

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CALAVERAS

JO ANN THOMSEN, et al,

Plaintiffs,

vs.

DOUGLAS T. MESSER, et al,

Defendants.

and Related Cross-Actions.

HELD AT:

Remington Arms
14 Hoefler Avenue
Ilion, New York
October 27, 1983

DEPOSITION UPON ORAL EXAMINATION of

GERALD JEROME HILL, held pursuant to the Order of
the Court and Subpoena.

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Shorthand Reporter.

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MARTIN MURPHY, CSR, P.C.

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MR. AMES: Would you note that it's 8:40 and we are ready to go?

(Whereupon, at 8:42 p.m., the proceedings were resumed.)

MR. AMES: Would you note that the witness has just come in the room with Mr. Scully and we are ready to go at 8:52.

G E R A L D J E R O M E H I L L ,

having been first duly sworn by a Notary Public of the State of New York, testified as follows:

BY MR. AMES:

Q Sir, would you state your name for the record?

A Gerald Hill.

Q Would you spell the first name?

A G-E-R-A-L-D.

Q And are you an employee of the Remington Arms Company, sir?

A Yes, I am.

Q To your knowledge, has there been any other Gerald Hills employed at the Remington Arms Company during the time that you've worked here?

A Not to my knowledge.

Q Okay. I have shown you here a one-page document with the words "history card" at the top, and the name Gerald Jerome Hill on it. Do you recognize that card?

A Yes.

Q Is that a summary of your employment with the Remington Arms Company?

A Yes, it is.

MR. AMES: We'll mark this as GJH-1.

(Exhibit GJH-1 was marked for identification.)

BY MR. AMES:

Q Mr. Hill, the first date on the card is July of 1961. Is that your start date of employment with Remington?

A My start date of employment was July 11th of 1960.

Q And in what capacity was that?

A I believe, at that time, I was an engineer in training.

Q In what division or department?

A In the product engineering -- I guess it's

product engineering and control, PE&C.

Q Did you graduate from high school, Mr. Hill?

A Yes, I did.

Q Where was that?

A In Hancock, Michigan.

Q Did you receive any formal education after that?

A Yes, I did. I went to a school called Michigan
Tech.

Q Was that a four-year college?

A Four-year college, yes.

Q Did you receive a degree?

A Yes, I did.

Q And what degree was that?

A B.S. in mechanical engineering.

Q What year did you receive your B.S. in mechanical
engineering?

A 1960.

Q Were you employed after graduation by Remington?

A Yes, I was.

Q Did you have any other employment between college
and going to work for Remington?

A No.

Q Prior to graduation from college, had you ever had full-time employment?

A Military service. I guess you could call that full-time.

Q Anything else other than military service?

A No, I didn't.

Q Nothing other?

A No full-time.

Q Sir, it's important that you let me finish my question, because it's very hard for her to take down us both speaking at once. Also, it's important that if you don't understand a question, or if I don't speak clearly or loudly enough, that you tell me so that I can rephrase it and make sure you understand it.

Prior to going to work for Remington, had you ever worked as a gunsmith or in any way related to firearms?

A No.

Q What was your military service? What branch were you in?

A U. S. Air Force.

Q In what capacity were you in the Air Force?

A Electronics. Electronics technician.

Q Okay. You told me that you -- Before I get to that. Have you had your deposition taken before?

A Will you rephrase that?

Q Prior to today, have you had your deposition taken?

A For this case?

Q For any case.

A I've had depositions prior to this, yes.

Q How many?

A Two.

Q Two. Have you ever testified in court?

A No, I have not.

Q And when was the most recent of the prior depositions?

A It was the spring.

Q Of 1983?

A Yes.

Q When was the other one?

A I don't exactly recall. I don't recall the exact date on it.

Q Within the last two years?

A Yes.

Q Sir, with respect to the deposition in the spring of 1983, did that involve a Remington Arms Company product?

A Yes, it did.

Q And what product was that?

A 700.

Q Model 700. Do you know the name of the case?

A I don't recall the name of the case.

Q Do you know where the case was located; deposition case?

A West Virginia.

Q Where was the deposition taken?

A In Bridgeport.

Q Okay. And in that case, what was the nature of the allegations about the accident, if you know?

A I don't recall.

Q Do you recall whether it involved a jar-off in the model 700?

A I don't recall.

Q Do you recall whether it involved a firing on safety release?

MR. SCULLY: Excuse me, Counsel. I believe, Counsel, for the record, there is some confusion. Prior testimony dealt with the 788, not the 700.

MR. VIRI: You're talking about the '83? Was that a trial instead of a deposition?

MR. SCULLY: No.

MR. VIRI: Because he talked about being on the stand.

BY MR. AMES:

Q In the spring of 1983, was that the model 788?

MR. SCULLY: He doesn't recall whether it was a 700 or a 788. But to the best of our knowledge, it was a 788.

BY MR. AMES:

Q Let's address the other deposition, then, as you told me about within the last two years. Was that a model 700 case?

A Yes, it was..

Q And where was that deposition taken?

A Right here.

Q Okay. And was that a case involving fire on safety release?

THE WITNESS: Can I ask you a question?

MR. SCULLY: You want to go outside and ask?

THE WITNESS: Yes.

(A brief recess was taken at 9:00 a.m. for an off-the-record discussion.)

(The proceedings were resumed at 9:01 a.m.)

MR. AMES: Mr. Scully and Mr. Hill and the other gentleman from Remington have returned into the room after their conference. Are we ready to go?

MR. SCULLY: Yes, we're ready.

BY MR. AMES:

Q We had a question --

MR. SCULLY: Ready?

THE WITNESS: Ready.

BY MR. AMES:

Q We had a question, I believe, about whether the earlier deposition that you mentioned that had been taken here was in a model 700 case. I believe you said "Yes," and then I asked you if that case involved a firing on safety release claim.

A That was the claim of the people involved in it.

Q Okay. Was that the case known as See, S-E-E, versus Remington?

MR. SCULLY: Which that?

MR. AMES: The one he has just told me about.

MR. SCULLY: Within the last two years?

MR. AMES: Yes. That involved a claim of firing on safety release.

MR. SCULLY: One of the claims.

A Yes.

Q Okay. Sir, going back to the history card, you told me that you began on July 11th of 1960. The first entry on the card is July 1st of 1961. Did your duties change on July 1st of 1961? At any time you need to look at that, please don't hesitate.

A I believe the duties did not change. The only thing that changed would be the job title.

Q How long did your duties stay the same? That is from what you started doing until there was some change in your duties.

A The first significant change would have been here

in 1969. I think it's hard to read what it is, but I think it's 4/1.

Q Sir, what were your duties between 1960 and '69?

A Process engineer.

Q And what did you do as a process engineer?

A Do you want to rephrase that a little?

Q What were your duties as a process engineer?

MR. SCULLY: Do you understand that question?

THE WITNESS: It's very ambiguous.

MR. SCULLY: Counsel, why don't you rephrase it, please.

BY MR. AMES:

Q What was your job as a process engineer?

A Process engineer is -- The job of process engineer takes drawings and makes them into a workable process to manufacture component or components to these drawings.

Q Does it also involve supervising the production process?

A It would involve working on the floor to get the process working properly.

Q And to keep it working properly, also?

A Yes.

Q And when you say process, you mean the manufacturing process?

A Yes.

Q Did it also involve quality control?

A We would be working with quality control.

Q So from 1960 to 1969, you were involved in taking drawings, and from them creating and maintaining the manufacturing process to produce the items shown on those drawings?

MR. SCULLY: It's been asked and answered.

You can go ahead and answer it again.

A Yes.

Q Were you doing anything else?

A You're going to have to rephrase that one, too, please. Anything as --

Q Well, what else were you doing by way of your employment during those years from '60 to '69?

A I believe I've already answered that I was working as a process engineer.

Q Okay. And your only duties as a process engineer

were those you've already told me about?

A Working with processes, and to manufacture parts, and maintaining these processes.

Q Okay. The history card between the years '61 and '69 includes the words "current products." What is that a reference to?

A Yes. Current products would be products that are being manufactured at the present time, or at this time.

Q Did your work as a process engineer involve anything to do with the model 700?

A Yes.

Q Between '61 and '69?

A Yes.

Q And what did it involve with respect to the model 700?

MR. SCULLY: It's overly broad. You can answer it, if you know.

THE WITNESS: Pardon?

MR. SCULLY: The question is overly broad and it calls for a narrative.

BY MR. AMES:

Q Mr. Hill, he has occasionally to make notes on the record with respect to legal objections that will later be ruled on by a judge. Unless he instructs you not to answer the question, they are not part of this procedure between you and I, and you can go ahead and answer the question.

A Primarily I was involved with the metal parts; receiver, barrel, bolt.

Q When you first joined the company in 1960, was the model 700 in production?

A No, it was not.

Q Were you involved in the steps of putting the model 700 into production from the design drawings?

A On the components I mentioned.

Q Okay. Receiver, barrel, bolt. How about any components of the fire control?

A No.

Q Did you work within a group of people that were working on the model 700?

A Yes.

Q Who was your supervisor when you started with Remington?

A Ray Hurley.

Q How long did Mr. Hurley stay your supervisor?

A Through the May -- or pardon me -- March of '69.

Q Okay. Was there a name for that group or unit that you were working in?

A Current products.

Q Process engineers of current products?

A Right.

Q Within that group, did the various process engineers discuss between -- among themselves, the aspects of the work that they were doing on the model 700?

MR. SCULLY: The question is vague and ambiguous. You can answer, if you know.

A Could you restate it?

Q Okay. Among people working for Mr. Hurley, how many of them were there?

MR. SCULLY: At what time period?

MR. AMES: Between '60 and sixty -- say the end of '62.

A I don't recall exactly how many.

Q Roughly how many?

A Is that on the model 700, only?

A Yes. On the model 700.

Q Probably four to five.

Q Including yourself?

A Yes.

Q And not counting Mr. Hurley?

A Right.

Q Did that number change between '63 and '69?

A I don't recall.

Q Okay. Who among the four or five people in that group working on the model 700 between '60 and the end of '62 were working on the fire control?

A I don't recall.

Q In that group, did the engineers, including yourself, discuss your work among yourselves?

A Yes.

Q Was there ever any discussion with respect to a change in the design of the Sear Safety parts from a two-part Sear and Safety Cam to a one-part powder metal Sear Safety Cam?

MR. SCULLY: What time period, Counsel?

MR. AMES: Between '62 and '69.

MR. SCULLY: '62 and '69?

MR. AMES: I'm sorry. Between '60 and '69.

A Could you rephrase that? Especially the first part.

Q The discussion among the engineers we talked about just a moment ago, did you ever hear anyone talk about the change in the design of the model 700 which resulted in its being manufactured for a period with a two-part Sear and Safety Cam rather than a one-part Sear Safety Cam?

A I do not recall. However, that is a long time period and I cannot say that there was not any discussion.

Q Do you know of your own knowledge, today, that the model 700 was manufactured for a period with a two-part Sear and Safety Cam arrangement?

A Yes, I do.

Q Those parts were stamped metal parts, is that correct?

A I don't know.

Q And did the original design for the model 700,

as it was originally intended to go into production, contemplate that it was going to have a one-piece Sear Safety Cam?

A. I don't know.

Q. Why was it produced for a period of time with a two-part Sear Safety Cam?

MR. SCULLY: It assumes facts not in evidence, lack of foundation. You can answer, if you know.

A. I don't know.

Q. Who were the four or five process engineers working in the group under Mr. Hurley on the model 700 between '60 and the end of '62?

MR. SCULLY: Do you want their names?

MR. AMES: Yes.

MR. SCULLY: You can answer, if you recall.

A. One was Richard Stafford. That is the only one I recall.

Q. During the years from '60 to '69, in your work as a process engineer, did your work ever involve you with respect to the model 700 on anything other than the receiver, the barrel and the bolt?

A To the best of my knowledge, no.

Q Did the work on the bolt include the firing pin mechanism?

A No. As I previously stated, I was involved with the manufacture of primarily the bolt, receiver and the barrel.

Q Okay. But the bolt as assembled includes a firing pin mechanism, does it not?

A Yes, it did.

Q Were you involved in the manufacturing of the firing pin mechanism?

A To the best of my knowledge, no.

Q Were you trained on the job with respect to the duties of a process engineer?

MR. SCULLY: Well, Counsel, as you recall, he was confused as to your terminology, duties. Would you rephrase that, please?

BY MR. AMES:

Q Were you given any on-the-job training with respect to what a process engineer did for Remington when you joined the company in 1960?

A Yes.

Q Who trained you?

A It would be Ray Hurley, plus other members of the department.

Q Do you recall the name of any of those people?

A One was Al Webb, Church Prosser.. I don't recall the rest of the names.

Q Did Mr. Hurley's group between the years '60 and '69 do all of the model 700 fire control process engineering work?

A I don't recall if they did all of it. I can't answer that question.

Q In 1969, you told me that there was a substantial change in your work.

MR. SCULLY: He indicated significant change, Counsel.

BY MR. AMES:

Q What was the significant change beginning in 1969?

A I went from engineering out to production.

Q How long were you in production?

A Five years.

Q Until sometime in 1974?

A Yes. Exactly five years.

Q January 1, 1974?

A No. I think it's April 1, 1974. I think it's April 1.

Q Okay. And what parts were you involved in the production of?

A There would be many. I'll name as many as I can think of. Nylon manufacturing, there was component manufacturing of power metal components, machining, barrel manufacturing. That is it.

Q Were you involved in manufacturing any of the parts of the model 700 fire control?

A I'd like to take a minute to think on that one.

Q Okay.

A I'd say yes.

Q What parts would that have been?

A Part of the -- Some of the time when I was in production I was responsible for heat treats, and various components of the fire control do go through heat treat operations.

Q Did the powder metal Sear Safety Cam go through heat treat?

A Yes.

Q How about the trigger corrector of the model 700?

MR. SCULLY: How about it?

BY MR. AMES:

Q Did that go through heat treat?

A Yes.

Q What did your job change to in 1974?

A '74 I went from production back to quality control as quality control supervisor, in PE&C group.

Q So that is back to the same group you had been in before?

A Same group, different job.

Q And you were a supervisor in the PE&C group for how long?

A Would you be a little more specific?

Q How long were you in the position you began in 1974?

A Two years.

Q Until what date?

A Until May 1st of '76.

Q And what did you do then?

A At that time, the job of quality control supervisor was combined with the supervisor of product testing, as one job.

Q And did you take that on?

A Yes, I did.

Q Let me ask you as to the period from '74 through '76, as supervisor of quality control, what did you do in that job?

A Quality control at this time had really three areas of responsibility. First would be machine capability studies. The second would be auditing manufactured products, and the third would be auditing of guns, complete guns, firing guns.

Q You say auditing of manufactured products. That would be to audit quality control on some parts of the firearm prior to its final assembly?

A It would be checking its components with the gauges provided on the job.

Q But that would be components rather than the finish?

A Yes. Components, yes.

Q Okay. What is the machine capability study?

A Machine capability study is running a consecutive number of parts, for example, on the single-loaded machine, single-station machine of thirty pieces to see that it can perform during this time period within the tolerance limit.

Q Do machines sometimes produce parts out of tolerance?

A Yes.

Q And is that because of wear in the various parts of the machine?

A That could be part of it. It would not be the whole reason.

Q What other reasons would cause the machine to produce parts out of tolerance, in your experience?

MR. SCULLY: That calls for a narrative.

You can answer, if you recall.

A Incorrect setup would be one.

Q Did your duties with respect to the job between '74 and '76 include supervision of quality control with respect to the model 600?

A At this time period, I believe we were manufacturing the 600, and we would have had -- We would have

taken audits on components and final guns.

Q With respect to the 6007

A Yes.

Q Were you the only supervisor of quality control at this time?

A Yes.

Q Who did you report to?

A Okay. Boy, there were various people. Due to the fact of the job above me changed, one was Clark Workman. I'm trying to think here. Clark Workman in quality control would be the one.

Q Okay. And what was his title?

A Superintendent. Superintendent of PE&C at that time.

Q Did you do this with respect to supervisor of quality control, or your job with respect to supervisor of quality control, from '74 to '76, above quality control of all bolt action firearms being manufactured by Remington in those years?

A Would you rephrase that one please?

Q During the years '74 to '76, in your job, were you supervising the quality control section that worked

on quality control of all bolt action Remington firearms being manufactured during those years?

A Can I go back just a minute? I think I stated when we first started out that we audited machine capability studies, components and firearms that were manufactured during this time period.

Q I understood that you audited firearms. My question is, did you audit all firearms manufactured?

A Yes, we did.

Q During the time that between sixty -- I'm sorry, '69 and '74, when you were working in production, and specifically with respect to the heat treatment of components, were you responsible for quality control with respect to any distortion of parts that might be caused by the heat treat process?

A Would you rephrase that? This was in the time period from '69 to '74?

Q Right. During production, you told me, and on the card it says your duties included heat treat.

A Right. Yes, they did.

Q Were you responsible for maintaining quality control with respect to distortion of parts due to the

heat treatment process?

A No.

Q Who would have been?

A That would have been with the chem and met supervisor. Production's responsibility is schedule, manufacturing parts to schedule and good quality. Any problem with quality or any quality problems would be worked on by the heat treat with the chem and met people.

Q Okay. So production would be responsible for making sure there was quality, and then if a problem occurred it would go over to chem and met?

A Yes.

Q Were there any quality control problems during the time that we've just referred to wherein parts in heat treatment process became distorted and were not, therefore, to specification?

MR. SCULLY: The question is overly broad. It calls for a narrative. You can answer, if you know.

A I don't recall any specific items.

Q Did -- Were the chem and met people part of the PE&C?

A Yes, they were.

Q Who was the supervisor of chem and met at this time?

MR. SCULLY: '69 through '74?

MR. AMES: Yes.

A I believe it was Kelly Chadwick.

Q You said that in 1974 you took on additional duties, responsibilities?

A Yes.

Q What were those?

A As I stated previously, it was --

MR. SCULLY: It's been asked and answered, Counsel. You can answer it again.

A (Continuing.) Supervisor of product test and quality control.

Q Prior to the time that you also took over supervisor of product testing, had somebody else been doing that?

A Yes.

Q Who was that?

A Most recent one, when I took over, was Norman Menard.

Q Did your responsibilities in your job to supervisor of quality control change when you also took over the job of supervisor of product testing?

A No.

Q How long were you supervisor of quality control and supervisor of product testing?

A According to the sheet, one year.

Q Is that consistent with your recollection?

A Yes.

Q That would have been until sometime in 1976?

A May of '77.

Q Sir, I'm a little confused, because the date here shows a May 1, '76 date.

A Okay. I had stated -- Well, supervisor of quality control two years, and then one year with the combined job.

Q Okay. Until April 30th of '77?

A Yes.

Q Okay. And what did your job become on April 30th of '77?

A Okay. Supervisor of process engineering, current products.

Q What did you do in that job?

A There I am responsible for keeping up to date in processes for current processes, or current components in models manufactured. I do this within a series of engineering and technicians that report to me.

Q Is that currently your job today?

A Yes, it is.

Q It's been your job since '77. What did you do as supervisor of product testing?

A I was responsible for the gallery, gallery employees, and the testing of the manufactured product.

Q How did that differ from what you were doing as supervisor of quality control in prior years?

A In quality control we were taking components, finished product after it was manufactured, and checking it to dimensions, or testing done to quality audit procedures, and in product testing, we were taking guns just as they were manufactured and running them through the specified tests in the gallery.

Q Did the work from '74 through '77 include auditing and testing of the model 600?

A Yes.

Q And did it include the same with respect to the model 700?

A Yes.

Q What percentage of the model 700's were subject to an audit at -- after completed?

A During what time period?

Q Between '74 and '77 when you were quality control supervisor.

A There were a certain quantity of guns tested every day. Not a direct percentage, just a certain quantity of guns; two, three, four.

Q And was that quantity related to the number of employees you had to perform those audits?

A No, not directly.

Q What directly controlled how many guns would be tested in a given day? I'm talking about the model 700's, now, in those years.

A It would be based, some on workload and some on other models that were being manufactured at the time, so we could get an audit test done on all guns produced during that day or that week.

Q How many people were doing the audit tests on

all firearms?

MR. SCULLY: What time period?

MR. AMES: '74 through '76 when he was quality control supervisor. I'm sorry, to '77.

MR. SCULLY: The question is overly broad, vague and ambiguous. You can answer, if you know.

A Generally two people.

Q Who were those people?

MR. SCULLY: Do you want their names?

MR. AMES: Yes.

A I don't recall what their names were.

Q What tests were done as part of the audit procedure on model 700's in the years that you were quality control supervisor?

A The quality control audit tests would consist of three tests. One would be -- Phase one would be an initial look at the gun, check of the overall visual characteristics of the guns. It would also be a check on the safety, making sure it's functioning properly.

The second phase would be a gallery test of the specified number of rounds, which I cannot recall

right at the moment.

The third phase would be a tear-down of this gun after that test to see that there was no damage to any of the components. It would also check for any wear or any, for example, cracked wood or split wood, or things like this.

Q When you took the job as quality control supervisor in, I believe you said, April of 1974, did the function test with respect to the model 600 include what is known as a trick test?

A I don't recall.

Q Do you -- Are you familiar with the term trick test?

A Yes, I am.

Q Would you explain to me your understanding of a trick test?

A The trick test is taking a gun, for example, the model 700, first checking it for live ammunition, closing the bolt, putting the safe to the on position, pulling the trigger, and the gun must not fire. Moving the safe to a halfway position, pulling the trigger, the gun must not fire, and then moving the safe to the

full out position, the gun must not fire.

Q At some time -- At some time during the time in which you were quality control supervisor, was the trick test added to the audit procedure with respect to the model 700?

A I don't recall.

Q Do you recall whether it was done at all during the years that you were quality control supervisor?

A No, I don't.

Q During the years that you were supervisor of product testing, do I understand correctly that all firearms were tested during that year? At least were tested in a gallery prior to being shipped?

A Yes.

Q And that gallery test on the model 700, did that include the trick test?

MR. SCULLY: What time period, Counsel?

MR. AMES: During the year that he was supervisor of product testing.

A I don't recall.

Q Did the model 600 gallery testing include the trick test?

A I don't recall.

Q Sir, between -- During the years that you were supervisor of quality control, '74 to the dates in '77 that you've given me, were there ever malfunctions in fire control of the model 700's detected in a quality control audit procedure?

MR. SCULLY: Counsel, malfunctions?

What do you mean by malfunctions?

BY MR. AMES:

Q Anything detected in the fire control that was occurring, not as intended by the design?

MR. SCULLY: The question is vague and ambiguous, overly broad, lacks foundation. You can answer, if you understand.

A The question was -- Let me just repeat it. Was there ever --

Q During the time that you were supervisor of quality control, were there any malfunctions in the fire control of the model 700 detected by the audit process?

MR. SCULLY: Same objection. Go ahead and answer it.

A I would have to say yes.

Q And what procedure occurred when -- Let me withdraw that. Strike the last question.

Are you familiar with the term "fire on safety release"?

A Yes.

Q Would you explain to me your understanding of FSR?

MR. SCULLY: I assume FSR means fire on safety release?

BY MR. AMES:

Q Do you understand that acronym?

A Yes. When the safety moves from the on position to the off position, the gun will fire.

Q And as you understand the term FSR, or fire on safety release, does that include any manipulation of the trigger prior to the -- after the safety has been put on, but before it was moved to the off position?

A No. But it would be -- it might pull the trigger. That I would not consider manipulation.

Q A fire on safety release could include the sequence of putting the safety on, pulling the trigger,

and pulling the safety off?

A Yes.

Q Were any fire on safety release malfunctions identified in the audit procedure by the quality control process during the years '74 to '77?

A I don't recall.

Q Were a malfunction in the fire control identified during those years, in the audit process, under your supervision, what would be done?

MR. SCULLY: It calls for speculation, lacks foundation. You can answer it, if you know.

A We would work with process engineers to find out the cause, if indeed that was a malfunction at this time.

Q Let me be more specific. If one of your two quality control auditors detected a malfunction in the fire control of the model 700, what was the general procedure with respect to what they would do?

MR. SCULLY: Again, it assumes facts not in evidence, lacks foundation. You can answer it.

A They would report it to me, being the supervisor of the area. We would work with the current products group to find out if indeed it was a malfunction, and go from there to find out a cause, if one existed.

Q Was any record made of the auditors having detected a malfunction in the fire control of the model 700?

MR. SCULLY: Counsel, you've gone from a hypothetical to a factual situation. Your question is argumentative. However, you can answer the question.

A Rephrase that one, please.

Q I'm again talking about the years in which you were supervisor of quality control, and you told me that malfunctions in fire controls were detected, and I'm now asking you as to the procedure. If an auditor did detect such a malfunction, was any record or documentation made of their having found that malfunction?

A If one was found, it would have been recorded.

Q On what was it recorded?

MR. SCULLY: Well, on what was it recorded if it was found.

MR. AMES: Yes.

MR. SCULLY: Lacks foundation, calls for speculation. You can answer.

BY MR. AMES:

Q When one was found, which you told me some were found, how was it recorded?

MR. SCULLY: We're going from when to if, every other question.

A I have a question. What is "when one was found"?

Q If a malfunction was found in a model 700 fire control.

A Any malfunction?

Q Any malfunction to the fire control, where was it recorded?

A It would have been recorded in our quality audit records.

Q Is that the name of a particular document? Is there a document "quality audit records"?

A No.

Q What was the name of the document or documents in which it would be recorded?

A I don't know.

Q Would the document on which a malfunction in the model 700 fire control was recorded come from the auditors to you?

A Yes. But I have a question. What you're considering a malfunction, now. I think we should straighten out the term malfunction. You're saying FSR?

Q I'm using the word malfunction as I previously defined it, which is anything occurring not as designed.

A Okay. Anything occurring, yes.

Q And would -- Whatever the form on which this malfunction was recorded, would that come to you?

A Yes.

Q Would you be the first recipient of it from the auditor?

A Yes.

Q Would they send this document to anyone else, or a copy of it?

A They would not. It would come out of the office of the quality control supervisor.

Q From you?

A Yes, at this time.

Q And when the malfunction was FSR, during those years, would it also come to you on this document?

A Yes.

Q If the malfunction were an FSR, would they show you the actual firearm in question?

A If it was an FSR, yes.

Q Okay. When you had received this document, whatever the title was, indicating that a malfunction had been detected in a model 700 during those years, the fire control, what would the distribution be from you?

A It would go to engineering and production supervision, providing, again, it was a malfunction. There could have been a number of malfunctions, or a number of problems.

Q Okay. If it were an FSR, would it go to engineering and production?

A Yes.

Q Supervision by?

A Same as any other malfunction.

Q Okay. When you say engineering and production supervision, could you be more explicit what you mean?

A Process engineering would be current product

supervision, and at this time it would have been the production supervisor and superintendent directly involved in the manufacture.

Q Where would the original of this form --

A I don't know.

Q -- go?

A Oh. --

Q Did you keep it?

A It would have been kept in quality control records. For how long, I don't know.

Q Would you have sent a copy of that on to --

A Yes.

Q -- to other people you've told me about?

Current products and process engineering?

A Yes. Generally, as I recall, that would have been the way we would handle malfunctions.

Q Was the document on which the record of the malfunction in the fire control of the model 700 between the years we've been discussing be recorded on an eight-and-a-half-by-eleven sheet?

A Yes.

Q Was there a tag attached to the model 700

indicating the malfunction that had been detected?

MR. SCULLY: The rifle itself?

MR. AMES: Right.

A If there was a malfunction detected, it would have been marked on a tag and put on the gun.

Q Okay. Was any summary of malfunctions in model 700 fire controls during those years ever prepared to your knowledge?

A I don't recall any.

Q Were the results of quality control audits wherein malfunctions were detected in the model 700 fire control computerized during the years that you were supervisor of quality control?

MR. SCULLY: By computerized, you mean placed in a computer?

MR. AMES: Yes. Programmed into a computer.

A Not to my knowledge.

Q Were the -- I'll taken given years. Let's take 1976, the last full year in which you were in that job. During the year, did you review, or at the end of any time period, did you review the malfunction audit quality audit records that you told me about?

A Oh, I'm sure we reviewed them.

Q Did you have a regular program of looking back through the quality audit records from a particular period of time?

A No.

Q During the '74 through '77 period that we've been discussing, how did you determine whether there was a change in the number of type of malfunctions in any particular firearm coming off the production line?

MR. SCULLY: Any firearm, all firearms?

MR. AMES: All firearms.

MR. SCULLY: Him personally?

MR. AMES: Yes. As supervisor of quality control.

MR. SCULLY: Overly broad, calls for a narrative. You can answer, if you know.

A Let me just rephrase it. How did I determine any change coming off the line?

Q Well, any change in the number of type of malfunctions detected in the audit process of firearms coming off the line.

A It would have been just from what happened,

day to day, weeks, you know. You could tell if, for example, if a particular gun had a large item of wood scratched or wood marks coming from an area, you could determine it by, if you saw the same malfunction two or three days in a row, you know, you would determine that there is a problem here.

Q Did you keep any charts or records by type of malfunction that would show you an increase or decrease in a particular type of malfunction over the time?

A Quality control kept charts on, you know, percents of audits, demerits per gun, demerits per units of guns produced during this time, and these demerits covered anything from visual to functional.

Q By demerits, you mean if some flaw or defect were found in the gun, you would say that gun had a demerit?

A Right.

Q Did these demerits distinguish between malfunctions in the fire control and flaws in the stock, for example?

A Yes, they would. They were between functional and visual.

Q Did they distinguish between functional problems

such as failure to properly feed ammunition from the magazine and malfunctions in the fire control?

A They would be both considered major demerit items.

Q But if you had a list of demerits, would it break those two categories down?

A A function would be one value, and you use the sample of fire control.

Q All right.

A That possibly could be another value.

Q Okay. What category or other value would that fall under?

A Formerly, five-demerit items or functional items are on the scale. One was a visual, ten was a little more objectional visual, fifty was a function, and 100 was a safety-related item. For example, no magnaflex stamp on a barrel, broken component.

Q In 1976, if you had wanted to look and determine whether there had been a change in the number of firearm safety release conditions in model 700 fire controls detected over the preceding three-year period, what record or records would have been available to you to make

such an investigation?

MR. SCULLY: That question assumes facts not in evidence. It's vague and ambiguous, overly broad. You can answer, if you know.

A I can't answer for sure, but to my knowledge, there were records kept on all malfunctions. You are relating one malfunction, but we kept demerits and defects on all our guns so we could go back if we had to for a certain length of time, and I do not know what that period of time was at this time, or have these records.

Q When you say you kept demerits in that there were a hundred demerits for a safety malfunction, that would include the fire control mechanism, or would that include anything related to safety of the weapon?

A Anything related to safety. I specifically used as an example, for example, a magnaflex stamp or proof stamp missing from a gun.

Q So if you were looking back for the three-year period I've asked you about at these records, would you be able to tell specifically whether there had been an increase or decrease in firearm safety release malfunctions in the model 700?

MR. SCULLY: If you were looking back at this time?

MR. AMES: No. In 1976 looking for the three prior years.

MR. SCULLY: Again, same objection. Lacks foundation, calls for speculation. It's been asked and answered. You can answer. Go ahead and answer it again.

A If those records were available at this time, which I mentioned they were, I'm sure I could look at them and tell.

Q Would these have been records of demerits, or would these have been the sheets filled out by the auditor that you told me about earlier?

A These could have been earlier.

Q How, from looking at the records of demerits, could you distinguish between a fire on safety release malfunction and the lack of magnaflex tests on the barrel?

A It could be listed right on the sheet, demerited items and the value of them.

Q Say one or the other.

A It would say "Magnaflex stamp missing," "Scratch

on stock," "Poor color on barrel," things like that. It would be spelled out right on the sheet.

Q So you would go back through -- Were the files kept by model for a particular item?

A Generally, chronologically.

Q So you would go back through chronological files with respect to all of the models being produced and look on the sheets and see from day to day which particular models had demerits?

A That could be done.

Q Was there any summary record kept that you could go to directly and say we had so many demerits related to fire on safety release in the year 1975?

MR. SCULLY: This is when he was --

MR. AMES: In 1976. Supervisor of quality control.

MR. SCULLY: Lacks foundation, calls for speculation. He can answer it.

A At the end of a year, you could take these records, if they are available, and you could go back to them and see what the malfunctions were and you could do anything you wanted with them.

Q Did you, during the years that you were supervisor of quality control, spot fire on safety release malfunctions for any period of time?

A I don't recall.

Q Did you have a regular program during those years of going back and looking for any patterns in malfunctions in the firearms being produced?

MR. SCULLY: The question is vague and ambiguous. Regular program? What do you mean by that, Counsel?

MR. AMES: Did he, on a regular basis?

A I don't recall.

Q You don't recall such a program?

A No. I don't recall going back on a regular basis to check them.

Q Did you ever -- Strike that.

Do you know of your own knowledge of anyone else ever going back and making such a check?

MR. SCULLY: Are you assuming that he did, in your question?

MR. AMES: No. I'm asking if he knows if anybody else did. We've already discussed what

he's done. I'm asking to his knowledge of others.

A I don't recall.

Q You don't recall anyone doing it?

A No, I don't.

Q Do you recall anyone making any investigation into model 700 fire control malfunctions? Historical investigation, I mean, at any time?

MR. SCULLY: Up to the present?

MR. AMES: Up to the present.

MR. SCULLY: Historical investigation? What do you mean by that?

MR. AMES: Looking back to something before, more than a week back, over a period of time, to determine what the history of the fire control malfunction in the model 700's had been.

A This is from the present day back?

Q Yes. Have you any recollection at any time of anyone doing that with respect to the 700?

MR. SCULLY: The question is vague and ambiguous. You can answer.

A Yes. I'm sure it was done.

Q When was it done?

A I don't recall.

Q Was it done after you finished your position as supervisor of quality control?

A It was done probably after May of '77.

Q Okay. Do you recall who did it?

A No, I don't.

Q Do you recall what department or division did it?

A It would have been PE&C.

Q Do you know why it was done?

A It was done -- I'm sure it was done in conjunction with a legal case.

Q Did that investigation involve more than an investigation of historical incidents of model 700 fire control malfunctions in the quality audit process, or was it focused solely on the quality audit process?

MR. SCULLY: The question is compound, vague and ambiguous. You can answer, if you know.

A Could you give me one at a time?

Q All right. Was it focused solely on the quality audit process?

A No.

Q What parts of the firearm manufacturing process was this investigation -- did it include?

MR. SCULLY: Vague and ambiguous. You can answer, if you know.

A To the best of my knowledge, it would have included PE&C and production and research. I know I'm not supposed to ask questions. Are you looking for a specific investigation, or just general?

Q Well, you've told me you do recall some investigation.

A Okay.

Q The one you recall is what I'm asking.

A And I mentioned it was involved in probably for a court case.

Q All right.

A Okay.

Q Do you recall of any other investigations or studies with respect to the history of malfunctions in any connection with the fire control of the model 700?

A No.

Q Let me ask you to define another term, and that is your understanding of the term "fire control in the model 700."

A Fire control in the model 700 would be the trigger housing, all components inside of it, and outside of it.

Q Including the safety lever?

A For example, the safety lever, Sear Safety Cam trigger, connector, the housing, the pins.

Q Okay. Do you have any knowledge with respect to the results of this study or investigation into the malfunction and history of the model 700 that you've referred to?

MR. SCULLY: Are you referring to the investigation that was conducted by PE&C for a legal case?

MR. AMES: The one he has made reference to.

MR. SCULLY: That is what you're making reference to?

MR. AMES: Yes.

A Do I have any specific recollection?

Q Do you have any knowledge of what the results were?

A Not that I can tell you right now, verbatim, or exactly what happened, or what the results were.

Q Do you, in your own mind, have a recollection as to whether the results, as you understood them, were positive or negative?

MR. SCULLY: Counsel, that is vague and ambiguous. What is positive? What do you mean by positive and negative?

MR. AMES: Results that he felt were good, acceptable to him.

MR. SCULLY: Again, it's vague and ambiguous, calls for speculation. You can answer, if you understand.

A You want to know if the investigation produced results in improvements to our products?

Q What results did it produce? What do you have in mind when you say results?

MR. SCULLY: Again, vague and ambiguous, calls for speculation. Go ahead.

A There were results and, like, some changes to our process. I do not specifically remember what they were, but I know at this time there were changes made.

Q And this sometime you are referring to is sometime in 1977?

A I think I have previously mentioned from '77 on, and I don't recall the exact time.

Q Was it between '77 and the end of '79, general time frame?

A I do not recall the exact time period. I mentioned it's between when I was on this present assignment.

Q And are you able to say whether generally it was in the first half of this assignment or the second? You've been with this one for six years.

MR. SCULLY: Counsel, it's been asked and answered. He said he doesn't recall. You can answer it again, sir.

A Same answer. I don't recall the exact date.

Q I've been asking you for a general statement, not an exact statement. You don't have a recollection of generally?

MR. SCULLY: It's been asked and answered.

You are instructed not to answer.

BY MR. AMES:

Q Can you reference the time frame of these results and changes with respect to the model 700 as you referred to by reference to any other event other than a specific date?

A I had mentioned that it was in result of other court cases.

Q Do you have a particular court case in mind?

MR. SCULLY: Go ahead.

A The Coates case which involved a model 600.

Q And were there changes made in the 700 also, as a result of the Coates case?

MR. SCULLY: By changes, changes in what?

MR. AMES: Any changes in the model 700 rifle.

MR. SCULLY: You mean the design, manufacturing process?

MR. AMES: Change in the design or manufacturing process or quality control procedure.

MR. SCULLY: It's overly broad. It calls

for a narrative. You can answer, if you know.

A. There were changes made to the process.

Q. By process, you mean quality control process?

A. Manufacturing process.

Q. Manufacturing process. What were the changes to the manufacturing process as a result of the Coates case? Again, I refer to the model 700.

A. I don't recall specifically.

Q. Do you have a general recollection?

A. They did involve the fire control. More increased checks on the fire control components and the assembly of the fire control.

Q. Did they involve any changes in the design or specification for the fire control in the model 700?

MR. SCULLY: The question lacks foundation, calls for speculation from this particular witness. You can answer, if you know.

A. It's a two-part question as I see it. One you say in the design --

Q. Let me first ask you just design.

A. Not to my knowledge on the design.

Q. Any change in the specifications as to size or

parts or tolerance of parts --

MR. SCULLY: Same objection.

BY MR. AMES:

Q -- in the fire control of the 700 as a result of the Coates case?

A I don't recall. There were changes made. I do not recall what they were, and when I say specifications, it's strictly in the process standpoint.

Q That is the process of checking?

A Right.

Q Rather than the actual manufactured size of the parts?

A Yes.

Q Okay. Who would know about the changes that you've just referred to?

A You would have to talk with anybody in the research design section.

Q Since 1977, at any time, when you changed your present position, has the supervisor of quality control reported to you?

A No.

Q Who developed the trick test?

A I don't know.

Q Do you know whether the trick test has, to your knowledge, changed since it was first developed? I'm talking here about the trick test with respect to the fire control of the models 600 and 700.

MR. SCULLY: The trick test that he defined?

MR. AMES: Right.

MR. SCULLY: By change, do you mean in the method?

MR. AMES: Right.

A I don't know.

Q During the time that you were supervisor of quality control, and you told me that the auditors would bring model 700's to you, do you recall ever in your own mind identifying one or more causes for FSR in those model 700's being audited?

MR. SCULLY: Would you read that question back, please?

(The last question was read by the reporter.)

MR. SCULLY: Counsel, that is unintelligible.

Could you rephrase that question?

BY MR. AMES:

Q During the time you were supervisor of quality control --

A Okay.

Q -- during that period --

A Right.

Q -- did you ever in your own mind identify one or more causes of FSR in the models 600 and 700 which were being audited?

MR. SCULLY: The question is compound, lacks foundation. You can answer it.

BY MR. AMES:

Q I'll ask it as to the model 700, first.

A We've been talking about malfunctions, and --

Q In guns of which FSR could be one of these malfunctions, if it occurred at this time.

A Your question, now, as I am reading it, if there was any FSR at this time, would they have brought them to me as they would any other malfunction?

Q No. I'm trying to get to what your understanding is of that time with respect to the causes of FSR in

new guns that were being audited.

MR. SCULLY: What model guns?

MR. AMES: 700 is my question at the moment.

MR. SCULLY: It assumes facts not in evidence, lacks foundation. You can answer, if you can, without speculating.

A I would have to say you are making an assumption that there was an FSR, at this time, or there were subsequent malfunctions, right?

MR. SCULLY: That is why it lacks foundation and calls for speculation.

A (Continuing.) As I said previously, if there are -- There were malfunctions of any variety, they would have brought them to me for action.

Q Let me ask it from a different time period. At any time during which you have been employed at Remington, has it ever come to your attention that there have been one or more PSR malfunctions in a model 700? I'm referring, now, to new guns.

A Yes.

Q It has. And do you know what the time period

in which this has come to your attention?

A I don't recall.

Q Do you know how many?

A I do not recall how many.

Q More than a hundred?

A I don't recall how many.

Q Do you have any idea of the order of magnitude?

A No, I don't.

Q And what is your understanding of the causes of the FSR malfunction in the model 700 that has come to your attention?

MR. SCULLY: Well, he has indicated he doesn't recall how many have come to his attention. Your question is compound, calls for a narrative and is overly broad. However, you can answer it, if you can.

A It could be various malfunctions, various reasons. For example, the fire control could be in such a way that parts inside don't work freely.

Q Any other malfunctions again with respect to FSR in model 700's? And I'm talking about new guns.

MR. SCULLY: You want him to itemize all

the possible reasons for these various FSRs?

MR. AMES: No, that's not the question. I'm asking him as to the causes that he knows of with respect to the FSR's in the group that we've defined here.

A Because I said I have seen them, right?
There could be foreign material in the fire control.

Q In new guns?

A It could be oil, it could be a chip.

Q You mean a metal chip from the manufacturing process?

A Right.

Q Any other causes, to your knowledge, in the new guns?

A No.

Q In the process of that you told me about of assigning demerits to guns, who decided that a particular model and aspect of a firearm had too many demerits, if anyone?

MR. SCULLY: Assumes facts not in evidence, lacks foundation. You can answer, if you know.

A When I went on the job at quality control, there

was a system of demerited items or demerits, you know, for components, for items, and we went from that as our guide.

Q Okay.

A Now, when you get to ten and one demerit items, a lot of it is judgment.

Q When -- How many 100 demerit items with respect to a particular model would cause some action to be taken?

A One.

Q One. What action would that cause to be taken?

A Again, I had mentioned getting with the people in production and engineering for corrective action, immediate corrective action.

Q What if there were ten 100 demerit items with respect to a particular model?

MR. SCULLY: What do you mean?

BY MR. AMES:

Q Was there a particular level above one which something else happened other than demerits?

A No.

Q Who kept track of the quality audit records with

respect to the various models during the time that you were quality control supervisor?

MR. SCULLY: What do you mean kept track?

MR. AMES: Who was the custodian of these records?

MR. SCULLY: It assumes facts not in evidence, lacks foundation. You can answer, if you know.

A I don't recall the names, but I was directly responsible for them.

Q There was someone in your office who actually kept your files with respect to the quality records?

A Yes. There might have been several people.

Q And you don't recall any of the names?

MR. SCULLY: Counsel, that has been asked and answered. You are instructed not to answer.

BY MR. AMES:

Q During the time that you were supervisor of quality control, were there any changes in audit procedures with respect to the model 700?

A I'd have to say yes, but clarify that I don't recall what they were. However, I'm sure in a period of

three years there were some changes.

Q Were there any changes to audit procedures with respect to the fire control function of the model 700?

A I don't recall that.

Q Were there any changes with respect to the quality control audit procedures on the model 600 during the time that you were supervisor of quality control?

A Two questions back, I answered that there were probably changes made to the audit procedures on 700, but I don't recall what they were.

Q My question, now, was as to model 600.

A Same answer. I don't recall what they were.

Q Do you recall any changes to the audit procedure with respect to the function of the fire control in the model 600 during the time you were supervisor?

A I don't recall any.

Q When changes were made in the quality control audit procedures, during the time you were supervisor, were those changes recorded in any kind of a document?

MR. SCULLY: Your question lacks foundation, calls for speculation on this witness's behalf. You can answer, if you know.

A There were quality audit procedures and any changes were noted on them.

Q Okay. Are those quality control audit procedures that you were referring to something called "a process record - inspection"?

A I don't know if it's specifically that item you're talking about, but they were process records with dates listed on it, and a notation of changes.

Q In the audit procedures?

A Yes.

Q Sir, I'll show you a process record inspection form, and I'm not directing you to any particular information on this one, but generally as to the top. It says "Process Record Inspection" on the top, and I'll note that has been previously marked as LF-5.

MR. SCULLY: Fox?

MR. AMES: Fox, Mr. Fox's deposition.

BY MR. AMES:

Q Is that the form on which changes to the audit procedures would have been entered?

A No.

Q Okay. Can you, perhaps by reference to this,

can you give me a better description of the form?

A As I previously testified, we had quality audit procedures for machine studies, machine capability studies, components manufactured, and finished guns. We did not have any -- I was not responsible for anything of incoming raw materials, or we call these a purchase part inspection. This was handled by engineering.

Q So that the part by this process, when you say that, you are referring to -- that relates to the purchased part?

A Yes.

Q My question now goes to the audit procedures on the final third category you told me about. Final finished product. I'll show you a document previously marked LF-2 in Mr. Fox's deposition with the general title at the top of "Process Record." It does not use the term inspection like the other one. Is this the general form on which the quality audit procedures with respect to the model 700 would have been recorded during the time that you were supervisor of quality control?

A When you say generally, that is very ambiguous because this is a process record for manufacture. We

would have, you know, a sheet eight-and-a-half-by-eleven, and it would have quality audit procedures, somewhere on it, and it would list each one of the steps in the quality audit procedure, for this third phase that we're talking about.

Q Okay. And was it policy during the time that you were supervisor of quality control to enter any changes in quality audit procedures on firearms in the process records?

A Yes.

Q Would any changes with respect to the actual strike that.

(Whereupon, at 10:29 a.m., a brief recess was taken.)

(Whereupon, at 10:47 a.m., the proceedings were resumed.)

MR. AMES: Back on the record. Would you note that Mr. Scully is back in the room. Would you please note the time, 10:47.

MR. SCULLY: Mr. Scully is now sitting down and picking up his pen.

BY MR. AMES:

Q In response to the question before the break, you made reference to purchase parts, and you said those were handled by engineering. What did you mean by the term engineering?

A That would be in the process engineering group. The PE&C group.

Q Okay. And what does the PE&C group do with respect to purchase parts?

A They have people assigned the responsibility of working to make sure the purchase parts are to the drawings, and I had previously mentioned our process engineers manufacture components on the floor. Their purchase parts would be springs and screws and stampings and things like that. You showed me an example of it; there was a spring or something.

Q Did the -- Was this the change during the years that you were quality control supervisor?

A Yes.

Q Did the quality control people run any quality control checks on the purchase parts in addition to the -- whatever testing or checks may have been made by the PE&C people?

A No, none.

Q You said that for one year, approximately '76 through April of '77, you were also supervisor of product testing, which included the gallery?

A Yes.

Q The gallery is the place where Remington -- new Remington firearms are given a functional test, including firing, prior to being shipped?

A Yes.

Q And during the year that you were in charge of the gallery, who reported directly to you?

MR. SCULLY: From where? From the gallery?

MR. AMES: With respect to the gallery operation.

MR. SCULLY: Well, I don't know. The question isn't in those terms. We're just supposed to speculate what you want? Go ahead.

A There was a foreman in charge of the gallery.

Q Who was the foreman?

A To start with, I believe it was Earl Palmer, who retired, and I think the next one was Howard Lynch,

L-Y-N-C-H.

Q How many employees in the gallery were there at this time?

A Approximately twenty. That is just an approximation.

Q Were records kept at the -- of any malfunctions detected in firearms during the gallery testing procedures?

MR. SCULLY: Any malfunctions?

MR. AMES: Any.

MR. SCULLY: Overly broad and ambiguous.

You can answer.

A For the function testing and accuracy testing, there were records kept of malfunctions.

Q And would the testing with respect to functions have included testing of the model 700? Functioning of the model 700?

A Yes.

Q Would that include the fire control function?

A In the gallery procedure, one of the elements would be to check for proper operation of the safety.

Q During the year that you were supervisor of

the gallery operation, did the quality control -- I'm sorry, strike that.

Did the gallery procedures include a trick test as you've defined it of the model 700?

A I don't recall.

Q During the year that you were supervisor of the gallery, in what form was information with respect to malfunctions of fire control of model 700 -- Well, strike that.

Were there ever any malfunctions in the fire control of the model 700 in the gallery during that year?

A I don't recall.

Q Okay. If there were malfunctions, in what form would they have been recorded?

MR. SCULLY: Lacks foundation, calls for speculation. You can answer it without guessing.

A All malfunctions would have been recorded on a sheet, and then sent to a tabulation room and put on a computer report. That would be for the gallery malfunctions only.

Q So the gallery malfunctions were computerized by the quality control audit?

A That is right. That is right.

Q Was there any procedure during the years that you were quality control supervisor for anyone reviewing both the quality control audit malfunction records and the gallery malfunction records as a whole?

A I don't think there was any set procedure.

Q Do you have any recollection of anyone ever doing it?

A I don't recall anyone doing it.

Q Did you receive the sheets on which malfunctions detected in the gallery were recorded during the year that you were supervisor of the gallery?

A Yes.

Q You saw all of them?

MR. SCULLY: That calls for speculation, it's overly broad.

Did you see each and every one of them?

THE WITNESS: I saw every one that was given to me, but I can't say they were all of them.

BY MR. AMES:

Q Was it procedure that all of them should be

given to you?

A Yes.

Q Was the gallery ever used to test firearms as part of the quality audit procedure, to your knowledge?

A Yes, it was. I previously mentioned the third phase included, you know, function testing of the firearm.

Q That included firing in the gallery?

A Yes, it did.

Q Were those function tests fired in the gallery, or that took place in the gallery with respect to the model 700, where there was a malfunction, were those recorded as part of the computerized data in the gallery?

A No, they were not.

Q Why was that?

A I'd just like to go over something here. In our quality setup, at this time, the quality audit, as I mentioned, did just the three phases I talked about. The machines, components, and final guns, which included a function test. There were other aspects of the quality that I did mention, and things that were checked by areas other than quality audit. That would be -- I mentioned the purchase parts. Also mentioned were

the distortion and heat treat parts that would have been checked out by the chem and met people, and I had mentioned Kelly Chadwick as the supervisor of chem and met. The X number of rounds fired by the quality audit test in the -- was a quality audit function, and it was not reported by the gallery. The gallery reports were for guns coming into the gallery. They were tested and either passed or rejected.

Q Why was it that the gallery test data, with respect to malfunctions, was computerized, and the quality control audits of the same model of firearm was not computerized?

MR. SCULLY: It's been asked and answered.

A I can't answer why it wasn't.

Q Do you know if it has been, up to the present time?

A I can't say for sure. It's one of the things that is, I'm sure, being looked at.

Q Is it your testimony that during the years that you were in the process engineering and control section, in the production section, that the chem and met people checked every heat-treated part for possible distortion?

A They did not check every part.

Q Did they have an audit procedure to check some percentage parts?

A They had a heat treat inspector who checked for proper heat treat of components, coming out checking for hardness, primary hardness, for each lot that went to heat treat.

Q Did he check some percentage of each lot?

A Yes.

Q Who would check for distortion of parts as a result of the heat treat process?

MR. SCULLY: What time period?

MR. AMES: At any time that he knows of during his employment by Remington.

MR. SCULLY: It's overly broad. Do you want the name of the person, his position?

MR. AMES: Either, if he has the information.

A It's very -- It's like Steve said, it is broad, because checking for distortion could be, for example, a barrel that was crooked coming out of heat treat, that was crooked. It may have been that. This

would have been checked by anybody looking at it.

Q Let's take a specific part. Let's take the side plates for the model 700 fire control. Are those side plates heat-treated, is that correct?

A What time period? Presently?

Q Yes, presently.

A Presently, today, one side is heat-treated, and the other isn't.

Q Were either side heat-treated during the years that you worked in production with respect to supervising heat treatment?

A I can't answer for sure if they were or not.

Q Do you know why one side is heat-treated today?

A It has -- For function, one side has a safety defect ball on it. It's for wear resistance, to improve the surface.

Q Was that heat treatment process added with respect to that part sometime during the 1970's?

A I don't know.

Q Was it being -- Strike that.

Was the trigger connector heat-treated again with the model 700 fire control during the time that you

were in production, in supervising heat treatment?

A I would have to say to the best of my knowledge, yes.

Q Okay. Who would check the trigger connector for any distortion as a result of the heat treatment process?

MR. SCULLY: You mean the individual? The name of the individual, his position?

MR. AMES: For that position.

A It would be checked by the heat treat inspector for proper heat treat. He would possibly visualize them to see if they were crooked. The assembler who would assemble it to the fire control would be able to tell if it was distorted. He wouldn't be able to get it into the trigger housing.

Q Sir, during the year that you were supervisor of the gallery, did you ever see any reports which set out data with respect to types of malfunctions found in the gallery by model?

A Yes. I had mentioned there was a computerized report sent out by recording malfunctions.

Q Okay. Did you ever see any data other than the

computer printout?

A I don't recall any.

Q Did you ever see any summary such as this? I'm referring to GRB-2A and 2B. They are copies of the same document.

MR. VIRI: They overlap a little bit.

BY MR. AMES:

Q Once you could read one edge of the page and the other you can read the other page.

A There was actually a time when I wasn't involved with it.

Q I understand that.

A I don't recall. I don't recall seeing them. I could have, but I do not recall it.

Q The computer printouts that you recalled seeing, were those ever printed in chart form?

A On the information coming out of the gallery, there was a daily summary, a weekly summary, and a weekly summary was plotted on the chart.

Q Was that plotting done by the computer or by some person?

A By manual.

Q Who did that on the chart, manually?

A I do not recall.

Q Was it an employee of the gallery, one of your people?

A That is a two-part question. It would be, as I recall, somebody in the quality control.

Q Did this chart -- What information was on the chart?

MR. SCULLY: What information from his recollection?

MR. AMES: Yes.

BY MR. AMES:

Q What is your recollection of the categories of information?

A Percentage malfunction, by model, or actually it was by category; center fire, rim fire and shotgun.

Q And were the types of malfunctions broken down on the chart?

A No. It was just a strict percentage of guns tested or guns rejected, divided by the guns tested.

Q Center fire, shotgun and rim fire?

A Yes. And then there were models, too. It would

be by model, too.

Q Did the weekly report break the malfunctions out by categories of malfunction?

MR. SCULLY: Go ahead.

A No. I mentioned it was just by -- Okay. The weekly report would have a -- Right, it would. It would list each one of the malfunctions.

Q Okay.

A And the number of each.

Q Is that by a code number?

A Yes.

Q Let me show you a document previously marked as GRB-4 which has a list of code numbers on the left column, and then category and type. Are those the code numbers that you were referring to?

A No, nope. No, they are not.

Q Let me show you another document previously marked as GRB-6 with the heading "Malfunction Index." This is a multi-page -- five-page document.

A These are the codes that are from the gallery malfunctions, and this is the gallery malfunction index.

Q This is what you were referring to as of 1977

from the computerized daily and weekly reports?

A The year 1976.

Q Or 1976?

A Yes. When I was involved in it, right.

Q Okay. Were any monthly or -- Let me strike that.

Were any summaries with respect to malfunction by model and type of malfunction prepared for any period longer than a week?

MR. SCULLY: The question is compound.

You can answer it, if you can.

A I believe, to the best of my knowledge, there possibly was a quarterly or yearly summary.

Q Is that, again, a computer printout-type document?

A Right.

Q Do you know what the distribution of the quarterly or yearly summary that you mentioned was?

A I don't recall. I do not recall.

Q Sir, I'll show you a computer printout which has been produced by Remington in this case, gallery test data summary model 700, 1976.

MR. SCULLY: Let's have that marked, please.

MR. AMES: Steve, I'd rather not mark the original, but rather a copy.

MR. RAU: This is an extra.

MR. AMES: Would you please mark this as GJH-2?

(Exhibit GJH-2 was marked for identification.)

MR. AMES: I'm going to detach the other years which we are not marking, Steve, but I don't have a method of securing the pages right now.

MR. SCULLY: All right.

MR. AMES: This is the gallery test data summary model 700, 1976.

BY MR. AMES:

Q Is that the yearly summary that you referred to?

MR. AMES: We have detached the other years, and stapled together the GHJ-2.

A Could I take a look at this just one moment?

Q Is that --

A Well, it's listed as a gallery test data summary for '76. New guns, repair guns. It does have -- I would have to say yes.

Q Were there any other annual summaries that you recall?

A No, I don't. I mentioned there was possibly a quarterly or annual summary.

Q Okay. And does that appear to you to be the annual summary you were referring to?

MR. SCULLY: The document speaks for itself. You can answer it, if you can.

MR. AMES: I'm asking him if he recognizes it.

MR. SCULLY: You're asking him if he recognizes that document? Is that what you are asking?

MR. AMES: The annual summary he was referring to.

A To the best of my knowledge, looking at it, it appears to be that.

Q Did you ever see a computer printout that

summarized certain categories of malfunctions rather than all of the categories of the malfunction index?

MR. SCULLY: The question is vague and ambiguous. You can answer, if you understand.

A I don't quite understand what you're getting at.

Q Well, did you ever see a malfunction printout from the computer that showed data with respect to one or more categories of malfunctions, but not all of the data shown in the gallery test data summary?

MR. SCULLY: The question is compound, vague and ambiguous. You can answer, if you can.

A I don't recall.

Q Okay. Sir, in Exhibit GRB-6, I'll refer your attention to item number sixty-four wherein it states, "FSR, fires when safe is released." Is that the same FSR that we were discussing earlier?

MR. SCULLY: What do you mean is that the same FSR?

BY MR. AMES:

Q Is the term as used there defined, the same way

as your understanding of FSR that we discussed earlier?

MR. SCULLY: Again, the document speaks for itself. His definition certainly doesn't match word-for-word with this particular definition of sixty-four. The document speaks for itself. FSR stands for fires when safe is released.

BY MR. AMES:

Q Do you understand -- Did you understand in 1977, when you were supervisor of the gallery, that this use of the term FSR meant the same thing as what you told me earlier this morning?

A I can't say for sure.

Q Do you have any reason to believe that you understood it to mean anything different?

A My interpretation would be the same at this time, but the gallery person writing it down, he may have had a different interpretation, or it may be something different.

Q The person who actually is making the function test might have a different understanding of FSR?

A He shouldn't, but it might be something -- It

might not be the exact same thing that I told you.

Q Okay. Do you have any facts that would lead you to believe, now, that it is not the same thing as what you told me?

MR. SCULLY: The question is vague and ambiguous. He just said that the author of this particular document might have a different definition of FSR. His definition might not be the same as this witness's definition. Now you're asking him what facts he has that would lead him to believe that the person who authored this doesn't have the exact same definition of FSR that he does. It just doesn't make any sense.

MR. VIRI: I think the question is, do you have any facts that lead you to believe that.

MR. SCULLY: The question is still vague and ambiguous.

MR. AMES: It's very clear.

BY MR. AMES:

Q What facts, if any, do you have that would lead you to believe that the person making the function test

and noting FSR on the report from the gallery might have intended a different understanding of the term FSR than what you told me about this morning?

MR. SCULLY: That calls for pure speculation.

MR. AMES: It's only if he knows.

MR. SCULLY: Pure speculation. You can answer, if you can.

A I don't know.

Q You don't have any facts?

A No. You asked me previously what I thought it was, and I explained to you what I thought that FSR was.

Q Am I correct in understanding that if I read -- Sir, I'm referring here to the one, two, three, four, five, six, seven, eighth page of the '76 gallery test summary. I'm going to underline a particular line here with blue ink. Sir, referring to the line that I have just underlined, looking at the first column, appears the word "malfunction."

A Yes.

Q Do I understand correctly that that means that it was a malfunction in the function test?

MR. SCULLY: Well, the document speaks for itself. You're asking him to interpret what the document means.

MR. AMES: I'm asking his understanding of what that means.

A It would be a malfunction.

Q Would that be in the function test as opposed to the accuracy test?

A Yes.

Q Okay. And if I look in the second column, I see the number 700. Would that mean that refers to the model 700?

A Yes. Model number 700.

Q And a third column would be a caliber?

A Yes.

Q And the fourth column would be the malfunction code?

A That is what the document says, yes.

Q Would I be correct in understanding, from looking at this, that as the number sixty-four appears there, the computer report shows an FSR malfunction in a 270 caliber model 700 in the gallery during 1976?

MR. SCULLY: Well, again, the document speaks for itself. I will have a continuing objection regarding this witness's interpretation as to the document as not authored by him.

BY MR. AMES:

Q Would you answer the question, please?

A Would you repeat it, please?

Q Am I correct in understanding that in 1976 that the computer is reporting that a model 700 270 caliber malfunction, number sixty-four, which is FSR, was reported at least once?

A It was reported, yes.

Q Okay. And further, that some percentage was rejected of new guns?

A Yes.

MR. SCULLY: Yes, that is what the document says?

THE WITNESS: Right.

BY MR. AMES:

Q And that the total percentage rejected was 0.47

A Yes. That is what the document says.

Q And 0.4 of what number of those firearms?

MR. SCULLY: What firearms?

MR. AMES: Model 700's.

MR. SCULLY: Produced?

MR. AMES: Tested in the gallery in 1976.

MR. SCULLY: It calls for speculation,
lacks foundation.

A This report you're referring to says number of
guns rejected.

Q That is the column after malfunction code?

A Yes.

Q Now, on the line that I'm referring to, that
would be -- okay, that would be four?

A Four, right.

Q Okay. That is --

MR. SCULLY: That is what the document
says?

THE WITNESS: Yes.

BY MR. AMES:

Q Number of guns rejected is four, and the per-
centage is 0.4. That is the percentage rejected?

A Yes. That is what the document is showing.

Q That -- What would you conclude is the total number of model 700's, 270 caliber which were tested?

MR. SCULLY: It lacks foundation, calls for speculation.

A I do not see on this report where it says the total number of guns tested.

Q Okay.

A That I can say for sure.

Q When the figure percentage rejected appears there in the column on the right-hand side just before the word "test", what is that a percentage of?

MR. SCULLY: Again, it calls for speculation, lacks foundation.

A The time period, 1976, there were four guns rejected for malfunction code sixty-four, which was FSR.

Q For the model 700 270 caliber, right?

A Yes.

Q Is that -- Is there a percentage figure there? What is that a percentage of?

MR. SCULLY: Same objection.

A I cannot tell you right offhand, because I don't have -- I do not recall what the total number of

guns tested is.

Q Do you --

A Without studying that some more.

Q In reviewing the face page of this first sheet, do you see any reference to total number of guns?

A Okay. Here over on the final three columns, it says, "total all guns tested, 17075."

Q You're referring to the column on the right-hand side on the general heading of "totals," and then the sub-column total "guns tested," and then back on the line above the line that I've drawn on the blue, there appears at about the middle of the page on the right-hand side the number 17075. I'll draw a circle around that number in blue.

Does that indicate that 17,075 model 700 270 calibers were tested?

A Yes.

MR. SCULLY: That is what the document says?

THE WITNESS: Right. That is what the document is telling us.

BY MR. AMES:

Q Okay.

A Of that, 1,002 guns were rejected, all totaled all guns rejected.

Q Yes.

A And then there is a percentage. This refers to four-tenths of a percentage of total guns rejected.

Q Okay. The figure .04 that I put on the blue line that I put in -- 0.4, I mean to say, before the word "tests" refers to 0.4 percent of the total number of guns rejected?

A Or out of 1,000.

Q Okay. Sir, referring you similarly to another page here in the exhibit, I'm going to draw a second blue line and indicate that that is a second line that I have drawn, and do I understand correctly that this indicates that as to model 700's in the 2250 caliber --

MR. SCULLY: 2250?

MR. AMES: 2250, correct.

BY MR. AMES:

Q With respect to the FSR code number sixty-four, there were nine malfunctions?

A That is what the document indicates, yes.

Q Okay. That is 0.47 percent of the total number of 1275's which were rejected?

A Yes.

MR. SCULLY: That is what the document says?

THE WITNESS: That is what the document says, right.

BY MR. AMES:

Q Have you ever seen any summary or documents that would list for any different period of time all of the code sixty-four FSR malfunctions?

A No.

Q Okay. During the year 1976, the gallery tested repaired guns, is that correct?

A You are saying 1976. During the year, I was responsible for only from April until the end of the year. I was not responsible for the gallery the whole year, whole calendar year of 1976, which this is.

MR. SCULLY: This is, referring to Exhibit 2 of your deposition?

THE WITNESS: Yes.

BY MR. AMES:

Q With respect to the time with which you were responsible for the gallery, were repaired guns tested in the gallery?

A Yes.

Q And were those new guns that had previously been rejected either in gallery tests -- make it just that -- and repaired and were now being brought back for another gallery test?

MR. SCULLY: Are you defining repaired guns?

MR. AMES: I'm asking him if that includes guns being prepared and brought back into the gallery.

A It does include them.

Q What other categories are included in repaired guns tested in the gallery?

A It could be guns with other malfunctions. It could be -- Let me just think.

Q Let me ask you. Would it include guns that had been detected in the quality control audit process?

A No. No, it would not include those.

Q Would it include guns that had been sent in from

field service for repair?

A No. No, it would not. That is entirely separate.

Q Were guns sent in from field service for repair tested in the gallery when you were supervisor?

A Yes.

Q Was the data with respect to malfunctions detected in those after the repair during the gallery tests computerized?

A No.

Q Do you know if any record was kept of the data of any subsequent malfunctions after the repair?

A I believe to the best of my knowledge there was no record kept at all.

Q What other, if you can think of any, categories of guns would come under the repaired guns heading?

A There could be guns corrected in the gallery. I was thinking about repair or a new part for a shotgun, for example, where it would require a new belt which it had to be requested. The majority of repaired guns are ones that had been thrown out or rejected at the gallery.

Q And then brought back. Can you think of any

other in the gallery that would be in as part of this category of number?

A No.

Q When a gallery was -- When a firearm that had been repaired after being sent in from the field was brought into the gallery for testing, during this year we've been talking about, if there were a malfunction after the repair, would a malfunction report be filled out at this time?

MR. SCULLY: Calls for speculation, lacks foundation. You can answer, if you know.

A If guns that come back from customers come to our customer gun shop, customer repair we call it, they look at the malfunction or the complaint from the customer, fix it to the best of their knowledge, it goes up to the gallery, retested. If it passes, it passes. If it's rejected again, it would be so marked on, I don't know, some slip of paper, and sent back with the gun to customer repair, and then that would be a repair gun for them. They would repair it again and send it back.

Q Would the malfunction report that you told me was written with respect to new guns that malfunction in

the gallery tests, would that same report be filled out as the repaired guns that were being tested in the gallery?

A The new gun, only customer guns, at this point. The new guns and the repaired guns, they are included on the report here on Exhibit 2. We got two categories of repaired guns, one we call a repair gun that we rejected in the gallery and sent back in. These are guns that are still probably at Remington Arms.

Q That is the repair gun shown here in this column?

A Yes. The other ones we are talking about are the customer guns sent in for, quote, repairs, and there's really no repair on malfunction of those.

Q Okay. Mr. Hill, have you been involved in any way with customer guns sent in from field service for repair?

A Yes, I have.

Q When was your earliest involvement with guns sent in?

A My present assignment would be my first, you know, that I can recall. That would be in May of '77.

Q So prior to May of '77, you weren't involved with customer guns?

MR. SCULLY: That is to his best recollection.

A I want to clarify that just a moment here. To the best of my recollection, I will go back to May of '76 on that. When I was in product testing and quality control, I was involved in guns returned from customers, but in a different capacity at this time.

Q Different than what? Previously?

A Right.

Q What capacity were you involved with guns returned from the customers in the beginning of May, '76?

A We had, at this time, what we called a damaged gun committee. A gun committee in which we looked at guns returned from customers, flagged out by our arms customer repair section that merited some extra looking at other than the, you know, gun repairmen, and from '76, '77, I was a member of the committee, and then in May of '77, when I went on my previous assignment, that of course I hold now, I acted as the chairman and made a record of whatever they did, the committee, calling the committee

to act together, and more or less getting it going and taking the action on the guns and sending them back to the customer repair.

Q Okay. You referred to it as the "damaged gun committee" or "returned gun committee." What about the gun examination. Would that be the same thing?

A I have no idea what you are talking about. But as far as I know, it would be the same committee.

Q The only one that examines guns at this time?

A At this time.

Q At this time, is there any other committee that examines guns returned by customers?

A Yes. There are other people investigating now, other than this committee.

Q Now, as to all guns returned by customers, does this committee see all that are flagged by the repair department?

MR. SCULLY: Counsel, that calls for speculation.

BY MR. AMES:

Q What is the procedure of what the committee sees?

A We did, at this time, see guns that they felt we should look at. For example --

Q Before we get to that, you say that there is some additional people that look at some guns?

A Yes.

Q What is the criteria that determines whether the committee which you are chairman looks at guns as opposed to these other people?

A During the last several years, this was changed so that the people investigating these guns are the ones that are involved more with product liability.

Q And is there a name for that group?

A I don't know.

Q Who is involved in that group of people?

A Right now, it's Ed Sienkiewicz and Jim Stekl.

Q What, to your knowledge, is the procedure called for all guns that are seen by the Sienkiewicz and Stekl group also to be seen by your committee?

A Our committee is dissolved.

Q So they have replaced your committee?

A Yes.

Q When did your committee dissolve?

A Within the last year.

Q Were there two parallel committees operating prior to yours?

A No, there was not. Mr. Sienkiewicz and Mr. Stekl at different times were members of the first committee.

Q Okay. Do you have any information with respect to the record-keeping that the present Sienkiewicz/Stekl committee may make with respect to firearms returned for their inspection?

A Any firearm that comes back, they usually fill out a damage action report. It may be a little different connotation than that, but they do write these damage action reports and they are kept in the files for three years. After three years, they are destroyed so we don't have three-year copies of these.

Q With respect to the damaged action reports that you just mentioned, is that the same thing as the gun examination report?

MR. SCULLY: It calls for speculation.

You can answer, if you can.

A I mentioned that I wasn't sure exactly of the

name of the report.

Q Sir, I'll show you a one-page document entitled "gun examination report" with the number RD-652-41, revision 21561, in the upper left corner. Is that the damaged action report that you were referring to?

A Yes, it is.

Q Okay. That is all I wanted to establish with that form. Have the procedures during that time that you were on the -- Can we refer to it if I use the words "gun examination committee", will we be referring to the committee you were the chairman of?

A Yes.

Q With respect to the gun examination committee during the time which you were a member, beginning in May of '77, until it was dissolved, were the forms used the same during that period?

A Yes.

Q Were the procedures with respect to examination of model 600 rifles the same over that time period?

A Yes.

Q Were the procedures with respect to examination of model 700 rifles the same?

A Yes.

Q Were you chairman of that committee from '77 until it dissolved?

A Yes.

Q And that was because of your capacity as supervisor of process engineering, current products?

A Yes. Like they say, it went with the territory.

Q Who else's territory went with it?

A Okay. Generally, we had a person from design, we had a representative from the product testing, supervisor of product testing. We had, I guess they are called, customer service representatives, which would be Mr. Stekl and Mr. Sienkiewicz.

Q That is three categories?

A Right. Generally, it was four to six people.

Q Okay. What criteria -- When you say -- Or, let me put it in another way.

Was there anybody there from the quality control section of PE&C?

A The product testing as -- When I left that position in, when was it, seventy -- May of '77, somebody was appointed supervisor of quality control and

product testing, so that person who, at this time, represented the product testing, also was responsible for quality control.

Q Is there anybody directly from the production --

A No.

Q -- section?

A No.

Q What criteria were used to determine what firearms returned by customers merited extra looking at?

A That could be an alleged safety malfunction from the customer. It could be a gun that is damaged beyond repair. It might be a gun that a customer alleged a problem and the gun repairman could find nothing wrong with it.

Q When you say a safety malfunction, do you mean by that a malfunction of fire control?

A Safety inoperable, safety won't work.

Q Would it include a malfunction that made the gun unsafe? Let me give you an example of that. If there was a malfunction of the bolt lock mechanism, whereby there was a possibility of the gun exploding or blowing back --

MR. SCULLY: Are you asking him about the safety malfunction, what that would include?

MR. AMES: Whether his term safety malfunction would include such a problem.

A Well, you would have to say -- I think I would have to explain a little. All guns have safeties which work properly, so the gun cannot be fired when it shouldn't. For example, the shotgun might have a problem in the lock-up mechanism in which the locking notch is gone and for the customer to use it, it would be unsafe or hazardous to his health; he might have a real problem. It might not hold, and it could blow up. We consider that unsafe.

Q An unsafe gun rather than a safety malfunction?

A Right.

MR. SCULLY: Let him finish his response.

A (Continuing.) You are asking, I believe, if we would get items up there for safety malfunctions, and now we would. We might get one up there where the safety does not work. But we also have what we consider a gun unsafe.

Q I was establishing that they were two categories,

and I think you've explained that.

A Okay.

Q Who made the determination as to whether the gun examination committee would look at a particular gun?

MR. SCULLY: The individual?

BY MR. AMES:

Q What department, for starters?

A All guns returned from customers come into customer repair.

Q Is that the same as arms services?

A Customer repair, arms services.

Q Would the determination as to what guns were going to be looked at by the gun examination committee be made in arms services?

A Right.

Q And by title or position, who would make that determination?

A I'm sure at the time it was a combination of the repairman and his foreman.

Q Okay. And would that have been a number of different people during the time you were involved with

the gun examination committee?

A Yes. It would be several foremen and more gun repairmen.

Q Would that person making that determination, would their -- would they be identified on the gun examination report form?

A No, they weren't.

Q When such a determination has been made by a repairman or foreman, that it should go to the gun examination committee, what was the next step?

A The next step, the guns would be brought up to my office, and I had several people that worked for me in the final assembly area that would take this gun and write up part of the initial items on the previous exhibit we looked at, gun examination report. They would try to determine the date of manufacture, the customer's name, give a general -- and I say general opinion of the gun, whether it's wore out or in excellent condition, filthy dirty or whatever it is.

Q Would the --

MR. SCULLY: Well, you keep interrupting him.

MR. AMES: I thought he was finished or I wouldn't have interrupted him, Steve.

MR. SCULLY: That is your problem, you don't think. Let him finish.

A (Continuing.) After he was done with it, it would come back to me and we would convene the committee and the committee would take the date that that was provided and they would make an examination of the gun and try to determine whether the customer's malfunction or the complaint was legitimate.

Q You convened the committee?

A Yes.

Q How often did the committee meet? Say between '77 and the time it dissolved?

A Generally, it was weekly.

Q Did the customer's complaint come along with the gun when it arrived in your office?

A Yes. Ninety-five percent of the time.

Q And the other five percent of the time, why wouldn't you get it, if you know?

A Sometimes the customer would send it in without the letter, or, "repair this thing." He wasn't sure what

was wrong with it.

Q Would any communication come from the repairman who had looked at it in arms services either verbal or written?

A Sometimes.

Q And what form would that take?

A Oh, generally it would be on -- I think each gun that comes in to arms services for customer repairs has a paperwork, eight-and-a-half-by-eleven paperwork, that goes with it to, you know, record who it comes from and assign a number, or for referral on it, and he may write a comment on this as to, "I don't believe the customer. I can't figure out what this guy's talking about." Or, "It looks like, to me, something happened that he is not admitting to us," or whatever.

Q Did -- Was the eight-and-half-by-eleven paperwork that you referred to known as a receiving and estimating report?

A In lieu of not having it exactly right, if I could see one --

Q I don't have one. But someone else mentioned that terminology. There we go, okay?

A Right. This is what it is, and like I said, it would record pertinent information plus it would give an order number, too.

MR. SCULLY: Let's mark that.

MR. VIRI: That is my only copy. He is going to put this whole thing in.

MR. SCULLY: In this deposition?

MR. AMES: Yes. This is GER number 209 dated 12/27/79. 209 is the number and the date is 12/21/79.

We'll mark this as GJH-3, with your permission. May I mark it?

MR. VIRI: As long as I can get a copy back, I don't care if that document gets marked.

(Exhibit GJH-3 was marked for identification.)

(Whereupon, at 11:54 a.m., a brief recess was taken.)

(Whereupon, at 11:55 a.m., the proceedings were resumed.)

MR. AMES: Note for the record that Mr. Scully and Mr. Hutton and Mr. Hill have returned.

BY MR. AMES:

Q Sir, have you clarified whatever you needed?

MR. SCULLY: Counsel, what we did or said or what business we conducted is none of your business. It's protected by the privilege. We have finished our business.

BY MR. AMES:

Q Anything I can clarify for you?

A No.

Q Okay. Sir, showing you GJH-3, at the top of that document appears the word "revised."

A Yes, it does.

MR. SCULLY: That is what the document says?

THE WITNESS: Right.

BY MR. AMES:

Q Handwritten?

A Yes, it is.

Q Is that your handwriting down in the remarks or comments section, rather, at the bottom?

A Yes, it is.

Q Is that your handwriting, the word "revised" at the top of the page?

A To the best of my knowledge, it's mine.

Q What does revised mean as used on that form?

A After the gun examination committee looked at it and signed it and there may have been another test or something done on this, and this information would have been added to the report, and then reviewed again with all members of the committee.

Q Okay. Can you tell from looking at that what the revision may have been?

A To the best of my knowledge, looking at this, it was probably -- we probably did a forty-round test on it.

Q That would be a gallery test?

A Yes. It specifies exactly how we did it.

MR. AMES: Let's take a lunch break.

MR. SCULLY: Counsel, we have Mr. Hagen scheduled for 1:00.

MR. AMES: Mr. Hagen at 1:00. That is my understanding. He is under subpoena, and we will get back to Mr. Hill as soon as we finish up with Mr. Hagen.

MR. SCULLY: All right. We'll give you a

buzz when we need you again.

(Whereupon, at 11:57 a.m., a luncheon recess was taken.)

AFTERNOON SESSION

(Whereupon, at 1:30 p.m., this deposition was resumed.)

MR. SCULLY: Bob, why don't you go on the record regarding the documents?

MR. SPERLING: Remington has supplied copies of all minutes of the product safety subcommittee meetings discussing gun malfunctions, or the possibility of gun malfunctions relating to or connected with Remington bolt action trigger assemblies (fire control).

MR. AMES: Sir, are you telling me that you are not going to produce it as to all firearms as originally stated in the request for production and ordered by the Court?

MR. SPERLING: I've described what has been produced in compliance with what the court order is, and what we feel the term firearms is in connection with the lawsuit, and in

conjunction with the order.

MR. SCULLY: Counsel, that is all your inquiry as to this particular gentleman is concerned. Are you inferring that we have to supply all minutes on all rifles, not just the 700 and 600?

MR. AMES: On all product safety subcommittee meetings on which there is a discussion of malfunctions on firearms.

MR. SCULLY: We'll go back to the Court and discuss that again.

MR. AMES: You are refusing to produce it?

MR. SCULLY: I'm not refusing to produce anything. My understanding is, it's pursuant to the court order, to supply you with any and all information on the 700's, and we are also giving you information regarding the 600. I am unaware of any order that requires us to produce information on other rifles. Let's get on with this deposition and let the Court decide again.

MR. AMES: Okay. We're back to Mr. Hill

after a recess and Mr. Hagen's deposition. He is retired and we took him at the time he came, 1:00. It is approximately 1:32, and we are beginning again with Mr. Hill.

BY MR. AMES:

Q During the recess we've had in your deposition, have you discussed this case with anyone?

A No, I have not.

Q Have you reviewed any documents in connection with this case?

A No, sir.

Q I believe we were discussing the gun examination committee when we recessed. You told me that someone in your office would fill out preliminary information on the gun examination report form prior to the committee meetings, is that correct?

A Yes.

Q And is that the person whose name appears after the words "checked by" on the GER form?

MR. SCULLY: Has that been marked, Counsel?

MR. AMES: Yes.

MR. SCULLY: What exhibit number?

Three, okay.

MR. AMES: He has testified that was the same GER form used throughout.

BY MR. AMES:

Q There is a space by "checked by". Is that the space where the person who filled out the preliminary information would put their name?

A Yes.

Q And was that, during the time that you were on the gun examination committee, done generally by Marshall Hardy?

A Yes. I'm just trying to think. I'm trying to remember when Marshall went out on that job. I'd say the majority of the time it was done by Marshall on the center fire rifle.

Q What was Mr. Hardy's job other than filling out those forms?

A Mr. Hardy was a senior technician in what we call our final assembly area. He would be working with guns that possibly malfunctioned, gallery malfunctions. Also, any assembly problems that might come up during the day's production, plus any other special guns or

anything we had to produce for who knows, anybody.

Q What section or group does Mr. Hardy work in?

A He was in the current products group.

Q Of process engineering and control?

A PE&C, current products.

Q Who was the chairman in the year in which you were on the committee prior to becoming the chairman yourself?

A I believe there were two people. I believe, to the best of my knowledge, it would be Jim Bower and Dennis Anderson during the year prior to my going on there. They split the job I have now, you know, approximately half a year each.

Q Do you have any information as to who it was before those gentlemen?

A Prior to that would have been Ray Carr. Prior to that, it would have been Ray Hurley.

Q When you came on the committee for the first time, at the time you joined the committee, did you have any information as to the prior history of any malfunctions in the fire controls of bolt action firearms as discovered in that committee?

MR. SCULLY: It's vague and ambiguous, assumes facts not in evidence.

A I would have to say possibly.

Q Prior to coming on the committee, where would your information about that historical stuff and the committee have come from?

MR. SCULLY: Lacks foundation, calls for speculation. You can answer, if you know.

A You want to know where I would have got this information?

Q Yes. Prior to becoming a member of the committee.

MR. SCULLY: Again, lacks foundation, calls for speculation.

A Well, I can't say for sure, but it could have come from --

MR. SCULLY: If you don't know, that is a perfectly acceptable response.

A (Continuing.) I don't know for sure.

Q If you have a general recollection that would include several alternatives, would you tell me what those alternatives are?

MR. SCULLY: You can go ahead and answer,

if you can without speculating or guessing, regardless of the questions, or how many times he asks it.

A Well, it would come from possibly looking at prior reports from other people, of what I've picked up in day-to-day conversation, and on various assignments.

Q Were you a recipient of gun examination committee reports on a regular basis prior to becoming a member of the committee?

A No.

Q Did you see some, however?

A I would have to say, when you say some, I would say yes.

Q Okay. Do you have any recollection of seeing any model 700 gun examination reports?

A No, I don't.

Q When you came on the committee in 1977, was there any specific program with respect to how long gun examination reports were being kept at this time?

A No.

Q Do you know how far back reports of the gun examination committee existed, at that time?

A Yes, I believe they went back into the 1960's.

Q Did you ever make any investigation of those reports of the committee prior to the time that you came on the committee?

A Not that I recall.

Q Did you ever make any study of them?

A Not that I recall.

Q Do you know of anyone else ever making any investigation of those gun examination reports from the 1960's up to 1977?

A No, I don't.

MR. SCULLY: The question is overly broad, go ahead.

A (Continuing.) No, I don't.

Q Do you ever -- Did any information with respect to the number of, or types of malfunction, in bolt action fire controls from the 1960's up through 1977 ever come to your attention?

A No.

Q Do you know if any summaries or studies of gun examination reports were ever made, that is those from '66 or the sixties up to 1977?

A I don't know if there were any reports made or not.

Q Do you know if any studies were ever made of gun examination reports data from 1977 when you joined the committee up until the time it was dissolved?

A I don't know.

Q Were you given any particular training or instruction at the time you joined the gun examination committee with respect to your work on that committee?

MR. SCULLY: The question is compound.

You can answer it.

A Was I given any instruction before I went on the committee?

MR. SCULLY: That is part of the question.

BY MR. AMES:

Q At the time you came on the committee.

A It's compound. Could you --

Q Training at the time you came on the committee.

A No.

Q Were you given any training before you came on the committee?

A No.

Q Were you given any instruction at any time with respect to your job in connection with being on that committee?

A I don't recall.

Q Did you come to the first meeting of the committee after it became your responsibility to do so and just start participating in the deliberations of the committee?

A Yes. But I'm sure for the first meeting it was just from an observation standpoint, just to see what was going on. If there was any training, that is all it was, by observation. As time went on, you learned what some of the things were that were going on, and how to handle them.

Q During the first year that you were on the committee, before you became chairman, who filled out the comment section of the gun examination report?

MR. SCULLY: By position, or a particular individual?

MR. AMES: A particular individual, if he know.

A To the best of my knowledge, it would have been

either Dennis Anderson or Jim Barr.

Q That would be the chairman of the committee?

A Right.

Q When you became chairman of the committee, did you fill out the comment?

A Yes. But I would like to clarify that. The comments put on were of the concensus of the committee.

Q Who was the member of longest standing on the committee at the time that you joined it?

A That would be back in 1976?

Q Yes.

A I can't answer that. I don't know at this time who had the longest service.

Q You said that the GER committee's comments put down were the concensus of the committee?

A Yes, sir.

Q And that is, the chairman, including yourself, would then determine the concensus and put it down?

A Yes.

Q Were there ever minority opinions with respect to the comments to be put down?

A Yes.

Q Were there ever minority opinions with respect to the comments to be put down about the examination of a model 600?

A I don't recall.

Q Same question as to the model 700.

A I don't recall for those two specific models.

Q But overall, there were on some occasions some dissent?

A Yes.

Q What was the practice with respect to recording the dissenting opinions?

MR. SCULLY: Assuming there was a practice, you can answer the question.

A Majority rules. The minority opinions were not written down.

Q Do you know for certain one way or another, as you sit here, whether or not there were ever any minority opinions with respect to model 700 gun examination reports?

MR. SCULLY: Counsel, that has been asked and answered. He said he does not recall any minority opinions dealing specifically with the

700. Now what are you asking him?

MR. AMES: I'm asking him if he recalls that there were none or he just doesn't recall one way or the other.

MR. SCULLY: That is compound. Go ahead and answer it, if you can.

A I believe a couple questions back you asked me if there was any minority opinions and I said, "Yes, there were, but they were not recorded." I do not recall if for the model 700 that there were any minority opinions, but I had already stated that at times there were minority opinions.

Q So it's possible that there were minority opinions about the model 700 which you don't recall at this time?

A Yes.

MR. SCULLY: Anything's possible, right?

THE WITNESS: Sure. Four or five people get together, there may be a difference of opinion.

BY MR. AMES:

Q Did the consensus when you were chairman, did

it consist -- did the consensus consist of the majority vote of those present?

A Yes, yes.

Q Can you now give me an estimate of how many malfunctions in model 700 fire controls there were during the year of 1977 with respect to the gun examination committee?

A No.

Q Can you give me such an estimate as to the year 1978?

A No.

Q Can you give me such an estimate as to the year 1979?

A No.

Q Can you give me such an estimate as to the year 1980?

A Not off the top of my head.

Q Okay. Can you give me such an estimate as to the year 1981?

A There is information available, but I don't have it right at my fingertips to tell you.

Q That information available would be the gun

examination reports for the year 1981?

A Right.

Q Other than the backup -- You told me, did you not, there was a three-year retention schedule in effect with respect to gun examination reports, is that correct?

A I did not say that.

Q Okay. What did you tell me the retention schedule was with respect to gun examination reports?

A I don't think I was ever asked the question.

MR. SCULLY: You were never asked that question. You are mischaracterizing his testimony, counselor.

MR. VIRI: I remember him saying it was destroyed after three years.

BY MR. AMES:

Q Let me ask you this. What was the retention schedule with respect to gun examination reports?

A Three years.

Q And has it been three years since the retention schedule program first went into effect?

A To the best of my knowledge, it's within the

year -- one to two years is when the new retention schedule was put into effect.

Q The whole program?

A Right. That was coming from our corporate office and when it went into effect, it was three years.

MR. VIRI: The retention schedule or gun examination reports?

THE WITNESS: Was three years, right.

BY MR. AMES:

Q And the number has never been different than three years?

A No.

MR. SCULLY: From what period of time?

As long as he has known it?

MR. AMES: Yes.

BY MR. AMES:

Q From the time the program went into effect.

MR. SCULLY: Well, I'm a little confused. Your question is basically the retention schedule is three years since the program has gone into effect?

MR. AMES: Yes.

THE WITNESS: Yes, it is.

MR. SCULLY: Okay.

BY MR. AMES:

Q Is there any other source of information known to you whereby we might determine the number of model 700 fire control malfunctions investigated by the gun examination committee?

A There is none in my possession, or there is none in Remington. Now, beyond that, I don't know.

MR. VIRI: While we're in the area of retention schedule, can I ask a couple of questions?

MR. AMES: That is fine with me.

MR. VIRI: Can I, Steve?

MR. SCULLY: Sure.

BY MR. VIRI:

Q Was that a retention schedule for the gun examination report prior to the new program?

A It was sort of an unwritten schedule that they just kept them.

Q They were in existence, then, up until the time --

A Yes, they were.

Q -- of the new retention schedule?

A Yes.

Q That newest retention schedule went into effect within the last one or two years?

A To the best of my knowledge, it has been within the last one or two years.

MR. VIRI: Thank you.

BY MR. AMES:

Q You told me that the gun examination committee met approximately once a week during the time that you were on it. Approximately what number of firearms did it review per meeting?

MR. SCULLY: It's overly broad and calls for a narrative. You can answer, if you know.

A Average, over the time that I was involved with it, probably between two and four.

Q Okay. And do you know what percentage of those were model 700 guns being examined?

A No, I don't.

Q Sir, was it the practice of Remington Arms Company to write back to the person sending a firearm and

and reporting to them with respect to the result of the gun examination committee's process?

MR. SCULLY: At what time period, Counsel?

MR. AMES: At any time that he was involved with the gun examination committee.

A Was it a practice?

Q Yes.

A At times, the customer was written, but not as a general rule for everybody.

Q What determined whether or not the customer would be written?

MR. SCULLY: The customer would be written?

MR. AMES: Would be written to.

A As I recall, to the best of my knowledge, it would be maybe a general consensus of the committee that maybe a letter to the customer stating our findings and maybe a reply from him might be information for us. We might be looking for information that we don't -- didn't have when we were investigating. I use that as an example. Sometimes we would get a gun that stressed beyond the material limits and the gun comes back without any shall, and we write to the guy and say, "Pardon me, customer" --

and say, you know, "could you send the shells back to us? We have investigated and our findings are so and so, but we would like to have the shell to conclude our findings."

Q Other than writing back to the customer for more information, what other reason would there have been for communicating with the customer with respect to the gun that had been sent in?

MR. SCULLY: Assuming there are other reasons, go ahead and answer.

A Not being directly involved with the writing of the letter, I really am only speculating. It could be to say, "We don't agree with what your complaint was and this is what we found." It may be an idea of how to resolve the complaint.

Q But you say that the decision to write the letter was made by consensus of the committee?

A I said it could be.

Q Who else?

A It might be as we are discussing, we're discussing. Say we maybe should write the customer with this information and see what we can get from it.

Q Whose job was it to write the letter?

MR. SCULLY: At what time period?

MR. AMES: At any time period.

BY MR. AMES:

Q Was it a particular member of the committee, by position?

A Generally, it was handled by -- When I was involved with it, either Mr. Sienkiewicz or Mr. Stekl.

Q Those would have been the representatives of the committee from the arms services?

A I'm not exactly sure what their title was. I think it's customer service.

Q That is part of the marketing division?

A I'd have to say I believe so. I'm not sure where it stands in the structure.

Q Was it the practice of the committee when you were a member to contact the customer by some method where you thought more information was needed from the customer?

A Was it the practice? At times.

Q Were there times when you thought you needed more information but didn't contact the customer?

MR. SCULLY: It's argumentative. You can

go ahead and answer it.

A I can't answer that one. I don't know for sure if there were any occasions like that.

Q You can't recall any such occasions?

A That is right.

Q Are you able to give me an estimate as to the number of bolt action rifles which were examined by the gun examination committee during the years that you were on it?

MR. SCULLY: It's overly broad. Total number?

MR. AMES: Total number.

MR. SCULLY: Of all bolt action rifles? It calls for speculation.

A No, I cannot.

Q Can you give me an estimate by percentage, what percentage of the gun examinations by the committee were bolt action rifles?

MR. SCULLY: Same objection, it calls for speculation.

A No, I cannot.

Q Sir, what is the numbering -- or what was the

numbering system when you were on the committee with respect to gun examination reports? I note there is a line with the word "number" at the top of the form. I'm referring here to GJH-3, and that's number 209.

A To the best of my knowledge, that is just a number that Marshall Hardy, in this case, would have used to keep track of the numbers -- the gun examination report he wrote up. Whether he started at zero or not, I do not know.

Q Do you know whether he periodically started the numbering system again after some passage of time?

A No, he did not.

Q So wherever it was he started from there on, to your knowledge, he used consecutive numbers thereafter?

MR. SCULLY: While he was on the committee?

BY MR. AMES:

Q While you were on the committee.

MR. SCULLY: You can answer, if you know.

A I don't know.

Q Do you know if the numbering system was applicable to all gun examination reports, or was it divided in some fashion?

MR. SCULLY: Lacks foundation, calls for speculation. You can answer, if you know.

A Marshall Hardy was involved with center fire rifles. Other people were involved with shotguns.

Q So the number 209 on the gun examination report, their GJK-3, would be a number in sequence relating to center fire rifles, is that correct?

A To the best of my knowledge, yes.

Q Sir, with respect to complaints about a firearm firing on movement of the safety, during the time that you were on the gun examination committee, what at the committee meeting was the procedure used to investigate or examine those firearms?

MR. SCULLY: All firearms?

MR. AMES: If there was a procedure as to all firearms.

MR. SCULLY: It's overly broad. Let's restrict it to the 700 and 600, Counsel.

BY MR. AMES:

Q As to the 600 and 700, what was the procedure?

MR. SCULLY: How about the 600 and 700 guns?

BY MR. AMES:

Q Was the procedure any different?

MR. SCULLY: Assuming there was a procedure.

MR. VIRI: That is what he has been trying to establish.

MR. SCULLY: Let's get the question right.

A Generally, what we did was look at the complaint and see if we could verify it.

Q That applied to both the 600 and 700?

A Yes.

Q So you would look at a section of the GER form that said complaint?

MR. SCULLY: You're talking about him personally? What he would do?

MR. AMES: Member of the committee.

A We would look at that. Between that, and if there was an accompanying letter from Mr. Customer.

Q Was the information with respect to the complaint there on a GER form filled in by Mr. Hardy?

MR. SCULLY: In this particular form?

MR. AMES: Generally.

MR. SCULLY: Just generally for both action

rifles?

MR. AMES: Yes.

A Yes, generally. A majority of the time he filled it in.

Q To distinguish that from the comment section which the chairman filled in?

A Yes.

Q Sir, I note on this GER 209, GJH-3, there is a notice and comment, "Passed trick test." Was this the trick test applied here the one that you told me about this morning?

A Yes.

Q And was that trick test tried on all model 700's on which there was a customer complaint that the rifle had fired on movement of the safety?

A To the best of my knowledge, yes.

Q Did you always note down on the form, during the time you were the chairman, in the comment section, the results of the trick test?

A No. You said always? Always, I would have to say no.

Q Was it your general practice to note down the

results of the trick test?

A Yes.

Q Was it your general practice to note down the results of the trick test independent of whether the firearm did or did not pass the trick test?

MR. SCULLY: Assumes facts not in evidence, lack of foundation. You can answer it.

A Would you just rephrase it or go over that one again, please?

Q Did a model 700 ever fail the trick test during gun examination committee review of the model 700?

MR. SCULLY: While he was on the committee?

MR. AMES: While he was on the committee.

A I do not recall if any specific -- You know, during the five-year period, if any one failed it.

Q Did you have any different criteria as a matter of general practice with respect to writing down failing of trick tests as opposed to passing the trick tests on the model 700 while you were on the committee?

A I'd like to back up just a little to the question before this one. You started talking about putting information down here on passing the trick test.

Q Right.

A And go back a little farther when I said we examined the complaints to try to find out if there was a complaint or not, and also, although I didn't mention it then, what was the cause of the complaint.

Q Right.

A Now, getting back, there could be some that failed the trick test, and a perfectly legitimate reason why, based on the condition of the gun. There could be something the customer had done.

Q Was it your policy to write down failures on the same basis as you would write down passing the test?

A At times we wrote down failed as well as passed.

Q Okay. Was it your general practice to write it down either way?

A Generally, to the best of my knowledge, we wrote down one way or the other.

Q However it came out?

A Right.

Q Sir, the comment on the GER 209, marked GJH-3, makes a notation of, "Sear lift .011."

A Yes.

Q Was it the practice of the committee to measure Sear lift on model 700's when there was a complaint about firing upon movement of the safety during the time that you were on the committee?

A Generally, we wanted to know what the Sear lift was, so we would measure it.

Q Okay. What was the reason for wanting to know what the Sear lift was?

A It was one of the items that we checked before going back to test one this morning, or whatever. It was one of the things we checked when the gun was assembled.

Q In the quality control procedure?

A Yes. And we wanted to know if it was still within specs.

Q Is there a particular reason why you wanted to know about that particular spec on the model 700 while you were on the gun examination committee?

A We wanted to know if it's in spec so we could make a judgment on the complaint.

Q The cause of the malfunction?

A Yes.

Q Is there a relationship in the model 700 in your

experience between adequate sear lift and cause of complaint that a model 700 had fired upon movement of safety?

MR. SCULLY: Lacks foundation, calls for speculation. You can answer, if you can.

A Rephrase it. Or one more time, please.

MR. AMES: Would you read the question back, please?

(The last question was read by the reporter.)

BY MR. AMES:

Q Is there --

MR. SCULLY: Are you striking that question?

MR. AMES: Yes.

THE WITNESS: Okay, fine.

BY MR. AMES:

Q Was there, in your experience, a causal connection between the amount of sear lift in the model 700 fire control and a model 700 firing on movement of the safety?

MR. SCULLY: Again, lacks foundation, calls

for speculation, calls for legal conclusion.

You can answer, if you can.

A I don't know.

Q Is there any relationship, I'll make that any engineering relationship, between the amount of sear lift in the fire control of the model 700 and malfunctions of model 700's when the safety lever is moved?

MR. SCULLY: Vague and ambiguous, lacks foundation, calls for speculation, incomplete hypothetical. You can answer, if you have sufficient facts.

A I don't have any facts to come out and say for sure that that is true.

Q If there is insufficient sear lift in the model 700 fire control, is it true that that may cause the trigger connector to be unable to return beneath the sear?

MR. SCULLY: Same objection. That is an incomplete hypothetical, lacks foundation, calls for speculation. It's vague and ambiguous. You can answer without speculating.

THE WITNESS: Can I call for a recess here?

MR. SCULLY: Do you have sufficient facts to answer that?

THE WITNESS: No, I don't have the facts right offhand.

MR. SCULLY: Then you can't answer that.

A I'll have to say no.

Q Sir, are you familiar with the recall of the model 600?

MR. SCULLY: Does he know it's been recalled?

MR. AMES: Yes.

A It was recalled.

Q Do you know what modifications were made to the model 600 fire control to prevent the problem that led to that recall?

MR. SCULLY: It assumes facts not in evidence. Assuming he knows what brought about the recall, you can answer, if you know.

A I know there was a recall. It involved the fire control, and there were changes made in procedure, additional checks made on these guns.

Q Do you know if the safety cam was changed in

some model 600's to prevent the model 600 from being trickable?

MR. SCULLY: Lacks foundation, calls for speculation. You can answer, if you know.

A I don't know for a fact that that was done, personally.

Q Did the recall of the model 600 have anything to do with insufficient sear lift in the model 600?

MR. SCULLY: Same objection. Lacks foundation, calls for speculation. You can answer, if you know.

A I know the 600 was recalled. It involved a fire control, but I do not have all the facts as to what, and I don't recall what we actually did on it.

Q Do you recall whether one of the things done was to increase sear lift in some model 600's?

MR. SCULLY: Same objection. The question has been asked and answered. You can answer. He stated he doesn't recall. Go ahead and answer.

A I do not recall if the sear lift was changed at that time.

Q As supervisor of products engineering and control, current products, were you involved in developing the process modifications with respect to the manufacture of fire control parts for the model 600 at the time of the recall of the model 600?

MR. SCULLY: We haven't established that he knows the time of recall, initially.

A I do recall --

MR. SCULLY: Wait a minute.

THE WITNESS: Pardon me.

MR. AMES: I'm not asking him the date. I'm asking him around the time that it occurred.

MR. SCULLY: Your question assumes facts not in evidence. We haven't established that he knows the approximate time of the recall.

MR. VIRI: He doesn't need to recall.

MR. SCULLY: For purposes of the question he needs to know, as far as I'm concerned. So let's establish that before we get on to the next question.

BY MR. AMES:

Q Was the recall in 1978?

A To the best of my knowledge, during that time.

Q Okay. In that approximate time period, as supervisor of process engineering control, current products, did you develop the modifications to the manufacturing process of the fire control of the model 600?

A Did I develop them?

Q Was it done under your supervision?

MR. SCULLY: Well, you've changed the question.

MR. AMES: I just changed the question.

BY MR. AMES:

Q Was it done under your supervision?

A No, it was not.

Q Whose supervision was it done under?

A At that time it would have been John Lindy, L-I-N-D-Y, I think.

Q Did you participate in developing the modifications in the manufacturing process with respect to the fire control of the model 600 around the time of the recall of that model?

A Yes.

Q And did that modification include changing the

size of the safety cam in some for use in at least some model 600's?

A I do not recall the exact things that were done on or in the modifications. I know you asked me if I worked on it. I did. There were certain things done, but I do not recall what they were.

Q You told me that the specification with respect to sear lift were checked by the gun examination committee where the complaint was that the weapon fired on movement of the safety. Were any other specifications with respect to the fire control of the model 700's checked as part -- on a part -- during the inspection of fire control of model 700's where there were complaints of firing upon movement of the safety?

MR. SCULLY: By this gun examination committee?

MR. AMES: Yes. Or at their direction.

MR. SCULLY: During a period of time he was on the committee?

MR. AMES: That is right.

A Trigger pull was checked as an example of another item that was checked.

Q Okay. What other items were checked?

A We did the trick test. We did the sear lifts, and we did the trigger pull. Again, I would not go as far as to say that was done a hundred percent of the time, but a majority of the time these are the things that were checked.

Q Did you check trigger and sear engagement where you found the sealing glue on the screws for trigger engagement to be intact?

A I can't -- I don't know.

Q Did you check it in cases where you found the sealing material on the trigger engagement screw to be broken or missing?

MR. SCULLY: That assumes facts not in evidence. If there was such a situation, you can answer the question, if you know.

BY MR. AMES:

Q Did you ever find a trigger engagement screw on the model 700 where the sealing material was broken or missing?

A Yes, we did.

Q On those, you routinely checked the amount of

engagement?

A They were checked. When you say "routinely", that applies all the time. I can't say we did it all the time, but my recollection, most of them were checked for sear engagement and trigger pull.

Q How was the check with respect to sear engagement actually made?

MR. SCULLY: You mean what method was used to check the engagement?

MR. AMES: Yup.

MR. SCULLY: If you know.

A At this time, -- At that time I'm not sure I know. Right now, it's checked on a comparator. I do not know if at this time it was done on a comparator or a visual check.

Q You told me that with respect to the model 700's with malfunctions complained about, the fire control involved movement of the safety leading to the rifle firing, you checked trick test, sear lift, trigger pull, trigger engagement. Any other specifications that you can recall testing?

A We checked for the sealage on the screws. We

also tried to verify the complaint of the customer. For example, if he said such-and-such had happened, we would try to verify it.

Q Anything else that you routinely did, that you can recall?

A Not at this time.

Q During the time that you were on the committee, did the committee or anyone under the committee's direction, with respect to both the model 600 and 700's, ever check the forceness to move the safety lever in any direction?

MR. SCULLY: The question is compound.

You can answer, if you know.

A I don't recall if at any time it was ever checked.

Q You have no recollection of that?

A No.

Q Were you involved in the supervisory capacity or directly with modifying the quality control procedures for the model 700 between 1974 and 1978?

A No.

Q Were you ever told why quality control procedures

for the model 700 were modified between '74 and '78?

MR. SCULLY: It assumes facts not in evidence, lacks foundation, calls for speculation. You can answer, if you know.

A Was I ever told whether?

Q Did you ever learn from any source why?

A From '74 to '78?

Q Right.

A Not that I recall.

Q Were you ever told as to why any modifications to the quality control procedure with respect to the model 700's were made between '78 and the present?

MR. SCULLY: Objection. It calls for speculation, lacks foundation.

A Yes.

Q What were you told about such -- the reasons for such modifications?

A Well, if we go back a few questions ago, you asked if I worked on a committee, or whatever you called it, for the recall of the 600's.

Q Right.

A And at this time, to the best of my knowledge,

there was some changes made, or increased inspection on the 700 fire control also.

Q As part of the quality control procedure?

A Part of the assembly. Part of the quality control procedure.

Q You told me earlier that there were -- when you were supervisor of quality control, that there were machine audits and audits with respect to assemblies, and then audits of the finished firearm product. With respect to the quality control audits of the finished firearm products, and specifically the model 700, during the time that you were supervisor of quality control, was that done on rifles which had already been through the gallery test process and were ready to be shipped?

MR. SCULLY: Counsel, you're talking about quality control audit, correct?

MR. AMES: Yes.

A Quality control audit guns are taken as close to the customer as we can.

Q From the warehouse?

A At times, yes.

Q Okay. Or about to go to the warehouse?

A Right.

Q That is after the gallery test?

A After the gallery test, after the final inspection, and they are really ready to be put in the box at that time.

Q During the time that you were on the gun examination committee, how did you go about measuring sear lifts on model 700's?

MR. SCULLY: Him personally, or the committee?

MR. AMES: How was it done on the committee?

A The sear lift was measured by the, in this case, the first person that examined the gun would have been Marshall Hardy.

Q You're referring to GER 2097

A Yes.

Q Was that done in the presence of the committee?

A No, it was not.

Q Did you ever observe Mr. Hardy doing it?

A No.

Q Do you know the procedure used for measuring sear lift for the purpose of the gun examination report?

MR. SCULLY: By anybody, or by Mr. Hardy?

MR. AMES: By anyone doing it for the committee, including Mr. Hardy.

A Up to 1978, it was done with a gauge, dial gauge on the final assembly area.

Q That would be in the assembled gun with the bolt out?

A Yes.

Q Prior to 1978, how was the sear lift checked for the gun examination reports?

A I don't recall prior to that time how it was done.

Q Was it something different than what you just described, as after 1978?

A I don't know.

Q You were on the committee in 1977, correct?

A Yes, I was.

Q Why do you believe in 1977 there was some different procedure for checking the gun?

MR. SCULLY: Counsel, he doesn't believe there was any difference. He didn't know. You're arguing with this particular witness.

MR. AMES: I'm trying to understand his testimony.

BY MR. AMES:

Q You told me that after 1978 it was done a certain way.

A Right.

Q Do you have any reason to believe it was done differently prior to that?

A I know in 1978, when we got into the recall of the 600, is when I first, you know, we got into this, and we had the gauges made to check it with the bolt prior, you know, putting it in instead of the bolt to check the sear lift in the gun itself. There was also this other gauge that checked the sear lift. I do not know right offhand if that gauge was before 1978.

Q The other gauge for checking sear lift was the gauge for checking it when the fire control was not attached to the lever?

A Yes. It was just an assembled fire control.

Q Okay. Mr. Hardy, are you familiar with the term "gummed-up fire control"?

A Mr. Hill.

Q I'm sorry, Mr. Hill.

MR. SCULLY: In reference to any fire control?

MR. AMES: In reference to the model 700 fire control.

A Yes. It's a term we've used.

Q Okay. And does the term have the same meaning when applied to a model 600?

MR. SCULLY: To him?

MR. AMES: To him.

A Yes.

Q Does gummed-up fire control mean the presence of excessive oil or debris in the fire control?

A Gummed-up fire control means that the fire control is not -- parts are not functioning properly, and this is one of the possibilities.

MR. AMES: I'll ask the reporter to mark gun examination reports as the next exhibits in order. That would be GJH-3 and GJH-4 and -5. Four would be number 52, dated 12/15/78, and five would be number 62 dated 1/15/79.

(Exhibits GJH-4 and GJH-5 were marked for identification.)

BY MR. AMES:

Q Sir, have you looked at the exhibits, 4 and 5, there?

A Yes, I have.

Q And are the comment section on both written in your handwriting?

A Yes.

Q Sir, the comment on number 52 marked 24 states, "Unable to duplicate incident." And above that, under incident, it says, "Shot a hole in floor of Scout." Did you intend to mean literally that you couldn't shoot a hole in the floor of the Scout? That that merely could not cause the fire on safety release?

MR. SCULLY: Well, that assumes facts not in evidence. Let's establish that he has recollection of this particular document, Counsel.

BY MR. AMES:

Q Do you have a recollection of that gun examination?

A Not particularly, but the comments would also be to answer the complaint, also.

Q Okay.

A As well as the incident.

Q Would you interpret, now, what you meant there to be that you were unable to duplicate the complaint, fire upon taking off safety?

A Yes.

Q Rather than shooting a hole in the floor of a Scout?

A That is right.

Q Sir, number -- Exhibit Number 5 also states that the discharge occurred when the safety was put to the off safe position. Would that wording have been Mr. Hardy's wording?

MR. SCULLY: Where are you referring to?

MR. AMES: Under complaint.

MR. SCULLY: Are you asking him if that is Mr. Hardy's printing?

MR. AMES: Printing, yes.

A Yes. That is his printing. But he would get that information off, probably, a company letter.

MR. SCULLY: The complaint information?

THE WITNESS: Yes.

BY MR. AMES:

Q Sir, when you received the model 700's, in which there was a complaint of firing upon movement of safety during the time that you were on the committee, had the fire control of those weapons been disassembled prior to being received by the committee?

MR. SCULLY: The question is argumentative, referring to the rifle as weapons. Also, your question is vague and ambiguous. You can answer the question, if you can.

A At times, one of the things we had come up with, and I don't know -- I cannot tell you the timetable on it. But it was in the period when I was on the committee, our recommendation was that the fire control cannot be removed by the gun.

Q By arms services?

A No. By Mr. Hardy. If indeed he had not, the committee could look at it, and also we didn't even want him to take the stock off it, but this is something we learned as we went along.

Q Okay. Did arms services disassemble the fire control at any time you were on the committee, to your

knowledge?

A Not to the best of my knowledge, they did not.

Q If the complaint said "fired upon movement of the safety," or words to that effect, they just forwarded it on to your office?

A Yes, they did.

Q Sir, Exhibit Number 4 says "excessive oil in fire control could cause impaired mechanism function." In arriving at that conclusion, would it have been the practice of the committee to actually disassemble the fire control?

MR. SCULLY: Are you asking if they disassembled the fire control in this particular incident to arrive at this comment? It's not a conclusion, number one.

MR. AMES: Comment.

MR. SCULLY: Is that what you are asking him?

MR. AMES: Yes.

A We did not disassemble it, no.

Q Sir, with respect to examination number sixty-two marked Exhibit 5, there is an attached letter of February

17th to Mr. Hegland who is referred to on the receiving and estimating report as to the person who sent the gun in, and that letter makes reference to replacing the entire trigger assembly of the firearm. Were trigger assemblies on model 700's replaced as a matter of practice when you were on the committee where the committee -- where the complaint was that it fired upon movement of the safety?

A Only after consultation with the customer.

Q So although sometimes, then, it would have been the procedure, actually prior to writing this letter you would call him and ask him if he wanted it replaced?

A We may have called him or wrote a letter.

Q Seeking his permission?

A Yes.

Q Okay. Did you ever have customers call and say that they didn't want these fire controls replaced, that you can recall?

A They did not tell me, no. I was not involved with writing the letters.

Q When a fire control was replaced -- Some fire controls were replaced, is that correct?

A Yes, they were.

Q And when fire control in model 700's were replaced, were any of those due to complaints that the rifle had fired on movement of the safety?

A These would be based on customer complaints, not on ours.

Q All right. Where the customer may have made that complaint?

A I would have to say yes.

Q In that case, what was done with the fire control that was removed?

A Scrapped out, thrown away.

Q Were any examinations or studies made with respect to those fire controls after they had been removed from model 700's where the customer complaint was that it fired upon movement of the safety?

A Not to my knowledge. If anybody on the committee wanted to look at it, one, they would. They could get it.

Q How long were they retained for somebody to look at?

A There was no retention on them. If somebody

wanted to look at it, we'd put a note on there and he would pick it up. Otherwise, they were destroyed.

Q How long were they kept before being destroyed?

MR. SCULLY: It's been asked and answered.

You can answer again.

A As I previously said, they were just if somebody wanted one, they picked it up right away. Otherwise, they were just destroyed, scrapped out.

Q When you say scrapped out, what do you mean?

A They were put in the scrap tub and they were sent out for junk. Probably they were disassembled, although I cannot answer that.

Q Sir, where in Exhibit Number 4 your comment is "excessive oil in fire control could cause impaired mechanism function," does that comment reflect the consensus of the committee?

A Yes, it did.

Q Was any study ever made by the committee as to how excessive oil in the fire control could cause impaired mechanism function in the fire control of a Remington bolt action rifle?

MR. SCULLY: While he was on the committee?

MR. AMES: Yes.

A There was never a study made, but if the term you used a little while ago, "gummed-up fire control," the parts were visually -- You could see they wouldn't function properly, or they might stick.

Q All right. You could see the parts not moving?

A Yes. You could try to, for example, pull the trigger, push down on the Sear Safety Cam and you could see that they would not have free movement.

Q That was just observed by the committee on a gummed-up fire control in the model 700's?

A Yes.

Q Do you know of any study ever being made with respect to the gummed-up fire control on Remington bolt action center fire firearms?

MR. SCULLY: By anybody?

MR. AMES: By anybody.

MR. SCULLY: In or out of plant?

MR. AMES: Anybody to his knowledge.

MR. SCULLY: It's overly broad. You can answer, if you can.

A I don't know.

Q When you say that you could see that the fire control was gummed up, did you look at fire controls with the stock off in making the determination?

A Yes. In stock on.

Q Did you ever remove the side plate in the process of making such a determination?

A No.

Q Sir, number sixty-two, that is Exhibit 5, contains a statement, "R & D confirms malfunction at low temperature test (0° F.)." I believe you told me that it was also in your handwriting?

A If I didn't, it is my handwriting.

Q Were some model 700's sent for a -- something called a low temperature test?

A Well, as I previously stated, we looked at two to four of these things a week. Over the course of the year, there would be a couple of hundred of these. You don't remember all. That one was an interesting one because it came out of Colorado, it came in the winter. The concern with this was because it came from this part of the country and they figured the guys probably out in the mountains hunting with this and there is a question

as to whether a low temperature, which he was probably out in the woods, was it any different than it was if we were sitting in the room.

Q At room temperature?

A At room temperature. So I happened to remember that particular one, and also the idea of the trigger adjusted outside the plant.

MR. SCULLY: You are referring to the exhibit?

THE WITNESS: Sixty-two.

MR. SCULLY: Exhibit 5?

THE WITNESS: Exhibit 5, right. Only Exhibit 5.

BY MR. AMES:

Q And you do recall that particular examination?

A Like I said, yes, for some reason I do. Because we did -- because of the low temperature test.

Q Did you find any evidence of the malfunction prior to doing the low temperature test?

A I don't recall.

Q Do you recall that the low temperature test did cause the malfunction complaint?

A My statement here, "R & D confirmed at low temperature test, R & D confirmed malfunction at low temperature test." The member from the committee from research conducted the test and he confirmed it.

Q That would be the malfunction that you are referring to? That would be what was complained of by the customer listed above?

A Customer complaint.

Q I don't understand your answer.

A Well, the customer's complaint was discharged when safety was switched to the off position.

Q Is that what the R & D test confirmed?

A R & D confirmed malfunction at low temperature test. I would have to say yes.

Q Sir, was this the first fire on movement of the safety malfunction with respect to which the committee sent it for low temperature test during the time that you were on the committee?

A I don't recall if it was the first one or how many we did send out.

Q Do you recall if any others were sent out?

A No, I don't.

Q What would be the engineering significance of low temperature with respect to a malfunction caused by excessive oil in the trigger mechanism?

MR. SCULLY: Vague and ambiguous, calls for speculation, lacks foundation. You can answer, if you understand and know.

A It would be my opinion that whatever was on this might -- What do I want to say -- go into the solid configuration. But not go from a liquid oil. It might have a little -- I don't know, lower viscosity. It might impair the movement of the components of the fire control.

Q It would become more sticky?

A Yes.

Q Okay. Sir, at any time when you were on the committee, did it become the practice of the committee, where there were reports of a malfunction of the bolt action rifle fire control, such that it fired when the safety lever was moved and there appeared to be the -- the fire control appeared to be gummed up, did it become a practice where the circumstances of the complaint led you to believe that cold temperatures might have been

involved, to send it on to someplace for a cold test?

MR. SCULLY: The question is compound, vague and ambiguous, lacks foundation, calls for speculation. You can answer, if you have sufficient facts.

A I don't know.

Q Sir, you used earlier the term, I believe, that the excessive oil would become more viscous at a low temperature.

A Less.

Q Less viscous.

A As you used the term before, sticky would be a good term, gummy. More gummy.

Q Do you ever have occasion to -- Strike that.

In your opinion, with respect to model 700 fire controls which are gummed up, do some of them malfunction at temperatures below room temperatures, but not at room temperature?

MR. SCULLY: Counsel, that question is vague and ambiguous. It's compound. It's an incomplete hypothetical, lacks foundation. You can answer, if you have sufficient facts.

A I don't know. I do know that when the guns are assembled properly, the fire controls don't have any -- They are not gummed up and they should be kept that way by the customer.

Q Okay. Did you ever see any fire controls for Remington bolt action rifles which -- in which there was no malfunction at room temperature but at colder temperatures be -- a malfunction occurred?

MR. SCULLY: What type of malfunction?

MR. AMES: Any malfunction in the fire control.

A Yes.

Q And did those malfunctions that you just referred to involve fire controls that were gummed up?

A I'm only referring to the previous exhibit sixty-two. I believe it was --

MR. VIRI: It's Exhibit 5.

THE WITNESS: Five, yes.

A (Continuing.) in which I had written that this was there, so I would have to say that I saw one.

Q You saw one?

A I saw this one.

MR. SCULLY: This one being Exhibit 5 of your deposition?

THE WITNESS: Right.

BY MR. AMES:

Q Was Exhibit 5 not malfunctioning at room temperature and then malfunctioning at cold test temperatures?

MR. SCULLY: That has been asked and answered. He indicated he doesn't recall.

MR. VIRI: It seems to me the last answer was that he did what you just asked, so I --

THE WITNESS: Yes.

BY MR. AMES:

Q In this case, Exhibit 5?

A Exhibit 5.

Q It was not malfunctioning at room temperature, but in cold tests it did malfunction, is that your recollection?

MR. SCULLY: Well, I have the same objection in that it's been asked and answered. You can answer.

A To the best of my knowledge, I have not written

down anything here to indicate that it was functioning or malfunctioning at room temperature. In this particular case, we tried to find out maybe what would have happened, and this is why we did the cold test, based on what the customer said he was doing.

Q So to the best of your knowledge, in this case, when you checked for malfunction at room temperature --

A It wasn't there.

Q -- it wasn't there, okay.

Sir, was the contents of the letters, when they were written after an examination of the model 700's, determined by the gun examination committee?

A No. By the person who wrote the letter.

Q Okay.

(Whereupon, at 3:04 p.m., a brief recess was taken.)

(At this time, Exhibit GJH-6 was marked for identification.)

(Whereupon, at 3:13 p.m., the proceedings were resumed.)

BY MR. AMES:

Q Sir, I'll show you a gun examination report

number 500. There are several pages attached to it and it's been marked as GJH-6. I'll ask you --

MR. SCULLY: What is the date on that, Counselor?

MR. AMES: 7/30/81.

MR. VIRI: What was the name of it?

MR. AMES: GJH-6, gun examination number 500.

MR. SCULLY: These are numbers placed by the State?

MR. AMES: You are referring to the six-digit number beginning double zero, beginning at the right-hand side of the lower front on the first page? Yes.

BY MR. AMES:

Q Sir, in reviewing the gun examination report, can you determine if you were present at the committee meeting at the time that was -- that report was prepared?

A Yes, I was.

Q Is that your handwriting on the comment section?

A Yes, it is.

Q Would you read the comment section just to

yourself?

MR. SCULLY: To himself?

MR. AMES: Right.

BY MR. AMES:

Q Sir, referring to the receiving and estimate report attached to the gun examination report, can you by reference to receiving and estimate report, tell me who wrote in the statement in handwriting, there, just above the middle of the page, "Sear Safety Cam sticks in downward position because of accumulation of dirt and oil"?

A No, I cannot.

Q You can't tell that?

A No.

Q Would this report have been filled out by somebody in the arms service section?

A Yes, it would.

Q And was the -- That would occur prior to the time that it came to the gun examination committee?

A I don't know that. It could have been prior or it could have been after.

Q Sir, the comments say that, "The Sear Safety Cam

sticks in the downward position because of an accumulation of dirt and oil," and then has this statement, "Clean and return to customer." Is "Clean and return to customer" the direction to same services as what to do with that particular gun?

A That would be their recommendation of our committee, and that is what they would do.

Q Okay. In this case that makes reference to its being an "old-style fire control," and then under comments it says, "Sear - Safety Cam." Would that mean that this was a two-part Sear and Safety Cam designed model 700?

A Looking at the date of the gun manufacture, I would come to that conclusion.

Q You are referring here up to the --

A 1966.

Q -- date of manufacture. Doesn't it say that?

A It's the code.

MR. VIRI: Code?

THE WITNESS: Code.

BY MR. AMES:

Q Was it the conclusion of the committee that

cleaning the fire control would resolve the cause of that customer's complaint?

A Based on what I read, I would have to say yes.

Q The customer's complaint was that, "It fires when the safety is released at times." Was the sear -- Was that malfunction as described by the customer verified with the committee?

A I don't know.

Q If you had found the malfunction different than what the customer had described, would it have been your practice to note that?

A I'd have to say yes.

Q Okay.

A I'd like to clarify with an example.

Q Sure.

A If the gun didn't extract, or the bolt stopped, didn't hold the bolt in, the bolt in the action, I'm sure we would note that and have that corrected also.

Q Okay.

A Just these two examples of what we do.

Q Okay. Sir, did you, during the time you were on the committee, find other model 700's in which the

Sear and Safety Cam stuck in the downward position?

MR. SCULLY: Are you talking about the two-piece Sear and Safety Cam as opposed to the sear?

BY MR. AMES:

Q My question goes to the two-piece Sear and Safety Cam.

A I don't recall.

Q Did you find any with the one-piece Sear Safety Cam where it stuck in the downward position due to it being gummed up?

A I'd have to say I don't know, and I'd clarify it a little bit. We're looking at guns over the five-year period of time and 200-plus guns a year. To try to remember every detail of every one is not, maybe not practical.

Q You say here because of a "accumulation of dirt and oil." Is the term "accumulation of dirt and oil" as used there analogous to being gummed up?

A Yes. I would say a lot of times accumulation of dirt and oil comes from customers themselves.

Q But you would use the term "accumulation of

dirt and oil" interchangeably with gummed up?

A Right.

MR. SCULLY: He would personally?

THE WITNESS: Right.

A (Continuing.) Include in there stuff we can't I think it says crud, "also has crud on it." That is sort of dirt and oil that is solid.

Q Bolt in firing pin?

A They're full of junk. Just the common thing that customers should, you know, keep their guns clean so they function properly. Just like they do their automobiles, golf clubs and everything else.

Q In this case at least the committee's opinion was what was needed to take care of the malfunction was merely to clean the fire control?

A Yes, it was.

Q Okay. Sir, in reviewing complaints of model 700 fire controls when the customer claimed that it fired upon movement of the safety lever in those cases, did the customer's complaint sometimes indicate that that malfunction sometimes --

MR. AMES: Strike that word sometimes.

MR. SCULLY: Which sometimes?

MR. AMES: The last one.

BY MR. AMES:

Q -- occurred intermittently?

A Yes.

Q And when examining model 700 fire controls in cases where the customer complaint was that the malfunction occurred intermittently, I have in mind firing when safety lever is moved, did that actually occur there during the gun examination?

MR. SCULLY: Do we have a definition of intermittent so we're both speaking on the same wave length?

BY MR. AMES:

Q On some movement of the safety lever, it did fire, and some others it did not.

Q When we wrote down unable to duplicate customer complaint, we could not duplicate it.

Q It did not happen at all?

A No.

Q In cases that you wrote down where you did duplicate it, would those include situations where the

customers said it happened sometimes and in fact it happened sometimes when the committee was checking it?

MR. SCULLY: The question is vague and ambiguous. You can answer, if you understand it.

A Well, I'd have to speculate a little.

MR. SCULLY: I don't want you to speculate at all.

THE WITNESS: Okay. Strike that.

BY MR. AMES:

Q I'll ask you to any facts you have with respect to whether or not there were ever cases with the firearm movement of safety malfunctions in model 700's where it did not occur every time the safety lever was moved during the committee examination.

A There were times if we had -- If we examined the gun and we could verify the complaint if we could, it would happen all the time and it would be based on our -- For example, the oil and dirt in the fire control.

Q Okay.

A If we could not examine -- If we examined it and we did it a number of times which we didn't have any

specific number, the number of times between committee members, they couldn't get it, it was verified or noted by Mr. Hardy. Then we would put "Unable to duplicate customer complaint."

Q I'm asking you about the third situation where --
Let me back up and ask you.

Was it common practice in the committee with this type of complaint to have each member of the committee attempt to manipulate the fire control in order to try to duplicate the customer complaint?

MR. SCULLY: It would depend on what the customer's complaint is.

MR. AMES: This complaint involving firing when the safety is --

A Several of the committee members would try it to see if they could verify what the customer complaint was.

Q Okay. I believe you told me earlier that with respect to this gun examination -- I'm referring to number 500, Exhibit 6 -- was the complaint was that it fired when safety is released at times, that it's your understanding that that complaint was verified, correct?

A The complaint would be from the customer, and as I read Exhibit 6 here --

Q Yes.

A -- it appears to the best of my knowledge, I have looking at this, that it did happen.

Q The complaint was verified?

MR. SCULLY: Counsel, just for clarification, when you say the complaint was verified, are you asking this particular witness whether during the course of their examination they discovered that the gun fires when the safety is released at times?

MR. AMES: Yes. That was the complaint set forth and I'm asking him whether this form indicates that that is what they verified.

A As I read this form, back several years ago, based on what I'm looking at here, we verified it and we put a reason.

Q As set out there?

A As to our best information from the committee and judgment of what happened.

Q That is one occasion, then, on which the

complaint was that it was firing when the safety was released intermittently, is it not?

A That is what the customer is telling us.

Q Were there any other occasions in which the committee observed a model 700 to be firing on safety release intermittently? In other words, not every single time?

MR. SCULLY: You mean where the committee when, examining the gun, the committee itself on occasions, the gun would not fire on safety release and on other occasions it would fire on safety release?

MR. AMES: Yes.

MR. SCULLY: Do you understand his question to be in that context?

THE WITNESS: Not exactly.

MR. AMES: Let me back up.

BY MR. AMES:

Q I'm referring to any other occasions when on an examination of a particular gun the committee members would find while checking it that it would fire on safety release or movement of the safety one time and then

perhaps again, and then not another time. In other words, intermittently.

A As I recall, to the best of my knowledge, if there was a problem in the fire control, whether it was -- I'm going to use full of debris, which could be oil and dirt accumulated -- if there was a problem of firing when the safety was released, it was there.

Q Every time that you tried it during the committee meeting?

A It was there. I cannot say whether it was there all the time or a majority of the time.

Q Okay.

MR. AMES: We'll mark the next exhibit GJH-7. GER number 467 dated 6/12/81.

I'm showing Mr. Viri the Exhibit 7 which has not yet been marked.

(Exhibit GJH-7 was marked for identification.)

BY MR. AMES:

Q Sir, I'm showing you Exhibit GJH-7, and I'll ask you if your handwriting appears there on the comment section?

A Yes, it is.

Q Okay. Referring --

MR. SCULLY: What is the date of that?

MR. AMES: I will read it in the record.

6/12/81.

BY MR. AMES:

Q Referring to that examination report, to the second page, receiving and estimate report, under the heading "main faults." Sir, would you read the main faults set out there?

A Fire control --

MR. SCULLY: To himself?

MR. AMES: To yourself.

THE WITNESS: Okay.

BY MR. AMES:

Q Would you read the comments on the first page, the GER itself?

MR. SCULLY: To himself?

MR. AMES: Yes. To yourself.

BY MR. AMES:

Q Have you read those?

A Yes.

Q The receiving and estimate report under the heading of "main fault," says, "Fire control gummed up with wrong kind of lubricant or lubricate." Is that a fair reading of that statement?

MR. SCULLY: Is that what the document says?

THE WITNESS: Yes. That is what it says.

BY MR. AMES:

Q Your comment makes no reference to the wrong kind of lubricate?

A Lubricant.

Q I think the actual wording there is lubricate, but --

MR. SCULLY: The document speaks for itself.

BY MR. AMES:

Q I'll refer to it as lubricant.

A Okay, fine.

Q It makes no reference to the wrong kind of lubricant. The receiving and estimate report also says, "Examined by PE&C," does it not?

A Yes.

Q Would that indicate to you that this particular model 700 was examined by PE&C after the committee's examination of it?

MR. SCULLY: Question assumes facts not in evidence, lacks foundation, calls for speculation. Have we even established that this second page is part of that exhibit?

MR. VIRI: It is part of the exhibit.

MR. AMES: It's part of the exhibit.

MR. SCULLY: It's part of the first page of the exhibit?

MR. AMES: You mean that that receiving and estimate report relates to the GER?

MR. SCULLY: That is correct. Have we established that yet?

MR. AMES: I represent that that is the way it came from your office.

MR. SCULLY: You can represent whatever you want, Counsel.

BY MR. AMES:

Q Does the receiving and estimate report attached to the second page, to the GER, appear to be with respect

to the same model 700 and complaint?

A Yes, it does.

Q Are you telling that by correlating the serial number?

A The serial number of the gun.

Q Remington only puts one serial number per 700, is that correct? One serial number per gun?

A No two are alike, as far as I know, yes.

Q As far as you know, the 700 in the complaint are the same as the two pages referred to? They are the same thing?

A Right.

MR. AMES: Are you satisfied, Mr. Scully?

MR. SCULLY: Counselor, I'm never satisfied with your questions.

BY MR. AMES:

Q Sir, my question was, before Mr. Scully interrupted with his question about whether these two forms dealt with the same gun, would the comment on the receiving and estimate report indicate to you that PE&C had examined the gun after the gun examination committee did?

A No. I'm sure in this case the PE&C is the gun

examination committee.

Q Do you have any idea whether the gun examination report would make reference to the wrong kind of lubricant or lubricate when there was no reference to that in the comment section?

A I don't have any idea why someone else would write this. This is what I wrote and this is what somebody else wrote, and I cannot speak for somebody else, what they wrote.

Q Would the receiving and estimate report form have come to the gun examination committee at the time of your consideration of this gun?

MR. SCULLY: By consideration, what do you mean?

MR. AMES: Examination.

A It would come, but I do not know what form it was.

Q Typically, would the heading "main fault" have been filled in?

A Possibly not.

Q Generally, was it filled in when you received the receiving and examination report during the time that

you were on the committee?

MR. SCULLY: We've gone from generally to typically, now.

A I would say sometimes it was filled in.

Q More often than not?

MR. SCULLY: Now we've gone from more often than not.

A I can't answer that question.

Q When would it have been filled out if it wasn't filled out at the time the committee saw it?

A After the committee examined the gun and the guns would go back to the customer repairs, arms services, and it probably would be filled out.

Q Let me clarify that. Mr. Hill, was a copy of the exam report sent back to arms services?

A Yes.

Q Was that the original or a copy that went to them?

A Copy.

Q Where was the original kept?

A The originals were filed in my office.

Q Okay. Up until such time as the document

retention program went into effect?

A And since then.

Q Okay. Have they been filed in your office since the committee was dissolved?

A Yes, they have.

Q Who made the decision to dissolve the committee?

A I don't know.

Q How was that decision communicated to you?

A My boss came in, or talked to me, and said that, "As of now, this is how the gun committees are going to be handled" -- "gun examinations are going to be handled, handled by Mr. Sienkiewicz and Mr. Stekl."

Q Who is the person you referred to as your boss?

A John Leek.

Q Sir, showing you gun examination report number 244, dated 2/1/80, which will be GJH-8, and the attached pages.

MR. SCULLY: Ask the reporter to mark that.

(Exhibit GJH-8 was marked for identification.)

MR. VIRI: Which number are we on?

MR. AMES: GJH-8.

BY MR. AMES:

Q Sir, with respect to number 244, GJH-8, do the attachments including receiving and estimate reports appear to you to refer to the same guns and the GER form?

A I'm taking a minute to look at it. You're talking about all of them with this?

Q Yes.

A Yes, they do. Based on the serial numbers.

Q Sir, is the comment section written in your handwriting?

A Yes, it is.

Q Okay. In this comment, there is no mention of gunk or gum-up or excessive oil or anything like that. Would that mean that the committee did not find those factors to be present in the gun?

A To the best of my knowledge, that would be true.

Q Okay. And you noted in this one, did you not, that this particular gun failed the trick test?

A Yes.

Q Sir, referring you to GJH-7, GER number 467 that I asked you about previously, and in that one you

noticed that the gun passed the trick test, but the fire control was gummed up, is that correct?

MR. SCULLY: The documents speak for themselves, Counsel.

A That is what the document says.

Q Do you have any reason to believe that that is not what the actual findings of the committee were?

A No.

Q Sir, in GJH-7, number 467, did the committee -- or do the comments indicate that the committee verified the complaint?

MR. SCULLY: You're asking him to read the comments, and by reading the comments, make a conclusion whether they verified the complaint?

MR. AMES: Yes.

MR. SCULLY: Because you haven't laid any foundation that he has any recollection of this particular incident.

A We did not specifically indicate that.

Q However, you did order the fire control replaced?

A That is true.

Q Okay. But that now leads you to conclude that

you verified the complaint?

A No. I can't make a judgment now based on something on a committee's decision two and a half years ago.

Q Is it -- Sir, is it not correct that on GER -- Strike that.

Is it not correct that you have, on occasion on model 700 examinations, where the complaint related to firing on movement of safety, isn't it true that you have noted, "Complaint could not be duplicated."

A Yes, we did.

Q Was it your practice to note when the complaint could not be duplicated?

A To the best of my knowledge, yes.

Q Okay. Would it ever, therefore, be a reasonable conclusion on my part that the --

MR. SCULLY: Reasonable conclusion on my part? You're asking this witness to speculate as to whether or not your conclusion is reasonable?

BY MR. AMES:

Q Would it be --

MR. SCULLY: It's relative.

BY MR. AMES:

Q Would it be a reasonable conclusion on anyone's part reading this document?

MR. SCULLY: Anyone's part? That's even worse.

BY MR. AMES:

Q And given your last statement, that since you did not note that you were unable to duplicate the customer's complaint, in all probability you did duplicate the customer's complaint?

MR. SCULLY: Would you read that back, please?

(The last question was read by the reporter.)

MR. SCULLY: That calls for speculation, it's argumentative.

A I can't really conclude that, that we verified it or not, just based on what I read, and remembering back two and a half years ago. I just don't recall.

Q Sir, what is the significance of the determination to charge the customer for replacing the fire

control in this case?

MR. SCULLY: Which case are you referring to? Exhibit whatever?

MR. AMES: Whatever we've been talking about.

MR. SCULLY: Counselor, we've been talking about seven exhibits.

A We stated in here excessive gunk in the fire control. Gunk refers to oil, crud, dirt, whatever. To the best of my knowledge, we felt it was his fault that this stuff was in there.

Q Okay. And therefore you determined to charge him for the new fire control?

A Right.

Q Is there any reason why, if the fire control were functioning properly, you would have determined to replace it?

MR. SCULLY: Counsel, that's argumentative, calls for speculation. You can answer, if you can, without speculating.

A Would you repeat that again?

MR. SCULLY: Would you read it back?

(The last question was read by the reporter.)

MR. SCULLY: It also assumes facts not in evidence, lacks foundation.

A If the fire control was functioning properly, why would we replace it?

Q Is there any reason that would therefore lead you to replace it?

MR. SCULLY: Are you talking about hypothetically?

BY MR. AMES:

Q In your experience, during the time you were on the committee, if the fire control were functioning properly, would it have been the committee's practice to replace it?

A No.

Q Conversely, if the fire control were not functioning properly, was it the committee's practice to replace it on some occasions at least?

A At time it would be replaced.

Q And at times were they also cleaned and returned?

A Yes.

Q We have one GER where the fire control is noted to be gummed up, and it's replaced, and we have another GER here -- I'll give you the one I've just referred to, GER number 500 -- notes that there is an accumulation of dirt and oil, and in number 500, it is cleaned and returned. What reasons would lead you to one being replaced and another being cleaned?

MR. SCULLY: Calls for speculation, lacks foundation. You can answer it, if you know.

A It would have been the decision of the committee.

Q What factors, to your knowledge, would have led the committee to make such a determination?

MR. SCULLY: Same objection.

A I cannot answer it at this time. I don't recall what these factors would be.

Q Sir, during the time that you were chairman of the gun examination committee, was there anyone on the committee within your opinion who was more knowledgeable with respect to the causes of malfunctions in model 700 fire controls?

MR. SCULLY: In relationship to who?

A More knowledgeable than who?

Q You.

A Oh, yes.

Q Who?

A I would say the research representative. I would say he -- Mr. Stekl or Sienkiewicz.

Q Why would they be more knowledgeable than you would?

A I can't answer why they have more knowledge, more exposure.

Q You said that you were exposed to several hundred a year over, I believe you said, more than a five-year period?

A Right.

Q Why would they have been exposed to more of them than you were?

MR. SCULLY: Calls for speculation. It's argumentative. You can answer, if you know.

A You asked if they had more exposure to the gun or malfunction than I did -- or more knowledge, and I said yes. The research representative represented research, the other two gentlemen were dealing with customers in the field more than I was.

Q You told me that the committee reviewed all firearms returned to arms services in which there was a complaint about the function of the safety, is that correct?

A To the best of our knowledge, all that we received, all that I received, we examined.

Q Okay. Why would Mr. Stekl and Mr. Sienkiewicz have seen more firearms with malfunctions in the safety mechanism than you as chairman of the committee would have?

A Well, one example, some of them were involved in lawsuits which never got to our committee.

Q Roughly, how many would that be?

A I have no idea how many. But you asked if they had seen more, and I'm sure they have.

Q Other than that category, those involving lawsuits, are there any others that you can think of?

MR. SCULLY: Any other rifles?

MR. AMES: Firearms with safety malfunctions.

MR. SCULLY: Calls for speculation. You can go ahead and answer, if you know.

A I don't know.

Q Did either Mr. Stekl or Mr. Sienkiewicz ever supervise the quality control?

A What?

Q Were they ever supervisors of the gallery testing?

A No, with the clarification, you asked me if in my opinion if they had more knowledge than I had. It's my opinion they have.

Q Well, I'm trying to get to the reasons.

A I think they've had more exposure to the field.

MR. SCULLY: Counselor, just to cut you short, he has already responded to the reasons. It's been asked and answered.

MR. AMES: This is GJH-9, gun exam report number 218, dated 3/14/80.

Eight was number 244.

I'll ask the reporter to mark that nine.

(Exhibit GJH-9 was marked for identification.)

BY MR. AMES:

Q Sir, does GJH-9 and its attachments appear to you to all refer to the same gun?

A There's a problem on the serial number of the gun. Let me see here. This is the 676 and the other information is a 6705. It could be just an error in writing it up. It appears, from the customer, it appears to be the same gun, model 700.

Q Okay.

A I would say it's the same gun.

A Sir, in the upper left-hand corner of the form appears the letters PI and then a blank. What does that mean?

A Personal injury.

Q Who fills in that information?

MR. SCULLY: Presently or in this particular time?

MR. AMES: At the time.

A At this time, it could be either -- In this case, Mr. Hardy, or it could be the committee, and that would be based on information, a letter from the customer.

Q Okay. And would the category personal injury include injury to the property?

A It could.

Q Okay. Or injury to persons?

A It could.

Q What else would the category personal injury mean?

A That would be it.

Q Okay. Sir, which serial number with respect to number 218 here, Exhibit GJH-9, is it that you -- that appears to you to be the correct serial number for the document being examined?

MR. SCULLY: The document speaks for itself. It calls for speculation, lacks foundation.

A Which serial number would be correct?

Q Yes.

A I don't know without looking at the gun, but based on the paperwork here, it's probably the 67 that is correct.

Q 670936?

A Instead of 76, based on --

Q I'm sorry. Go ahead. Based on --

A Based on the paperwork as I see it.

Q Sir, under complaint it just says, "Request products liability examination." Can you tell from that

paperwork here what the nature of the complaint or the problem being complained of was?

A No, I cannot. No reference in it.

Q The comments are in your handwriting?

A Yes, they are.

Q Sir, from your comments there, what would you presently believe the complaint of malfunction to have been?

MR. SCULLY: Just by reading the comments?

MR. AMES: Yes.

MR. SCULLY: Calls for speculation, lacks foundation. You can answer, if you know.

A What I read there, I can't say for sure what it would be. Based on what I looked at before, and the other exhibits you showed me --

MR. SCULLY: That isn't the question.

THE WITNESS: Okay. Pardon me.

BY MR. AMES:

Q Based on any information you have as you sit here today, and knowledge and experience, what would the malfunctional problem have been with that gun referred to in GER 218?

A Probably an FSR.

Q Okay. The comment makes reference to both the trigger adjusting screw being adjusted outside the factory and a trigger assembly full of residue because of lubrication causing parts to hang up. Would both of those conditions have contributed to the FSR condition?

A That was the complaint, possibly.

Q In your experience, can a combination of improper trigger adjustment and gum-up of the fire control both contribute to firing on safety release?

MR. SCULLY: That question lacks foundation and calls for speculation. You can answer, if you can.

A If you have gummy. -- If the trigger assembly is gummy, it could possibly do that.

Q My question is, in your opinion, could the gummed-up fire assembly and improper trigger adjustment combine to lead to the FSR malfunction?

MR. SCULLY: Without any other facts? That is an incomplete hypothetical, lacks foundation. You can answer, if you can, without speculation.

MR. AMES: I'm asking about the model 700
fire control.

A Yes, it could.

Q Okay. Would you explain to me how the two
would combine to cause an FSR malfunction?

MR. SCULLY: Question calls for a narrative,
it's vague and ambiguous, lacks foundation,
calls for speculation. You can answer, if you
can.

A Trigger assembly is gummy, it could gum up
the parts and cause them not to work -- to function
properly. If the trigger seal or trigger screws are not
sealed, they could have been adjusted outside the factory.
Example in this one says, "Trigger pull is two pounds."
Our spec is three to five pounds.

Q Right. How do they combine to cause the FSR
malfunction?

MR. SCULLY: Again, same objection. It's
purely speculative. You can answer, if you can.

A I don't know.

MR. SCULLY: Who's our next witness?

MR. HUTTON: Jerry Burns.

MR. AMES: What is your present information with respect to when we are going to --

MR. SCULLY: 8:30 tomorrow.

MR. AMES: Which one?

MR. SCULLY: Sienkiewicz.

MR. AMES: Sienkiewicz will be here at 8:30?

MR. HUTTON: That is my information.

MR. AMES: Do you have some questions for this witness, Mr. Viri?

MR. VIRI: Can we take a couple of minutes?

(A short recess was taken at 4:09 p.m.)

MR. SCULLY: Counsel, I'm giving you the order for next week.

MR. AMES: Now wait a minute. The order for next week is noticed, and those are the witnesses that were noticed.

MR. SCULLY: These are the witnesses, right here.

MR. AMES: Are you telling me you are not going to produce witnesses as noticed?

MR. SCULLY: On Monday will be Jim Hutton.

On Tuesday will be Bob Hillberg. Wednesday, it will be John Lindy. On Thursday, Bill Davis, and on Friday, Jim Stekl and Ben Cummings. On Saturday, October 29th, E. Hooton and E. F. Barrett.

MR. AMES: What are the reasons that you are changing the order of the position of the witnesses as noticed and subsequently ordered by the court, which specifically said they were to be produced as noticed in that order during this week?

MR. SCULLY: Counsel, the only person we are rearranging is Jim Hutton, who is going from Thursday to Monday. Is that correct, Bob?

MR. SPERLING: That is my understanding.

MR. HUTTON: The reason Bill Davis cannot be there on Monday is because of a prior commitment.

MR. AMES: Why didn't you give us notice of this before now?

MR. SCULLY: I just found out. Note today's date for the record.

MR. AMES: I protest that, sir.

MR. SCULLY: You can protest all you want, Counsel.

MR. AMES: Mr. Scully -- Will you come back, Counsel? I'm not finished.

Note for the record that Mr. Scully turned and walked out, despite my request to discuss it further.

(The proceedings were resumed at 4:17 p.m.)

MR. AMES: Back on the record. Mr. Scully has come back in the room at 4:17. Mr. Scully, despite your representation that the only change in here is changing Hutton and Davis, I note that Stekl and Cummings would have been set for Thursday and they have been moved to Friday. Is there a reason for that change?

MR. SCULLY: Bob, can we produce Stekl and Cummings on Thursday instead of Friday?

MR. SPERLING: We can produce Stekl.

MR. SCULLY: How about Cummings?

MR. SPERLING: I'm not sure.

MR. HUTTON: I understand there was a

prior commitment on that Thursday.

MR. AMES: With respect to the schedule you are proposing here, of which you did not consult with me, there is a court order with respect to that point. I'm going to ask for Mr. Stekl and Mr. Cummings on Monday, and have Mr. Hutton stay on the day he was originally scheduled for. If you have some reason that Mr. Davis can't be there on Monday, I'm asking for Stekl and Cummings.

MR. SCULLY: On Monday?

MR. AMES: On Monday.

MR. SCULLY: Let's talk about it outside and see if we can work this out for Counsel here. We certainly want to conform to Counsel's wishes. I'm sure he is going to be severely prejudiced by the scheduling being rearranged, and what prejudice, God only knows.

We are going to go to discuss it. The three of us are going to go outside and discuss it.

MR. AMES: Can you do this as rapidly as

possible, Mr. Scully?

MR. SCULLY: Is there any documents with the original schedule, Counsel? Do you have one?

MR. RAU: It's on my calendar, if that's anything for you.

MR. AMES: I have it written on my calendar as to what the original notice was.

MR. SCULLY: What was the original notice?

MR. RAU: Davis, Monday.

MR. AMES: Hillberg, Tuesday; Lindy, Wednesday; Stekl and Cummings, Thursday; Hutton, Friday.

MR. SCULLY: You want two on Monday?

MR. AMES: If I can't have Davis, I want Stekl and Cummings on Monday. I want Mr. Hutton to stay on Friday as originally scheduled.

MR. SCULLY: Okay.

MR. AMES: One other thing, Mr. Scully. I had originally asked for Mr. Barrett first, and I would like to take Mr. Barrett first on Saturday because I may be able to dispense with

Mr. Hooton on Saturday morning.

Bob, I just told Steve I would prefer to start with Barrett on Saturday morning because I may be able to dispense --

MR. SCULLY: You mean not even depose Hooton at all?

MR. AMES: Right. It could be possible.

MR. SPERLING: That would be difficult.

MR. AMES: What is the earliest we could get Barrett?

MR. SPERLING: He would be on call after Hooton.

MR. AMES: If Mr. Hooton's deposition goes beyond 10:00, does that mean he's going to be there?

(The proceedings were resumed at 4:22 p.m.)

(Exhibit X was marked for identification.)

MR. SCULLY: Well, Counsel, are you ready for your questions?

MR. VIRI: Yes. I'm going to want to use these pictures. You may want to glance at them.

I think you've got a full set, and I'd

like to just call out the numbers on the back.

MR. AMES: I have reviewed those, and they are the prints of which the set was provided to Remington.

MR. VIRI: Meanwhile, I have gun examination report number 406, and I'd like to have that marked.

(Exhibit GJH-10 was marked for identification.)

BY MR. VIRI:

Q Mr. Hill, you've had a chance to review GJH-10?

A Yes.

Q Is that your handwriting in the area under comments?

A Yes, it is.

Q All right. Were you sitting as chairman of the gun examination committee at the time that this gun was examined?

A Yes, I was.

Q All right. You also put your initials up in the area where it's approved?

A Yes.

Q The complaint here says that the rifle fired when the safety was touched to release it, and under comments you neither write that the complaint was confirmed, nor do you write that it was not confirmed. Based on your reading of the comments, are you able to say at this time whether this complaint was confirmed or not?

A I cannot say that.

Q This comment indicates that you replaced this gun at no charge. I assume that you did that?

A Yes. I assume we did, too.

Q Wouldn't that indicate to you that in fact the complaint was confirmed in this case?

MR. SCULLY: That lacks foundation and calls for speculation. You can answer, if you can.

A I cannot answer that. There is a comment in here that says refer to Chisnall.

Q What does that mean?

A That is Jack Chisnall in Bridgeport who deals with customers, as Mr. Sienkiewicz or Mr. Stekl would do.

Q What was his position with the company at the

time?

A I don't know. He was in customer service and marketing.

Q Well, was the consensus of the committee to replace this gun at no charge, isn't that correct?

A Yes, it was.

MR. SCULLY: Is that what the document says, sir?

THE WITNESS: Yes, it does.

BY MR. VIRI:

Q Now, I also note here that the sear engagement is measured at .008, is that correct?

A That is what the document says, right.

Q And the Remington specs for sear engagement, at this time, were .0152.20, correct?

A Yes.

MR. SCULLY: That is what the document states?

THE WITNESS: Yes.

BY MR. VIRI:

Q There is no indication under comments that this trigger housing was tampered with in any way outside the

factory, is there?

MR. SCULLY: The document speaks for itself. You can answer.

A Based on what I see in the document, no.

Q If it had been tampered with, you would have noted that in the comments, wouldn't you?

MR. SCULLY: It's argumentative, calls for speculation. You can answer, if you can.

A Yes, we would have.

Q All right. Is the reason that the gun was replaced, at least part of the reason that the gun was replaced, the fact that the sear engagement was less than Remington specs?

MR. SCULLY: Again, it calls for speculation, lacks foundation. You can answer, if you know.

A I don't recall what the reason was that it was replaced. Based on the information we have here, I can't answer that.

Q Do you have any independent recollection of this particular gun examination, or the gun involved in it, other than what is contained in this gun examination

report number 406?

A No, I don't.

Q Sir, I have a three-page document, the first page of which is gun examination report 596.

MR. VIRI: I would like to have that marked as GJH-11.

(Exhibit GJH-11 was marked for identification.)

BY MR. VIRI:

Q Have you had a chance to review that document?

A Yes.

Q Do the two attached pages relate to the gun examination report?

A Page one -- Page two does. Page three, letter from customer, does not indicate the serial number of the gun, but --

Q Does the complaint -- or does the matter described --

A Yes, it does. The letter corresponds to the complaint.

MR. SCULLY: Let him finish the question.

THE WITNESS: Fine.

BY MR. VIRI:

Q Again, under comments, is that your handwriting?

A Yes.

Q And you sat as chairman of the gun examination committee that reviewed this particular gun?

A Yes.

Q And you also put your initials under the area over in the area where it says approved?

A Yes.

Q All right. Now, under comments, you don't indicate either way whether or not the -- Strike that.

You don't write specifically whether or not the complaint was confirmed or not confirmed in this case. Would you read the comments and attached documentation and please advise me at this time as to what your recollection is as to whether or not this complaint was confirmed or not confirmed?

MR. SCULLY: Read that back, please.

(The last question was read by the reporter.)

MR. SCULLY: It lacks foundation and calls for speculation. He's already read the

document. Are you asking him if he has a recollection independent of this document, Counsel?

MR. VIRI: Based upon his review of the document if the complaint was confirmed or not confirmed, by the gun examination committee.

MR. SCULLY: You can answer, if you know. If you recall.

A I do not know. I don't recall.

Q What is the purpose of making out a gun examination report?

MR. SCULLY: At any time?

MR. VIRI: At any time.

MR. SCULLY: Overly broad, calls for a narrative. Go ahead and answer.

A Well, what is the purpose of this?

Q Right.

MR. SCULLY: Of any gun examination report.

A For information.

Q To whom?

A In this case, as we have previously mentioned, the copy of this goes back to the arms services for

information on how to repair it. It also talks about a letter we wrote to the customer. We've talked about that. It's for more information for Remington.

Q Isn't it important to determine whether or not the complaint is confirmed or not confirmed?

MR. SCULLY: Counsel, that question is argumentative. You can answer, if you can.

I assume important means important to Remington?

MR. VIRI: That is right.

A Yes, it would be.

Q All right. Then can you say, sir, why on more than one report you would not specifically indicate whether the complaint was confirmed or not confirmed?

MR. SCULLY: Again, that calls for speculation, lacks foundation. It's been asked and answered. You can answer again, if you know.

A Repeat your part of the question, please?

Q Can you state, sir, why in light of the importance of whether or not the complaint is confirmed, can you state why on at least two occasions, now, that we've discussed, you did not specifically write in the comments

whether or not the complaint was confirmed?

MR. SCULLY: Same objection.

A No, I cannot. But it would be the consensus of the -- or consensus of the committee as to what is written down in the comments.

Q And this comment you wrote, "Replace fire control, no charge." Again, you weren't going to charge the customer for doing that?

A That is correct.

MR. SCULLY: That is what the document says?

THE WITNESS: That is what the document says.

BY MR. VIRI:

Q You also wrote, "Sear Safety Cam may stick down at times," is that correct?

A What I have written on the document, yes.

Q I take it the gun examination committee determined upon their examination that at times the Sear Safety Cam would stick down?

MR. SCULLY: That calls for speculation, lacks foundation. You can answer.

A The only thing I can say, we wrote down Sear Safety Cam may stick down at times.

Q Well, is that what the finding of the gun examination committee was?

MR. SCULLY: Again, that calls for speculation, lacks foundation. He has no independent recollection of this in particular. He is merely relating to what the document says. The document speaks for itself.

MR. VIRI: This man was chairman of the committee.

MR. SCULLY: I'm not going to argue with you.

MR. VIRI: He was the chairman that sat on this particular examination in 1981. I don't think it's that far back in time that he can't know what he meant when he wrote on this particular document.

MR. SCULLY: Are you inferring, Counsel --

MR. VIRI: I'm not inferring anything.

MR. SCULLY: Are you inferring that he is purposely not answering this question? Purposely

withholding information from you? Purposely withholding information of this particular meeting?

Go back two years. Do you recall the case you were working on and the witnesses involved? I think not. To ask this particular witness to recall every single gun examination report, and to infer that he should, is pure harrassment.

MR. VIRI: I think the jury will take whatever inference it does from this man's inability to recollect what his comments were.

MR. SCULLY: Let the jury decide. You are not the jury.

BY MR. VIRI:

Q Did the gun examination, based upon your review of that report, did the gun examination committee determine by its examination that the safety cam may stick down at times?

MR. SCULLY: Again, lacks foundation, calls for speculation.

A Based on what I read on here, I'd have to say yes.

Q All right. Would that be confirmation of the complaint that is listed on this report?

MR. SCULLY: Again, lacks foundation, calls for speculation.

A Possibly.

Q Sir, at any time, were you given any directive not to specifically write in the comment section that the complaint was either confirmed or not confirmed?

A Not to my knowledge.

Q Were there times when you found, by the nature of your comments, that it wouldn't be necessary to specifically write that the complaint was confirmed because the contents would speak for themselves?

A Yes.

Q Is this such a case?

MR. SCULLY: This being this exhibit?

MR. VIRI: This exhibit.

A No.

Q Why is it that you say this exhibit is not such a case?

A Your question was whether the comments would warrant -- Strike that.

I don't know. Would you repeat that, please?

(The last question was read by the reporter.)

BY MR. VIRI:

Q Is this Exhibit 11 such a case?

MR. SCULLY: It's been asked and answered. He said no. Now we're at the next question, why.

MR. VIRI: All right.

BY MR. VIRI:

Q Why do you say that this is not such a case?

A I don't know. I cannot answer.

Q If I asked you the same question with respect to Exhibit 10, would your answer be any different?

A If you asked me what? What part of the question?

Q Is this -- Well, let me ask the question.

With respect to Exhibit GJH-10, is the nature of these comments such that you felt it wasn't necessary to put down whether or not the complaint was confirmed?

A Yes.

Q All right. That is because it's obvious that the complaint was confirmed by the comments?

A With document 10, there is information missing.

Q I have provided you with all the information that has been provided to me.

A Okay. But compared to this, okay?

Q Well, is it obvious from the comments in Exhibit 10 that in fact the complaint was confirmed?

A I don't know whether it was confirmed or not, at this point.

Q Who else received copies of the gun examination reports besides arms services?

A At times, copies of these would go to Mr. Stekl and Mr. Sienkiewicz, if they desired a copy of it.

Q When would they -- How would you know when they desired a copy? Would they indicate that in some way?

A They would just ask for a copy.

Q Were they notified as to what particular gun examinations were taking place at any given time?

A They were part of the committee.

Q Okay. I meant other than people who were actually on the committee during the gun examinations. Was there distribution of this report to anybody other

than arms services?

A To the best of my knowledge, no.

Q Where -- Was part of the purpose of these gun examinations to determine if there were some problems with the product that would lead you to changing a process or a design at Remington?

A That would have been some of the information gathered from the committee, if there was any problem.

Q That was one of the purposes of having the gun examination?

A That and to determine whether what the customer was telling us was correct.

Q Okay.

MR. VIRI: All right. I have gun examination report number 625 and I'd like that marked as GJH-12.

(Exhibit GJH-12 was marked for identification.)

BY MR. VIRI:

Q Have you had a chance to review that, Mr. Hill?

A Yes.

Q All right. And is the handwriting under the

comments section your handwriting?

A Yes, it is.

Q You sat as chairman of the gun examination committee that reviewed the particular gun in question here?

A Yes, I did.

Q And your initials appear on the area of approved?

A Yes.

Q Do you have any independent recollection of this gun examination?

A No, I don't.

Q Did the committee confirm or not confirm the complaint in this case?

MR. SCULLY: By reading the comments?

MR. VIRI: I assume he would have to read the comments.

MR. SCULLY: Well, I assume, Counsel, nothing. The document speaks for itself. If you can conclude that from reading the document, sir, you can certainly go ahead and answer it.

A No, I cannot conclude from reading the document.

Q Either way?

A Yes. I mean, correct. Either way, I cannot tell whether it was verified or not verified.

Q There is a list of specifications at the bottom, including sear engagement, sear lift, unsafe. Are those -- I take it those are the specifications taken from the gun examined?

A Yes.

Q Are any of those out of spec with what Remington produced?

RM. SCULLY: The question calls for a narrative, overly broad, lacks foundation. You can answer, if you know, without speculating.

A They are within Remington specs.

Q Was the sear safety gummed up in the fire control?

A What I read on the report would give that indication.

Q Is that what you intended to indicate when you wrote this?

MR. SCULLY: Counsel, he has no independent recollection. You are arguing with the witness.

You are instructed not to answer, sir.

BY MR. VIRI:

Q Did you write these comments so that other people would have an understanding of what you wrote?

A Yes, within the plant.

Q Other people within Remington?

A Yes.

Q They weren't written strictly for your own purposes?

A No, they weren't.

Q And today you cannot determine, from your own comments, whether or not the sear safety was gummed up on this particular fire control?

MR. SCULLY: The question has been asked and answered.

You are instructed not to answer it.

MR. VIRI: All right. I have gun examination report number 639 with eight -- a total of eight pages -- seven pages, of attachments to the report.

MR. AMES: I'll note the date, 2/8/82, I believe.

(Exhibit GJH-13 was marked for identification.)

BY MR. VIRI:

Q Have you had a chance to review that, Mr. Hill?

A Yes, I have.

Q Are the seven attached pages associated with the gun report number 6387 You'd better check that.

A Yes. It's 639.

Q 639.

A As near as I can tell.

Q Is that your handwriting under the comments section of the gun report, gun examination report?

A Yes, it is.

Q All right. Did you sit as chairman of this particular gun examination?

A Yes.

Q And those are your initials over by approved?

A Yes, it is.

Q Do you have any independent recollection of this gun examination?

A No, I don't.

Q All right. Based upon your comments, can you tell us whether the gun examination committee confirmed or did not confirm the complaint that this gun fired on

safety -- excuse me, fired when the safety was moved to the fire position?

MR. SCULLY: The question calls for speculation. You can answer, if you can, however. If you can without speculation.

A I cannot say whether the committee verified it or not.

Q How would you interpret your comments, as to whether or not this gun fired when the safety was moved to the fire position?

A Where it says, "Malfunction is possibly caused by gummed-up fire control."

Q Correct. How would you interpret that?

A I would interpret that this is possibly what happened when the customer had the problem, based on his letters.

Q Would the -- In order for the committee to reach the consensus for that comment, wouldn't there necessarily be some observation of gummed-up fire control?

MR. SCULLY: Are you talking about in general, or specifically this case?

MR. VIRI: In this case at the time of the

examination.

MR. SCULLY: In which he has no independent recollection.

It lacks foundation, calls for speculation. You can answer, if you can.

A The comment written indicates a gummed-up fire control. The second line of this report says, "General condition used is dirty."

Q All right. So from that, you would conclude that in fact the observations of the committee were that this fire control was gummed up?

A Right.

Q And that that could have led to the malfunction which was fired when safety was moved to the fire position?

A Yes. That is what the customer complaint was.

MR. SCULLY: As it's stated by the document?

THE WITNESS: As it's stated by the document, right.

MR. VIRI: I have gun examination report number 635, dated 1/29/82. It's a single page.

I'd like that marked as CJH-14.

(Exhibit GJH-14 was marked for identification.)

BY MR. VIRI:

Q Have you had a chance to review that, Mr. Hill?

A Yes, I have.

Q Is that your handwriting on the comments section of that gun examination report?

A Yes, it is.

Q Did you approve that report by initialing it?

A Yes.

Q All right. Do you have an independent recollection of this gun examination?

A No, I don't.

Q Can you tell from the comments and the other data contained on the report whether or not the gun examination committee confirmed the complaint which was, "Rifle fired while closing the bolt"?

A No, I cannot.

Q Based upon your review of the document, would it be your conclusion that the gun examination committee found that the fire control in this particular gun was

gummed up?

A Yes.

MR. SCULLY: That is what the document says?

THE WITNESS: That is what the document says.

BY MR. VIRI:

Q Now, the document says, "Malfunction possibly caused by gummed-up fire control." My question is, would your conclusion be that based from your comments and the data contained in this report that in fact the gun examination committee found that the gun that was being examined was gummed up?

MR. SCULLY: It calls for speculation, lacks foundation.

A I do not recall.

Q Would you have written, "Malfunction possibly caused by gummed-up fire control," if there was no evidence of gumming up?

MR. SCULLY: It's argumentative. You can answer it, however.

A To the best of my knowledge, I would not have

written that down if there wasn't something in that fire control.

Q All right.

MR. VIRI: I have gun examination report number 644, dated 2/18/82. It has three pages of attachments.

I'd like to mark that as GJH-15.

MR. SCULLY: Just for the record, Counsel, we are terminating at 6:00.

MR. AMES: Well, we were here waiting for you this morning for twenty minutes. You were twenty minutes late this morning, and I'd like to have the twenty minutes back at the end of this examination.

MR. SCULLY: Fine. You've got it.

(Exhibit GJH-15 was marked for identification.)

MR. SCULLY: You didn't conform to the court order, because you left twenty minutes early, Counsel.

MR. AMES: It allows us to depose 'til those hours. It didn't specify any time.

BY MR. VIRI:

Q Have you had a chance to review that document, Mr. Hill?

A Yes, I have.

Q All right. From the documents attached to the gun examination report, do they relate to that particular report?

A To the best of my -- As I can see here, one is a little fuzzy on the Xerox copy. You can't read anything on it.

Q Which page is that?

A Page three. But sheets one, two and four are together.

Well, okay. Sheet three would be all right, too.

Q Now, sir, did you write the comments under the comments section of that report?

A Yes, I did.

Q Did you sit as chairman of the gun examination committee that reviewed this -- or excuse me -- examined this particular gun?

A Yes, I did.

Q And your initials appear over next to the approved?

A Yes.

Q Do you have any independent recollection of this gun examination?

A No, I don't.

Q Now, this gun examination in the area of PI, "No," has been written, correct? In the left-hand corner?

A As I read it on the document, yes.

Q That would mean there was no claim of property damage or personal injury, correct?

MR. SCULLY: It calls for speculation, lacks foundation. You can answer it, if you can.

A I don't know.

Q I thought you testified earlier that PI means there was a claim of property damage or personal injury.

MR. SCULLY: You thought wrong, apparently, Counsel.

BY MR. VIRI:

Q Didn't you testify to that earlier?

A If PI -- If there was a yes there, it would

be yes.

Q What would that mean?

A That there was a personal injury involvement.

Q What does no mean?

MR. SCULLY: Counsel doesn't know what no means?

A It could be no personal injury.

Q Okay. Where does property damage fit in?

What if there is property damage claimed, is there anything placed in PI?

MR. SCULLY: On the gun examination report?

MR. VIRI: On the gun examination report.

MR. SCULLY: You can answer that, if you know.

A I don't know.

Q Was there some purpose for the designation of whether or not there was a personal injury involved for purposes of your committee?

A Our committee would want to know if there was any personal injury involved.

Q Why would you want to know that?

A It could be a pending lawsuit.

Q All right. Would that mean you would be more careful with the examination or less careful or would it have any significance at all as to how you conduct the examination?

MR. SCULLY: It's argumentative, Counsel, and calls for speculation. You can answer that, however.

A I'm sure if the personal injury was involved, we would perhaps --

MR. SCULLY: I don't want you to guess.

THE WITNESS: Okay, pardon me.

MR. SCULLY: If you don't know, that is an acceptable response.

A (Continuing.) To the best of my knowledge, no, I don't know.

Q So whether or not a personal injury was involved had no significance, really, to the gun examination committee?

MR. SCULLY: In what regard?

MR. VIRI: In any regard.

MR. SCULLY: That is overly broad. Rephrase

your question.

MR. VIRI: I don't intend to rephrase it.

MR. SCULLY: Then I don't intend to allow him to answer it as phrased.

BY MR. VIRI:

Q Did --

A Let's go back. If there was a personal injury involved --

MR. SCULLY: There is no question.

THE WITNESS: Okay, pardon me.

BY MR. VIRI:

Q If there was a personal injury involved, would anybody other than the gun examination committee examine the rifle or weapon, whatever it might be?

MR. SCULLY: It's argumentative. You can answer the question.

A At times.

Q How was it determined when someone other than the gun examination committee would examine the firearm?

A If there was involved a personal injury, these guns at times would go to -- back to Bridgeport to Mr. Chisnall.

Q Okay. Did the gun examination committee tend to place more reliability on the complaint of the customer if there was no claim of personal injury or property damage?

MR. SCULLY: That calls for speculation, lacks foundation. Let's take a short recess.

MR. AMES: Before you go, Steve, there has been an error in marking these exhibits. We have two marked number 14. Number 644, which was the last marked, the reporter put the number fourteen on it, and that is number fifteen. We can correct that.

(A brief recess was taken at 5:08 p.m.)

(The proceedings were resumed at 5:11 p.m.)

MR. AMES: Would you note for the record that the witness and Mr. Scully have returned at 5:11?

MR. VIRI: All right. I have gun examination report number 650 dated March 2nd, 1982. I'd like to have that marked as GJE -- next in order, which I believe is 16.

(Exhibit GJH-16 was marked for identification.)

BY MR. VIRI:

Q Have you had a chance to review that, Mr. Hill?

A Yes.

Q All right. Is that your writing under the area designated as comments?

A Yes, it is.

Q And in fact, are those your initials after the words, "Repair at no charge"?

A Yes.

Q All right. You also approved this particular gun examination in the area where it says approved?

A Yes.

Q Okay. Do you have any independent recollection of this gun examination?

A No, I don't.

Q All right. Based upon your review of this document, are you able to say whether or not the complaint which was, "Fires at times when the bolt is being closed," was confirmed by the committee?

A Based on the document, no.

Q Okay. Under comments, you note that the sear engagement was .005 while the specs were .015 to .020. That is correct, isn't it?

A Based on what I read in the document, yes.

Q Is there any indication anywhere on this document that this fire control was adjusted in any way outside the factory?

A No.

Q Did the committee conclude that the sear engagement was .005 when this particular gun left the factory?

MR. SCULLY: Objection. It calls for speculation, lacks foundation. You can answer, if you can.

A I don't know.

Q Why did you -- Well, strike that.

Why did the committee reach the consensus that this gun should be repaired at no charge?

MR. SCULLY: He has no recollection independent of this particular document. Therefore, it calls for speculation. You can answer, if you know.

A I don't know.

MR. VIRI: I'd like to mark as GJH-17, gun examination report number 688, dated June 16th, 1982.

(Exhibit GJH-17 was marked for identification.)

BY MR. VIRI:

Q Have you had a chance to review that, Mr. Hill?

A Yes, I have.

Q Is that your handwriting in the area under comments?

A Yes, it is.

Q Did you also initial the comments?

A Yes.

Q You also approved this particular gun examination?

A Yes.

Q You sat as chairman of the gun examination committee on that particular examination?

A Yes.

Q Okay. Do you have any independent recollection of that examination?

A No, I don't.

Q All right. Are you able to tell from the comments that you placed at the bottom of the page whether or not the complaint was confirmed in this case?

A No, I can't.

MR. SCULLY: It should be noted for the record the complaint as stated is, "Gun goes off as you close the bolt."

MR. VIRI: The document speaks for itself.

MR. SCULLY: Therefore, any question delving into this document is irrelevant and the reasonable conclusion is in the evidence, which is true for all the rest of these documents.

BY MR. VIRI:

Q This gun was also repaired at no charge, is that correct?

A Yes, it was.

MR. SCULLY: That is what the document says?

THE WITNESS: That is what the document says.

BY MR. VIRI:

Q Generally, if the gun examination committee

determined that whatever the problem was with the gun was the result of faults on the part of the owner of the gun, would the gun examination committee recommend that the gun be repaired at no charge?

A At times, we have recommended that, yes.

Q Is there a certain number of percentage of times?

A Not that I recall.

Q What criterion did you use to determine when repairs should be done at no charge, and when they should be charged to the customer, when you determined that the customer was at fault with regard to the firearm?

MR. SCULLY: Do you understand that question?

THE WITNESS: Not for sure.

MR. SCULLY: Read it back.

(The last question was read by the reporter.)

MR. SCULLY: The question is compound. You can answer it, however.

A Generally, it was the consensus of the committee based on the recommendation of the customer service

representative if we should replace it or repair it at no charge.

Q All right. Would it have to do with the fact that the person was a good customer and things of that nature?

A No.

Q Would you always follow the recommendation of the customer service representative?

MR. SCULLY: In what regard?

MR. VIRI: With respect to whether the firearm should be repaired at cost or no cost.

MR. SCULLY: Would you rephrase that question, please?

BY MR. VIRI:

Q Did you always follow the recommendation of the customer service representative as to whether or not the firearm should be repaired at no charge to the owner when it was determined that the owner was at fault for whatever the problem was with the firearm?

A Generally, I would have to say yes.

Q When was it that the -- that the directive was given to arms services that all guns with safety

problems should be given to the gun examination committee?

A. I don't know.

Q. Was it before you were chairman or after you were chairman?

A. Before.

Q. All right. Does the sear lift on a model 700 have anything -- any relationship at all to the problem of firing on safety release?

MR. SCULLY: That question lacks foundation, calls for speculation. It's an incomplete hypothetical. You can answer, if you have sufficient facts.

A. I don't know.

Q. Did the gun examination --

Let me refer you to Exhibit GJH-3. Do you have that somewhere in front of you there?

MR. AMES: Which one?

MR. VIRI: Three.

MR. SCULLY: That is fourteen exhibits back.

BY MR. VIRI:

Q. There is a letter in that exhibit from Dr. Jackson.

In fact, there may be two of them, dated November 21st, 1979. I'd like you --

MR. SCULLY: There is a document here that purports to be signed by a Dr. Sidney V. Jackson. Is that what Counsel is referring to?

MR. VIRI: Yes. Dated November 21st, 1979.

BY MR. VIRI:

Q I would ask you to review that letter and including what appears to be a P.S. at the bottom of that.

MR. SCULLY: The record should note that it's cc'd to a Byron Traister, attorney.

MR. AMES: The record speaks for itself, Counsel, as you frequently point out. You're just editorializing.

BY MR. VIRI:

Q Have you had a chance to review that letter, Mr. Hill?

A I have read the letter.

Q All right. You indicated earlier that along with the gun examination report, such a letter would be delivered to the gun examination committee, is that

correct?

A Yes.

Q All right. Would this be the type of letter that would be delivered along with the gun examination report to the committee?

A This is the type of letter specifying the complaint, and a little history on it.

Q This particular -- Under the comments, you indicate that you are unable to duplicate this customer's complaint. My question is, did the gun examination committee ever itself contact the customer or direct somebody else to contact a customer with regard to the complaint?

A A member of our committee, at times, has contacted customers.

Q Is there a particular member that usually did that?

A Yes, there is.

Q Who is that?

A It would be a marketing representative, Mr. Stekl.

Q All right. Are you able to determine from the

documents contained in Exhibit GJH-3 whether any contact was made with Mr. Jackson for either a further description of this complaint or more information?

A In the packet of documents GJH-3, there is a letter from a Mr. -- or Jim Stekl to Mr. Jackson indicating --

MR. SCULLY: The letter speaks for itself, sir.

BY MR. VIRI:

Q You're talking about the letter of May 7th, 1980?

A Yes.

Q Well, that letter in no way seeks any further information from Mr. Jackson, Dr. Jackson, does it, other than whether he wants his fire control replaced?

MR. SCULLY: The letter speaks for itself, Counselor. You can make your own interpretation. However, you can assist Counsel in reading that letter, if you'd like, sir.

A Well, there is a statement at the end, on page two, that even though there was nothing wrong with the trigger assembly that we would replace it with another one

one at no charge. We are asking for additional information.

Q You interpret that as asking him for additional information about his complaint?

A No. Not about his complaint, but additional information on the repair.

Q The only question asked is, did you want another assembly, isn't it?

MR. SCULLY: Are you arguing about the witness's interpretation? I'm instructing this witness not to answer, if that is your case.

MR. VIRI: He has told me there has been some effort here to obtain some information.

MR. SCULLY: You're asking him to interpret a letter written by somebody else, and now you are arguing with him, that he has made the wrong interpretation.

MR. VIRI: I am not arguing at all. I'd like him to verify that this is a request for further information.

MR. SCULLY: The document speaks for itself. If you can, go ahead, sir, and interpret this

particular letter.

A In the letter written, that we are talking about here, May 7th, '82, to Mr. Jackson -- Dr. Jackson from Mr. Stekl, it indicates to the customer what the letter says here, "We examined this, we did additional tests. Something based on the findings" -- And he says, "We will replace the fire control if you desire us, and we are awaiting your reply."

Q All right. Flipping to the second page from the back of that exhibit, what appears to be a reply from Mr. Jackson dated June 1st, 1980. Let me ask this question. If a reply of some kind was made to Mr. Stekl, was that again brought to the attention of the gun examination committee?

A Can I take one minute just to read that, please?

Q Sure. Please do.

A I've read the letter now.

Q All right. When a reply was made to Mr. Stekl's communication, was that reply generally communicated to the gun examination committee?

A No, it was not.

Q By reviewing this documentation, are you able

to tell whether or not Mr. Jackson, Dr. Jackson, was ever contacted and asked what lubricant, if any, was used on his firearm?

A From the documents I see, no evidence of us -- No indication of us asking for any indication of lubricant used. Except, let me read just one thing here.

Q All right.

MR. VIRI: Steve, what about those pictures?

MR. SCULLY: What about them?

MR. VIRI: I wanted to ask him to look at them, and I'd like to keep these for purposes of asking other people about them. I'll identify them by the numbers on the back.

MR. SCULLY: Why don't we just agree for you to retain the originals and have photocopies attached to the deposition? Is there any problem with photocopying them?

MR. VIRI: There is no problem photocopying, is there?

MR. HUTTON: We can Xerox them.

MR. SCULLY: That is all we need.

BY MR. VIRI:

Q Mr. Hill, I'm going to show you --

MR. SCULLY: Wasn't there a question pending?

(The last question was read by the reporter.)

BY MR. VIRI:

Q Do you have any further remarks regarding the documents?

A No.

MR. VIRI: I have twelve photographs. It's my understanding, with Counsel, that we will photocopy these photographs and attach the photocopies to the deposition. I will retain these photographs in my possession. Is that the understanding?

MR. SCULLY: That is correct.

BY MR. VIRI:

Q I'd like you to look at these photographs, Mr. Hill.

MR. AMES: Mr. Hill, as you look at them, will you hand them to me after you look at one

photograph? I'm going to look at it and make a note for the record what the identification is on the back of it. The back says California Department of Justice, October 6th, 1981, and G-35, audio/visual department.

Next, with the same information, and the number C-36, audio/visual department.

Next is the same information and the number G-5. State of California, audio/visual department.

The next has the same information and the number G-11. State of California, audio/visual department.

The next has the same information and the number C-4.

The next has the number G and I can't make it out. I believe it's one.

Next is the designation G-16, same information.

Would you note that Mr. Scully has left the room and the witness is still looking at the photographs?

The next one here handed me is marked
E-11. The next one is B-12, B-6 and B-4.

BY MR. VIRI:

Q My question, after you review these exhibits,
would be, how would you describe, if you were making
comments on the gun examination report, how would you
describe the fire control pictured in those pictures?

MR. SCULLY: It's overly broad, calls for
speculation, lacks foundation. Which pictures
in particular?

MR. VIRI: All of them. It's all from the
same gun.

MR. SCULLY: And you want him to do what,
now?

MR. VIRI: Describe it as if he were
making comments on his gun examination report.

MR. SCULLY: Describe what?

MR. VIRI: The condition of the fire
control.

MR. SCULLY: I would suggest, Counsel,
you take a particular picture and bring that
to his attention. B-4. Are you interested in

B-4?

MR. VIRI: I'm interested in all the pictures which contain pictures of the fire control and various aspects.

MR. SCULLY: Okay. Sir, can you, by looking at B-4, describe the fire control?

MR. AMES: I'll note that that wasn't the question.

THE WITNESS: Not from B-4.

MR. SCULLY: Note that it's an overview of a rifle.

MR. VIRI: I'm going to represent that this is the rifle involved in this case.

MR. SCULLY: You can represent whatever you want.

MR. VIRI: They are all pictures of the same rifle.

MR. SCULLY: Let's take picture by picture.

MR. VIRI: I want him to review all the pictures.

MR. SCULLY: He has reviewed them.

BY MR. VIRI:

Q As if you are making comments on the gun examination report, what would your comments be about the fire control of that particular rifle?

MR. SCULLY: That question is vague and ambiguous. You can't expect this particular witness to go through all these photographs and make a generalized comment about each one as a whole.

MR. VIRI: No, I don't expect him to comment on each photograph at all. I want a comment on the fire control.

MR. SCULLY: Do you understand that question, sir?

THE WITNESS: As near as I can tell, he is asking what is the condition of that fire control.

MR. SCULLY: Let's go picture by picture.

MR. VIRI: I don't mind if he picks a picture and displays it and we can identify it then.

MR. SCULLY: I don't want to be accused of overlooking the other pictures. So we'll go

picture by picture.

MR. AMES: Is that your question?

MR. VIRI: No. It's not my question.

Are you instructing him not to answer my question?

MR. SCULLY: I don't understand your question.

MR. VIRI: The question is, are you instructing him not to answer the question.

MR. SCULLY: I want to hear the question.

(The last question was read by the reporter.)

MR. SCULLY: Sir, I want you to go picture by picture.

MR. AMES: Are you instructing him not to answer the question as asked?

MR. SCULLY: No.

MR. AMES: The question is proper with respect to the fire control, based on having reviewed all of the pictures which he has told us he has done.

MR. SCULLY: Can you do that, sir? Can

you answer that question as phrased? If you can, you can answer the question.

THE WITNESS: Do you want to recess before I answer it?

A As far as I can see, the fire control is -- has foreign material all over it. There is one picture here, number E-11, which I don't think has enough detail to tell me where it came from or what it is.

MR. AMES: In other words, what part?

THE WITNESS: Yes. I can guess what it is, but it doesn't have enough detail like the rest of them to tell exactly what it is. They are fire control parts. They are extremely dirty. The picture C-35 shows build-up of a material on the surfaces.

MR. AMES: Those are surfaces of the sear and the safety cam?

MR. SCULLY: Who's asking the questions, now, Counsel? We're getting it from both ends. Let's limit it to one at a time. You'll have your turn.

BY MR. VIRI:

Q In the picture you just described, it shows a Sear and Safety Cam, does it not?

A That is correct.

MR. AMES: May I make a representation as to the subject matter of this photograph 11?

MR. VIRI: As far as I'm concerned, you can.

MR. SCULLY: You can make all the representations you want. This particular witness said by looking at this photograph he can't identify the part, Counsel.

MR. VIRI: That is right.

MR. AMES: From the index of those photographs which were provided to Remington, and at which Remington were present when they were taken. Photograph 11 is a Sear Safety Cam, right side photograph, taken at a 12-power magnification.

BY MR. VIRI:

Q Do you have any further description that you would make under commentary if you were filling out a gun examination report?

MR. SCULLY: Lacks foundation, calls for

speculation. You can answer, if you can, sir.

A No additional comments.

Q All right. Would you describe the gun pictured in those pictures as having excessive oil? Excuse me. The fire control of the gun, pictured in these pictures, as having excessive oil?

MR. SCULLY: Same objection. Lacks foundation, calls for speculation. He can answer, if he can.

A Other than the first photograph, G-35, what I see in the other photographs is dirt, fuzzy material. I cannot say whether it's oil or not.

Q You've used the term throughout these gun examination reports that we have reviewed -- you've used terms several times throughout. One was excessive oil, one was dirt and oil, one was excessive gunk, and one was gummy residue from over-lubrication, and another one, gummed-up fire control.

Would you think that any of the five, and I'll read them again if you'd like, in describing the fire control of the gun pictured in the exhibits that you're looking at --

MR. SCULLY: Lacks foundation, calls for speculation. It's compound, vague and ambiguous. You can answer it, if you can.

A You want to read those again?

Q Excessive oil is one. Two, dirt and oil.

Three --

MR. AMES: Would you like to review as to each one, sir? Would you rather do it one by one?

THE WITNESS: Yes.

BY MR. VIRI:

Q All right. Let's start with excessive oil.

A G-35.

Q So G-35 would show excessive oil?

A As I previously mentioned, there's a build-up of material on the sides of the components.

Q All right. How about dirt and oil?

MR. SCULLY: Again, the question lacks foundation, calls for speculation. He can answer, however.

MR. AMES: I'd be willing to stipulate, Counsel, your continuing objection to those

questions, and Mr. Viri I think would, too.

MR. VIRI: I would, too.

MR. SCULLY: I'll object.

BY MR. VIRI:

Q Do you have the question in mind, now, Mr. Hill?

A Yes, I do. As I mentioned before, it's difficult looking at the photograph to tell dirt and oil, so I would have to answer --

Q So you can't tell from these photographs?

A No. I can't tell.

Q How about the term excessive gunk?

MR. SCULLY: Same objection.

A Excessive gunk would be on the -- Do you want me to name off the number, here?

Q Yes. If you can identify certain pictures, sure.

A Excessive gunk material on G-11, G-5, -6, -16, C-4, -2.

Q C-4?

A C-4, C-8.

MR. AMES: Is that the one I previously identified as G-1, sir?

THE WITNESS: C-36.

MR. AMES: The G is clear and the following number is not, and for the record I assigned it a tentative number one.

BY MR. VIRI:

Q Would you confirm that a G-1 is on it?

A No, it does not.

MR. AMES: I had a G-1 in blue beneath the green.

A B-12, G-35.

Q All right. Now, the next phrase is -- Have you completed that answer with respect to excessive gunk?

MR. SCULLY: You cannot identify that picture, sir?

THE WITNESS: Yes.

MR. AMES: What is your representation with regard to that picture? That it's the side of the sear as stated in the record before?

MR. SCULLY: He's been asked and answered that question as far as that photograph is

concerned.

BY MR. VIRI:

Q All right. The next phrase is gummy residue from over-lubrication. Would you describe what you see in those pictures with that phrase?

MR. SCULLY: Same objection.

A G-35 could be caused from over-lubrication. What I previously -- The one before that is a question.

Q Excessive gunk?

A Okay.

Q Okay. Finally, would you describe the fire control as a gummed-up fire control?

MR. SCULLY: Same objection.

A Yes, I would.

MR. VIRI: I have no further questions.

MR. SCULLY: Counsel?

MR. AMES: Are you waiting for me?

MR. SCULLY: I'm always ready for you,

Counsel.

BY MR. AMES:

Q Sir, do you know what follow-down is in a model 700?

A To the best of my knowledge, follow-down has been the bolt is closed and the firing pin has already fallen or in the fired position.

Q Can follow-down result in a model 700 firing?

MR. SCULLY: Lacks foundation, calls for speculation. It's not relevant or reasonably calculated as admissible evidence. You can answer.

A Rephrase that or just go over it again?

(The last question was read by the reporter.)

A It's possible.

Q Okay. Can it lead to a model 700 firing without simultaneously pulling the trigger?

MR. SCULLY: Same objection. Lacks foundation, calls for speculation.

A It could.

Q On model 700's in which there is a bolt lock, can the bolt be closed with the safety on?

A I have to think just a minute. To the best of my knowledge, no.

Q In any model 700's, to your knowledge, can a

bolt be closed when the safety is on?

A No.

Q I'll ask you, for purposes of my next question, to assume that on some model 700's the bolt can be closed with the safety on. Making that assumption, can, in those model 700's, the follow-down occur if the safety is on when the bolt is closed?

MR. SCULLY: Calls for pure speculation, lacks foundation. It's an incomplete hypothetical. You can answer it, if you can.

A I don't know.

Q In your experience, can some model 700's be tricked?

MR. SCULLY: Under what conditions, Counsel? It's an incomplete hypothetical, lacks foundation.

BY MR. AMES:

Q Have you ever seen any model 700's that can be tricked? Could be tricked?

MR. SCULLY: That have been tricked? That were tricked? Any of the above? What is the question, Counsel?

BY MR. AMES:

Q That to your knowledge, could be tricked?

A That have seen the trick test?

Q Have you ever seen this fail the trick test?

MR. SCULLY: Have you ever seen the model 700 fail the trick test?

MR. AMES: Yes.

A Yes.

MR. VIRI: In all fairness, we do know of at least one.

THE WITNESS: Yes.

BY MR. AMES:

Q In model 700's which fail the trick test, is that due in some cases to inadequate sear lift?

MR. SCULLY: Calls for speculation, lacks foundation. You can answer it, if you have sufficient facts.

A I don't know.

Q In your experience, can a model 700 fire on safety release if it has the specified amount of sear lift?

MR. SCULLY: Again, same objection. Lacks

foundation, calls for speculation. You can answer, if you have sufficient facts.

A I don't know.

Q In your experience, can a model 700 fire on safety release if it has the specified Remington specified engagement between the sear and the trigger connector?

MR. SCULLY: Wait a minute. What is the question? Would you read it back?

(The last question was read by the reporter.)

MR. SCULLY: It lacks foundation, calls for speculation, incomplete facts, incomplete hypothetical. You can answer, if you have sufficient facts, sir.

A Would you repeat it again?

MR. SCULLY: Read it back.

MR. AMES: I'll restate the question.

BY MR. AMES:

Q Can a model 700 -- In your experience, can a model 700 fire on safety release if it's within Remington specifications for engagement between the sear and trigger

connector?

MR. SCULLY: Counsel, that calls for pure speculation. It lacks foundation. You're excluding a myriad of factors that could be involved. Based on those objections, sir, you can still answer without speculating, and not adding any additional facts. You can answer it.

A I don't know.

Q Sir, in your opinion, based on your experience, what other factors could cause firing on safety release in the model 700 if the engagement between trigger and sear was within Remington specifications?

MR. SCULLY: That question is overly broad, calls for a narrative. It also lacks foundation. Sir, you can answer, if you know.

A Repeat it, please?

(The last question was read by the reporter.)

MR. SCULLY: Subject to my objection, sir, you can answer it, if you can.

A Let me take a minute to think. Repeat it one more time, please?

(The last question was read by the reporter.)

A (Continuing.) I think I'm sure it could be --
No. I want to start over again. It could be based on foreign material in the fire control.

Q Any other factors that you --

MR. SCULLY: Same objection. It's overly broad, calls for a narrative.

A I don't have any other facts or anything other than that.

Q When you used the term "foreign material in the fire control" a minute ago, did you mean by that the five categories that Mr. Viri asked you about earlier: excessive oil, dirt and oil, excessive gunk, gummy residue from over-lubrication?

A Yes.

MR. SCULLY: The question is compound.
You can answer.

BY MR. AMES:

Q Did you intend to include all of these within foreign material?

A Yes, I did.

Q Could metal chips from the manufacturing process that you mentioned this morning also be the foreign material in the fire control, as you understand it?

MR. SCULLY: Can metal chips be the foreign material?

BY MR. AMES:

Q Are metal chips a foreign material, as you used the term just a moment ago?

MR. SCULLY: In the trigger assembly?

MR. AMES: Right.

MR. SCULLY: Did you manufacture trigger assemblies with metal chips in them?

THE WITNESS: No.

BY MR. AMES:

Q This morning you mentioned metal chips from the manufacturing process as something that could cause a -- in the fire control, that could cause the malfunction of the fire control. Do you recall that?

A Yes, I did.

Q Okay. And would such metal chips be included in the foreign material category that you mentioned a moment ago?

A Yes.

Q Have any metal chips ever been found in a fire control of Remington bolt action rifles at any time, to your knowledge?

A Yes.

Q Sir, in the gun examination committee, during the time that you were a member, as a matter of routine, did that committee check engagement between trigger connector and sear in those guns that they determined to have verified complaints, firing on safety release?

A At times, they were checked, yes.

Q The same question, sir, with respect to checking the sear lift.

MR. SCULLY: Well, let's hear the question in full, Counselor.

BY MR. AMES:

Q In your experience with the gun examination committee, in model 700's, where the gun examination committee verified a customer complaint as to firing on safety release, did the committee check sear lift?

A I don't know.

Q Sir, during the time that you were a member of

the gun examination committee, did the committee close the bolt of the model 700 with the safety on before performing the trick test?

MR. SCULLY: On each and every occasion, Counselor?

MR. AMES: On any occasion that he knows of.

MR. SCULLY: It's overly broad, calls for a narrative. You can answer, if you recall specifically.

A I don't know.

Q Sir, during the time you were on the gun examination committee, if the committee verified a complaint of follow-down, follow-down in a model 700, was the bolt subsequently closed with the safety on and then the safety pushed off to see if the same rifle would fire on safety release?

MR. SCULLY: Again, that question is overly broad, calls for a narrative, calls for speculation. It's nowhere near relative to this particular case. It might be to other cases that somebody is working on.

A No.

Q Sir, I'll show you two exhibits previously marked GRB-4 and GRB-3. GRB-3 is a table with the words at the top "Number of Complaints and Number of Justified Complaints." See where I'm repeating those terms?

A Yes.

Q And down on the left-hand column is a list of models by number, do you see that?

A It appears to be models, yes.

Q Have you ever seen any data or information that broke down the number of complaints and number of justified complaints by model?

A Yes.

Q Was it somewhat similar in form to the data shown here?

A I don't recall.

Q Does the term "number of justified complaints" mean to you the number of complaints which were verified by the gun examination committee?

A No, sir.

Q What do you understand the term "number of justified complaints" to mean?

MR. SCULLY: The question lacks foundation, calls for speculation. The document speaks for itself. You can answer if you can.

A I don't know.

Q Sir, I'll show you GRB-4, which is a list of code numbers, and the heading "Code Number and Category and Type." Have you ever seen any of the code numbers here with any of the categories shown after them?

MR. SCULLY: That question is compound given the fact that there are probably fifteen codes. That calls for a narrative, overly broad. You can answer it, however.

BY MR. AMES:

Q I'll ask you specifically as to code number 107, "jars off on rifle closing." Are you aware of that code number being assigned to jar-off?

A Well, I'm reading it now.

Q Prior to that, have you ever seen that code number assigned to jar-off?

A Not to the best of my knowledge, no.

Q Have you ever seen code number 108 assigned to "fires on release"? I'm sorry. "Fires on safe or safe

doesn't hold."

A Not to my knowledge.

Q How about 109 for "firas when safe is pushed off"?

A I don't recall it.

Q Okay. On the documents that you said you had seen, wherein numbers of complaints and number of justified complaints data was sent out, were there code numbers as to type of complaints?

A On this particular?

Q No. On others that you've seen.

A I don't recall.

Q Sir, you earlier mentioned that there was a category of process words wherein the quality control procedures and modifications to quality control procedures with respect to model 700 quality control audits was recorded during the time that you were supervisor of quality control. My question, is this form entitled "General Procedures for Components Subassembly, Quality Control by Production," previously marked LP-3, is that the document that you were referring to?

MR. SCULLY: Counsel, for my clarification

and this witness's clarification, does your question deal with the audit by quality control?

MR. AMES: Well, he told me that the procedures were put down in some document.

MR. SCULLY: Audit by quality control? Is that the way your question is phrased?

MR. AMES: My question is phrased in terms of those documents that he was unable to identify in the process records I showed him.

MR. SCULLY: That doesn't answer my question, Counsel. My question is a simple one. One that could be answered very simply. Does your question go to the audit conducted by quality control of which this individual was a supervisor of?

MR. AMES: I'll restate my question.

BY MR. AMES:

Q You told me this morning that there were a category of process records.

MR. SCULLY: That is a question or not a question?

BY MR. AMES:

Q With respect to quality control inspection procedures by PE&C, quality control staff during the time that you were supervisor there, and I'm asking you if these -- if the form which I have just shown you is the category of documents which you were referring to this morning?

MR. SCULLY: Inspection procedures for their auditing by quality control?

MR. AMES: Yes.

MR. SCULLY: Okay, thank you.

A No.

Q That is not it?

A No.

Q Are you able to give me any further information over that which you told me this morning with respect to what the total of those documents is or what they look like?

A They would be on a sheet like this, but they are not this particular information that you're asking me to look at.

Q Okay. Sir, to your knowledge, has anyone in the Remington Arms Company other than the gun examination

committee, during the time that you have been employed there, been charged with verifying customer complaints about firing on safety release in bolt action firearms?

MR. SCULLY: Can you answer that question?

It's vague and ambiguous. It calls for speculation, lacks foundation.

A I'm sure there were other people that looked at guns during the period of my employment which was twenty years.

Q Was there anyone outside of the members of the gun examination committee whose responsibility it was to verify complaints by customers with respect to fire on safety release?

A I don't know specifically if there was anybody charged with that responsibility.

MR. SCULLY: I want you to call down that next witness for me, okay?

A (Continuing.) But I know that Jack Chisnall was involved in these.

Q Was he charged with verifying customer complaints?

A I don't know what he was charged with.

Q My question is, do you know of anyone else who

was charged with customer complaints, with respect to verifying the customer complaints?

A Not to my knowledge, other than I mentioned Mr. Chisnall.

MR. AMES: We have left so far, Burns, Sienkiewicz and Boyle, right?

MR. SCULLY: That is right.

Are you finished with this witness?

MR. AMES: I think we're finished.

Thank you, sir.

(Whereupon, this deposition was adjourned.)

(Whereupon, at 6:19 p.m., a brief recess was taken.)

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C E R T I F I C A T E

I, MICHELE LOPTUS, a Shorthand Reporter and Notary Public in and for the State of New York, DO HEREBY CERTIFY that the foregoing is a true and accurate transcript of my stenographic notes in the above-entitled matter.

DATED: November 22, 1983.

Michele Lopetus

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MARTIN MURPHY, CSR, P.C.