resolves some of the slight differences between the recorded sonar data that I had preparing my report and the bearing on the DR positions for sonar to the two tracks. I had a slight bias when I generated my report. This refinement has effectively eliminated that bias, so this is a better track.

Q. Sir, do you believe that this track----

PRES: Excuse me counsel, just one second.

CC: Yes, sir.

Question by the President:

Q. Admiral, the one question I have, you've used the word "refined." Do I take it you mean more accurate when you say "refined?"

A. Yes, sir. I believe this is more accurate, it's very close with what I had to work with, but it's even more accurate.

Questions by Counsel for the Court:

Q. Admiral, do you believe the chart is an accurate representation of the tracks of the two vessels on the 9th of February?

A. Yes, I do.

CC: LCDR Harrison, if you would put that one down.

[LCDR Harrison did as directed.]

Q. Admiral, I'm going to have you go through the reconstructed tracks. We actually have a Power Point presentation, which has this chart, which will be shown shortly up on the screen, but I'd like you first to describe the layout of the GREENEVILLE Control Room, Sonar Room, and the duties and responsibilities of watchstanders who manned it on the 9th of February; and I'd like this chart to be marked as Court Exhibit 5.

CC: LCDR Harrison, if you would show it to RADM Griffiths?

[LCDR Harrison did as directed.]

Q. Sir, do you recognize this chart?

A. Yes, I do.

Q. And what is it, sir?

A. This is a rendition of the watchstanding arrangement on a typical attack submarine, such as the GREENEVILLE that would be pertinent to understanding the events leading to this collision, and sources are such references as the Ship's Organization and Regulations Manual and other documents, plus my own experience and the experience of the drafter.

Q. Alright, sir. LCDR Harrison, if you would put the diagram up on the ledge there.

[LCDR Harrison did as directed.]

CC: LCDR Harrison, if you would get the next chart, please. I would like this marked as Court Exhibit 6.

[LCDR Harrison had court reporter mark document as Court Exhibit 6.]

Counsel for LCDR Pfeifer, party (LCDR Stone): Sir, at this time I just have a question. I can't quite see this right here [pointing to exhibit], that line.

CC: We'll describe it as we go.

Counsel for LCDR Pfeifer, party (LCDR Stone): Thank you, sir.

CC: LCDR Harrison, if you would show RADM Griffiths Court Exhibit 6.

[LCDR Harrison did as directed.]

Q. Sir, do you recognize that?

A. Yes, I do.

Q. Would you explain to the members what it is?

A. That's an orientation of the general arrangement of the Control Room and just forward of it are--to my right, my lower right of this document, the Sonar--Control Room of the USS GREENEVILLE and the class ship of that 3rd flight 688 submarine, and I think it would be a useful format to describe the watchstanders, most of whom are shown on this diagram already on the bulkhead there as it would relate to the operations of the GREENEVILLE that day [pointing to Exhibit 6.]

Q. Sir, do you know how it was constructed?

A. I think it was constructed from available references, plus a site visit to the submarine, and I think it generally looks close, to my recollection, of this class of Ship's Control Room and Sonar.

Q. Okay, sir----

A. I also might add, I rode a sister ship of GREENEVILLE a few weeks ago here in Pearl Harbor, the USS CHEYENNE, which although not identical, has a very similar layout and this seems to support.

CC: LCDR Harrison, if you would put up the overview of the Control Room and Sonar Room.

[LCDR Harrison did as directed.]

Counsel for CDR Waddle, party (Mr. Gittins): Sir, can I ask again what Court Exhibit 3 was?

CC: The Plan of the Day.

Counsel for CDR Waddle, party (Mr. Gittins): Thank you.

Q. Admiral, we've got a laser pointer for you, and all the parties have a laser pointer as well. Sir, with your laser pointer, what I would like you to do, if you would, is describe for the court the layout, the actual watchstations that were manned onboard GREENEVILLE on the afternoon of the 9th of February. And, what I would like you to do, sir, is start with the key watchstanders, sections of the key watchstanders, and then we'll place them where they actually stood their watch in the diagram to the right. So, if you can take us and kind of interrelate and show us the chain of command and where they actually stood their watch and their duties and responsibilities.

A. Alright, starting with the Ship's Control Party, which is comprised of five individuals. The senior one is the Diving Officer of the Watch, he is the second senior person in the Control Room in charge of the watch team. He's, if you will, the number two in command of the forward end of the ship's watch party. Generally an enlisted--senior enlisted watchstander, can be an officer and would normally sit right here [pointing to Court Exhibit 6] and operate between the outboard and the inboard stations of the Ship's Control Panel or SCP in the forward port corner, as I indicated here with my laser [pointing to Court Exhibit 6].

Q. Alright, sir. LCDR Harrison is putting a sticker up on the chart that indicates the Diving Officer of the Watch, is that the correct position?

A. Yes, that's essentially where he would stand his watch.

Q. Okay----

A. His primary function is to ensure the ship achieves and maintains ordered depth, but he also has an overall supervisory role for the watchstanders in Control. Secondly, the Chief of the Watch, or COW here [pointing at Exhibit 6], he would stand his watch at the Ballast Control Panel in the forward port corner of Control as I've indicated with my laser here at the BCP, Ballast Control Panel [pointing at Exhibit 6]. Normally he would be seated here, and he generally operates all the auxiliary systems of the ship, high-pressure air, hydraulics, trim and drain and indications that a ship needs to have operated, so that it maintains the right buoyancy and the right conditions.

So, the Chief of the Watch would sit here [pointing to Exhibit 6] at the Ballast Control Panel. He's the number three guy and generally in Control, backs up the Diving Officer of the Watch to ensure the routine in here is executed properly [pointing to Exhibit 6], and of course, he has communication systems to reach out and touch all the other watchstanders throughout the submarine. These two

subordinate drivers of the ship, the Helmsman and the Planesman, operate under the direct supervision of the Diving Officer of the Watch, here [pointing to Exhibit 6]. The Helmsman is normally in the inboard station, was in the inboard station on the GREENEVILLE that day, and his primary function is to control the direction the ship takes and course and also the depth the ship is achieving through the use of the bow planes, so the rudder and the bow planes are simultaneously controlled by different movements of the yoke that he operates as the Helmsman. And, of course, the Planesman has the stern planes and would sit in this outport station and he generally controls the angle on the submarine, so--I didn't mention the Messenger, he's a jack of all trades. Rotates in to these seats [pointing to Exhibit 6] when they become fatigued either at the Helmsman or Planesman position. Generally, he's qualified to be in either of these two seats, but also runs messages, brings coffee and does other duties as assigned by the Chief of the Watch or Diving Officer of the Watch. That concludes the Ship's Control Party, and they live their life on watch in the forward port corner of the Control Room.

The Contact Management Team, listed here [pointing to Exhibit 5] I'll discuss next. I'll start with the ESM Operator. Now, ESM is actually a station that is aft of the Control Room off to the left side of the picture shown here because this over here to the right side of the picture [pointing to Exhibit 6] is forward and this is aft in this orientation, so the Radio Room and the ESM space co-combined exists here aft of Control, that's where the ESM Watch would be stationed, and his duties commence whenever the ship is at periscope depth or surface because he uses antennas to obtain communications and electronic signal data on the environment, interpret that tactically and provide input to the Officer of the Deck for the safety of the ship and the mission.

And, the Radioman of the Watch is in a similar space, even though now I'm jumping over to navigation and operations back here in the radio shack along with the ESM Operator [pointing to Exhibit 6]. Coming back to the Contact Management Team, the Fire Control Technician of the Watch, or FTOW, normally stands his watch on the starboard side of Control on the lower side of this picture [pointing to Exhibit 6] operating all of these consoles here. Now, the installed fire control system includes these five consoles that I'm showing here [pointing to Exhibit 6], plus some other auxiliary machines and graphs that he may maintain on paper. The particular day in question, the Fire Control Technician of the Watch for an hour prior to the collision,

I believe was maintaining his watchstation seated at a bench on the third from four installed fire control panels, although he would operate all of these four panels, this one is only used for weapons [pointing at Exhibit 6] and is N/A on the day in question, except for the water slugs in the morning. But these panels would be useful in understanding the contact picture of surface contacts, and he would operate all of them and have additional duties to maintain the contact evaluation plot, a paper chart plot, maintained right here in this corner where he works. [pointing at Exhibit 6]. And, so again to summarize, he takes the sonar raw data on contacts obtained from sonar, either passive or active sonar, and analyzes that data to try to determine the course, range and speed of those contacts that sonar is detecting, so that the Officer of the Deck can understand those parameters on the contacts of interest.

Now let's move forward to the Sonar space. I'm outlining here with my laser pointer [pointing at Exhibit 6], the Sonar Control Room or Sonar, I'll call it, on the GREENEVILLE. You can see there's not a lot of room in there, a lot of it's taken up with lockers and equipment, but the four panels of primary use are these four right here that are indicated in these blue boxes. These two are associated with the arrays the ship was using that day, these two were dormant on the day in question because they are only useful when the ship is streaming towed arrays, which stream well behind the ship and would really only be pertinent for sensitive missions.

Q. So you're indicating, sir, the first two dark blue boxes, the BSY-1 that the GREENEVILLE was operating that day, the BQR-10 terminals were not in use that day?

A. That's correct. The two main systems in use were the two BSY-1 legacy consoles here [pointing at Exhibit 6] operating passive sonar in various modes.

Q. And, who would have been on those two consoles?

A. This says Sonar Operators here under the Sonar Supervisor for the Sonar Shack. The Sonar Operators in question this day, they had a Third Class Petty Officer on one of the stacks and a Seaman on the other one and the Sonar Supervisor overseeing their actions would be in this area here. Now there are other equipment here that they were using and that did have value in their passive sonar employment that day, but the two main systems they were operating were the ones they are seated with here [pointing at Exhibit 6]. If you look at the guidance from higher authority for this particular class of ship with this variance of equipment in that particular mission of local

operations that they were in that day, they should have had a minimum qualified watch of an operator here, an operator here, and a supervisor [pointing at Exhibit 6], all of them should have been qualified.

Q. And what did your investigation discover with respect to the qualifications of these--the Sonar team?

A. They met the guidelines with the exception that one of these two operators here was an under instruction watch, new to the submarine, new to underway operations, not yet qualified in Sonar and in a learning situation. And unfortunately, he was not being consistently supervised by a qualified operator, which would be the requirement. If a trainee is in the seat, you have a qualified operator with that person all the time, assigned to that watch. In other words, to be that watch in reality.

Q. So, sir, you would have expected to see another Sonar Operator next to the operator that was under instruction?

A. Yes, another Sonar Operator in addition to the Sonar Supervisor who was overseeing all operations in the Sonar space. I would expect the individual operator at the stack to have a qualified operator with him overseeing all his actions. On the day in question, I discovered through interviews that that was only periodically the case. They had a more senior and qualified Sonar Operator who would periodically supervise him, but that was not the assigned duties of that more senior operator, and there were periods when he was not in Sonar and exercising them, nor was he assigned on the watchbill to do that.

Q. Sir, what were his assigned duties that day?

A. Which he?

Q. The operator that was coming in and out of Sonar that day?

A. His assigned duties officially were to be a tour guide for the guests.

Q. And that was for the distinguished visitors?

A. Yes, now you should understand that that's an important duty and one that has to be fulfilled by fairly senior people. There were a number of tour guides assigned that day as you would expect a ship to do, because the guests should not ever be unsupervised, and the Commanding Officer doesn't have time to personally be with them the whole time, so you would expect to see fairly senior enlisted people throughout the ship assigned as tour guides for the various spaces for whenever the groups would come through their space--and incidentally, although not perhaps of the same

impact and value as eating lunch with the Commanding Officer, those interfaces with the senior enlisted tend to be a high point of the visitors arrival and tours onboard because these are very sharp Sailors, they leave a great impression, they're very knowledgeable of their ship, and so I'm not commenting on whether it was appropriate for this First Class Petty Officer to be a tour guide, it probably was, what I'm commenting on is somebody qualified should have been continuously overseeing that operator at the panel.

Q. A Sonar Supervisor couldn't have done that, sir?

A. No, he could do it, but he couldn't do it well enough and it certainly wouldn't be authorized to do it per the watchbill, because his duties are too widespread to be distracted with watching one junior person who is under instruction.

PRES: I have one question for you.

Question by the President:

Q. By expectations you meant, expectations that you would see someone physically in the space as the qualified operator for a duty under instruction for the operator who wasn't qualified and was receiving instruction, as well as see it on the watchbill?

A. Yes, sir, it should have been as if that senior watchstander had the watch. The junior watchstander, who's under instruction, doesn't count as a watchstander on the watchbill.

Questions by Counsel for the Court:

Q. Sir, will you continue with the key watchstanders chart and tell us where the Quartermaster of the Watch would stand his watch?

A. The Quartermaster of the Watch is now over here under Navigation and Operations [pointing at Exhibit 6] and is the one subordinate watchstander I have not yet mentioned. He would generally stand his watch between the two navigation plotters and use one of the two plotting tables to keep track of the ship's position at all times, geographically, on a navigational chart.

Q. Sir, where would you expect the Officer of the Deck to stand his watch?

A. Technically, the Officer of the Deck would maintain his watch in the Control Room at all times. He is authorized briefly to go into Sonar, if necessary, to confer with the

Sonar Supervisor and it's generally not done because he has some redundancy in those display controls, normally, and there's enough things that happen out here that requires his full attention.

More specifically, in general, you would tend to see him in a central part of the Control Room on the Conn because he has the best vantage point there watching all the operations and Control, but theoretically he can be anywhere in the Control Room and be within the guidance of the CO to operate as Officer of the Deck. It depends upon what the ship is doing at the moment, where he may want to be. When you're doing a particularly strenuous type of maneuver, he may want to be in the vicinity where he can oversee the Ship's Control Party; such as angles and dangles that we'll talk about later. If you're preparing to come to periscope depth and you're conducting passive sonar evolutions, to prepare to do that safely, he may want to bias his watch more toward the starboard side where he can watch sonar display here and all these fire control displays analyzing contact. So, to some degree what he's doing at the time, overseeing navigation, ship's Control, contact management, determines where he physically stands?

Q. So, sir, all of the watchstanders that you mentioned below the Officer of the Deck, Ship Control, Contact Management, Navigation Operations, they all work for the Officer of the Deck?

A. Absolutely. The Officer of the Deck is the--by definition, when he's on that watch, he's the senior watchstander on the ship, and unless there's a special mission scenario, not applicable here, or the Captain would direct a Command Duty Officer who frequently might even be the Captain, but that's N/A here. In local operations, the Officer of the Deck would be the senior watchstander.

Q. Sir, continuing up the chart from the Officer of the Deck, I notice a dotted line over here [pointing to Exhibit 6] to the Executive Officer. Would the Executive Officer on the afternoon of the 9th, was he on the Bridge, or in Control rather?

A. Yes, the Executive Officer and the Commanding Officer were generally in Control for that period of time leading up to the collision for that last hour or so of submerged operations. Neither of them are actually on watch. Both of them have a role to play in the safe operation of the ship. By regulations, the Commanding Officer most directly has that role. The Executive Officer's role, as indicated by a dotted line here, is as a backup to the Commanding Officer. Again, neither of these officers are technically on watch.

As the two senior officers on the ship, they are watchful of everything that occurs on the ship to ensure that it remains safe, and the Commanding Officer, in general, frequently will give direct orders to the Officer of the Deck on how to Conn the ship and how to operate.

Q. Okay, sir, were you able to determine through your investigation on the 9th of February where the CO and XO actually were in the Control Room?

A. To some degree. In general, the Captain was in Control in the general environment of Control and would periodically go into Sonar. And, so I think it's only fair to say he was mobile. And the Executive Officer, similarly, I'm sure was mobile, but as I understand it, from interviews, his location to the forward starboard area of Control and going into Sonar, as well as the Captain periodically. Again, though I don't want to imply that they were not mobile, I'm just trying to--as where they may have been in general, particularly the Exec.

CC: Okay, sir. Sir, what I'd like to do now is start up the Power Point presentation. I would like you to take the members of the court through the reconstruction that we saw earlier on the chart. We have a Power Point slide that we would like to put up.

PRES: Counsel, are we going to dim?

CC: Sir?

PRES: Are we going to dim that one light?

CC: Yes, sir.

Questions by a court member (RADM Sullivan):

Q. RADM Griffiths, I have one question for you. Can you elaborate on what's available for the Officer of the Deck at the Conning Station onboard GREENEVILLE?

A. Yes, sir. The--perhaps the most important display that's directly on the Conn is a repeater called the AVSDU [pointing to Exhibit 6], which is the Analog Video Signal Display Unit that exists in the central overhead of the Conn here, forward of the periscopes [pointing to Exhibit 6] where my laser pointer shows now. What it does is allow the Officer of the Deck to display any of the screens on the main legacy consoles, in this case, the two consoles here [pointing at Exhibit 6] in the aft corner of Sonar Control that they are watching in Sonar, so he is able to watch the passive sonar displays or the classification coming from

passive sonar displays there in the central part of the Conn. And it's much more of just an oversight of how Sonar is doing. That display allows a good ship driver to make assessments of the parameters of contacts without the use of the fire control system and just mentally, in his head, based on thumb rules and experience. So, it's a powerful display, and as it will come out later, it was broken this day and was not available to the Captain or the Officer of the Deck on the Conn. There are other indications that are repeaters, if you will, of electronic signals that come from the ESM Shack behind Control or sonar signals that are received passively such as the Signals Intercept Sonar, WLR-9 or WLR-12, I forget the variant that this ship has.

Q. It's 9, sir.

A. WLR-9, which would record any fathometer or active sonar such as a fish finding sonar or a warship's active sonar searching for them, would display parameters on that to the Officer of the Deck. It also provides another source of just hearing passive noise in the water from other ships as well as biologics [pointing to Exhibit 6] and so those kinds of displays are generally in this region. If you were using radar there's a console over here on the left. Of course, radar requires having the sail out of the water, not normally useful unless you're surfaced, or broached, or submerged, and that console's here [pointing at Exhibit 6]. And, so then the fire control system, here [pointing at Exhibit 6], the Officer of the Deck is certainly able to come over personally to observe the use of all these fire control system consoles and even manipulate them, assisting the Fire Control Technician of the Watch and vice versa in understanding the contact picture, so there are a number of displays here that are either repeaters in the case of sensors aurally and visually, or they are processors that the Officer of the Deck is able to directly use or oversee their use.

Q. Admiral, before we go to the reconstructed track, you mentioned that with respect to the CO and the Executive Officer, that they were moving in and out of Sonar on the afternoon of the 9th. Is that because the AVSDU that you described earlier was out of commission? Is that what you found during your investigation?

A. Yes, I'd say for the most part that was the reason. A good Skipper and an XO will go into Sonar even when the AVSDU is working, periodically, just to show interest and to gain any extra insight that the watchstanders can directly provide that the display would not. But in general, you would be in Sonar much more often if this AVSDU was broken

than you would be if it was operating, because it's a pretty vital piece of gear for ship's safety.

Q. Alright, sir, I would like to direct your attention--one more question, sir?

Questions by a court member (RADM Sullivan):

Q. Was the AVSDU, was it--did it go out of commission during the embark or was it out of commission when they left the port?

A. Admiral, my investigation has revealed that it was noted to be failed during the first part of the underway, before submerging, early in the underway. I don't think it was clear to the Captain until the underway was in motion, but it was before they submerged.

MBR (RADM SULLIVAN): Thank you.

WIT: And the determination at that point was made that repairing it would be too disruptive, so they would defer repairs until return to port.

Questions by Counsel for the Court:

Q. Admiral, I would assume though that the fact that the Commanding Officer and the Executive Officer were moving in and out of Sonar that that's what you would do, wouldn't you, if your repeater in Control was out? I mean, isn't that your backup, if you will?

A. Well, I have the advantage, as in all my actions in this investigation, of hindsight. But when I was a submarine CO and that piece of equipment was broken, which it rarely was, but did happen, I felt somewhat naked. It was a big deal and I would establish a temporary standing order and direct the crew to add in an additional conservative layer of actions to reduce the risk that was created by having this key aid to the Officer of the Deck out of commission. Of course, with hindsight, I can say the ship should have done that, maybe the ship did consider doing that, but clearly you would not operate with less margin than normal to safety if that was broken. You would bias to operate with more because it's a vital piece of gear.

Q. Okay, sir. Sir, I would like to direct your attention now to the screen that has the reconstructed track of the EHIME MARU and the GREENEVILLE. Sir, I know you described briefly the data that was used to reconstruct both tracks, could you begin at 1230 and begin up at the top by Buoy Hotel and describe again the track of the EHIME MARU for the members of the court?

A. Sure. Starting at the top of this track [pointing to the Power Point], there's a green X by Buoy Hotel, that would be the exit of Honolulu Harbor, and it was at about 1215 that EHIME MARU transited by that buoy on this track of 166 degrees true to the southeast. It was until about 1250, roughly a half an hour which he had--excuse me, stowing her anchor for sea that she increased her speed from four or five knots to 11 knots or so, and set that in her auto pilot while maintaining the course of 166. Thereafter, her track is consistent until the point of the collision with those parameters.

Q. Sir, do you know where the EHIME MARU was going that day?

A. According to the reports from her Master, as provided to the National Transportation and Safety Board, she was heading on that course because that was the most efficient way to open the Exclusive Economic Zone of the United States to the point where she could legally fish in international waters, so he did that purely for efficiency and getting back to the business of fishing.

Q. And you stated, sir, earlier in your testimony that most of the reconstruction data for EHIME MARU's track came from her Master, CAPT Ohnishi?

A. That's correct.

Q. And also that the last three miles, I think you said, came from Honolulu Airport from the Federal Aviation Administration?

A. Yes, and really that confirmed what the Master had provided.

Q. Sir, what I would like you to do now is, if you could walk the members of the court through the USS GREENEVILLE's track very, very briefly. And begin, sir, at 1230 on the afternoon of the 9th.

A. Okay, but just as an overview, coming north at 1230, the USS GREENEVILLE appears on this blue track [pointing to the Power Point] and as I work my way up this track, when the color changes to red in this region here, it's an indication that the ship is at higher speeds, in this case greater than 20 knots during the period when you see the red track, then

she slows and gets back to less than 20 knots speed before the collision. So in general, she's less than 20 knots except for this region [pointing to Exhibit 4] in here where she operates up to speeds up to flank. She proceeded again--at this period of time, the Wardroom was at its first of two seatings; the crew had completed being fed and was relieving the watch for the crew--for the portion of the crew that had eaten lunch to take the watch and the Officer of the Deck was directing the ship in normal activities preparing for the afternoon's events.

Q. And, sir, on the chart you're indicating the time between 1230 and 1300, correct?

A. Yes, I am. And at about this point here [pointing to the Power Point], the ship commences her first afternoon evolution, which is the angles, large up-and-down angles, which I can describe in more length later. And then at about 1325, she phases into the next demonstration, which are high-speed turns, these are speeds in excess of 20 knots in turns using 30 degrees of rudder or full rudder, which is a fairly dramatic evolution on attack submarines, and she terminates that at about 1331 in which time she makes preparations to go to periscope depth, and she goes to periscope depth, in here [pointing to Power Point] after changing course and completes her time at periscope depth and goes deep to conduct the emergency blow for training and then does the emergency blow for training and leads to the collision at 1345--correction, 1343 and 15 seconds.

Q. Sir, Admiral, what I would like to do now is take you through each one of the afternoon events in more detail. You mentioned that the first evolution that she performed was angles and dangles, and I believe your testimony was that began at 1316?

A. Yes, and the times in here are to the nearest minute. We actually conducted about a 45 second correction in the times that was subsequent to my report, but in preparation of this chart, after a more detailed comparison of the digital recorded data was done after I signed my report. But these are to the nearest minute and at 1316, which is where my laser pointer is here on the track, while the ship was on a course north, north is to the top of the chart, she increases to about 14 knots about a standard bell, and commences angles, and in doing these angles, she cycled between increasing up-and-down angles of up to 30 degrees up and down, and increasing and decreasing depth between 150 and 650 feet, which is a lot. These are logical and safe boundaries to this condition, to demonstrate the maneuverability of these ship's in changing depth rapidly.

Q. Sir, you're talking about movement then in the vertical axis and vertical part of the water column?

A. That's correct. I'm talking about such as an airplane would climb to a higher altitude and you would rotate back and you would feel the going from horizontal up to a 30 degree up angle, well a submarine would actually take this 30 degrees up angle, and so you would have people holding onto equipment because their floor would be angled at 30 degrees and they'd otherwise slide along it, and suddenly when they wanted to go deeper they would come through horizontal down to up to 30 degrees down angle to go deeper in a hurry, and again they would hold on because their floor is now got this 30 degree down slope.

Q. Admiral, in your investigation did you assess how well the ship performed angles and dangles?

A. Yes, I did. From all that I could tell they did an excellent and professional job. This is a fairly challenging evolution, especially would be the case for a ship that had not operated a lot at sea, the GREENEVILLE had been through a two-month maintenance period in the latter half--in the last few months of 2000, and so they did not have a lot of sea time, they had some, but not a lot of sea time prior to this event and their Ship's Control Party demonstrated significant proficiency. It was a very professional job.

Q. Admiral, can you explain to the members the difference between ship's depth and keel depth that you referred to earlier?

A. Well, of course, when the ship is on a zero angle, very horizontal, they're synonymous. Now, you may have indicators on the ship like the Digital Depth Detector System or the Mechanical Depth Detector Systems that would indicate with an error what the real depth is, but the true depth is the keel depth and all the indicators should be in agreement with that when the ship's on a zero angle. And that would be from the keel to the surface to the flat calm sea. Now, when you're doing an up or down angle, obviously your original depth detector, which measures in the center --really just forward of the center line of the ship underneath the Control Room has depth sensing ports there, aren't necessarily the lowest part of the ship or the highest part of the ship, your rudder or up angle would be the lowest part, and your bow and down angle would be the lowest part, so that depth is just an average. Depth is just an average depth, not true along the length of the ship when you're on an angle. Does that answer the question?

Q. Yes, sir. Sir, at what time did GREENEVILLE stop angles and dangles?

A. She completed her angles and dangles at 1325 local.

Q. Then you indicated on the chart that she increased to some speed in excess of 20 knots. What was she doing at that time?

A. She was transitioning to a different type of maneuver. A maneuver in a horizontal plane where she would turn left and right to demonstrate how maneuverable the ships are when you want to turn them in a hurry tactically. So, she would bring her bell up to--speed up to flank and use up to full rudder, which is 30 degrees left or right, to turn very quickly left or right, and that commenced at about 1325 and persisted for about six minutes until about 1331, as indicated on the chart here at that time marker. I might add, it's not a simple evolution on a submarine with this much power and the hydrodynamics of an attack submarine. It's difficult to maintain a zero angle while--and a zero depth change, while going through these horizontal turns. If you're not very--if you're not leading the problem, if you will, and anticipating the effects of angle and depth change, the Ship's Control Party can quickly find that the ship is at a large angle and changing depth rapidly when all you really wanted to do was change course rapidly, so once again, if I may just comment, the ship demonstrated significant proficiency, very professional job of doing the ship's maneuvers without changing angle or depth appreciably and did it in a very seaman-like manner.

Q. Sir, what was the next evolution that GREENEVILLE performed?

A. The next evolution were preparations to do the emergency blow.

Q. And, sir, what are the--what are the subsets of preparing to do an emergency blow or an emergency surface?

A. The basic steps to do an emergency blow from a submerged condition when you are doing it in a controlled manner, and of course, it's important to remark that this emergency blow system is primarily an emergency system designed to very quickly get the ship to surface in the event of a severe casualty, such as flooding, but when you demonstrate its use, or when you test its use, you go through a more controlled process of first going to periscope depth and verifying that the area is clear of surface contacts who would be endangered and would also endanger your own ship if you should surface under them and then you'd go back down, fairly quickly, to a depth that you want to conduct the blow from, probably 400 feet, is our normal practice cause that's

deep enough to allow the system to work, but shallow enough to not have to use excessive amounts of air. And then you conduct the emergency blow fairly expeditiously, so that previously verified clear surface picture has not had time to degrade with new contacts coming into the area.

Q. So, sir, you're describing four steps to the process? Preparing to go to periscope depth, then going to periscope depth, then an emergency deep, and then the emergency surface, correct?

A. Yes. Let me make one slight correction, the preparing to go to periscope depth, I agree with. Going and operating at periscope depth I agree with. The emergency deep was the method they chose to go deep again, it's a method--it's another training evolution to quickly get below periscope depth if you happen to see a close contact suddenly while you're at periscope depth, so she demonstrated that to go deep, but you could also go deep in a routine fashion, and then once you are deep, conduct the emergency blow as the fourth step.

Q. Alright, sir, let's focus on GREENEVILLE as she prepared to go to periscope depth. What steps does a ship take as it prepares to go to periscope depth?

A. Well, I think you need to look at the context the GREENEVILLE was transitioning from to do that evolution. She was operating fast, making a number of turns, she was relatively deep at 400 feet, and she was completing this red portion of her track [pointing to the Power Point] at high-speed turns, so the first thing she would want to do would be to go shallow, below a depth where she could collide with the deep draft vessel, but shallow enough to bias her sonar search to have the most chance for success in an nominal ocean, and the ocean that she was in that day, in this case that's 150 feet.

Q. Sir, is that because her sonar at a depth of 150 feet is going to pick up the sound signatures of surface vessels better?

A. Yes, in general, the shallower you can be in order to verify the surface picture clear with a passive sonar, the better. Because of the nature of the sound column and the environment that tends to create the least obstacles on the sound wave path for you to hear that surface noise, so going to that shallower depth of 150 feet and also slowing to 10 knots or less, which is a good compromise speed to put enough speed through the water so you can change bearings to contacts and develop a fire control solution, but not be so fast as to create excessive machinery or especially flow noise around your own sonar that tends to deafen your own

sonar. For example, when you go over 20 knots for these high-speed turns, your sonar is basically deaf and you have to slow down to hear very well. So, she was coming shallower and slowing down in order to conduct the preparations to go to periscope depth through Target Motion Analysis with sonar.

Q. Sir, generally is there any time limit associated with going to periscope depth? Does it take a certain amount of time to prepare to do that?

A. Well, this is one of those questions that has to be answered by "it depends", as a preliminary to any answer because the environment, the number of contacts, what the ship had been previously doing, it's previous understanding of the local contact picture before it starts to do this, all of that is pertinent. I think in a general sense, it takes at least two good sonar legs with one or two contacts in the same sector and you have increased those number of legs as you gain more sectors around the 360 degree, as with the submarine, as I'll describe in a minute, in order to fully understand not only which contacts are there, but more pertinently are any of them close in range.

Q. When you--you mentioned earlier----

A. So--let me just see if I can finish my answer. I would say nominally ten minutes or more because you want to have three to five minutes per leg and if you don't have very many contacts and they're all in the same general area, two legs may suffice to determine none of them are close. So, I would say as a minimum, 10 minutes.

Q. Okay. In your Preliminary Investigation, were any time limits placed on GREENEVILLE coming to periscope depth?

A. Well, here's the thing. I have a statement, I believe from the Officer of the Deck, as interviewed by Commodore Byus, that indicated that the Captain indicated that he wanted to be a periscope in five minutes, and that was articulated at a time when they had just commenced their transition from the high-speed operations to come shallow, clear baffles and go to periscope depth. So, the statement by the Commanding Officer would imply that he wanted to get to periscope depth in a hurry and I can surmise it was because they were late from their previous schedule.

Q. Did you confirm that statement from the OOD through any other sources?

A. Well, I know on a time line they did in fact almost achieve that goal of five minutes. I believe it was six minutes until they got to periscope depth from when they commenced preparations to do so. So factually, they nearly

achieved that aggressive goal, but I have no other statements that pertain, correction, I have no other statements that directly pertain to that.

Q. Sir, you mentioned two good legs and you also mentioned a concept, a term, TMA. I assume that they are associated. What is TMA?

A. TMA stands for Target Motion Analysis, and it is a method that submarines use to use passive sonar bearings to determine the parameters, particularly course, speed and range of contacts, submarine and surface contacts, in relation to own ship. And it's a process that a considerable body of experience and tactical development has been devoted to in the last 50 years.

Q. And, sir, why is TMA so important when you're coming to periscope depth?

A. Well, in this scenario where safety of ship is your primary consideration, TMA is fundamentally important to ensure you're not so close to a surface contact that there would be a danger of collision when you come to periscope depth and first see them, or come up underneath them. Coming to periscope depth is inherently dangerous because until you have the additional ship's sensors above the waterline, such as visual sensors through the periscope, electronic sensors, you have only sonar to determine whether there are contacts present, and sonar alone does not give you complete assurance that there are no surface contacts there.

For example, if you have a sailboat in a fiberglass hull who has no machinery operating, that boat may be creating zero acoustic energy that your sonar would never hear. You may have a metal ship that does have machinery, but has chosen for that moment not to operate it for whatever reason and is drifting, fishing, or whatever, so there are scenarios where you can have a large ship, say a merchant ship, with certain aspects such as where their hull effectively is an echo chamber that captures her machinery noise and doesn't let it transmit through the water to your sonar. So, there are a number of scenarios where sonar doesn't completely cover your number for fully understanding the surface picture, and for that reason, since that's all you have until you're above that surface layer with your periscope, that's a period of risk to approach that periscope depth.

Q. Sir, you mentioned that you need two good legs to conduct TMA. Would you define what a "good leg" means? What do you mean by that?

A. Yes, first of all, that's another depends type of answer because there are a lot of variables that affect the ability

of a ship to determine a target's parameters: The environment greatly determines that, the operations of the other target greatly determines that, but in general if you have an environment and a target ship that's providing a good, steady, reliable signal so that your fire control and your sonar system have good information to develop from and to analyze, it would take in general, two legs of 3 to 5 minutes per leg, with our digital fire control system and our digital sonar system to determine a pretty good picture of what the ship is doing, and that's bare minimum because a single leg solution would not resolve a lot of ambiguity in what that other ship is doing. So, in summary, the two good legs would allow you to use passive sonar and your systems onboard, to, as a minimum, determine that the contact is not very close and probably have much more information about it. Now, I think you need to lead me on to a question to understanding baffle areas and how you have to reorient the ship, not only to resolve a single contact, but also to look for other contacts.

Q. And that's why you go on to a second leg, in order to clear baffles?

A. Yes, sonar baffles are about 100--on this class of submarine with hull mounted sonars, about 120 degrees in the stern sector centered either side of the stern along ship, relative where you are acoustically deafened because the sonar is not designed to look in that sector through own ship's machinery and hull noise, and so you turn your ship in the horizontal plane to uncover your previously baffled area and you generally turn at least 120 degrees so you now have that previously deafened sector under observation by your passive sonar system. And you may have new contacts in that sector and if so, you start to develop your first leg on this new course of information on those new contacts. Meanwhile, this turn has allowed you to develop a second leg on previously detected contacts, which is allowing you to refine their parameters.

Q. Okay, so that's generally, sir, you've described how a ship would normally do, or what the standard TMA good solution would require, two good legs----

PRES: Counsel?

CC: Sir?

PRES: Let's take a recess here.

CC: Yes, sir.

PRES: This court is in recess for about 20 minutes.

The court recessed at 1442 hours, 5 March 2001.

The court opened at 1502 hours, 5 March 2001.

PRES: This court is back in session.

Questions by Counsel for the Court:

Q. RADM Griffiths, what I would like to do is first of all remind you that you're still under oath. Just a couple of questions and to kind of backup just a little bit. You mentioned that the AVSDU was out of commission on--in the Control Room. AVSDU is simply a repeater, correct? It's the sonar information. The raw data that comes in on the BSY-1 is simply repeated up here for the Officer of the Deck to look at, correct?

A. Yes, that's correct. However, I think we should recognize that the advantage point is different in Control than it is in Sonar. The Officer of the Deck has the advantage of having a more complete situational awareness of the ship and its location in respect to other contacts and how it's been driven in the past and how he's going to drive it in the future in order to optimize the understanding of the contacts. So, although they're looking at the same data, they're looking through a much different filter and I would say, in the Officer of the Deck's case, he's looking through a much more complete tactical filter than the Sonar Operator is. So, although it is the same data, his perspective of viewing that data is much more important than that of an individual Sonarman.

Q. Sir, can a submarine use active sonar as it prepares to come to periscope depth as yet another sensor it can use to detect surface contacts?

A. Yes, it could. Active sonar would certainly be another that the ship could elect to use. There are two basic active sonar systems on the GREENEVILLE that would pertain here: The first is a middle frequency, or an MF Sonar, that's part of the main frame and the sphere. This sonar system, which is a lower frequency than the other alternative I'll describe in a minute, is a more powerful sonar that has theoretically a longer range and would provide some utility in understanding the exact range of targets if it would get a return that could be reliable. And then the second of the two active sonar systems that the GREENEVILLE has is the high frequency sonar. This sonar is generally intended for close contacts under ice avoidance in mine detection--floating mine detection. So it's a higher

resolution, higher frequency sonar for closer contacts and both have some utility in searching for surface vessels as well as submarines. However, I think I should say that their general utility for routinely going to periscope depth is not very good.

Q. Why do you say that, sir?

A. I say that--and I'll have to take you through some of the limitations of active sonar to fully elaborate my answer. There are costs, as well as benefits, to the use of active sonar on a submarine such as the GREENEVILLE. The first thing to mention is just as passive sonar, active sonar is very dependent on the environment, and when you use active sonar, the first thing you have to try to do is understand the environment and then optimize pre-selected parameters of your active sonar to make use of that understanding of the environment. Understanding the environment is a very challenging task on a submarine. It varies temporally and it varies spatially at a fairly great rate and in order to pre-select these parameters in your active sonar, and do it correctly so that it optimizes that environment, is a very challenging task. Realistically, what you would see a submarine do to employ active sonar is to do some measurements that actually use the active sonar in varying parameters, and then determine what seems to give it the best result, kind of just pre-tuning with active sonar would then give you more confidence that it would be useful in that specific environment you're operating in.

So that's one particular limitation if you're about to go to, for example, periscope depth, and you want to use active sonar for the first time in quite awhile to determine if it's safe, you have to kind of go through a laboratory period where you use it and then tune it, so at least you know it's going to provide theoretically useful data, and that's the first drawback. The second drawback is that the very nature of active sonar is that it provides a great deal of false positive returns.

Q. What do you mean by false positive returns, sir?

A. A false positive would be an indication on the screen that you have a contact when you really do not. Biologics, the physics of acoustics underwater that cause reverberations and returns when there are no solid objects there, ray tracing through the water column interruption with the surface picture, waves, and swells, distortion caused by the bottom, all of these factors, boundary conditions and in the water column, can cause a number of positive returns that are false. And the challenge here is to try to separate the wheat from the chaff before you make

tactical decisions on going towards the surface to periscope depth. Given an emphanment amount of time, this may prove eventually to be useful but generally to get to periscope depth in a reasonable amount of time, you don't have time to separate that wheat from the chaff.

There's a third drawback that's significant, and this is in a peacetime local operations environment completely discounting detection by the enemy in a mission which is not even a factor here. And that third drawback is that you are not able to listen with your passive sonar effectively while you're using your active sonar. Both the aural response that the human operator will have and the visual displays of the sonar system are interrupted by these active transmissions from own ship.

Q. So you're actually degrading the ability of your passive sonar to pick up surface contacts?

A. Absolutely. So you are doing the active sonar at the cost of an effective passive sonar if you are using active sonar. Now there are periods when active sonar has use, I'm not trying to raise a question of why these submarines even have active sonar, I'm just suggesting that preparing to go to periscope depth is not an occasion where they are very useful.

Q. Sir, in your experience, your long experience as a submarine officer, what's the best system that a submarine has, what's the best sensor as it prepares to come to periscope depth?

A. Well, without a doubt it's the passive sonar suite, the main frame passive sonar suite in the GREENEVILLE's case. The BSY-1 sonar and its sphere is the best system they have. Over the long haul, orders of magnitude more effective than any other sonar suite to prepare the ships safely to go up.

Q. Including active sonar, sir?

A. Including active sonar.

Q. Admiral, what I'd like to do now--I know before the break we were talking about what constitutes good TMA and we were talking in generalities, not the specifics of GREENEVILLE. What I'd like to do now is focus in on USS GREENEVILLE and on how she performed target motion analysis on the afternoon of 9 February. Do you know, sir, in your investigation, whether GREENEVILLE held sonar contact on the EHIME MERU while she prepared to go to periscope depth?

A. Yes, she did hold contact on the EHIME MARU intermittently between about 1232 at the bottom of the chartlet here and the time of the collision at 1343. And I

say intermittently because there were periods where she did not hold contact on the EHIME MARU.

Q. Sir, did she assign the EHIME MARU a sonar contact number?

A. Yes. She assigned EHIME MARU S13.

Q. Sir, what does the "S" stand for?

A. The "S" stands for Sonar and is an arbitrary system of labeling sonar contacts on submarines, in contrast to, for example, if they saw a contact visually through the periscope, they would assign it a visual number or "Victor" and a number or if they had it on ESM, they would assign it an "Echo" number or a "E" number and so forth. And so in this case sonar contact and the number 13 is an arbitrary-- the the next number available for the next contact after they track the different contact Sierra 12. So Sierra 13, in hindsight, is the EHIME MARU.

Q. And, sir, it's your testimony that at least from as early as time 1230 the GREENEVILLE held the EHIME MARU as a sonar contact?

A. That's correct.

CC: LCDR Harrison, would you mark the next chart as Court Exhibit 7?

[LCDR Harrison did as directed.]

CC: Will you show it to RADM Griffiths, please?

[LCDR Harrison did as directed.]

Q. Admiral, what is depicted on the left hand side of the chart that LCDR Harrison is showing you?

A. This side, the left hand side of this chartlet, shows bearing along the bottom in true degrees and time increasing along the side so that 1340 is here, a little over an hour earlier; 1230 is at the bottom working up in time here. So this is the Sierra 13 bearings recorded by the sonar recording system in the fire control portion of the GREENEVILLE, digital recording system. Bearing versus time.

Q. Sir, that's actually a blow up of a graph that was taken from GREENEVILLE on the 9th?

A. Yes. This information is recorded automatically on ships of the class of fire control and sonar suite that the USS GREENEVILLE has which is called Advanced Rapid Cots Insertion Phase II, which is a variation of the legacy BSY-1 that GREENEVILLE has, and what occurs is that automatically,

on a daily basis, records digitally this information on a all the sonar contacts as well as the ship's fire control solutions on those contacts and their fire control system and their own ships parameters.

CC: Sir, if I could stop you for a minute. LCDR Harrison, could you take down these two viewgraphs? And I would like you to put that one up.

[LCDR Harrison did as directed.]

WIT: Now there's really two kinds of information displayed on that left hand portion of this chartlet. The dots, the black dots that work their way up the page are discrete sonar bearings to Sierra 13 over time.

CC: Admiral, can I stop you for just a minute? LCDR Harrison, could you turn the lights up please?

[LCDR Harrison did as directed.]

CC: And, sir, before you start explaining the left hand chart, I have another chart that I would like to have marked and put up. I would like to have this marked as Court Exhibit 8.

Q. And, sir, do you recognize the information data on this chart?

A. Yes, I do.

Q. And what is it, sir.

A. This is an expanded, blown up version of the upper fraction of the left hand time/bearing history for Sierra 13 and additionally, it's two line of sight diagrams that describe the orientation of GREENEVILLE and EHIME MARU that we've constructed in hindsight in looking at the data that correlate horizontally to where the bearings are. So the bottom of the two stick diagrams would correlate to the slanted--to the right bearings between a time of 1332 and 1335 and then the upper stick diagram would correspond to the upper fraction of those dots that correspond to times after 1335.

CC: LCDR Harrison, would you please put that up as well?

[LCDR Harrison did as directed.]

Q. RADM Griffiths, what I would first like for you to do is speak to the USS GREENEVILLE "S13" versus reconstruction, the left hand side chart and I would like you to correlate the black dots with what's happening here on GREENEVILLE's track as she's proceeding towards the collision with the EHIME MARU.

A. Alright. First of all the time scale of this chart corresponds to the time scale of this chart between 1230 and the collision. So here's 1230 and here's the collision at the top of this time/bearing history. So this represents this whole track data of bearings from the GREENEVILLE as it works its way up the track to the EHIME MARU as it's working its way down this track. So just for example, at 1300 here is the EHIME MARU and here is the GREENEVILLE and that looks like about a bearing of about north from--or 000 true from the GREENEVILLE to the EHIME MARU so if we look at where 1300 is here, we can see that it is approximately 000 or north, is the bearing that you read out here. And a similar correlation could apply at any point in this line and on this track of the two vessels.

Q. Admiral, what accounts for the lost contact, lost sonar contact during this period of time here?

A. Well, before I answer that, let me just say that if you can see it well enough, there is a solid red line that works it's way, has some squiggles here in the green shaded area, but generally conforms to the dot--the bearing dots where they appear on this chartlet. That solid line is a continual--a continual correlation of the two tracks from the GREENEVILLE to the EHIME MARU, a bearing. So if you were to draw an infinite number of bearing lines from the GREENEVILLE to the EHIME MARU, correlating the time on the two tracks, you would end up with that red line. So that red line is really the law of physics, as the two ships approach each other as opposed to sensor data. The sensor data is comprised of these black dots that are superimposed along that line. You'll notice interestingly that here in the green shaded area, the sensor data greatly diverges and falls off what we know to have been the correlation and bearing between these two tracks. That's during this high-speed period when the sonar loses it's signal because high flow of noise around the bow of the ship causes the signal-to-noise ratio received into the processors to degrade where it's no longer reliable. So it falls off track and in general, is not reliable there. These periods of where there's no data, as compared to consistent data to our reconstruction or inconsistent data from our reconstruction, the no data is generally caused by the course of the GREENEVILLE being such that acoustic baffles near the stern of the ship is in the direction of the EHIME MARU so that's

the period where the GREENEVILLE can't acoustically hear the GREENEVILLE--that is the EHIME MARU, because it's in the baffle area of the submarine.

Q. Sir, any other information that you want to tell the court members about the time/bearing chart on the left here?

A. Meaning the expansion, before we get to the expanded----

Q. Before we get to the expanded time versus bearing chart.

A. Not at this time.

Q. Alright, sir. Let's move over to the expanded time versus bearing chart. Sir, is this the portion of the USS GREENSVILLE's track where she was conducting target motion analysis?

A. Yes.

Q. And, sir----

A. Yes.

Q. Sir, could you take the court members through your description of how she conducted TMA on the afternoon of 9 February?

A. Certainly will. The GREENEVILLE is completing its high-speed turns at 400 feet depth when this red terminates here on the track. You can see it turns, the GREENEVILLE turns to the left to a northerly course three-four-zero, and that's this leg right here, she's going up this leg. Here on this time bearing, you can see she orders the course change to three-four-zero, she's also changing depth using an up angle and coming up to 150 feet from 400 feet and she's slowing from her higher speeds in excess of 20 knots down towards 10 knots to do the sonar search. So we have these three dimensional changes occurring in the ship slowing, up angle to shallower depth, turning left to come to three-four-zero. And that completes here just after 1332. So in this phase right here she begins a short leg to the three-four-zero leg and I think it's important at this point to note that in this laboratory stillness of the post mortem, I was able to look at this data focusing only on Sierra 13 and not having just come through the maneuvers with the ship and say, "my goodness, here is the higher right bearing rate, a right 6 degrees per minute bearing rate for the passive sonar information on the EHIME MARU and Sierra 13. Yet in my--the stillness of my office space I was still able to look at this data and say, this tells me that there is a potentially close contact and how did the ship react to that?

But I think you need to apply this in context. First of all, you have just completed a very dynamic period of high-speed maneuvers and your history of sonar displays for the last many minutes, is one of spaghetti noodles moving all over, not a reliable display to make value judgements of contacts. And the ship knows that, the Skipper knows that, the OOD, the Sonarman know that during these high-speed maneuvers, we do not have a stable platform getting reliable sonar information.

And the displays take awhile. The way our sonar displays work, it takes a number of minutes for them to generate data displayed as consistent new information that is now reliable to make judgements on. And it's my assessment that this high bearing rate information here for whatever reason, was not recognized as such by the ship, the ship as a whole, including its component players. Because it was too close to the completion of the dynamic phase they had just completed, and the displays really don't distinguish that as different from the high duration period. So there's some masking of some impact of the interpreting this information because of the transition that was very rapid from very dynamic maneuvers to now let's get stable and look at our sonar picture.

Q. Sir, you said that it wasn't recognized by the component players on GREENEVILLE that should have. Could you tell us who should have seen this, in terms of the watchstations that we looked at?

Counsel for LTJG Coen, party (LCDR Filbert): I don't believe that he said that they should have seen it, he said that they didn't see it. I think that was a mistake in his earlier testimony and I'd like the question rephrased.

Q. What watchstanders would have had access to this data?

A. Well the primary watchstanders would have been the Sonar Operators and the Fire Control Technician of the Watch, the Sonar and Fire Control System Operators. The third set of actors would be the Officer of the Deck and others like him if the AVSDU was working on the Conn, but it was not, so the Officer of the Deck would not have had a chance to provide his value added to analyzing this display, in this case with GREENEVILLE, because the display was broken, so we're--our primary operators to rely on here are the Sonar people and the Fire Control Technician.

PRES: Admiral, I'm going to ask one question because we may not--make sure we don't miss this one.

Question by the President:

Q. If the Officer of the Deck knew this display was not working, he obviously knew that--did he take the opportunity to make sure he could get that same information by going into Sonar?

A. Yes, sir, and to some degree he can get the processed information by the fire control system, which is in Control and he can walk over and look at that and the--so to summarize, those are the players who either theoretically or actually were in a position to see this information. But primarily and by assignment of their watch duties, sonar and fire control, as a minimum should have done this. Because clearly the Officer of the Deck has other responsibilities as well that distract him. And so in my--everything that I know, I do not think that the ship keyed on this bearing rate, this right 6 bearing rate of Sierra 13 as part of their calculus of the range of Sierra 13 from own ship. However, what I do--and you'll also note this is only 2 minutes, a roughly 2 minute period where the ship is evaluating on this short leg here at three-four-zero, before it makes its next maneuver.

So, what I would say in hindsight is because of the abruptness of the transition from the high-speed maneuvers and the shortness of this leg, that this does not constitute a good TMA leg. However, it does constitute enough data for the ship to determine what course it should go to next in order to further develop parameter information on the contacts that it held at that time. Now there is some confusion depending on which statements you review and the records that I've reviewed on how many contacts existed and what bearings they were in this period of time. But as a minimum, the ship expected everybody who would play in this question, sonar, fire control, Officer of the Deck, CO, felt that there was at least two contacts to the north, roughly to the north. Either side of north, say less than 30 degrees. So his first choice of maneuver was to come to the right to course 120, and that's this leg right here at 150 feet and 10 knots. In order to further develop information on the contacts that were to the north of the ship.

Questions by Counsel for the Court:

Q. And, sir, why would that have been a good course to come to to conduct the second leg of TMA?

A. That would have been an excellent course for developing information further on Sierra 13 because that was a course that would put Sierra 13 just aft of the port baffle--

correction, just aft of the port beam, but forward of the acoustic baffles on the port end of the ship. So you put most of your ship's speed across the line of sight and you-- that's indicated by the arrow here for the USS GREENEVILLE on this one-two-zero leg. If this is the bearing up to the contact of interest, you put most of your speed across the line of sight to develop a change in bearing, and a change in bearing to the contact is the type of parameter of most use to our--to the calculus that's being performed by the fire control system in order to determine automatically what that range is, and the displays are optimized to improve your knowledge quickly if you maximize that change in bearing.

And so the ship chose to come to one-two-zero for the reason that it probably wanted to develop further information on Sierra 13. And in hindsight, it went from this arrangement to this arrangement, the blue arrow went from the left of the bearing to the right of the bearing as it changed from course three-four-zero to one-two-zero. Had it been able to lag in conjunction with this leg, I think it would have very rapidly seen it was in what we call an overlead situation, and that's where this arrow is in the same direction as the target arrow, but even more across the line of sight to the right and therefore low bearing rates such as this do not imply a distant contact.

You see, in general, low bearing rates, little bearing change with time even though own ship is driving across the bearing horizontally, means that you have a distant contact. But if the orientation happens to be this one, where you're in an overlead, you can end up in a situation where you drive across the line of sight, you don't get a lot of change in bearing over time, but that doesn't mean that the contact is distant. Now we have formulas that are thumb rules that our Officer of the Deck and above all the team use to determine these ranges, and had it applied that formula to this data and this data, it would have seen the range of about 2 miles. Had it only applied this leg, there would still be no true indication just how close the EHIME MARU was.

Q. Sir, was contact Sierra 13, the EHIME MARU, in Automatic Track Follower?

A. Let's see. Yes. Short answer, yes. But it faded during the high-speed turns and then was placed back in ATF here as it's shown here on the chart at 1331 on the GREENEVILLE's track, at a bearing of zero-zero-eight, regain Sierra 13 and was placed in ATF and to my understanding, then remained in ATF until the collision.

Q. Sir, how good was the sonar contact that GREENEVILLE held on Sierra 13, in terms of signal-to-noise ratio?

A. Well, ATF is Automatic Tracker Follower, and that's an expression where you can tell the system to automatically track the contact because the signal-to-noise ratio is good enough, strong enough, high enough so that the system will be able to search either side of it continuously and keep it centered on the right bearing of the contact and that was the case here.

In general whenever you see these blue dots, that means that Sierra 13 is in Automatic Tracker Follower. You can see it didn't work during the high-speed turns, so there are limitations on how this system will work, but otherwise it was tracking very consistently outside of the high-speed turn shown by the green shaded area.

Q. Sir, you mentioned that she was--she held two sonar contacts, I guess, is that a minimum you said, that she held to the north?

A. Depending on the statements, there was a contact to the south as well, and so there may have been three contacts but it's possible that those contacts were not regained after the ship slowed after the high-speed period either because the contact drove over the hill or was too distant any more, the signal path changed as it changed its environment that it was operating in and other things that can effect that.

Q. But, sir, the maximum number of contacts that she had at this time was three? Is that your testimony?

A. Yes. That's my recollection. I was a little unsure when I did the investigation because there were some disparities and reports from the various operators of which contact numbers existed at this time and what their direction was, so I also had a little uncertainty, except that I think Sierra 13 was consistently held to the north.

Q. Sir, from a contact management point of view, how would you describe managing three sonar contacts. Would that be a challenging situation or what?

A. Well, actually, for a ship like GREENEVILLE that's probably an easy picture to try to maintain. We sometimes find these ships have to operate in encounters where they simultaneously hold 15 or 20 sonar contacts. So, these ships are very capable of multiple contact management. If you have a whole lot of contacts, what you try to do is identify the closest ones and focus on them and also put them in sectors so that you can find water where you're at least opening even if they are rather close. A three

contact situation in general would be what I call an easy problem for a typical attack submarine in Pearl Harbor.

Q. Admiral, the GREENEVILLE actually came to periscope depth without any problem. So why is all of this discussion with respect to TMA germane to the collision?

A. There are two fundamental reasons why it's very germane. First of all, this information should be used by the ship to focus its periscope depth period to get the most use out of the periscope depth period. If its diligently using this information, once at periscope depth then you're combining all that information to optimize the visual search and the electronic search and to disprove preconceptions that you might have a close ship.

One of the things that's acting here is the human mind-set, which is if you go to periscope depth not expecting to see anything then you're less likely to see anything than if you go to periscope depth expecting to see something. That's the way the human mind works. So, a good ship will in general train itself to be expecting those contacts and to look down those exact bearings as correlated between sonar and periscope. Give it a good, strong high-power look at an appropriate depth and disprove that they're close instead of assuming they're not unless you see it. So, it's a mind set and it's a correlation with data.

The other fundamental reason is that when I was a CO going to do an emergency blow and remember all of this happening preparatory in steps to doing an emergency blow. That's an evolution where once you put that air into the ballast tanks, the ship is going to go up to the surface. So, you'll have an issue of safety and you are going to want to make darn sure that you've done a complete correlation of all the tactical information available to you and integrate that before you make that decision to go to periscope depth--I mean to emergency blow. Your sonar history is a vital part of that decision-making that you want to integrate in.

Q. Sir, what time did GREENEVILLE come to periscope depth?

A. The GREENEVILLE came to periscope depth at 1337 as indicated here--on the chart. I think that's where it started to proceed to periscope, perhaps that's when the order was given and then they would take the minute or so to get the periscope up there.

Q. Is a briefing required for the watchstanders before you come to periscope depth?

A. Well, we have a routine and it's specified in the ships procedures and the Force's procedures. And, this routine requires said reports to be made, particularly between the Officer of the Deck and the Commanding Officer--so that the Commanding Officer is fully apprised of what the OOD knows of the contact picture before he grants permission to come to periscope depth. Now, that presupposes the Officer of the Deck has to catch up the CO from ground zero on what he's doing. In the case where the CO is part of that process and understanding that picture the whole way through, it would be routine for the CO to direct the OOD to go to periscope depth because that--that assumes that this captain is fully aware of whatever the OOD knows. I've done that many times myself, I think that's what happened here. The captain felt he knew what the OOD knew and he made a decision that it was safe to go up because he had been part of the process.

Q. Sir, when a ship arrives a periscope depth, what other sensors in addition to sonar become available for it?

A. Well, first of all, the reports that you would normally expect an OOD to make to the CO when requesting to go to periscope depth were not made in this case. I've already described why I think that was probably appropriate, but the other actions by the Officer of the Deck to prepare the ships systems and to execute the routine, I think were taken as they normally would be. For example, you verify that you have the correct alignment on your periscope while still deep, you look at certain switches and knobs on that periscope that align electronically and visually so that it's in the right mode when the periscope breaks the surface. You make sure that your acoustic intercept receiver WLR-9 is properly aligned and has the right volume on its speaker because it could tell you as you're working your way up to PD that you have a close aboard contact. So, those actions were taken by the Officer of the Deck to the best that I can ascertain. The only point I was trying to make earlier was that, the preparatory request for permission to go up litany were not followed by the OOD because the CO had understood it before he maden it. Now, please repeat your last question.

Q. Yes, sir, in addition to sonar, when a ship arrives at periscope depth, what other sensors become available to it?

A. Okay, predominantly visual sensors and electronic sensors. The visual sensor is the periscope, the optical portion of the periscope. And, on this particular ship, for the periscope they were using, the number 2 periscope which

is a type 18 periscope, the optical height above the keel is 64 feet 7 inches or 64 and a half feet. That's where in a flat calm, if the ship is perfectly even--on zero angle and coming up if you will, like an elevator, you would first start to see above the waves is at 64 feet 7 inch depth. And, as the depth becomes more shallow than that you will see farther and farther. Because the periscope would be higher and higher above the surface. So, that's one of the two sensors that you have is the visual acuity associated with the eyepiece of the periscope. The second main sensor is a antenna in the periscope that feeds electronic signals in the area, back to the ESM space watch who is in that space with radio aft of the Control Room ready to analyze both aurally and visually on his displays the radar signals that are present in the area when the scope breaks the surface.

Q. Sir, would describe how a ship typically conducts a periscope visual search.

A. I think at this point, I should make a distinction clear. We have a tremendous amount of technical guidance available to the submarines. And, It predominantly assumes you're in a mission. You're in a posture where you must remain covert. So, lets call that tactical guidance for mission accomplishment, where stealth is important and the ships position, the ships safety could be in danger if you give that stealth away. So, in general a lot of the guidance our submarines operate under; sonar, periscope, you name it, is with the presumption that you're on a mission.

So, you have to do some interpolation in your own manner of execution when you're not on a mission. When your priorities are different than they are on a mission. When your main priorities are safety of ship, such as this case. So, if you go to the guidance that we provide submarines in general, you won't find a section that says "If your only criteria is safety of ship, operate the periscope this way, otherwise if you're on a mission, operate it in a different way."

So, from the guidance that's mission-oriented that is available to our ships, it would describe how to conduct a search in this way. As you are ascending to periscope depth from 150 feet, your scope will already be raised and the Officer of the Deck will be looking through it, he'll have it in low power and he'll be generally centered on ships bow. And, the reason for that is, he's looking for shadows, he's looking for shapes that may be from surface contacts as he's approaching that shallow periscope depth. But, he recognizes that the ascent rate, the travelling through the

water, the low visual distance you could see under water, there is not any point in turning that scope. He might as well just point it straight ahead because if you turn it, there will be large sectors because of the low visibility level that you won't see. And, the place that really counts is out ahead of the ship. So, we're approaching the periscope depth from 150 feet and I'm looking on the bow, generally trained upwards and down the horizontal, upwards and down the horizontal trying to continue to watch that surface as it becomes brighter and brighter.

As I start to have the head window break the surface, I'm now up where my actual depth from the keel to surface of the periscope is 64 feet 7 inches, I'm starting to see something visually. As soon as I see that as the Officer of the Deck on low power, I do 2 or 3 rapid revolutions. The guidance says 3 and what they're trying to do is, you go around in about 8 seconds, a full 360 circle. So, you're now 24 seconds of revolutions, 3 total and you're in a bi-stable mode. Now, at this point, it should be very silent in Control, you should not be making reports throughout the ship that would effect the concentration of the Officer of the Deck on the scope. And, he's waiting to say 1 or 2 things, emergency deep or no close contacts.

You hope to hear no close contacts because that means you don't have somebody close filling a large fraction of his visual display as he sees them in the short revolution and the quick revolutions. Or, if he does see a close contact during that time and he orders an emergency deep, that's an automatic command. Several things happen immediately, automatically, by the watchstanders. He doesn't need to say anything more and the ship will try to quickly get down to 150 feet or deeper of water, lower the periscope, increase the propulsion bell, bring water ballast on to make you heavier, use planes and angle to get down so that you don't have a collision. So once he says, "No close contacts," after that three revolutions then he switches to a more deliberate search where he periodically uses high power to search sectors.

The guidance says 90 degree sectors in 45 second intervals with intervening low power rapid searches until you work your way through all 90 degree sectors of the circle around the ship. So if you follow the guidance, 3 minutes plus for the time for the low power searches. And once you--and I haven't brought in the added complication of looking in the air which the guidance does address because you're worried about being detected by aircraft. And just leaving all that aside, in the "save the ship" scenario you would not expect

the ship to be executing the air searches. So in summary, if you followed me for all of that we're at 3 minutes or more to complete that search per guidance.

Q. And sir, during your Preliminary Inquiry were you able to determine how much time GREENEVILLE spent doing her periscope search?

A. I think at this point we need to have the digital history of the ship's depth brought into evidence.

CC: LCDR Harrison, would you have the next chart marked as Exhibit Number 9, I believe it is?

[LCDR Harrison did as directed.]

CR: This will be marked as Exhibit 9.

Q. Admiral, you're being shown the expanded depth at periscope depth chart. Would you please describe what the chart tells us about the time GREENEVILLE spent at PD--at periscope depth--LCDR Harrison, could you please put it up onto the tray.

[LCDR Harrison did as directed.]

And Admiral, if you would begin in the lower left hand corner of the chart and take us through the series of black dots that you see beginning over here.

A. Let me say a few preliminary remarks first. What you're going to see here is a display of ship's depth by the digital depth detector versus time with depth along the left vertical axis. Shallow to deep, deep at the bottom going shallower at the time, and increasing time along to the right hand as you work right along the base. Now the data recorded here [pointing to Exhibit 9] is automatically recorded by the same system that's recording the fire control solutions and the sonar data, and so forth. In other words, the A-RCI Fire Control Sonar Data Recorder.

And this information was not available to me when I conducted my investigation and signed out my report. This has come out subsequent to--really this came to light at about the time I was completing my report. So my recollection is I may not have seen this before I signed my report. It may have been within hours afterwards.

But what you have to understand when you look along the vertical axis of this report--this chart is that these are not to be applied absolutely to the real depth of the submarine for two reasons: One, angle of the ship might

cause error and submarines generally have a slight angle at periscope depth. That's usually an up angle because of the hydrodynamics of 688 submarines and secondly----

PRES: Admiral, I have a question for you.

Question by the President:

Q. Up angle though would tend to reduce the absolute height of the periscope above the waves?

A. Yes. And the other reason, which is more significant here is that there is usually an error. An absolute fixed error in the digital depth detector from truth--from the real keel depth to the surface. And I would guess in looking at this data that error was somewhere around 3 or 4 feet on GREENEVILLE on this day. And so you have to take the left hand column--the left hand axis as a relative reference more than an absolute reference and apply approximately a 4 degree--I'm sorry a 4 foot change to what you're reading in the more shallow direction to know what the GREENEVILLE's real depth was.

And I say that with some confidence because I know the Officer of the Deck and the Commanding Officer were looking out the periscope which has a fixed distance above the keel and they were seeing things. And additionally all submarines generally pick their most reliable depth indication which is not generally the digital but is a mechanical depth indicator. And every time they dip the scope they note the depth when that happens and they correlate that to their in-use most reliable indicator, and that's generally to within a foot.

And I think from reports from the Diving Officer that we interviewed that was the case here. So, to make a long story short as we start to now work through this chart, recognize that you're being shown depths that are about 4 feet deeper than reality when you read this chart.

Okay. The most important thing that I got out of this chart was the following: It gave me boundary conditions. With--because of the large slope of the change in depth over time I knew the ship was not yet at periscope depth or was proceeding below periscope depth. So it allowed me to calculate with pretty high assurance how long the ship was at periscope depth. And my estimate is about 80 seconds based on this data. And in my report I had put about 2 minutes. And I think that was, in hindsight, generous because I didn't have this data available to me. I was using log to the nearest minute data when I did my

investigation. So duration at periscope depth, in my estimation from this data, is about 80 seconds.

And the second thing that this does is it does correlate to the many witnesses who stated that the Officer of the Deck ordered six zero feet, which is the ship's standard practice to proceed to periscope depth. And then the captain took the scope and he ordered a higher look at five eight feet. And the Diving Officer was trying to meet the needs of both those ordered depths, wasn't perfect as no Diving Officer in the world is, and so there were some cycling as he attempted to achieve these depths, but he did a pretty good job of very quickly achieving them.

And so this correlates well to the captain coming up for a higher look than the Officer of the Deck had. And the sequence of events here is after the safety sweeps, 2 or 3 quick revolutions in low power, the Officer of the Deck yielded the scope up to the Captain who did similar sweeps. And then also according to some statements did a high power search in the sector to the north where he knew two contacts on sonar were. So he generally did a sector search in high power to the north as well as safety sweeps around in low power when the Captain was on the scope. But this was all done with some alacrity at a depth ordered six zero and then five eight feet. And then the ship went deep. And used the emergency deep method to go deep.

Questions by Counsel for the Court:

Q. Admiral, why would CDR Waddle have ordered a high look?

A. Well, again, remember the purpose of this periscope depth is to truly ascertain that the area is free of surface contacts so that you can quickly get down and do an emergency blow to the surface. So you need to be assured that there are no surface contacts in this area. So he did that high look I'm sure to further assure himself that even though he didn't think Sonar was telling him there were close contacts he was verifying that visually.

Q. Okay.

A. That was his intent I'm sure.

Q. Sir, what was the weather and sea state on the afternoon of the 9th?

A. Well that's a good question. It kind of depends on who you talk to or what data you look at, and that's typical when you reconstruct weather in a marine environment. We had reports that varied from 4 feet to 10 feet wave and swell height depending on the source of the data.

Let me start with the most objective data. The nearest moored METOC buoy, a buoy that the Government pays for to provide constant weather information via satellite for all users--all customers for the nation and internationally. It's about 200 miles to the southwest of the sight of the collision. That's the nearest METOC buoy. These are open ocean buoys. And it said that the wave and swell height was 8 to 10 feet.

Now, it's possible that that was higher than the more local region of Oahu. There was some--perhaps some lee shore effect and the environs of land that would provide a more sheltered environment, and hence dampen the waves to some degree. In looking at the video on CNN that was provided by film footage from a local TV station, I would estimate 6 to 8 feet just from my looking at the swells. I would say that the most consistent average of the people we talked to from the GREENEVILLE made it 6 to 8 feet. And finally, the Master of the EHIME MARU related it was a sea state of approximately 3. And if I correlate all that together I would say 6 to 8 feet is the best average I can come up with of the wave and swell height.

Now that's only one of the parameters you asked about. The weather is a more general question. The background haze in the environment made visibility more difficult. In periscopes looking out in a haze condition it tends to make light objects more difficult to see. So the darker the object the more likely you'll see despite the haze and the lighter the object you're looking for the more difficult it is to see in a general hazy day. Of course it was an overcast day so there was less light and less sun than normal. Periscopes are light hungry. They always need more light. So on darker days they're less able to see.

Q. Admiral, what was the--what color was the EHIME MARU?

A. That's another issue here. Of course she had every right to be whatever color she wanted and her color scheme was basically white. And that's not completely true. She had a black stripe around the top of her stack and that would have been helpful to notice through the periscope. But in general the mast which--do we have a display we can show the court?

CC: We do.

WIT:: Can we refer to that now?

CC: Yes, sir. I'll have this marked as Court Exhibit 10.

CR: This will be marked as Exhibit 10.

CC: LCDR Harrison, if you could put it up? Take down the expanded depth PD chart for a moment.

[LCDR Harrison did as directed.]

A. As you can see [referring to Court Exhibit 10] the EHIME MARU is basically a white scheme of colored--off colored paint. There is the exception of the stripe at the top of her stack which most--most vessels have black at the top of their stacks because of the soot that comes out from the diesel engines. I think you can honestly say that--and incidentally the central mast is the highest mast. And my recollection--I think we should refer perhaps to the recorded data, but my recollection is that the very top of that mast to the water line is approximately 70 feet. Is that correct? Do you have that data? [asking LCDR Harrison]

Well, while you're getting that data let me just add that the way a periscope works is as an object comes over the horizon from distant to close, the first thing you would see is the tallest point of the ship--the tip of the tallest mast. And then as it comes closer over the curvature of the earth more of the ship would start to emerge. You would see more of the mast and now you'd start to see the shorter mast, fore and aft, on the ship. There is a total of 3 masts. And then the next thing you'd see is the top of this dark stack as it's getting closer and closer over the curvature of the earth approaching you through the periscope. Then you would see the top of the Bridge and then the main superstructure of the ship. And as more of these solid objects that look different from just these, these thin masts start to appear as it gets closer. The observer through the periscope would be more and more likely to see it on a hazy day. Particularly the top of the Bridge with the dark windows in the top of the stack which start to make it much more likely to see on a hazy day through a periscope.

Q. Sir, would she have been more difficult to see given her--the course she was on and the target angle from the GREENEVILLE?

A. What we call the angle on the bow is as you look from GREENEVILLE up towards the EHIME MARU would be if--if--if you could see it coming straight at you that would be zero-zero-zero angle on the bow. Then as you work your way--as this shows [referring to Exhibit 10] on the starboard side you would start to see a starboard angle on the bow it would

be 90 degrees off the beam, 180 at stern, zero in front. This orientation you see in this picture [referring to Exhibit 10] is very close to what you would have actually seen through the periscope of about a roughly a 25 degree angle, starboard 25 angle on the bow for most of the convergence of the two tracks. So this is sort of the picture you would see. Of course, depending on the range, you would only start to see small upper portions and as you get closer you'd see more and more until this would be fully visible. So again, this is one of the issues related to weather and optics in scopes on how easy it would be to see the EHIME MARU on this day.

Q. Well, how would you characterize, taking into account wave height, taking into account the weather, the haze, the whiteout conditions, and taking into account the angle on the bow and the white color of the EHIME MARU, how difficult would it be to have seen her?

A. If you use the most shallow depth ordered by the ship of 58 feet, giving you about roughly a 6 1/2 foot amount of scope out of the water, if you assume that the wave height and swell height was about 8 feet and if the ship is occasionally in the trough of the wave--the periscope is in the trough of the wave that is, the wave will partially obscure your vision. If you recognize that some of the paint schemes shown here [referring to Exhibit 10] on the upper reaches of the highest elevations of the EHIME MARU were painted white and would tend to blend into the black drop; you put all of those parameters into consideration. You have kind of a very short duration at periscope depth where you have a worse case of being in the trough of the wave and so forth. It's possible you would not, by my estimation, have seen the EHIME MARU until she was within about 2000 yards.

Now the longer you stay holding your periscope depth constant in that condition and continue to look in that direction the longer out you'll see. Because those averages of visibility and wave troughs and so forth will tend to become less worse case over time. They'll average out. And you'll get a longer--longer range you're able to see. But for a brief periscope depth period it's possible that the GREENEVILLE was not able to see much beyond 2000 yards for this particular target in the weather conditions that she faced.

Q. Sir, in your opinion, after you completed your Preliminary Investigation, was the high look that the CO ordered high enough?

A. Well, clearly in hindsight it was not. We know in fact from reconstruction the ships were certainly less than 2500 yards apart when the ship was at--when the GREENEVILLE was at periscope depth. It was just over a mile to the EHIME MARU in reconstruction. Perhaps a mile. 2000 yards. One nautical mile. And that ship should have been seen given enough time by the periscope operator.

Now one of the things I was not able to ascertain was the visual acuity of the Officer of the Deck and the visual acuity of the Commanding Officer, the two individuals who looked out the scope. I would say I wished I had an opportunity to make sure their eyesight was okay and that whatever corrective lens, if they wear any, they were wearing that day were effective. Because that's one of the issues that I just was not able to pursue in the time I had.

Questions by the President:

Q. Admiral, kind of a follow-up question here, because we may--I just may go back and review this, but on the ship--the GREENEVILLE, they obviously had a METOC brief before they got underway. They had some indications I assume to the Officer of the Deck in terms of current METOC conditions. When the order to periscope depth of 60 feet, as I recall I think you said, did they take into account what was already assumed to be the swell and wave heights to build an automatically higher condition that they should have gone to--a higher periscope height for the boat?

A. Admiral, I would say that they were generic depths. And probably submarines in general do this because for the most part they are not in daily ops. They don't have immediate weather data. They have transited a while before they've seen--they've come up shallow and looked. And so we're programmed to--you take what you get. You assess it once you're there. It's a little different than aviation where you have to know in advance just to know how to safely fly in your envelope. And so we are pretty much conditioned to take what we get once we're there.

Q. Okay. So you would modify your--the height of the periscope based on what conditions you saw when you got to the surface and not do it in a predetermined manner?

A. Yes, sir. That would probably be what we would expect a routine submarine to do. Okay.

Now you asked me was this a high enough look? What was the range of options available to the ship? The top of the sail is about 50 feet above the keel. If the Commanding Officer had ordered the ship broached, which would put at least that much more scope above, you could get at least a range of three more miles to the horizon from the scope height added to what he already was getting at five eight feet.

So it would have been significantly more and would certainly help overcome the sea state that the Admiral was eluding to. It would have been a correction that would have been conservative but perhaps appropriate here. Second-guessing the CO, he could have ordered--he had a significant more amount of scope he could have put out of the water.

I'm going to also add he could have done it for longer. Because some of these impacts of weather, wave and swell height that I'm talking about averaged over time tend to be reduced and mitigated. Because I'm assuming kind of worse case in the trough and so forth and eventually the eye given several repeat attempts to see this contact will see it. It may not see it the first revolution or the second revolution but eventually you would see it. So time is a great ally in these events and from a visual standpoint more time would have been helpful. A shallower depth and more time.

Questions by Counsel for the Court:

Q. Sir, how do you assess the--I think you testified that it was 70 seconds that you estimate the----

A. I think I estimate now 80 seconds.

Q. 80 seconds. Do you think that was a long enough time to spend at periscope depth?

A. Well again, with the great benefit of hindsight, no. I have one other issue which is why I say that. The Master reported he was operating their surface search radar on a 12 nautical mile scale, essentially its max power scale, since he left Honolulu Harbor. And so that was a sense of energy, radar that the ESM system on the GREENEVILLE probably did detect.

Now the way that the ESM works on a submarine when your scope first breaks the surface, your antenna is automatically starting to catch these signals. But you have a deluge of signals particularly when you're operating near land 9 miles south of Oahu. Land based, air based radars, in addition to ship based, are going to be inundating the operator. He probably has 10 or more signals at once. And so it takes a finite amount of time not only to determine if

any of them are close that are of a shipboard variety, but also analyze them further and refine that input.

The time they were at periscope depth of 80 seconds only provided that ESM operator an opportunity to do aural analysis on those signals. He has some sophisticated video digital analysis equipment which allows you to rather quickly break down the parameters, categorize them and assess them for range. At least a rough correlation of range through signal strength. But the operator in ESM did not have time to do that because they were only at periscope depth for about 80 seconds. So this is one more way that a bell ringer that could have helped the CO know that there was a close ship was not able to be utilized.

Now I took the parameters, as best I could obtain them through Captain Kyle and his interface through the NTSB with the Master, and I had some technical authorities at SUBPAC analyze for these ranges we knew the ships were apart from, whether or not that signal strength would have logically been high enough for the ESM Operator to report that they were a collision threat. Because again, when you first come to periscope depth just like the Officer of the Deck is in a bi-stable mode of either emergency deep or no close contacts; the ESM operator is also, for a brief period of time, in a bi-stable mode of I got a signal saturation here from a collision threat or I don't, equivalent to the Officer of the Deck. And he didn't get much beyond that period where analysis could have helped him come to that conclusion before they went deep again. So because of the challenges to a good visual search and the lack of ESM time to analyze, the ship went deep too quickly.

And incidentally one more point of criticism is that the sonar information was not verbally queued to the Officer of the Deck or the Captain in a rigorous way to do high visual searches down those bearings. Again, I don't think the ship expected a close contact based on its analysis of the sonar picture. So it didn't have a close contact to disprove in the ship's calculus. But it did have sonar contacts out there and a direct correlation of the current bearing to that contact in a high powered search from the scope perhaps longer and shallower would have been in hindsight warranted to further disprove that they weren't close.

Q. Sir, did--did anyone at all report to either the OOD or the Commanding Officer that there was a close contact at periscope depth?

A. No. There was no--no one onboard who made any reports to the Commanding Officer or the Officer of the Deck that there was that potential.

Q. Sir, should the--would they have known in Sonar? Would the Sonar Supervisor or should he have known that they had a close contact based on the information he was getting?

A. There are ways for a sonar and the Sonar Supervisor to indirectly make that determination. They're fairly crude and they are not nearly as reliable as determining that kind of information through analysis of data on the fire control system.

For example, though the Sonar Operator and supervisor can tell that in some environments when some depression elevation angles are where you're seeing the strongest signal and that's--to digress for just a second, a DE angle is where the passive sonar is getting the most energy from in a horizontal--in a vertical plane. Is it getting it from somewhere up here, somewhere straight out ahead or somewhere down here? In the actual angle from zero or horizontal that it's getting that. And there are ways to correlate the various D/Es that gets that energy to range.

Because there's just some DE angles that you can't be far away if that's your strongest source. So there are indirect or if I will--if you will course methods that the sonar and the Sonar Supervisor can use to make determinations of a close range, but they're not very reliable. And they're certainly much more difficult to arrive at and take longer than what the Fire Control Operator or the FT of the Watch should have in the fire control system.

Q. Sir, you mentioned the Fire Control Technician of the Watch. Did he know that he had a close contact at periscope depth?

A. What I can't understand is he did have--first of all he did have indications that there was a contact that was generated by his fire control system solution on the ship. Now the time frame when this happened is very close to when the ship was arriving at periscope depth. And I'll have to digress for a minute here.

This right hand chartlet you see posted vertically here [referring to Exhibit 4] is a chartlet for Sierra 13 in the same time frame as this whole track history of time versus range to the target. And this solid red line that you see

starting out distant here [referring to Court Exhibit 4] at 1230 time and coming down to where the collision occurred at 1343, which is zero range at the collision. So starting out at 20 miles and coming into 0 miles is a continuum of just connecting the range at each point and time on the two correlating tracks until it generates down to collision zero. And so that's reality there; that red line. These-- these dashes and dots here [referring to Court Exhibit 4] are an indication of in the fire control system what the operator has entered for Sierra 13 as the fire control solution range for that contact over time.

Now you should recognize that the fire control solution is a guess. It's never probably absolute. It's never perfect. And it's frequently not correct at all. It's an iterative process of using more and more data over time to eliminate bad solution options until you finally hone in on the correct solution option. And given time these Sonar and fire control systems that we have on our digitally equipped ships now are pretty good at iterating to the right answer. In some cases and it depends on the aspects of the ships, the quality of the signal, how often it's interrupted, and a lot of--and the operator proficiency and so forth. But over time they eventually get there. And in this case it seems to me that the operator had figured out that this guy was getting in pretty close just at or before PD. And the--and the operator did not make that report to the Officer of the Deck or the Captain.

Q. Admiral, you say close. I can't see the scale on that. I can't see if that's a thousand or--what is the scale when you say close?

A. This is 0 yards [referring to Exhibit 4]. This is 5 miles here or 10,000 yards. So each major increment is 5,000 yards. That's 0, 5,000 yards, 10,000 yards, 20,000, 30,000, and 40,000.

Q. So when you say close, you're indicating about 2,500 to 2,000 yards on that scale.

A. Yes, sir. And this would be--where I have the dot right now with the laser pointer [referring to Court Exhibit 4] is about 4,000 yards. That's about 3,000 and that's about 2,000 and that's 0. Working its way in. So in this period here clearly the FT of the Watch was entering into the system what I would call "close ranges". Ranges well inside 5,000 yards. And he was not reporting that to the supervisor or the watchstanders.

Q. Admiral, would you have expected him to be making those reports based on the data that he had?

A. Yes. I would expect that to be very relevant information for the Officer of the Deck and very helpful.

Q. And sir, you mentioned that these data points, they take a physical act by the FTOW to enter this information? He has to know what he's doing. That's not automatic, correct? He has to physically do something?

A. Yes. In general there are automatic entries into the fire control system. They are not the ones being displayed here though. These are the ones that have to take manual operator entry to make. And so he was making them.

Q. Sir, in your investigation were you able to determine why the FTOW did not report this close contact to the Officer of the Deck or the Commanding Officer?

A. I tried. And I think I know why, but further testimony may be helpful for the court to understand that. There were two basic issues going on here. One is that there were a number of people that were physically an obstruction to his line of sight and communications with the OOD and the Captain. Many of them were civilian guests or the embarked visitors. They were in the Control Room in a line--they were standing on the starboard side and on the periscope stand area in a position where they were in the way for the FT of the Watch to physically look at and talk to the Officer of the Deck or the Captain. And I--are you going to bring out that diagram again?

Q. Yes, sir. I'm putting up the diagram so you can show that visually to the court. [referring to Court Exhibit 5]

A. Now I only have kind of an aggregate sense of where the visitors were from a number of interviews. I'm sure I don't know exactly where they were in their own mind. That--that is difficult to know after the fact. So what I'm describing for you is my sense of where they were and it may not be totally accurate. This is not a lot of room to put extra people in. We have already put in the watchstanders in an earlier discussion. The white spaces are the only places the visitors could go and observe events in the Control Room and there's not a lot of that. So generally the white space that would be helpful for the visitors would be in this L-shaped area right here [pointing to Exhibit 5], starboard and forward center line, and then to some degree you can put some more aft over here to the left, portside of the periscope stand.

So my sense is that the 16 visitors and Captain Brandhuber were filling in the space on the port side of the periscope stand and also center line and on the starboard side of the periscope stand where I'm outlining here with the laser pointer [pointing to Exhibit 5]. In the area over here-- remember the FT of the Watch is about right here [pointing to Exhibit 5] approximately. People that would be standing just inboard of him [pointing to Exhibit 5], where I'm circling now with my laser pointer, filling up the starboard side of the Control Room would all block him from talking easily to the arbitrary place we have placed the CO here [pointing to Exhibit 5] and the Officer of the Deck here [pointing to Exhibit 5]. But generally you would expect them somewhere on the Conn although they could be elsewhere.

Q. Admiral, would you have expected the FTOW, if he thought that the DVs were a barrier to communication, to have asked them to move?

A. I certainly would. A physical barrier is not insurmountable, particularly when you have an urgent report. So there's no question that the visitor's presence, although perhaps a passive deterrent, were not the only reason here. There was something else going on. And I'm still not sure in my own mind what that something else was.

Except from some of the interviews I got the impression that at this point in the game the CO was talking very directly to Sonar. He was either physically going to Sonar, asking the XO to go into Sonar, or he was talking to Sonar. And for whatever reason the FT of the Watch felt that the CO had the picture he wanted to get from his discussions with Sonar. And the FT of the Watch was not part of that communications loop. So it was some mixture of physical barriers from people and the FT of the Watch kind of feeling--I don't know almost like he was benched in the game at that point in the game from being part of it.

Incorrectly so. He should not have felt that way. He--he--he in my opinion should have taken it on his own volition to volunteer this information. Just as it would be helpful for the OOD to go observe this information. But for whatever reason this fire control information, again, at the ninth hour it's not a lot of time here, it's developed--the range has dropped way in from out here around 15,000 yards to inside of 5,000 yards for only a few minutes time. And the ship's distracted into periscope depth. A lot of things going on. Short amount of time. But nevertheless this is key information and it didn't get to the CO or the OOD.

Q. Admiral, if the AVSDU, and you said that's the repeater----

PRES: Counsel, there's one--before you go on, this just sticks out in my mind.

Questions by the President:

Q. You talked about physical barriers and you talked about reports--procedural reports for the Fire Technician of the Watch. His report should go to the Officer of the Deck, is that correct?

A. Yes, sir. His report should go to the Officer of the Deck.

Q. Okay. So regardless of how busy the CO was the Officer of the Deck should have still received reports. And on the physical barrier side, this doesn't prevent the FTOW from speaking up regardless of whether there is someone standing in his way, does it?

A. There is no reason why he shouldn't have spoken up. Period. No matter how busy anybody was. His primary duty is to ensure the safety of the ship. He was the person analyzing these contacts. He had information that should've told him that the contact was close or potentially close. Remember these are arbitrary solutions in the machine and aren't necessarily the truth. But it certainly was an indicator. And for whatever reason he didn't relay that information.

PRES: Okay. Counselor?

WIT: Now I just want to add, it's not real clear to me when this range was out-spotted to 9,000 yards. I--this last data point on this whole graph right before the collision is 9,000 yards. And in interviewing the FT of the Watch he indicated to me that he out-spotted the range based on the reports by the OOD and the CO that they had no visual contacts. That would be a logical action. Because again these are not ground truth solutions, these are potential solutions. And he thought his potential solution in here had fallen apart when he had a Skipper and an OOD telling him they had no visual contacts at periscope depth. So my understanding is he out-spotted the range of the contact to beyond the visual horizon for a small contact just prior to the collision.

Questions by Counsel for the Court:

Q. Admiral, in reviewing the actual data logs were you able to determine if he out-spotted before or after the collision took place?

A. When I had signed out my report my understanding was it was before. I have subsequently talked to Commodore Byas and he indicates that on further review of the A-RCI log data that was done after the collision. Now it's very close in time so I think that's a matter for the court to examine further.

Q. Admiral, again, if the AVSDU had been working--the repeater, would that have automatically displayed the fire control screens that the FTOW was looking at? So would this data have been repeated on the AVSDU for the OOD?

A. No. The AVSDU is strictly sonar data. The log data. The fire control data, however, is readily available on the starboard side of Control should you choose to go look at or should you get reports by the operator of it to you that it's occurring.

Q. Is that something as a matter of routine that the OOD should be doing in addition to looking at the AVSDU? Should he be looking at the FTOW displays in order to get the complete picture along with the other information he's got?

A. Yes.

Q. Sir, what time did GREENEVILLE leave periscope depth?

A. GREENEVILLE left periscope depth at 1340. That's indicated by the area here on the blue track of GREENEVILLE [pointing to Exhibit 5]. And it's an annotation that conducts emergency deep for training, commences turn, left to three-four-zero.

Q. And sir, would you take us through and describe what happened aboard GREENEVILLE when she ordered emergency deep?

A. Yes, the captain was on the periscope and ordered the emergency deep and directed the OOD to go to 400 feet. The default depth would be 150 feet otherwise from that direct order.

Anybody on the scope can order emergency deep, that's the way we train because you're the person if you're on the scope who sees the contact that you're trying to avoid collision with, and of course, this was a training evolution and that's why the Skipper ordered the OOD to go to 400 feet instead of 150 to setup for the emergency blow. He--the Captain was doing a couple of things when he did this.

First of all, he was getting down quickly to quickly set up the emergency blow before the surface picture changed and degraded. And secondly, he was demonstrating an impressive evolution of how rapidly these ships can go deep when they sense there is a need to from periscope depth.

Q. Did the GREENEVILLE change course as she went down to emergency deep?

A. Yes, she started to turn left. This was based on a recommendation from the NAV picture to the Captain of where the best course was to go to--once surfaced head back to the barn. And it's a logical question and a logical decision to start heading to the point where you want to transit back to homeport after the evolution.

Q. How well did she execute the emergency deep?

A. Despite the fact that there were distinguished visitors on a few of the controls, they were in a very passive--condition actually. They were closely supervised and had no bearing on this collision in my determination. The procedures were followed exactly and the ship did an emergency blow in the normal manner, which requires controlling the rudder, controlling the angle up on the ship between 10 and 20 degrees. Placing the air forward and aft bow tanks at the same time for a set amount of time 10 seconds and she did all that very well.

Q. And sir, when she executed the emergency surface and the collision occurred, can you describe to the court where she struck EHIME MARU on her way up?

A. Yes, she--the GREENEVILLE initially struck the EHIME MARU, my guess is probably somewhere near the bow with her portside of her hull just aft of the sail. And then, as she continued upward with her momentum, that she is the GREENEVILLE, the GREENEVILLE rudder sliced through the hull of the EHIME MARU and caused the rapid flooding and the loss of the EHIME MARU. Now, the top of the rudder of the USS GREENEVILLE is especially hard steel because in the horizontal slow surfacing under ice, it needs to not be damaged when you breakup through the ice when you have to surface through ice. So, that's part of the ship's structure that is hardened to do that.

Q. Sir, did GREENEVILLE detect contact Sierra 13, the EHIME MARU, during her ascent?

A. No, there was no question in my mind that the GREENEVILLE did not know EHIME MARU was there until she hit it. I'm sure this was a terrible shock and the first that anyone on the USS GREENEVILLE knew the EHIME MARU was there

when the collision occurred. And, that was their first indicator.

CC: Mr. President, that's all the questions that I have concerning the collision and at this time I think if we'll recess sir, you may want announce to the court what our plans are.

PRES: Counsel, do you intend to introduce any evidence?

CC: Yes, sir, we do. LCDR Harrison. Sir, what we'd like to have marked as next court exhibits in order are the following Navy instructions. We have copies for the parties, parties' counsel--and they govern the embarkation of civilians. That's SECNAVINST 5720.44A, Public Affairs Policy and Regulations, Section, 0405. The next is OPNAVINST 5720.2L, Embarkation in U.S. Navy Ships. The next is CINCPACFLTINST 5720.2M, Embarkation in U.S. Naval Ships. The next is CINCPACFLT OORDER 201, Annex F, Appendix 7 entitled Embarkation of Visitors. The next is COMSUBPAC message 012342Z January 2000 entitled 2000 Public Affairs, Telling the Pacific Submarine Story For A New Millenium. And finally, we have the COMSUBPAC Chief of Staff MEMORANDUM 00-1 entitled Standing Orders and Policy while embarked. And as I said, Mr. President, copies of those will be distributed to parties and parties' counsel.

PRES: In a moment we will recess the court, but let me explain to the parties and to the counsel for the parties and for the court what we are going to do tomorrow. Tomorrow morning at 0800, I intend to convene the court at the brow of USS GREENEVILLE--is my mike on--ok, let me talk about what we'll do tomorrow for the court, for the counsel and for the parties. We're going to convene tomorrow morning at 0800 at the foot of the brow for USS GREENEVILLE. We'll do it in working uniforms by the way, so it'll be khaki's for most of us, we'll go to the ships Control Room and we'll bring RADM Griffiths aboard and we'll have RADM Griffiths describe--we seen the diagram up here [referring to Exhibit 5], but I think it's important for us to go there in person.

And you can see the size of the party here of the court itself, it'll be--it may simulate some of the crowding that maybe the CAPT of the GREENEVILLE saw himself. But, we're going to have RADM Griffiths describe the duties of the Control Room and the watchstanders. And, we don't intend to take a lot of questions there although we will bring the recorder. After that, the court will go to the submarine simulators at the Naval Submarine Training Center Pacific

and there we're going to review procedures for surface and submerged operations for U.S. Submarines to include, emergency deep, emergency surface and emergency blow.

The court will be closed. The only folks will be the counsel for the parties, the parties themselves and the court members. And then we intend to reconvene here at 1300 tomorrow afternoon because my anticipation is, that'll take most of the morning. So, I expect you to be on time tomorrow morning at 0800, so we can start promptly down to the courtroom on USS GREENEVILLE.

For CDR Waddle, sir, I know it's difficult to go back to your previous command and if you choose not to be on the Control Room tomorrow of your previous command, I understand that, okay. This court is now----

Counsel for CDR Waddle, party (Mr. Gittins): Sir, before you adjourn, can we have an instruction of the witness not to be discussing his testimony with counsel while we're on the GREENEVILLE. Just about between direct examination and cross-examination, other than this tour of the ship.

PRES: You raise a very good point, he'll be so instructed and--we'll see RADM Griffiths tomorrow afternoon at 1300 and the members since the Counsel for the Court is basically concluded his introduction of the inquiry, you'll see the members start with their questions and then we'll be able to start cross-examination.

Counsel for CDR Waddle, party (Mr. Gittins): Very good, sir, thank you.

PRES: You're welcome. This court is in recess----

CC: Admiral, I would just formally put on the record--RADM Griffiths, I would just formally put on the record, RADM Griffiths, you know you're still under oath and you're not to discuss your testimony with anyone until we reconvene back here at 1300 tomorrow.

The court recessed at 1636 hours, 5 March 2001.