

### DECLARATION OF KATHY PEZDEK, PH.D.

I, Kathy Pezdek, Ph.D., declare as follows:

1. I am a Professor in the Department of Psychology at Claremont Graduate University in Claremont, California, where I have been employed since 1981. I received my B.S. degree in psychology from the University of Virginia in 1971; my M.A. degree in psychology from University of Massachusetts, Amherst, in 1972; and my Ph.D. degree in psychology from University of Massachusetts, Amherst, in 1975. My focus of study at each institution was experimental psychology, specifically, cognitive psychology.

2. First as a graduate student, and then as part of my employment with Claremont Graduate University, I have studied human memory and the factors that affect the accuracy of memory. Specifically, I have conducted scientific research and experiments relating to eyewitness memory, the suggestibility of memory, visual memory, and autobiographical memory.

3. I have edited four books: *Expert Psychological Testimony for the Courts* (2007); *Applied Psychology: New Frontiers and Rewarding Careers* (2006); *The Recovered Memory/False Memory Debate* (1996); and *Applications of Cognitive Psychology: Problem Solving, Education and Computing* (1987). I have authored and co-authored numerous scholarly scientific articles in peer-reviewed journals publishing my findings from numerous eyewitness memory experiments conducted over the past 35 years. A copy of my Vita, documenting my record of publications, is attached to this Declaration.



4. I have been a member of the Editorial Board for the *Journal of Applied Psychology*, and am currently on the Editorial Board for the *Journal of Applied Research in Memory and Cognition* and *Legal and Criminological Psychology*. From 1995 to 2000, I served as North American Editor of *Applied Cognitive Psychology*. I am also a Fellow of the Association for Psychological Science. In the course of my career, I have received numerous research grants, all relating to eyewitness memory. Two of these grants were funded by the National Science Foundation's Program in Law and Social Sciences, and I recently completed a grant-funded project from the National Institute of Justice to study how attorneys' plea bargaining decisions are affected by their assessments of the strength of eyewitness evidence.

**IN THE MATTER OF *PEOPLE V. KEVIN COOPER***

5. I have been asked by Mr. Cooper's current counsel, Katie C. DeWitt, to review information pertaining to the eyewitness statements by Josh Ryen, the surviving witness in the incident that occurred the night of June 4, 1983, for the purpose of determining what aspects of Josh Ryen's memory of the perpetrators would be considered reliable. I understand that an Expert Witness on Eyewitness Memory did not testify in Mr. Cooper's trial. I was provided with the following materials provided to me pertaining to the eyewitness memory of Josh Ryen: (a) a case summary of Kevin Cooper, Petitioner-Appellant, v. Jill Brown, California State Prison at San Quentin, Respondent-Appellant, No. 05-99004 [a true and correct copy is attached hereto as Exhibit A]; (b) SBSO Detective Woods' handwritten from his interview of social worker Donald Gamundoy who questioned Josh Ryen about the identity of the assailants upon Josh's arrival at Loma Linda Hospital Emergency Room on June 5, 1983 (Gamundoy's I-V with Ryen - 6/5/1983) [a true and correct copy is attached hereto as Exhibit B]; (c) SBSO Detective Woods' police report based on his interview of Donald Gamundoy on January

5, 1984 [a true and correct copy is attached hereto as Exhibit C]; (d) excerpts from Donald Gamundoy's trial testimony [a true and correct copy is attached hereto as Exhibit D]; (e) SBSB Deputy Sharp's trial testimony based on his two interviews with Josh Ryen at the Loma Linda hospital, the first taking place immediately after Josh's arrival and the second occurring later in the afternoon of June 5, 1983, after Josh's CT scan [a true and correct copy is attached hereto as Exhibit E]; (f) SBSB Deputy Sharp's police report based on Sharp's two interviews of Josh Ryen [a true and correct copy is attached hereto as Exhibit F]; (g); SBSB Detective Woods' police report based on his interview of Loma Linda Hospital chief staff psychologist, Dr. Gerry Hoyle, regarding Dr. Hoyle's observations of Detective O'Campo's interview of Josh Ryen on June 14, 1983 [a true and correct copy is attached hereto as Exhibit G]; (h) Dr. Hoyle's handwritten notes based on his observation of Detective O'Campo's interview with Josh Ryen on June 14, 1983 [a true and correct copy is attached hereto as Exhibit H]; (i) excerpts from Dr. Hoyle's testimony at Mr. Cooper's pretrial hearing relating to Detective O'Campo's interview of Josh Ryen on June 14, 1983 [a true and correct copy is attached hereto as Exhibit I]; (j) police report generated by SBSB Deputy O'Campo on May 24, 1984 regarding a statement made by Josh Ryen on June 15, 1983 to SBSB Deputy Luis Simo where, upon seeing Kevin Cooper's photograph on his hospital room television set, Ryen told Deputy Simo that Mr. Cooper did not commit the murders [a true and correct copy is attached hereto as Exhibit J]; (k) excerpts from trial testimony of Josh Ryen's maternal grandmother Dr. Mary Howell where she described how sometime after June 15, 1983, but before Josh Ryen was discharged from Loma Linda Hospital, Mr. Cooper's picture appeared on the television screen in Josh's hospital room prompting Dr. Howell to ask Josh if he had ever seen Kevin Cooper to which Josh responded that he had not [a true and correct copy is attached hereto as Exhibit K]; (l) statement made by Josh Ryen to his paternal uncle Richard Ryen, in which he expressed doubt that Mr. Cooper committed the murders [a true and correct copy is attached hereto as Exhibit L]; (m) portions of the



transcript of Dr. Forbes' interview with Josh Ryen in December, 1983 [a true and correct copy is attached hereto as Exhibit M]; (n) excerpts from transcript of Josh Ryen's December 1984 video-taped interview conducted by prosecution and defense counsel [a true and correct copy is attached hereto as Exhibit N]; (o) excerpts from Deputy Simo's testimony at Mr. Cooper's pretrial hearing where Deputy Simo testified that while he was supervising Josh Ryen in his Loma Linda Hospital room, Josh stated that the murders were committed by 3 Mexicans, not Mr. Cooper [a true and correct copy is attached hereto as Exhibit O]; (p) excerpts from SBSB Detective Hector O'Campo's trial testimony, who interviewed Josh following the murders [a true and correct copy is attached hereto as Exhibit P]; (q) excerpts from Emergency Room Nurse Calvin Fischer's trial testimony, who witnessed Donald Gamundoy's interview of Josh Ryen immediately after his arrival to Loma Linda Hospital on June 5, 1983 [a true and correct copy is attached hereto as Exhibit Q]; and (r) police report generated by Detective O'Campo after his June 14, 1983 Interview of Josh Ryen.

6. In reviewing these materials, I identified three specific factors that suggest that the early eyewitness memory accounts of Josh Ryen exculpating Mr. Cooper were likely to be correct. First, in the hours, days, and weeks following the attacks, Josh Ryen consistently described his attackers in the plural as 3 or 4 men, not a single man as asserted at trial. Second, during this same time frame, Josh Ryen consistently identified these men as being White or Hispanic, not Black like Mr. Cooper. Finally, upon seeing Mr. Cooper's picture on television, Josh Ryen indicated on more than one occasion that he did not recognize Mr. Cooper and that Mr. Cooper did not commit the crimes. Had I been called to testify in this matter in Mr. Cooper's trial, I could and would have testified in accordance with this declaration. A discussion of the relevant factors follows.



## TIME DELAY

7. One of the most established findings in psychology is the fact that memory declines with the passage of time. In 1885, Ebbinghaus tested his memory on lists of items he presented to himself. He discovered that his memory faded over the first 24 hours, and that the reliability of his recall continued to decline thereafter. This finding is referred to as "Ebbinghaus' Forgetting Curve." In a number of scientifically reliable studies over the past century, it has been reported that after a significant time delay (a) the accuracy of all types of memory declines and (b) as memory declines, it becomes more vulnerable to suggestive influences.

8. A related research study discovered that the weaker the strength of information input into the memory, the quicker it dissipates, an effect known as "Jost's Law." Thus, memories that are not initially perceived and encoded very clearly decline more rapidly over time than memories that are initially perceived and encoded more accurately.

9. In this case, clinical social worker Donald Gamundoy was the first person to interview Josh Ryen. The interview took place on June 5, 1983, within twelve to fourteen hours of the incident. The interview took place in the Loma Linda Hospital Emergency Room. Before Mr. Gamundoy interviewed Josh, Josh's consciousness level was checked by hospital staff. Hospital staff determined that Josh exhibited the highest level of consciousness possible for a trauma patient. (Exhibit Q at 100 R.T. 6229:6-17.) Due to his injuries, Josh was unable to speak<sup>1</sup>, and as a result, Mr. Gamundoy employed several non-

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<sup>1</sup> When asked whether Josh Ryen was able to speak when he arrived at the Loma Linda Hospital Emergency Room, Mr. Gamundoy responded, "Verbally, no." (Exhibit D at 99 R.T. 5921:7-8 [Donald Gamundoy].)

verbal communication methods to interview Josh. (Exhibit C; Exhibit D at 99 R.T. 5921.) Using non-verbal communication techniques, Josh identified himself to Mr. Gamundoy and accurately provided Mr. Gamundoy with his age and home telephone number.

10. Mr. Gamundoy first tried to interview Josh using an eye blinking method. (Exhibit D at 99.R.T. 5921:14-16.) Mr. Gamundoy instructed Josh to blink his eye for an affirmative answer. (Exhibit D at 99 R.T. 5921:16.) To signal a negative response, Josh was directed to refrain from blinking. (Exhibit D.) Josh was given no direction as to how to respond if he did not know an answer to one of Mr. Gamundoy's questions. (Exhibit D.) Mr. Gamundoy testified at Mr. Cooper's trial that he quickly abandoned the eye blink method as it proved to be inadequate. (Exhibit D at 99 R.T. 5921:22-23.) Mr. Gamundoy explained that the eye blink method was unsuccessful, "because when I didn't ask questions I would watch him and he would blink my way, so I couldn't tell if he was tired or had something in his eye or dryness of his eyes. So I decided to, you know, change it." (Exhibit D at 99 R.T. 5921:23-26 [Donald Gamundoy].)

11. Mr. Gamundoy then provided Josh with pen and paper and asked Josh to write out answers to questions posed by Mr. Gamundoy. (Exhibit D at 99 R.T. 5921-22: 27-2.) While Josh appeared to understand Mr. Gamundoy's questions, due to Josh's decreased level of dexterity, his written responses were "illegible." (Exhibit D at 99 R.T. 5922:9 [Donald Gamundoy].) Accordingly, this method also proved ineffective. (Exhibit D at 99 R.T. 5922:7-9.)

12. Finally, Mr. Gamundoy created a chart with numbers and letters. Mr. Gamundoy used to this chart to ask Josh about the identity of the assailants. "I got a



blank sheet of paper. Placed it on a clipboard, and I wrote out the letters "A" to "Z", numbers "1" through "0", and the words "yes" and "no." (Exhibit D at 99 R.T. 5922: 11-13 [Donald Gamundoy].) Mr. Gamundoy instructed Josh to respond to his questions by pointing to the numbers and letters on the chart<sup>2</sup>. Using the chart, Josh communicated the number of attackers, the gender of the attackers and their ethnicity. Specifically, Josh asserted the following facts to Mr. Gamundoy: (a) the attackers were 3-4 people<sup>3</sup>, (b) they were males<sup>4</sup>, and (c) the attackers were white<sup>5</sup>. (Exhibit C.) Mr. Gamundoy specifically asked Josh if the assailants were Black. Josh responded "No." (Exhibit D at 99 R.T.

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<sup>2</sup> "I told him that I was going to ask him some questions and I wanted him to point to the letters and numbers." (Exhibit D at 99 R.T. 5923:1-5 [Donald Gamundoy].) Mr. Gamundoy first asked Josh "what his name was." (Exhibit D at 99 R.T. 5923:11 [Donald Gamundoy].) "He pointed to the 'J', the 'O', the 'S' and the 'H.'" (Exhibit D at 99 R.T. 5923"13-14.) Donald Gamundoy also asked Josh to use the chart to spell his last name. (Exhibit D at 99 R.T. 5923-24.) Josh complied and used the chart to provide Mr. Gamundoy with the correct spelling of his last name. (Exhibit D at 99 R.T. 5924.) Josh also used the chart to indicate that his true given name was Joshua and to provide Mr. Gamundoy with his date of birth, his address and his phone number. (Exhibit D at 99 R.T. 5924-27.)

<sup>3</sup> "Q. Did you ask Josh how many people attacked him? A. Yes. Q. How did he respond? A. By pointing again to the numbers on the sheet. Q. Which number did he point to? A. He pointed to "3", "4."" (Exhibit D at 99 R.T. 5928:12-17.)

<sup>4</sup> "Q. Did you ask Josh whether the attackers were male or female? A. Yes, I did. Q. How did you do that? A. I asked him if they were male. Q. And what did he point to on the chart? A. He pointed to "yes."" (Exhibit D at 99 R.T. 5928:18-24.)

<sup>5</sup> "I asked him if – if they were white....He pointed to "yes."" (Exhibit D at 99 R.T. 5929: 23-25 [Donald Gamundoy].) Mr. Gamundoy also asked Josh if the assailants looked like Mr. Gamundoy who is of Hawaiian descent and often confused for being Mexican or Spanish. (Exhibit D at 99 R.T. 5930:5-18.) Emergency Room nurse Calvin Fischer witnessed Mr. Gamundoy's questioning of Josh Ryen and testified at trial that Josh communicated to Mr. Gamundoy that the attackers were not dark and certainly not African American. (Exhibit Q at 100 R.T. 6231:24-28 [Calvin Fischer] ("I recall that he at one point had pointed to his – to his own skin color. He is dark complected [sic] – excuse me – and asked Joshua if the person, that in essence if the person that had done it was of a dark skin color, and Josh's reply was a negative response."))



5929:1-3 [Donald Gamundoy] ("A. I asked him if they were Black. Q. What did he point to? A. He pointed to 'No.'").) Following this interview, Mr. Gamundoy had no further contact with Josh Ryen. (Exhibit D at 99 R.T. 5933:16-18.)

13. Immediately following the interview with Donald Gamundoy, Deputy Sharp questioned Josh Ryen. (Exhibit D at 99 R.T. 5932-33, 5966-67; Exhibit E at 5977-81.) Deputy Sharp's first interview with Josh Ryen began at approximately 2:30 p.m. and lasted about fifteen minutes. (Exhibit E at 99 R.T. 6007:12-15, 6016:20-21; Exhibit F.) To gather information from Josh, Deputy Sharp instructed Josh to respond to his questions by using a system of hand squeezes. (Exhibit E at 99 R.T. 6008:9-10, 6008-9:27-6009:2 [Deputy Dale Sharp] ("I told Josh that I was going to ask him some questions, and that if the answers to the questions were yes, he was to squeeze my hand; if they were no, he was not to squeeze it.").)

14. Deputy Sharp began by telling Josh "we were going to use the hand squeeze method, and I would have set the scene something similar to, 'How many people were in your house last night?'" (Exhibit E at 99 R.T. 6010:28-6011:2.) Using this system, Deputy Sharp asked Josh several questions to elicit the number of attackers, the attackers' gender and the attackers' race<sup>6</sup>. (Exhibit E at 99 R.T. 6010:11-18, 6017:18-26.) Squeezing Deputy Sharp's hand, Josh communicated that at the time of the attack, "there were three white male adult subjects in the residence and he had been asleep." (Exhibit E at 99 R.T. 6010:16-18 [Deputy Dale Sharp].)

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<sup>6</sup> Sharp testified, "Well, it would have been several questions. It would have been, "Were the people in your house males?" His answer. "Were they white?" I would have gotten a yes answer. "Were you asleep" or "had you been asleep?" I would have gotten a yes answer." (Exhibit E at 99 R.T. 6013:10-14.)

15. It took Deputy Sharp approximately fifteen minutes to elicit the aforementioned details from Josh using the hand squeeze method. Afterward, Josh was taken for a CT scan, which lasted approximately one hour. (Exhibit E at 99 R.T. 6018-19:28-2.) Once the CT scan was complete, Deputy Sharp resumed questioning Josh. (Exhibit F.) Deputy Sharp's second interview with Josh lasted approximately forty-five minutes. (Exhibit E at 99 R.T. 6019:25-26.) Once again, Deputy Sharp employed the hand-squeeze method to question Josh. (Exhibit E at 99 R.T. 6020:19-24; Exhibit F.) Using the hand-squeeze method, Josh described three Mexican men who had stopped at the house during the late afternoon on June 4, 1983; Josh presumed that the purpose of their visit was to ask his father for directions. (Exhibit E at 99 R.T. 6030:26-27, 6031:4-11; Exhibit F.) Josh provided Deputy Sharp with detailed descriptions of the three Mexican men<sup>7</sup>; Josh also described their vehicle as an older model Chevy Impala. (Exhibit E at 99 R.T. 6022-29; Exhibit F.) Deputy Sharp then asked him if these were the men who were in the house when things went crazy to which Josh responded affirmatively with a squeeze of his hand. (Exhibit E at 99 R.T. 6035-36.)

16. From June 6 to June 14, Detective O'Campo visited Josh a total of 20 times. (Exhibit P at 100 R.T. 6077-82.) Detective O'Campo's purpose in meeting with Josh was to develop a rapport with the young boy<sup>8</sup> before conducting a police interview

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<sup>7</sup> Sharp testified, "Suspect No. 1, five foot eight, slim build, long shoulder-length black hair, just above the shoulders, wearing Levi's, white T-shirt, possibly aged 18 to 20, Mexican male. Suspect No. 2, five nine, slim build, dark hair, short, wearing Levi's and a blue short sleeved [sic] shirt, 18 to 20 years, Mexican male. Suspect No. 3, five eleven, slim build, dark hair, short, wearing Levi's, red long-sleeved [sic] shirt, aged 18 to 20, Mexican male." (Exhibit E at 99 R.T. 6029:8-16.)

<sup>8</sup> "Q. Was one of the main reasons that you were having contact with Josh on that day was to develop a rapport with the youngster? A. Yes, sir that's one of the reasons." (Exhibit P at 100 R.T. 6080:21-24 [Detective Hector O'Campo].)



with Josh regarding the murders. Despite repeated contact with Detective O'Campo, who had convinced himself of Mr. Cooper's guilt<sup>9</sup>, Josh continued to maintain that there were three attackers, that the attackers were male and that the attackers were either Caucasian or Hispanic. (Exhibit D at 99 R.T. 5928-5929; Exhibit H; Exhibit O at 50 R.T. 4117-18.) Throughout this period, Josh never once stated that there had only been a single male attacker. Josh never once stated that the assailant was of African American descent or that the assailant bore any of Mr. Cooper's physical characteristics. Detective O'Campo conducted the first official police interview of Josh Ryen on June 14, 1983. By this time, Josh was able to communicate verbally. (Exhibit P at 100 R.T. 6099-15-17.) The interview took place in Josh's hospital room in the pediatric unit of the Loma Linda Hospital. (Exhibit H.) The interview lasted approximately two hours. (Exhibit H; Exhibit P at 100 R.T. 6099:20-21) Present at the interview were Josh, Detective O'Campo and Loma Linda staff psychologist Dr. Jerry Hoyle. According to Detective O'Campo, Dr. Hoyle attended the interview "to record and take notes of his [Josh's] reactions, his responses, and the emotional effect it was having on him." (Exhibit P at 100 R.T. 6102:8-12.) During the interview, Josh and Detective O'Campo sat together on Josh's bed while Dr. Hoyle sat in a nearby chair.

17. Following his interview with Josh, Detective O'Campo wrote a report. Detective O'Campo's report made no mention of multiple male attackers. However, Dr. Hoyle's therapeutic notes<sup>10</sup> show that Josh mentioned "attackers" in the plural at least 6

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<sup>9</sup> Detective O'Campo became "convinced in his own mind" that Mr. Cooper had committed the murders. He formed this belief no later than June 9, 1983. (Exhibit P at 100 R.T. 6095-96:27-2.)

<sup>10</sup> Dr. Hoyle stated that his "only reason for being present during that interview was to record and take notes of his [Josh's] reactions, his responses, and the emotional effect it



times during this interview, and Josh consistently maintained that multiple White or Hispanic males were responsible for the murders by referring to his attackers *in the plural*. (Exhibit H ["The 3 Mexicans chase us around the house," "tried to fight 'em of – tripped 'em up," "they came and hit me," "they...hit me," and "thinks 3 Mexicans"].) Dr. Hoyle quoted Josh telling Detective O'Campo during their June 14, 1983 interview that "they snuck up behind me and hit me." (Exhibit H.) Further, during his February 6, 1984 interview with Detective Woods, Dr. Hoyle explained that Josh used the word "they" when "talking about the number of suspects." (Exhibit G.)

18. In the various encounters described above, Josh consistently stated that there were multiple assailants, who were possibly of White or Hispanic descent. This is especially significant from a cognitive point of view that Josh could describe each of the three men in detail. It also serves to undercut the notion that a single male subject of African American descent, namely Kevin Cooper, committed the Ryen/Hughes murders.

19. Based on the cognitive principles regarding the effect of time delay on the *accuracy of memory*, the early accounts by Josh Ryen, detailed above – each closer in time to the actual event and less likely to have been suggestively influenced – are more likely to be accurate than are his subsequent accounts relayed in December 1983 and December of 1984.

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was having on him." (Exhibit G; Exhibit P at 100 R.T. 6102:8-12 [Detective O'Campo] ["I think his [Dr. Hoyle's] concern was to have firsthand information as to what happened so that he would know what he's dealing with insofar as treating Josh].) Dr. Hoyle's careful notes are further demonstrated by his direct quotes of certain statements by Josh. (Exhibit I at 34 R.T. 2171:17-19)

## SUGGESTIBILITY OF MEMORY

20. People do not passively absorb information into memory; memory does not work like a camera or video recorder. The "memory as camera" model implies that when testifying, an eyewitness simply "plays back" their mental film of an event and "reads off of the film" the details of the event. The "memory as camera" model of memory is incorrect and far too simple.

21. A wealth of scientific research has demonstrated that because memory is malleable, memory for an event can change even after it is encoded. Several factors contribute to the reconstruction of information in memory. Post-event information—including, but not limited to media exposure, conversations with investigators, and even self-suggestion—has been shown to suggestively influence event memory. I and other eyewitness memory experts have conducted numerous studies that reveal that memory for an event can be influenced by post-event suggestion and have identified the conditions under which this is most likely to occur. Post-event suggestion is most likely to occur (a) with increasing time delay, when the original memory begins to fade and (b) with multiple interviews. These are conditions relevant to understanding the changes in Josh Ryen's memory, and which accounts are more likely to be true. .

22. Suggestibility is a major factor likely to have influenced Josh Ryen's account of his memory for the perpetrators as this information was conveyed in both the December 1983 interview with Dr. Lorna Forbes and in the December 9, 1984 interview with the prosecutor and defense counsel. The video-tape of this interview was presented to the jury along with the December 1, 1983 audio recording of the interview with Dr. Lorna Forbes. Josh Ryen did not testify in person at the trial.

23. Consistent with the scientific research summarized above in the discussion of the role of time delay, the facts as conveyed in the December 1, 1983, audio interview 6-months after the incident, were more consistent with Josh Ryen's accounts in the earlier interviews. The facts as conveyed in the December 9, 1984 interview, 18 months after the incident, are more inconsistent with Josh Ryen's accounts in the earlier interviews. For example, in December of 1983 Josh recalled being awakened by his mother's screams.<sup>11</sup> (Exhibit M at page 2, 16-18.) This is consistent with the account that he gave to Detective O'Campo on June 14, 1983, wherein he stated that "he was awakened by his mother's screams." (Exhibit R at page 4.) However, by the December 1984 interview, Josh stated could no longer recall who screamed<sup>12</sup>. (Exhibit N at 4956:11-14.)

#### **SUGGESTIVE INFLUENCE OF MEDIA EXPOSURE AND POLICE CONTACTS**

24. A major source of post-event suggestion can occur as a result of the contaminating effect of related media exposure. If an eyewitness views a picture of a suspect, for example on television, this can plant information in the eyewitness's memory so that thereafter, his memory for the observed event is likely to include information actually acquired from the media source and not the observed event.

25. In the present case, on at least two separate occasions, Josh Ryen saw Mr. Cooper's picture on television and both times initially volunteered that Mr. Cooper was not the perpetrator. The first occasion was in the hospital with Deputy Simo on June 15, 1983. (Exhibit J.) On this occasion, while Deputy Simo and Josh played the UNO card

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<sup>11</sup> Josh noted in the December 1983 interview that "When I heard my mom screaming I walked in there" (Exhibit M at page 2.)

<sup>12</sup> "Q. And what caused you to wake up again? A. Uh, scream. Q. Could you recognize the voice of the scream? A. No." (Exhibit N at 4956:11-14.)



game in Josh's hospital room, Kevin Cooper's picture appeared on the television screen. (Exhibit J.) Upon seeing Mr. Cooper's picture, without provocation, Josh told Deputy Simo "that was not the guy that did it. Three Mexicans did it." (Exhibit J.)<sup>13</sup>

26. On a second occasion, several days after telling Deputy Simo that Mr. Cooper did not commit the murders, Josh asserted to his maternal grandmother, Dr. Mary Howell, that he had never seen Mr. Cooper. (Exhibit K at 102 R.T. 6543.) Dr. Howell testified that while she and Josh were in Josh's hospital room, Mr. Cooper's photograph once again appeared on the television screen. Upon seeing Mr. Cooper's picture, Dr. Howell asked Josh if he had ever seen the man on the television before [Mr. Cooper]. He told her that he had not<sup>14</sup>. (Exhibit K at 102 R.T. 6543:2-18.) Accounts relaying Josh's memory while Josh was still being treated for his wounds are likely to reflect Josh's true memory as they occurred closer in time to the incident.

27. Nonetheless, after seeing Mr. Cooper's picture on these occasions, Josh is likely to have been suggestively influenced to believe that in fact, Mr. Cooper was the perpetrator. This suggestive change in memory is most likely to occur (a) when the

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<sup>13</sup> "Q. On that particular evening on the news, did Kevin Cooper's picture appear on the screen? A. Yes, it did. Q. When Kevin Cooper's picture appeared on the screen, did he make a comment? A. Yes he did. Q. What did Josh say? A. He stated that that was not the guy who did it. The three Mexicans did it.... Q. When Josh said that's not the guy who did it, was Kevin Cooper's picture on the television screen? A. Yes, it was." (Exhibit O at 50 R.T. 4117-18:14-13 [Deputy Simo].)

<sup>14</sup> "Q. At some time while Josh was in the hospital, were you in the room when Kevin Cooper's picture was shown on the television? A. That was near the end, yes. Q. Did – when Kevin Cooper's – well, when the television was shown, did it first show a picture of Josh? A. Yes. Josh was in the bathroom then. Q. Okay, and then – A. I was waiting. I was on his bed, sitting on his bed waiting for him to come out. Q. When he came out, what was on the television screen? Do you recall? A. Cooper's picture. At that point in time, did you ask Joshua any questions? A. I just asked him if he ever saw that man. Q. What did Josh say? A. Right at that moment, Josh said no." (Exhibit K at 73 R.T. 6543:2-18 [Dr. Howell].)

observer is a child, and Josh was 8 years old at the time of the incident, and (b) when the suggestive source was a credible and authoritative one, in this case seeing the suspect on television.

28. Likewise, at the end of July 1983 while staying with his paternal uncle, Richard Ryen, Josh was again exposed to Mr. Cooper's picture on television. (Exhibit L.) After watching a news report regarding Mr. Cooper's capture, Josh continued to express doubt regarding Mr. Cooper's guilt, asking whether the police were sure that Kevin was "the right one." (Exhibit L.) Richard<sup>15</sup> responded, "Well, they're very positive that Kevin Cooper is the man they were looking for." (Exhibit L.) In fact, in his interview with Dr. Forbes, Josh said that although he originally thought the attackers were three men, "after a while I saw on television that it was Cooper." (Exhibit M at page 26.) Clearly the televised information presented a credible and authoritative source of information to Josh that influenced his beliefs about the events of June 4, 1983 and apparently suggestively tainted his memory for these events as well. (Exhibits K, L & O.)

29. Likewise, repeated contact with individuals in positions of authority, such as Sheriff's investigators would also have a suggestive effect on memory. In this case, within the first ten days of the murders, Detective O'Campo had contact with Josh at least twenty times. (Exhibit P at 100 R.T. 6081:24-27 .) As previously stated, Detective O'Campo was convinced of Mr. Cooper's guilt and misreported Josh's repeated description of the attackers as multiple White or Hispanic males, further demonstrating O'Campo's bias. (Exhibit H.) Detective O'Campo's firm beliefs regarding the identity

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<sup>15</sup> During this exchange, Josh referred to Mr. Ryen as "Dad," further demonstrating that the information indicating Mr. Cooper committed the crimes came from multiple authoritative sources. (Exhibit L.)

of the assailant, if relayed to Josh by Detective O'Campo himself or through other sources (such as media reports, other investigators, etc.), could have suggestively influenced Josh's recollections as relayed in the December 1983 and December 1984 statements even if they did not alter his June 14, 1983 formal interview.

30. Moreover, ongoing sheriff department or prosecution contact with Josh (for example, because of preparation for trial) as well as public statements of the sheriff department or prosecution could further suggestively affect his memory. Such contact is shown, for example, in the arrest of Kevin Cooper and the statement of Richard Ryen in response to Josh's doubt regarding Mr. Cooper's guilt that the police were positive "that Kevin Cooper is the man they were looking for." (Exhibit L at page 81.) The authoritative force within this incident is two-fold. First, the police sought out and arrested Kevin Cooper for the crime, thus indicating the belief of law enforcement that Mr. Cooper committed the murders. Second, Richard Ryen, who had assumed a parental role over Josh, reinforced that arrest by affirming that the police had "the man they were looking for." (*Id.*)

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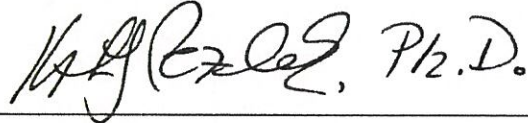
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### CONCLUSION

31. In sum, it is my conclusion that the above-specified factors affirm the early eyewitness memory accounts of Josh Ryen and cast significant doubt on the reliability of his later memory accounts. Specifically, based on the early accounts of Josh Ryen, the attackers were more likely 3-4 White or Hispanic men, not a single Black man, specifically, not Kevin Cooper. Had I been called to testify in this matter regarding these factors, my testimony would have informed the jury of the aforementioned issues regarding these identifications.

The foregoing is true and correct and executed under penalty of perjury under the laws of the United States and the State of California at Claremont, California on September 25, 2013.

A handwritten signature in black ink, reading "Kathy Pezdek, Ph.D.", written over a horizontal line.

Dr. Kathy Pezdek, Ph.D

Professor, Department of Psychology

Claremont Graduate University

# EXHIBIT A



### KEVIN COOPER FACT SHEET

- Kevin Cooper is an African American man who was convicted and sentenced to death in 1985 for the murders of a white family: Doug and Peggy Ryen and their daughter Jessica and their houseguest Christopher Hughes. The Ryens' 8 year old son Josh was also attacked and left for dead, but survived. The State of California intends to execute Mr. Cooper in the next few months.
- Mr. Cooper is innocent. In 2009 five federal judges of the Ninth Circuit Court of Appeals signed a 82 page dissenting opinion that begins: "The State of California may be about to execute an innocent man." 565 F.3d 581.
- Kevin Cooper was prosecuted, tried and convicted in an atmosphere of racial hatred. When the police identified their suspect in the Ryen/Hughes murders as an African American man, it set off a wave of racial hatred that culminated in acts such as a monkey being hanged in effigy outside the courthouse with a sign saying "Kill the Nigger."
- Mr. Cooper has never received a fair hearing on his claims of innocence. Commenting on the most recent proceedings in Mr. Cooper's case, the five judges said: "There is no way to say this politely. The district court failed to provide Cooper a fair hearing. ... The district court impeded and obstructed Cooper's attorneys at every turn as they sought to develop the record. ... [T]he court imposed unreasonable conditions, ... refused discovery that should have been available as a matter of course; limited testimony that should not have been limited; and found facts unreasonably, based on a truncated and distorted record."
- Six additional Ninth Circuit judges stated with respect to Mr. Cooper's conviction and death sentence: "Public confidence in the proper administration of the death penalty depends on the integrity of the process followed by the state. ... So far as due process is concerned, twenty-four years of flawed proceedings are as good as no proceedings at all."
- There is significant evidence that exonerates Mr. Cooper and points toward other suspects:
  - The sole surviving victim of the murders, Josh Ryen, told police and hospital staff within hours of the murders that the culprits were "three white men." Josh Ryen repeated this statement in the days following the crimes. When he twice saw pictures of Kevin Cooper as a suspect on TV, Josh Ryen said "that's not the man who did it."
  - Josh Ryen's description of the killers was corroborated by two witnesses who were driving near the Ryens' home the night of the murders. They reported seeing three white men in a station wagon matching the description of the Ryens' car speeding away from the direction of the Ryens' home.
  - These descriptions were corroborated by testimony of several employees and patrons of a bar close to the Ryens' home, who saw three white men enter the bar around midnight the night of the murders, two of whom were covered in blood.
  - The identity of the real killers was further corroborated by a woman who, shortly after the murders were discovered, alerted the Sheriff's department



- The prosecution claimed at trial that Sheriff's deputies found cigarette butts consistent with prison issued tobacco in the Ryens' car when it was recovered, but the police report made at the time the car was found reported no evidence of these butts. Later, the prosecution claimed the paper from one of these butts had been consumed in testing in 1984, but the paper "reappeared" in 2001 in time for DNA testing. What paper "reappeared" had grown in size from 4 millimeters to 7 millimeters.
- The San Bernardino Sheriff, Floyd Tidwell, pleaded guilty in May 2004 to four felony counts of stealing over 500 guns from county evidence rooms during his tenure as Sheriff from 1983 to 1991.
- As found by five Ninth Circuit judges, the prosecution and the Sheriff's office destroyed, tampered with and hid from the defense significant exonerating evidence that the jury never heard:
  - As noted above, shortly after the murders were discovered, a woman alerted the Sheriff's department that her boyfriend left blood-splattered coveralls at her home the night of the murders. The prosecution did not test the coveralls, and a Sheriff's deputy discarded them in a dumpster before the defense learned of their existence.
  - The Sheriff's office totally mishandled the crime scene investigation. In the first 24 hours after the murders were discovered, over 70 people walked through the Ryen house and untold amounts of evidence was lost or destroyed. The trial judge later said in open court: "Counsel, as I sat there and listened to the evidence over a prolonged period of time, I thought ... [without] any criminalistic experience at all, I could have gone in there and done a better job, I think, that [the Sheriff's Department] did."
  - In 1998, over 13 years after the trial, the defense uncovered a Sheriff's office "disposition report" that showed the deputy's supervisor approved the destruction of the coveralls. That report was never turned over to the defense, and the jury thus never knew the deputy lied at trial when he testified that he acted on his own in destroying the bloody coveralls worn by one of the likely killers.
  - In 2004, the defense uncovered the fact that the day after the murders a Sheriff's deputy took into custody a blue shirt with blood on it found near the scene of the crimes. The prosecution never disclosed this blue shirt to the defense, and it is now "missing."
  - In 2004, the warden at the prison from which the shoes that created the shoeprint supposedly came testified that, shortly before trial in 1984, she called the Sheriff's department to tell them that the shoes were available at retail. The prosecution never disclosed this fact to the defense.
- In 2001, at Mr. Cooper's request, DNA tests were done on a tan t-shirt with blood on it found near the scene and on the blood drop from the Ryens' hallway. Those tests supposedly concluded that Mr. Cooper's DNA was on the t-shirt and the blood drop. In 2009, five federal judges concluded that Mr. Cooper's blood was likely planted by the prosecution before the DNA tests were run.
- In 2004, further tests of what was supposed to be Mr. Cooper's blood in vial VV-2 showed that it contained not only Mr. Cooper's DNA, but that of another person.

This finding throws into question all of the blood type evidence the jury heard at Mr. Cooper's trial about the blood drop on the wall in the Ryens' house, as well as the post-conviction blood testing.

- In 2004, when tests were done to determine whether the prosecution had tampered with the tan t-shirt by planting Mr. Cooper's blood on it before the 2001 DNA tests were done, the results by the prosecution's own expert pointed to tampering, showing heightened levels of a blood preservative used by law enforcement to preserve a sample of Mr. Cooper's blood from 1983 (vial VV-2). When he learned what his test results showed, the prosecution's expert "withdrew" his results, claiming they were invalid because of contamination in his own laboratory.
- That an innocent person such as Mr. Cooper can be tried, convicted and sentenced to death, and all his appeals rejected, is not an isolated occurrence. In 2004, Texas executed Cameron Todd Willingham for the arson deaths of his two daughters. We now know that Mr. Willingham was innocent, and that the prosecution obtained his conviction by using a purported arson expert whose opinions amount to unsupportable "junk science."
- In 2009, as a result of an investigation of the State of North Carolina's Crime Laboratory, two former FBI agents concluded that false forensic evidence had been used, and exonerating evidence hidden from the defense, in 280 criminal cases over 16 years. In three of those cases men were executed before the truth was uncovered.
- Mr. Cooper deserves a chance to prove his innocence before he is executed. Our system of justice cannot stand what Justice Sandra Day O'Connor called the "constitutionally intolerable" event: the execution of an innocent man.



# **EXHIBIT B**



Summary Woods tape

①

Understood - others dead -

Not sure ab. to pt.

Pt already in ER -

asked use Q's -

gun shot wound to chest

of cuts throat -

between X-ray -

think of way to communicate -

swirled - which eyes -

inadequate -

page of paper

letter + ad

point -

Addresses - phone # - name, date -

birth date -

After got stuff -

①

O. there, along w/ others -

knew -

yes -

no -

confusing -

Couple of things -

#

time

Nationality -

- Sun up -

- Sun down -

4.5 -

How many people - 3 -

Threw away -

present when -

Q's Q -

all were asking Q's -

②

Community - 2

- white
- white
- Caucasian -

- 3 male caucasians -

taken: to be - photocopies of charts -  
booklet - turn to dry  
documentation -

1/2 page -

Friends & neighbors -

L →

\* How much complete from  
documentation -

Age + birthday - phase # -  
last remembered -

How many people - who did this  
who were they -  
chart -

Collected around

0. Surgeons  
X-ray  
Deep therapist  
Colon ER VA

Student Rep. then.

?-2-

Plain clothes -

S.O. came

note - spots of skin -

Last known continued  
when went out -

IV

check of Sharp -

(15)



Monday 3

① Tried to write his name —  
phone # —

so had to tell #s —  
after that ABC's

name — did both

consistent — JOSH

✓ Ask how to go —  
say uncertain about parent?  
surprised what heard  
from so —  
→

No — when DG there — never  
asked? —

① lot a detail —

RF: suspect —  
- time of day?  
- say a date?

NO

comes to mind —

confusing —  
at one point  
→ knew who were —  
I said them

believe st  
important — by group of 4's —

construction of a Q  
influenced what  
collected? —

answered Q's correctly —  
simple as possible  
DG confused —

RF 1/2 hr to 45 min



DN 10

1 3 8 4

LEGIBILITY TEST: For quality of original document being filmed.

Community - y

RF -- no dunes

Coherent -  
very clear -

Clear out -  
- O added something -

35

# EXHIBIT C



## CA 03600

**REPORT AREA**

**CLASSIFICATION**

(FIRM NAME IF BUSINESS)

PHONE
( )

02 12:01:45) Rev. 1.03)



## SHERIFF'S DEPARTMENT

County of San Bernardino  
California

CA 03600

DR 1211029-02

REPORT AREA

D  
N  
1  
0  
1  
3  
6  
8

CODE SECTION <b>PC 187</b>	CRIME <b>MURDER</b>	CLASSIFICATION
VICTIM'S NAME - LAST NAME <b>RYEN/HUGHES</b>	FIRST NAME	MIDDLE NAME (FIRM NAME IF BUSINESS)
ADDRESS	<input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS	PHONE ( )

Page 2

Contact (Continued):

enough. He stated that the subject was blinking his eyes either out of fatigue or possibly drowsiness to the eyes. He then stated that he got hold of a clipboard and a piece of paper and wrote the alphabet from A to Z and numbers from 1 to 10, and the word "Yes" and the word "No." He stated that he would ask Josh questions, and as far as having him spell his name, he would point to the letters that were involved in his name. Also, in regards to his age, he would point to numbers. Other questions would have to be answered by "yes" or "no" by pointing at either letter. These questions were asked primarily to gain name, age information, and hospital chart required information. He stated the chart in which he used to show Josh Ryan to gain that information had been since thrown away, and that the interpreted information had been formulated on his hospital chart, more or less a report prepared by him - Josh Ryan. Most of that information was gained by Mr. GAMUNDY. He stated that the officer that was there from the Sheriff's Office was trying to gain other information as to what had happened, basically what these people looked like. At one point, he stated Josh Ryan would point to "yes" and then to "no," and he appeared to be confused at that point and time. He said that during this time, there is some information that stuck out in his mind, that he stated in terms of time of day. He did not know whether it was am or pm, and other questions regarding the number of people there, referring to the possible suspects in this case. He stated at one point he pointed to the piece of paper to the number "3" referring to the number of persons that were there, and then he remembered then asking him questions as to whether they were white, black, and he, Mr. GAMUNDY, asked Josh, did they look like him, referring to his nationality type.

LEGIBILITY TEST: For quality of original document being filmed.

92 Mr. GAMUNDY stated something sticks in his mind as to Josh's response was three male caucasians. He did state that Mr. Fortush had a copy of his documentation which he made on the hospital chart about Josh. Det. O'Campo went over again the items in which he pointed out to give information to Mr. GAMUNDY. Mr. GAMUNDY stated that Josh pointed out the letters "Josh." J-o-s-h. Mr. GAMUNDY asked him if it was short for Joshua, he pointed to the word "yes." He also stated that Josh pointed out his age, his phone number, but do not remember if he pointed out his address or not. He stated he also possibly pointed out the number of people that were responsible for the deaths of his family. He stated that other people that were there around Josh's bed were respiratory therapists, surgeons, nurses law enforcement officers and himself. He couldn't possibly at this point give a detailed list of who was present; however, all those that did attend to Josh Ryan should be on his chart.

93 He states he remembers at least two uniform officers and some plain clothes detectives the Mr. GAMUNDY stated that he did not see any other mode of communication between Josh and

REPORTING OFFICERS G. Woods, Det. W-2108	DATE 1/5/83	REVIEWED BY	TYPED BY pk K-1179	ROUTED BY	DATE
FURTHER ACTION: <input type="checkbox"/> YES <input type="checkbox"/> NO		COPIES TO: <input type="checkbox"/> DETENTION <input type="checkbox"/> CH <input type="checkbox"/> DINEI <input type="checkbox"/> DIST. AREA <input type="checkbox"/> FILED		REMARKS <b>2322</b>	



## SHERIFF'S DEPARTMENT

County of San Bernardino  
California

CA 03600

DR 1211029-02

REPORT AREA

CODE SECTION PC 187	CRIME MURDER	CLASSIFICATION
VICTIM'S NAME - LAST NAME RYEN/HUGHES	FIRST NAME	MIDDLE NAME (FIRM NAME IF BUSINESS)
ADDRESS	<input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS	PHONE ( )

Page 3

## Contact (Continued):

any of the other people.

Q4 Det. O'Campo asked Mr. GAMINDOY if Josh at any time tried to write with paper or pencil for him. Mr. GAMINDOY stated that "yes," he did attempt to write his name at one point and tried to write his phone number on that piece of paper; however, due to his condition, the writings turned to indescribable letters or numbers.

Q5 We asked Mr. GAMINDOY if Ron Forbush was trying to gain any particular facts about this case from himself and his contact with Josh in the emergency room. Mr. GAMINDOY stated he was particularly interested in the description of the possible suspects, how many were there, what did they look like, what race they were. Det. O'Campo then asked Mr. GAMINDOY if, at any time when he was attending to Joshua in the emergency room, a description or any other mention was made about persons or people doing this to his family. Mr. GAMINDOY stated that, "It is kind of confusing. I will try to explain further, but that Josh tried to explain that he knew these people, but he didn't know them." He stated possibly giving an example as a delivery man, you know what they are and who they work for; however, you don't know those particular people.

Josh's statement about vs.

Q6 Mr. GAMINDOY was then asked if the way in which they were communicating, pointing to letters so on and so forth, could the interpretation be influenced by that mode of communication. Mr. GAMINDOY stated, "Yes," that he believes that that was his own interpretation of what was going on.

Q7 I then asked Mr. GAMINDOY how long the interview with Ron Forbush lasted. He stated 30 to 45 minutes, 45 minutes at the longest. I then asked him if, during this interview, that he felt intimidated or under duress at any time or any manner. He stated, "No," that he felt as comfortable as he does with us. And, I asked him if he knew of anyone else who Forbush had talked with about this same incident. He stated, "Only Calvin Fisher from my department." That's the only one he is aware of.

Q8 I asked Mr. GAMINDOY if he had any other contacts other than the one in the emergency room after he came in. He stated that after Josh was admitted and taken upstairs to his room, he had no further contact with him. He stated that it was hospital policy at that point that the less they knew about his whereabouts or condition the better, due to media coverage. We then tried to distinguish and make clear that the piece of paper that he had on the clipboard with the A, B, C's on it and the numbers, "yes" and "no," was different from the documentation that he made for the hospital charts. He stated that the chart is entirely

LEGIBILITY TEST: For quality of original document being filmed.

DN 101369

REPORTING OFFICERS G. Woods, Det. W-2108	DATE 1/5/83	REVIEWED BY	TYPED BY DR R-1179	ROUTED BY	DATE
OTHER ACTION <input type="checkbox"/> YES <input type="checkbox"/> NO	COPIES TO: <input type="checkbox"/> Detective <input type="checkbox"/> CH <input type="checkbox"/> S.H. Atty. <input type="checkbox"/> PD <input type="checkbox"/> Other <input type="checkbox"/> Other	REMARKS 282			



## SHERIFF'S DEPARTMENT

County of San Bernardino  
California

CA 03600

DR 1211029-02

REPORT AREA

CODE SECTION

P.C. 187

CRIME

MURDER

CLASSIFICATION

VICTIM'S NAME - LAST NAME

RYEN/HUGHES

FIRST NAME

MIDDLE NAME

(FIRM NAME IF BUSINESS)

ADDRESS

☐ RESIDENCE☐ BUSINESS

PHONE

( )

Page 4

## Contact (Continued):

different, and that the piece of paper with the A,B,C's on it had since been destroyed.

The interview was concluded approximately 1630 hrs., same date, same persons present. It should be noted that this interview was tape recorded. The preceding report was a synopsis of that tape recording. The tape recording will be available if needed.

End of report.

LEGIBILITY TEST: For quality of  
original document being filmed.REPORTING OFFICERS  
G. Wood, Det. W-2108DATE  
7/5/83

REVIEWED BY

D. K. K-1179

ROUTED BY

DATE

FURTHER ACTION:

☐ YES ☐ NO

COPIES TO:

☐ Detective☐ Dist. Atty.☐ SD/PO☐ CII☐ Patrol☐ Other☐ Other

REMARKS

292

# **EXHIBIT D**



Copy

SUPREME COURT - STATE OF CALIFORNIA

THE PEOPLE OF THE  
STATE OF CALIFORNIA,  
  
Plaintiff-Respondent,  
  
vs.  
  
KEVIN COOPER,  
  
Defendant-Appellant.

SUPREME COURT NO. *Crim 24552*  
FROM SAN DIEGO COUNTY  
HON. RICHARD C. GARNER,  
JUDGE

San Diego County Superior Court Case No. CR 72787

REPORTERS' TRANSCRIPT

VOLUME *99*

January 7, 1985, Pages 5798 through 5915  
January 8, 1985, Pages 5916 through 6058

APPEARANCES:

For the Plaintiff  
and Respondent:

JOHN K. VAN DE KAMP  
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State of California  
110 West "A" Street  
San Diego, Ca. 92101

For the Defendant  
and Appellant:

IN PROPRIA PERSONA

ROBERT L. ROACH, CSR #1727  
DONNA D. BEARD, CSR #1874  
Official Reporters  
San Diego County Superior Court  
220 West Broadway  
San Diego, California 92101

Copy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

DEPARTMENT NO. 30

HON. RICHARD C. GARNER, JUDGE

THE PEOPLE OF THE STATE  
OF CALIFORNIA,

Plaintiff,

vs.

KEVIN COOPER,

Defendant.

NO. OCR-9319

REPORTERS' TRANSCRIPT  
January 8, 1985

APPEARANCES:

For the People:

DENNIS KOTTMEIER  
District Attorney  
WITH: JOHN P. KOCHIS  
Deputy District Attorney  
1540 Mountain Avenue  
Ontario, California 91762

For the Defendant:

DAVID L. MCKENNA  
Public Defender  
BY: DAVID E. NEGUS  
Deputy Public Defender  
1060 West Sixth Street  
Ontario, California 91762

ROBERT L. ROACH, CSR #1727  
DONNA D. BEARD, CSR #1874  
Official Reporters



1 integrity of the exhibits from the Hitch motion which we have  
2 separately, so all the Loma Linda University Hospital records  
3 will have come from H-1.

4 THE COURT: Okay. Are you going to be able to start with  
5 the jury right away?

6 MR. NEGUS: Yes.

7 THE COURT: Okay. You can bring them in.

8 (Recess.)

9  
10 (The following proceedings were held in  
11 open court in the presence of the jury:)

12 THE COURT: Good morning, all. You all are very, very  
13 faithful in appearing promptly every day. We greatly appreciate  
14 it.

15 Mr. Negus, we are ready for your next witness.

16 MR. NEGUS: That would be Don Gamundoy, your Honor.

17 THE COURT: Is he outside?

18 MR. NEGUS: Yes, he is.

19 THE COURT: You know, when we start off the day or a  
20 session with a new witness, you can have that person in, ready  
21 to step forward.

22 MR. NEGUS: Okay. Come forward, please.

23 THE CLERK: Raise your right hand, be sworn, please.

24

25 DONALD DAMES GAMUNDOY,

26 called as a witness on behalf of the Defendant, having been duly  
27 sworn, testified as follows:

28 THE CLERK: Would you please have a seat on the witness

1 stand. Would you state your full name for the record and spell  
2 it, please.

3 THE WITNESS: Name is Don Dames Gamundoy, middle name is  
4 spelled D-a-m-e-s, last name is G-a-m-u-n-d-o-y.

5 THE CLERK: Thank you.

6

7

DIRECT EXAMINATION

8 BY MR. NEGUS:

9 Q. Mr. Gamundoy on June 5th, 1983, who was your  
10 employer?

11 A. Loma Linda University Medical Center.

12 Q. And what position did you have with the medical  
13 center on that particular day?

14 A. I was the clinical social worker in the emergency  
15 department.

16 Q. Does Loma Linda University Medical Center function  
17 in any way as a trauma center for the -- what's called the  
18 Inland Empire area?

19 A. Yes, they are a trauma center.

20 Q. What does that mean?

21 A. To my understanding a trauma center means that  
22 there's 24-hour emergency care with a system that provides  
23 physicians in several services, you know, be they thoracic, ENT,  
24 eyes, nose and throat, trauma, you know, all the services in  
25 medicine. That would be available to the emergency department  
26 on a 24-hour basis.

27 Q. What is your particular duty within that -- within  
28 that particular system?



1 x-rays and reading x-rays.

2 Q. When you arrived, was anybody trying to question  
3 the young boy?

4 A. When I arrived, no.

5 Q. Did you yourself begin to try and question him?

6 A. Yes, I did.

7 Q. Was he able to speak?

8 A. Verbally, no.

9 Q. Did you try different communication systems with  
10 him in order to try to communicate with him?

11 A. Yes, I did.

12 Q. Can you describe the first method that you  
13 attempted to employ?

14 A. The first method that I used was blinking eyes,  
15 eyes blinking. And I explained to him that what I wanted to be  
16 a yes was a blink of the eyes.

17 Q. Was there any -- did you continue with that -- with  
18 that particular method of questioning throughout your attempts  
19 to get information from him?

20 A. No, I did not.

21 Q. Why not?

22 A. Well, because I felt that it wasn't -- it wasn't  
23 adequate because when I didn't ask questions I would watch him  
24 and he would blink my way, so I couldn't tell if he was tired or  
25 had something in his eye or dryness of his eyes. So I decided  
26 to, you know, change it.

27 Q. Did you then attempt to have him write out answers?

28 A. Uh-huh.

- 1 Q. You have to say yes or no.
- 2 A. Yes. Yes.
- 3 Q. And was there any particular problem with that
- 4 method?
- 5 A. Yes, there was.
- 6 Q. What was that?
- 7 A. I'd asked him to write his name and birthdate,
- 8 which he did, but none of us in the immediate area could not --
- 9 you know, understand. It wasn't legible at all.
- 10 Q. What method did you then adopt?
- 11 A. I got a blank sheet of paper. Placed it on a
- 12 clipboard, and I wrote out the letters "A" to "Z", numbers "1"
- 13 through "0", and the words "yes" and "no".
- 14 Q. When you finished your attempts to get information
- 15 from the young boy, what happened to that piece of paper?
- 16 A. I threw it away.
- 17 Q. Giving you Exhibit 697, a blank piece of paper, is
- 18 that the approximate size of the paper that you used?
- 19 A. Yes.
- 20 Q. And asking you then could you reconstruct from --
- 21 for us as best you can on that piece of paper, the chart that
- 22 you used?
- 23 A. Okay.
- 24 Q. If I can put that on the board.
- 25 A. That's indicating that ---
- 26 Q. Placing that chart on the board then, in what
- 27 manner did you present that chart to the young boy?
- 28 A. Like I said before, it was on a clipboard; placed



1     them in front of his face. And I told him that I was going to  
2     ask him some questions and I wanted him to point to the  
3     letters --

4             Q.     Okay.

5             A.     -- and numbers.

6             Q.     Did he -- was he able to use his hands to actually  
7     physically point?

8             A.     Yes.

9             Q.     What -- what was the first question that you asked  
10    him?

11            A.     I asked him what his name was.

12            Q.     And which letters did he point to?

13            A.     He pointed to the "J", the "O", the "S" and the  
14    "H".

15            Q.     Did you ask him his last name?

16            A.     Yes.

17            Q.     Do you remember which letters he pointed to?

18            A.     The "R", "Y", I can't remember if it was the "E" or  
19    the "A", and the "N".

20            Q.     Did you during the -- during the course of your  
21    work at the hospital on that particular day, write up a report  
22    of the work that did you with Josh Ryen?

23            A.     Yes.

24            Q.     And in that report did you include the spelling as  
25    he gave it to you on that particular day?

26            A.     Yes.

27            Q.     Showing you Exhibit 696; is that a Xerox copy of  
28    the report that you prepared of your contact with Josh?

1 A. Yes.

2 Q. Does it also include contacts with law enforcement  
3 at the time and other information about that particular -- that  
4 particular series of events?

5 A. Yeah.

6 Q. What is the purpose of that particular report that  
7 you prepared?

8 A. The purpose of this is to communicate to nurses as  
9 well as physicians what took place in terms of psychosocial  
10 social work in the emergency department.

11 Q. Is one of the duties of yours to try and obtain  
12 some information as to what happened to cause the trauma to the  
13 patient?

14 A. Yes.

15 Q. And for what purpose is that information used?

16 A. Here again, to communicate to the following staff  
17 what took place with this particular patient.

18 Q. Is that information that you just attempt to get in  
19 this particular case or is that something that you get in the  
20 normal course of the hospital business?

21 A. That's normal course of hospital business.

22 Q. And in the normal course of hospital business, do  
23 you attempt to get that information as accurately as possible?

24 A. Uh-huh, yes.

25 Q. I'm not sure if I asked this question, but on your  
26 particular report that indicates that Josh gave you the "E"  
27 Rather than the "A"; is that right?

28 A. Yes.



1 Q. What was the -- what next did you ask Josh after  
2 you got his -- his -- his name?

3 A. I asked him if Josh was short for Joshua, and he  
4 said, "Yes".

5 Q. How did he do that?

6 A. I asked him was Josh short for Joshua.

7 Q. Right. And how --

8 A. And he pointed.

9 Q. And how did he respond?

10 A. And how? And he pointed to "yes".

11 Q. What question did you ask him next?

12 A. I asked him what his birthdate was, and he pointed  
13 to the numbers that indicate what his birthdate was.

14 Q. Do you have a present memory of that birthdate?

15 A. Not without --

16 Q. Can you remember it right now?

17 A. No.

18 Q. Did you enter it into your notes?

19 A. I should have.

20 Q. Could you look and see if you --

21 A. Let's see -- It's not indicated.

22 Q. Are there other charts that you fill out?

23 A. There is another -- You mean other charts?

24 Q. Yeah.

25 A. I made another note.

26 Q. Okay. Where -- the other note was actually a  
27 contact that you had later with some neighbors; is that right?

28 A. Right.

1 Q. Was there present in the -- in the emergency room  
2 with you a nurse by the name of Calvin Fisher?

3 A. Yes.

4 Q. Did you relay to Mr. Fisher the birthdate  
5 information that you obtained from Josh?

6 A. Yes.

7 Q. And is it his duty in the normal course of business  
8 to take that down?

9 A. I wouldn't say normal duty, but if -- if at that  
10 point if he served to be a person to communicate to, let's say,  
11 a PBO, which is the person who makes up a face sheet or a chart,  
12 yes.

13 Q. Well, do you know if Mr. Fisher himself was making  
14 out -- making out a chart on young Josh at that point in time?

15 A. A medical chart but not an information chart about  
16 name, address, phone number, that type of thing.

17 Q. Does the patient's date of birth go on the medical  
18 chart as well as the charts which have name, address --

19 A. Yes.

20 Q. When you arrived at the hospital did you know the  
21 name or age of young Josh?

22 A. No, I did not.

23 Q. Did you attempt to obtain that information from  
24 people there?

25 A. From people there? Yes.

26 Q. And no one knew that at the time?

27 A. No one knew at the time.

28 Q. First time that you learned of his name and date of



- 1 birth was when you yourself obtained it?
- 2 A. Right.
- 3 Q. Did -- did you also attempt to obtain his full
- 4 address?
- 5 A. I can't remember.
- 6 Q. Did you obtain his phone number?
- 7 A. Yes, I did.
- 8 Q. Did you -- do you remember that right now?
- 9 A. Just from reading, just from looking at the chart.
- 10 Q. What -- but did you accurately put it into the
- 11 chart at the time?
- 12 A. Yes.
- 13 Q. And what was that phone number?
- 14 A. 627-4294.
- 15 Q. And was that phone number obtained in the same
- 16 manner as before with Josh --
- 17 A. The same --
- 18 Q. -- pointing to numbers?
- 19 A. -- same manner.
- 20 Q. After for you had gotten the basic information as
- 21 to Josh's identity, did you -- did you then try and obtain some
- 22 information from Josh about what had happened to him?
- 23 A. Yes.
- 24 Q. Prior to asking Josh himself questions, had you
- 25 attempted to get information from anybody other than Josh about
- 26 what had happened?
- 27 A. Yes.
- 28 Q. And who was that?

1 Q. It was a charge nurse and some of the officers.

2 Q. Part of that information that you got from the  
3 charge nurse and the officers was put in the report; is that  
4 right?

5 A. Yes.

6 Q. In your report you specified the difference between  
7 information that was obtained from other persons and the  
8 information that was obtained from Josh himself; is that right?

9 A. Uh-huh.

10 Q. You have to say, "yes".

11 A. Yes.

12 Q. Did you ask Josh how many people attacked him?

13 A. Yes.

14 Q. How did he respond?

15 A. By pointing again to the numbers on the sheet.

16 Q. Which number did he point to?

17 A. He pointed to "3", "4".

18 Q. Did you ask Josh whether the attackers were male or  
19 female?

20 A. Yes, I did.

21 Q. How did you do that?

22 A. I asked him if they were male.

23 Q. And what did he point to on the chart?

24 A. He pointed to "yes".

25 Q. Did you ask Josh any questions about the race or  
26 ethnic background of the attackers?

27 A. Yes, I did.

28 Q. What questions did you ask him?



1 A. I asked him if they were Black.

2 Q. What did he point to?

3 A. He pointed to "no".

4 Q. What else did you ask him?

5 A. I asked him if they looked like me.

6 Q. What did he answer when you asked him that?

7 A. No, he pointed to "no".

8 Q. What is your ethnic background?

9 A. Hawaiian, which can include everything.

10 Q. In this particular society are you often mistaken  
11 for any particular other ethnic group?

12 A. Yes, I am.

13 MR. KOTTMEIER: Objection irrelevant.

14 THE COURT: Overruled.

15 THE WITNESS: Yes, I am.

16 BY MR. NEGUS:

17 Q. What is that?

18 A. Mexican, Spanish.

19 Q. Did you then ask him any -- Josh another question  
20 about -- about ethnic background?

21 A. Yes.

22 Q. And what was that?

23 A. I asked him if -- if they were white.

24 Q. And what did he -- how did he respond to that?

25 A. He pointed to "yes".

26 Q. After -- after getting that particular information  
27 from Josh --

28 By the way, did you enter that information in your

1 chart?

2 A. Yes, I did.

3 Q. In your chart did you use the exact wording that  
4 you had gotten in phrasing your questions to Josh or did you put  
5 it into another language?

6 A. I put it into another language.

7 Q. What language did you use?

8 A. He was -- Well, he was referring to -- Well, skip  
9 that.

10 He said White, or I pointed to White. I used  
11 "Caucasian" instead of "White".

12 Q. Did you indicate in your report, however, that the  
13 information that you had obtained from Josh was through yes/no  
14 questions?

15 A. Right.

16 Q. Did you attempt to gain from Josh some  
17 understanding of when his injuries were inflicted?

18 A. Yes, I did.

19 Q. Can that information be important in the treatment  
20 of Josh?

21 A. Yes.

22 Q. What information -- how did you go about that?

23 A. Using the -- this clipboard method here.

24 Q. What questions did you?

25 A. What questions did I ask?

26 I asked him it was day or night.

27 Q. And --

28 A. He pointed to "night".



1 Q. How did he point to "night"?

2 A. I mean -- I asked him if he was during the night.

3 Q. Okay. And what did he -- what did he point to?

4 A. Put down "yes".

5 Q. Did you then attempt to ask him a question about  
6 time?

7 A. Yes.

8 Q. What question was that?

9 A. I asked him if it was after 12:00.

10 Q. And what did he point to?

11 A. He pointed to "yes".

12 Q. Did you then try and pinpoint it any further?

13 A. Yes, I did.

14 Q. How did you do that?

15 A. I asked if it was 1:00 o'clock in the morning.

16 Q. What did he point to?

17 A. He pointed to "no".

18 Q. And then what did you do?

19 A. I went to 2:00 o'clock in the morning; he pointed  
20 to "no". I pointed to 3:00 o'clock in the morning; he pointed  
21 to "no". I got the same response for 4:00. Then I said was it  
22 5:00 o'clock in the morning, 4:00, 5:00, and he pointed to  
23 "yes".

24 Q. So essentially through that method you narrowed it  
25 down to somewhere between 4:00 and 5:00 in the morning?

26 A. Yes.

27 Q. After that did you attempt to find out only whether  
28 or not Josh knew these people who attacked him?

1 A. Yes.

2 Q. Now, in attempting to find that out, can you now  
3 recall the precise questions that you asked him, that is, the  
4 precise wording of your questions?

5 A. Vaguely, yeah.

6 Q. But could you give it word for word or would it  
7 just have to be a general approximation?

8 A. Just a general, not word for word.

9 Q. Were you trying in your questioning of Josh to keep  
10 the questions as simple as possible?

11 A. Yes.

12 Q. And to use as simple words as possible?

13 A. Yes.

14 Q. As best you can remember it now, what was the --  
15 what questions did you ask him about that?

16 A. The questions were: "Have you seen these people  
17 before?" And the next question was: "Do you know these  
18 people?"

19 Q. What was the answer that you got to: "Had you seen  
20 the people before?"

21 A. He pointed to "yes".

22 Q. And what was the answer that you got to: "Did you  
23 know the people?"

24 A. He pointed to "no".

25 Q. Did you then attempt to continue on with that line  
26 of questioning?

27 A. No, I did not.

28 Q. What happened at that point in time?



1 A. I left the room.

2 Q. At that point in time when you were leaving the  
3 room, did anybody else begin to question Josh?

4 A. What I recall is I think the sheriff that went on  
5 in.

6 Q. Is that a plain-clothes person or an uniformed  
7 person?

8 A. I think a uniform person.

9 Q. And did you observe that sheriff's deputy to be in  
10 the actual process of questioning Josh?

11 A. Not in the actual process, no.

12 Q. Where did you go at that point in time?

13 A. I went to the front desk to relay information to  
14 the secretaries who were making the chart in terms of name and  
15 birthdate and phone number.

16 Q. Did you have any further contact with young Josh  
17 Ryen after that initial interview?

18 A. No, I did not.

19 Q. Did Josh, as you were asking him questions, react  
20 in such a way that you would have to repeat the question several  
21 times in order to get an answer?

22 A. Yes, I did. Well, repeat to make sure I got the  
23 same answers, let's put it that way, not to the point where he  
24 was so confused or I felt that he was getting confused that I  
25 had to ask it again; but I just wanted to make sure that it was  
26 clarified for me so we have two answers.

27 Q. Okay. So you would repeat the question in order to  
28 make sure that his response was the same each time?

1 A. Yeah, was consistent.

2 Q. But did he like pause or hesitate, not answer  
3 questions so that you had to come back and prompt him with a  
4 second question?

5 A. No, I did not.

6 Q. Did -- during that particular -- during that  
7 particular point in time -- Well, let me back up.

8 When was it that you prepared the report that you  
9 have there in front of you on the witness stand?

10 A. Probably within the -- within the hour.

11 Q. During that period of time were you informed by the  
12 Sheriff's Office that there was a particular person that would  
13 be the person to contact for any questions about Josh?

14 A. Yes.

15 Q. And whose name were you given?

16 A. Officer Arthur.

17 Q. Now, after, after that contact with Josh, did any  
18 law enforcement officers come to interview you within the next  
19 couple of weeks or anything of that nature?

20 A. Yes.

21 Q. Who was that?

22 A. Ron Forbush.

23 Q. The gentleman that's seated right in front of me?

24 A. Yes.

25 Q. Do you remember exactly when he came to interview?

26 A. No.

27 Q. Could it have been in October of -- Yes. Could it  
28 have been in October of 1983?



1 A. Could have.

2 Q. And during that interview, did Mr. Forbush  
3 essentially break it down into two parts: That is, first  
4 interviewing you without benefit of your notes?

5 A. Yes.

6 Q. And then after he did that, did he show you your  
7 notes and again ask you what you could remember on the basis of  
8 your notes?

9 A. Yes.

10 Q. Were you able to the remember more on the basis of  
11 your notes than you were just without them?

12 A. Yes.

13 Q. Were you then, on approximately January the 4th  
14 1984, interviewed by two members of the Sheriff's Department, a  
15 Mr. Woods and Mr. O'Campo?

16 A. I don't remember their names but I was interviewed.

17 Q. That was again at the hospital.

18 A. Yes.

19 Q. Did they indicate to you their purpose for their  
20 interview was to try and find out what you told Mr. Forbush?

21 A. Right.

22 Q. Last spring, May 15, I believe, did you testify in  
23 a hearing in San Bernardino?

24 A. Yes.

25 Q. Now, prior to your testimony here today, did I  
26 provide you with a copy of that transcript of that hearing?

27 A. Yes.

28 Q. And also a copy of the tape recorded or a

1 A. Yes.

2 Q. What time was that?

3 A. 1700 which is 5:00 o'clock.

4 Q. Okay. Now that report describes contacts that you  
5 had with two people that knew Josh. Is that the same set of  
6 people that you were talking about with Mr. Kottmeier or a  
7 different set?

8 A. I think they were the same set.

9 Q. Did you have contact with more than one group of  
10 people who were concerned about Josh or just one set?

11 A. I remember one group very distinctly, but I can't  
12 remember if the -- if this other person came alone.

13 Q. Did you, in asking your questions of Josh, did you  
14 ever ask questions like: "Did you know their name of the people  
15 that were involved in the attack?"?

16 A. No.

17 Q. Did you ever ask questions like: "Could you  
18 identify them?"?

19 A. No.

20 Q. Did you ever try and ask questions which might make  
21 sense of the two answers he gave, such as, "Could you identify  
22 them but don't know their names?" Any questions along those  
23 lines?

24 A. No. No.

25 Q. At the time that you ceased questioning, did the  
26 uniformed deputy come in and start questioning right away?

27 A. Yes.

28 Q. Is that one of the reasons why you stopped



1 questioning?

2 A. Yes, one of the reasons.

3 Q. Showing you Exhibit 699, does that appear to be a  
4 document of the type that's prepared at the Loma Linda  
5 University Medical Center?

6 A. On a consult note, yes.

7 Q. Okay. Now what does that -- can you describe what  
8 that document is?

9 A. It's a neurosurgery consult done by neurosurgery.

10 Q. And is that particular report done of Josh Ryen?

11 A. Yes, it is.

12 Q. Did -- do you recognize the person that prepared  
13 that report?

14 A. I recognize the signatures.

15 Q. Okay.

16 A. One signature.

17 Q. Which signature do you recognize?

18 A. Dr. Shahhal.

19 Q. Dr. Shahhal is a neurosurgeon?

20 A. Yes.

21 Q. And as such he would be a person who specializes in  
22 dealing with the type of head injury or complications from the  
23 head injury that Josh appeared to have?

24 A. Yes.

25 MR. KOTTMEIER: Objection. Improper foundation.

26 THE COURT: Yes, I will sustain the objection. The  
27 answer is stricken; the jurors admonished to disregard the  
28 answer.

1 BY MR. NEGUS:

2 Q. Is Dr. Shahhal -- Are you familiar with the general  
3 assignment of medical personnel within the hospital?

4 A. General assignments?

5 Q. Yes.

6 A. To a degree.

7 Q. Are you familiar with the duties of a neurosurgeon?

8 A. No.

9 Q. Do you recognize the name -- there's another name  
10 that appears with Dr. Shahhal's signature; do you recognize that  
11 person's name?

12 A. No, I don't.

13 Q. There's -- there's a series of letters that seem to  
14 be something like I-V-M-C; do you know what that stands for?

15 A. Uh-huh, it would be the "fourth." "M-S" stands for  
16 medical student. So it would be fourth year in his training.

17 Q. So, that would be -- that person would be a medical  
18 student of some sort?

19 A. Yes.

20 Q. And in the normal course, Loma Linda in addition to  
21 being a major trauma center, is also a teaching hospital; is  
22 that right?

23 A. Yes.

24 Q. So when neurosurgeons come to treat people they  
25 bring their students with them?

26 A. They may.

27 Q. Sometimes?

28 A. Yeah. I don't know if they bring, but, you know,



1 they are in the hospital and they show up because they carry the  
2 same type of beeper system.

3 Q. And the purpose of the medical student is sometimes  
4 to make notes of what the doctor is doing and also to learn?

5 A. Yes.

6 Q. Now showing you Exhibit 700, do you recognize what  
7 that particular document is?

8 A. Yes.

9 Q. What is it?

10 A. It's the log notes for a trauma patient, nursing  
11 notes.

12 Q. Can you tell us from that particular document who  
13 prepared that document?

14 A. Yes.

15 Q. Who?

16 A. Calvin Fisher.

17 Q. And does that again appear to be the -- the -- a  
18 document concerning Josh Ryen?

19 A. Yes.

20 Q. In addition to the name of "John Doe" down at the  
21 bottom of that document, does it also have to the right of that  
22 the name "Josh Ryen"?

23 A. Yes.

24 Q. I would like to you look at the back side of the  
25 document, and there's an entry at 1423 prepared by Mr. -- by Mr.  
26 Fisher, that's 2:23 in the afternoon.

27 MR. KOTTMEIER: Objection, your Honor. Insufficient  
28 foundation.

1 THE COURT: Sustained.

2 BY MR. NEGUS:

3 Q. Well, in hospital medical records did you use  
4 military time?

5 A. Yes.

6 Q. And so if this is a time --

7 MR. KOTTMEIER: My objection, your Honor, is not directed  
8 as to whether it's military or hospital or standard time.

9 My objection is to the fact that there's no  
10 foundation as far as the accuracy of this particular document,  
11 and to try and refresh this witness' recollection absent a  
12 foundation would be improper.

13 MR. NEGUS: Last I heard, in order to refresh  
14 recollection you don't need any sort of foundation. I will,  
15 however, warrant that Mr. Fisher is going to be flown in here  
16 and I will have him on Thursday and --

17 THE COURT: Then you don't need to get it from this  
18 witness, sir.

19 MR. NEGUS: But I wish to --

20 THE COURT: If you are going to be much longer, Mr.  
21 Negus, we will take the recess.

22 MR. NEGUS: Perhaps we -- Okay. Let's -- perhaps we  
23 should discuss this, your Honor.

24 THE COURT: All right. We will take the morning recess,  
25 ladies and gentlemen. Remember the admonition, please.

26 MR. NEGUS: Could you remain so we can discuss it?

27 THE COURT: Let's take it up in chambers.

28



1 (Chambers conference concluded.)

2 THE COURT: The defendant and counsel are present in  
3 chambers out of the presence of the jury.

4 MR. NEGUS: Your Honor, last I heard you can show any  
5 document whatsoever without --

6 THE COURT: To refresh memory, you're correct on that;  
7 but I hope you don't envision trying to get in the medical  
8 records to the jury in this case. You don't have that in mind,  
9 do you?

10 MR. NEGUS: Just the ones that I'm talking about.

11 THE COURT: Even those?

12 MR. NEGUS: Well, I certainly do. I mean, because they  
13 are taken in the course of business and, you know, they are a  
14 perfect -- I'm laying a foundation for each of them.

15 THE COURT: You have got witnesses to testify to the  
16 matter stated.

17 MR. NEGUS: But the thing is, there's more weight to  
18 having the medical records in and there's no reason not to have  
19 the medical records in. I mean, it's perfectly legitimate.  
20 I --

21 MR. KOTTMEIER: Well, we've shifted off of our original  
22 purpose for being here.

23 THE COURT: All right. There was an objection when he  
24 tried to read the time of day, apparently, and your objection is  
25 what?

26 MR. KOTTMEIER: My objection, your Honor, is that the  
27 next step that we're going to get: "Well, according to this the  
28 information that Calvin Fisher took was," and what is occurring

1 is virtually a shifting from recollection refreshing to a:  
2 "Well, here, read this and tell us what it says." And then:  
3 "You agree with that, don't you?"

4 MR. NEGUS: The next question was going to be -- First of  
5 all, I just wanted to establish that at 1423 he was, in fact,  
6 questioning Josh. That seems like a reasonable type thing to  
7 ask him.

8 MR. KOTTMEIER: Except this that this witness doesn't  
9 know what time it is.

10 MR. NEGUS: Well, he knows basically what time.

11 THE COURT: He got a call I thought at 2:30.

12 MR. NEGUS: He said 2:10 and he is four miles away, so  
13 that's just about the time that he would be down there asking  
14 his first questions.

15 And then I was just going to ask him to read to  
16 himself the entry, ask him if that refreshes his recollection  
17 about did he get a date of birth from Josh, and if so, does it  
18 refresh his recollection about what the date of birth is. If  
19 not, I've already established --

20 THE COURT: Counsel, why are you struggling? You all  
21 would stipulate to his date of birth, I'm sure.

22 MR. NEGUS: The significance of Josh's date of birth is  
23 that Josh was conscious, alert, aware enough to give an accurate  
24 date of birth.

25 THE COURT: Okay.

26 MR. KOTTMEIER: And the content of that date of birth is  
27 going to have to come through Calvin Fisher, not by doctor --  
28 excuse me, Mr. Gamundoy reading Calvin Fisher's notes saying



1 that: "Oh, yes, that's what Calvin Fisher would say so I will  
2 say the same thing."

3 MR. NEGUS: I'm allowed to ask him those questions and  
4 see how he responds. We have police read the reports in the  
5 record.

6 MR. KOTTMEIER: If this was Mr. Gamundoy's report, you  
7 wouldn't hear any complaint from me.

8 THE COURT: No, counsel. He can ask him: "Does that  
9 refresh your memory?" If he says that it does as to his date of  
10 birth, then he can relate that before the jury.

11 If that's the nature of your objection, I will  
12 overrule your objection.

13 Anything further.

14 MR. KOCHIS: Not at this time.

15 THE COURT: All right. At another time we will take up  
16 the nature when you request to actually put document into  
17 evidence.

18 Okay. Take a recess.

19  
20 THE COURT: All right. Mr. Negus.

21  
22 REDIRECT EXAMINATION (Resumed)

23 BY MR. NEGUS:

24 Q. Mr. Gamundoy, getting back to at 2:23 in the  
25 afternoon. Would that have been approximately the time that you  
26 were starting to get information from Josh Ryen about his name  
27 and date of birth?

28 A. Yes.

1 Q. I've showed you a document prepared by Mr. Fischer,  
2 which gives some information of that sort.

3 Does that -- would you be able to independently  
4 give us Josh's date of birth without sort of reading it from  
5 that document?

6 A. No.

7 Q. But you did relay the information along to Mr.  
8 Fischer.

9 A. Yes.

10 Q. The tags that Mr. Kottmeier asked you about, that  
11 is, the tag in this particular case on Josh's chart that says  
12 "John Doe", how is that particular tag prepared?

13 A. That particular -- you mean the plate itself?

14 Q. Yeah. The plate.

15 A. The plate is made in the emergency department.

16 Q. Okay. Is it uncommon if you have somebody coming  
17 in as a John Doe and you find out that their true name, what  
18 their true name is, to have the John Doe tag continue along with  
19 them for a period of time?

20 A. It continues, yes.

21 Q. What does it take to change it?

22 A. Um, the people in the admitting office would make a  
23 separate name plate and send it to the unit where the patient  
24 is.

25 Q. That would then become substituted?

26 A. Not necessarily.

27 Q. Added?

28 A. It would be added.

---



1 Q. And does that take a particular period of days and  
2 times to occur?

3 A. Sometimes, yes.

4 Q. In terms of your asking questions about what  
5 happened to Josh, in your report you indicated that the first  
6 sentence you had was you indicated the assault took place in the  
7 early morning hours; is that correct?

8 A. Right.

9 Q. Now, at this point in time can you recall whether  
10 or not you used the word "assault" or "what happened to you" or  
11 "how was the injury inflicted", can you recall which of the  
12 different words you were using?

13 A. No, I can't.

14 Q. You indicated at the end of your conversation with  
15 Josh, when you began, when you began getting answers that you  
16 didn't understand about whether he knew the people or not, at  
17 that point in time in your mind Josh's answers appeared to be  
18 confused; is that right?

19 A. Yes.

20 Q. During the time that you were asking Josh about the  
21 time of the assault, and who the people were that were  
22 responsible or who the people were, did you see any evidence  
23 that Josh was confused about his answers?

24 A. No.

25 Q. Did you, in your own mind, have any doubt that he  
26 was talking about the people that attacked him?

27 A. No.

28 MR. NEGUS: Thank you. I have nothing further.

## RE CROSS EXAMINATION

BY MR. KOTTMEIER:

Q. Mr. Gamundoy, you asked him the question, "Do you know who did this?"

A. Yes.

Q. And his answer at one time was yes.

A. Yes.

Q. And when you tried to follow it up the answer was no.

A. Yes.

MR. KOTTMEIER: Nothing further, your Honor.

THE COURT: Nothing else?

MR. NEGUS: Nothing else.

THE COURT: All right, thank you, Mr. Gamundoy. You are free to leave. Your next witness.

MR. NEGUS: Dale Sharp.

ERVIN DALE SHARP,

called as a witness on behalf of the Defendant, having been duly sworn, testified as follows:

THE CLERK: Thank you. Have a seat on the witness stand, please.

Would you state your full name for the record and spell it, please.

THE WITNESS: Ervin Dale Sharp. E-r-v-i-n, D-a-l-e, S-h-a-r-p.

THE CLERK: Thank you.



## DIRECT EXAMINATION

BY MR. NEGUS:

Q. Mr. Sharp, what is your occupation?

A. Deputy Sheriff.

Q. And for whom do you work?

A. San Bernardino County.

Q. How long have you been a deputy Sheriff?

A. Approximately six and a half years.

Q. Were you working on June 5th, 1983?

A. Yes, sir.

Q. What was your assignment on that particular day in June?

A. I was assigned to patrol division that particular day, assigned to the Loma Linda area.

Q. Loma Linda is a city which contracts for its police work with our Sheriff's Department; is that correct?

A. Yes, sir.

Q. And what shift were you working that day?

A. Day shift.

Q. How many officers work that shift?

A. That exact day, I can't recall. On a normal shift, seven.

Q. If not, all those seven people would be assigned to Loma Linda; is that right?

A. No, sir.

Q. But if something important were to happen in Loma Linda, would officers from other areas be brought in?

A. Depending on the situation, yes, sir.

# **EXHIBIT E**



Copy

SUPREME COURT - STATE OF CALIFORNIA

THE PEOPLE OF THE  
STATE OF CALIFORNIA,  
  
Plaintiff-Respondent,  
  
vs.  
  
KEVIN COOPER,  
  
Defendant-Appellant.

SUPREME COURT NO. Crim 24552  
FROM SAN DIEGO COUNTY  
HON. RICHARD C. GARNER,  
JUDGE

San Diego County Superior Court Case No. CR 72787

REPORTERS' TRANSCRIPT

VOLUME 99

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IN PROPRIA PERSONA

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San Diego, California 92101

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN DIEGO

DEPARTMENT NO. 30

HON. RICHARD C. GARNER, JUDGE

THE PEOPLE OF THE STATE  
OF CALIFORNIA,

Plaintiff,

vs.

KEVIN COOPER,

Defendant.

NO. OCR-9319

REPORTERS' TRANSCRIPT  
January 8, 1985

APPEARANCES:

For the People:

DENNIS KOTTMEIER  
District Attorney  
WITH: JOHN P. KOCHIS  
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1540 Mountain Avenue  
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For the Defendant:

DAVID L. MCKENNA  
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BY: DAVID E. NEGUS  
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ROBERT L. ROACH, CSR #1727  
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Official Reporters



## RE CROSS EXAMINATION

BY MR. KOTTMEIER:

Q. Mr. Gamundoy, you asked him the question, "Do you know who did this?"

A. Yes.

Q. And his answer at one time was yes.

A. Yes.

Q. And when you tried to follow it up the answer was no.

A. Yes.

MR. KOTTMEIER: Nothing further, your Honor.

THE COURT: Nothing else?

MR. NEGUS: Nothing else.

THE COURT: All right, thank you, Mr. Gamundoy. You are free to leave. Your next witness.

MR. NEGUS: Dale Sharp.

ERVIN DALE SHARP,

called as a witness on behalf of the Defendant, having been duly sworn, testified as follows:

THE CLERK: Thank you. Have a seat on the witness stand, please.

Would you state your full name for the record and spell it, please.

THE WITNESS: Ervin Dale Sharp. E-r-v-i-n, D-a-l-e, S-h-a-r-p.

THE CLERK: Thank you.

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THE COURT: Nothing else?

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THE CLERK: Thank you.



## DIRECT EXAMINATION

1

2 BY MR. NEGUS:

3 Q. Mr. Sharp, what is your occupation?

4 A. Deputy Sheriff.

5 Q. And for whom do you work?

6 A. San Bernardino County.

7 Q. How long have you been a deputy Sheriff?

8 A. Approximately six and a half years.

9 Q. Were you working on June 5th, 1983?

10 A. Yes, sir.

11 Q. What was your assignment on that particular day in  
12 June?13 A. I was assigned to patrol division that particular  
14 day, assigned to the Loma Linda area.15 Q. Loma Linda is a city which contracts for its police  
16 work with our Sheriff's Department; is that correct?

17 A. Yes, sir.

18 Q. And what shift were you working that day?

19 A. Day shift.

20 Q. How many officers work that shift?

21 A. That exact day, I can't recall. On a normal shift,  
22 seven.23 Q. If not, all those seven people would be assigned to  
24 Loma Linda; is that right?

25 A. No, sir.

26 Q. But if something important were to happen in Loma  
27 Linda, would officers from other areas be brought in?

28 A. Depending on the situation, yes, sir.

1 Q. When something major happens, as far as crimes are  
2 concerned, do officers sometimes just come by to see what's  
3 happening so they can inform themselves; drop in, pass on?

4 A. Yes, sir.

5 Q. Did that happen when you wer at the Loma Linda  
6 University Medical Center on June 5th, 1983?

7 A. No, sir.

8 Q. Nobody showed up?

9 A. No, sir.

10 Q. What time did you go to Loma Linda University  
11 Medical Center on June 5th, 1983?

12 A. Yes, sir.

13 Q. What time did you get there?

14 A. 1344 hours.

15 Q. At that point in time you were driving a fully  
16 equipped Sheriff's unit.

17 A. Yes, sir.

18 Q. And you were dispatched in reference to the  
19 homicides that had just been discovered in Chino Hills.

20 A. I wasn't advised at the time initially, I found out  
21 later on that was what I was dispatched for, yes, sir.

22 Q. Before you got out of the car?

23 A. No, sir.

24 Q. What did you -- what was your purpose in going  
25 there to the hospital?

26 A. I was advised to go to the hospital and to call  
27 dispatch.

28 Q. Did you do that when you got to the hospital?

1 A. Yes, sir.

2 Q. At that point in time were you given the  
3 information as to what you were supposed to do?

4 A. Yes, sir.

5 Q. At the time that you called dispatch, what time was  
6 that?

7 A. Be approximately 1350 hours.

8 Q. What were you doing for the six minutes in between?

9 A. Giving six minutes to advise I was 97, pulled in  
10 the parking lot, get out, go in the door and call.

11 Q. That took six minutes?

12 A. I would assume so.

13 Q. Where do you get the time 1350?

14 A. That's an approximate time, going from the 1344,  
15 that I called in I was 97.

16 Q. Okay. So you are sure of the 1344 time.

17 A. Yes, sir.

18 Q. And that is 1:44 civilian time?

19 A. Yes, sir.

20 Q. And "97" in police codes means I have arrived at  
21 the scene.

22 A. Yes, sir.

23 Q. When you parked your car, did you park it in a  
24 regular parking place?

25 A. Parked in the emergency lot.

26 Q. How far from the door to the emergency room did you  
27 park it?

28 A. Hundred feet.



1 Q. And once you got there, did you make the call from  
2 inside the emergency room?

3 A. Yes, sir, I did.

4 Q. Was there a phone right there?

5 A. As you walk in at the reception desk, yes, sir.

6 Q. Did you have any trouble finding that phone?

7 A. No, sir.

8 Q. When you got through with your phone call, had Josh  
9 Ryen arrived at the emergency room yet?

10 A. Not being in the actual emergency room, at the  
11 reception desk, I wouldn't know. In guessing I'd have to say I  
12 believe so.

13 Q. As soon as you got off the phone did you go right  
14 into where Josh was?

15 A. I went in the emergency room at that point, yes,  
16 sir.

17 Q. And how long was it before you were allowed to go  
18 where Josh is?

19 A. As I walked in I could see the partition was open  
20 and I could see Josh laying there.

21 Q. Did you make immediate contact with Josh?

22 A. Not at that time, no, sir.

23 Q. How long was it before you made contact with Josh?

24 A. Approximately ten minutes.

25 Q. In your Sheriff's units, did you have a tape  
26 recorder?

27 A. Yes, sir.

28 Q. Is that something that you use as part of your

1 Sheriff's work?

2 A. Yes, sir.

3 Q. Did you go out and get it?

4 A. No, sir.

5 Q. Had you been assigned to get information from  
6 somebody you believed to be the sole survivor of a mass murder?

7 A. Not at that time.

8 Q. When were you assigned to get information from  
9 Josh?

10 A. I subsequently made phone contact with Sergeant  
11 Arthur.

12 Q. What time was that?

13 A. It would be right around the same time. I advised  
14 dispatch when I was talking to him to have Sergeant Arthur call  
15 me at the hospital and he called a few minutes later.

16 Q. At that point in time did Sergeant Arthur tell you  
17 to try and get information from the sole survivor of a mass  
18 murder?

19 A. Yes, sir.

20 Q. Did you then go out and get your tape recorder?

21 A. No, sir.

22 Q. How long after your conversation with Sergeant  
23 Arthur was it that you actually went in and made contact  
24 yourself with Josh?

25 A. Approximately a minute, 30 seconds.

26 Q. Do you know what time that was?

27 A. No, sir, I do not.

28 Q. At that time, at the time that you made contact

1 with Josh, was his head bandaged?

2 A. They were either just finishing up or it was  
3 bandaged right in that area right there, I believe.

4 Q. Did he have IV tubes?

5 A. I believe so, yes, sir.

6 Q. Could you see what the medical people were doing  
7 with him?

8 A. They were all moving around the bed. As to exactly  
9 what they were doing, I don't recall.

10 Q. How many medical people were there?

11 A. Approximately six or seven.

12 Q. Do you know the identities of any of these people?

13 A. No, sir, I do not.

14 Q. Did you see anybody obtaining information from Josh  
15 before you made contact with him?

16 A. Yes, sir.

17 Q. Who was that?

18 A. It was a nurse.

19 Q. Okay. What -- why do you think the person was a  
20 nurse?

21 A. Because it was a female.

22 Q. Did the nurse ask Josh about allergies?

23 A. I don't recall that.

24 Q. Do you recall how the nurse was obtaining the  
25 information?

26 A. She had a clipboard in her hand.

27 Q. How was she getting the information from Josh using  
28 a clipboard?



1           A.     I believe she had Josh write his name and then he  
2     pointed to numbers for his age, date of birth and telephone  
3     number.

4           Q.     Did you obtain that information from her?

5           A.     I obtained it while she did, yes, sir.

6           Q.     Did you read the name that Josh wrote?

7           A.     I believe I was told, sir.

8           Q.     By whom?

9           A.     I believe it was the female nurse. There was a  
10    number of people standing around there, and I asked for the  
11    name, and if I recall correctly, it was a number of people told  
12    me "Joshua Ryen" or "Josh Ryen".

13          Q.     Do you know what time it was that you learned that  
14    information?

15          A.     Not exactly, no, sir.

16          Q.     Approximation?

17          A.     1405, 1410, somewhere around there.

18          Q.     Could it have been as late as 2:23 in the  
19    afternoon?

20          A.     I don't believe it was that late, no, sir.

21          Q.     Were you making any notes as this was going on?

22          A.     Yes, sir.

23          Q.     Where?

24          A.     On a notepad that I carried in.

25          Q.     In November were you subpoenaed, served with a  
26    subpoena duces tecum for those notes?

27          A.     What was that question again, sir?

28          Q.     In November of 1983, were you served with a

1 subpoena requesting you bring those notes to court?

2 A. No, sir, I don't believe so.

3 Q. Were you ever requested to bring the notes to  
4 court?

5 A. No, sir.

6 Q. Did you put down on your notes basically the  
7 questions that you were to ask Josh?

8 A. At times they were the exact questions, at times  
9 they were the idea of what was being said.

10 Q. Did you put down the order in which you asked the  
11 questions?

12 A. The order? That would be in my report, would be  
13 the order that we talked about.

14 Q. I'm talking about the notes. Let's just focus in  
15 on these notes.

16 Did you put down in your notes the order in which  
17 the questions were asked?

18 A. Yes, sir.

19 Q. How many pages of notes did you take?

20 A. Two, three pages of notes, I would imagine.

21 Q. Is this on a spiral notepad?

22 A. Yes, sir.

23 Q. Both sides of the page?

24 A. No, sir, just one side.

25 Q. And what did you do with those notes?

26 A. I have destroyed them.

27 Q. When did you do that?

28 A. It would be sometime after that date. When I'm

1 through with the notepad, I destroy the notepad.

2 Q. Have you been told by people in your department to  
3 do that so that the defense doesn't have access to your notes?

4 A. No, sir.

5 MR. KOTTMEIER: Objection, argumentative.

6 THE COURT: Overruled. It may remain.

7 BY MR. NEGUS:

8 Q. Is that why you threw them away?

9 A. No, sir.

10 Q. Why did you throw them away?

11 A. I threw them away because of two reasons.

12 There's not a place to put the notebook when you  
13 are through with it, such as an evidence locker where you had,  
14 say, this notebook has confidential information in it, therefore  
15 I put it in this locker. There's not a place for that.

16 I am not going to keep the notebook at home. I  
17 certainly wouldn't want someone to break in my house and get  
18 information out of that notebook, and I've got cases that I'm  
19 working on in that notebook that I don't want confidential  
20 informants to be known or what information they gave me.

21 Q. What confidential informants in that notebook were  
22 in it?

23 A. I wouldn't recall.

24 Q. Well, does everybody in your department follow that  
25 procedure?

26 A. Everyone that I know of does, yes, sir. At least  
27 within the realm of a patrol division.

28 Q. In this particular case, did you think that maybe



1 it was a little different, maybe a different procedure might be  
2 followed?

3 A. No, sir, I did not.

4 Q. When you were questioning Josh, did you have any  
5 difficulty doing it?

6 A. Yes, sir.

7 Q. From the female nurse you found out that Josh was 8  
8 years old.

9 A. Yes, sir.

10 Q. Did you think -- well, did you do anything to try  
11 and insure that the form of your question didn't influence  
12 Josh's answers?

13 A. I would have asked the questions several times to  
14 make sure that I had the correct meaning.

15 Q. The same way each time or different wording?

16 A. Sometimes it would have been the same way,  
17 sometimes it would have been different.

18 Q. Did you keep track in your notes of the different  
19 ways in which you asked the questions?

20 A. No, sir, I did not.

21 Q. Did you attempt to tape record the conversation to  
22 preserve how you asked the questions that way, without any extra  
23 effort?

24 A. No, sir, I did not.

25 Q. From the people in the hospital you obtained the  
26 name Josh Ryen, right?

27 A. Yes, sir.

28 Q. Now, was that -- did you see Josh give that answer

1 or did you -- was that relayed to you by word of mouth?

2 A. It would have been by word of mouth.

3 Q. Did you ever see Josh asked the question what his  
4 name was by these people in the hospital?

5 A. Yes, sir.

6 Q. And did he give the name Josh Ryen?

7 A. Apparently. That was the name that he had written  
8 down. Yes, sir.

9 Q. You never -- did you attempt to get ahold of that  
10 particular piece of paper that he wrote on?

11 A. No, sir, I did not.

12 Q. Did you, yourself, make any attempts to see how  
13 lucid Josh was?

14 A. Not any actual attempts where, you know, I would --  
15 could make an attempt for this during the period of time. There  
16 were times that I felt that he understood and times I felt he  
17 didn't.

18 Q. So that was a subjective feeling on your part.

19 A. Yes, sir.

20 Q. Was there a neurologist present while you were in  
21 the emergency room with Josh?

22 A. I would not know.

23 Q. Did you see Mr. Gamundoy, the gentleman that  
24 testified just before you did, while he was on the witness  
25 stand?

26 A. I saw him walk in, yes, sir.

27 Q. Did you know if Mr. Gamunody was there in the  
28 emergency room with you and Josh?

1           A.     When I was talking to the paramedic, which was  
2     outside the partition area, there was a man there. When I came  
3     to court today I felt that possibly that was Mr. Gamunody.  
4     After seeing the man that left here, it wasn't, and I have not  
5     seen Mr. Gamunody before or do I recall seeing him before, I  
6     should say.

7           Q.     When, in the chronology of events, were you talking  
8     to the paramedics?

9           A.     Prior to talking to Josh or getting his name or  
10    anything.

11          Q.     And did you get a history from the paramedics as to  
12    what had happened?

13          A.     No, sir, I did not.

14          Q.     Which paramedics -- do you know which outfit the  
15    paramedic worked for?

16          A.     I believe it was the Chino Fire Department.

17          Q.     Do he have a blue uniform on?

18          A.     Yes, sir.

19          Q.     Was he -- what ethnic background was he?

20          A.     I don't recall.

21          Q.     Well did he give you any information about what  
22    type of wounds that Josh had?

23          A.     No, sir, he did not.

24          Q.     Did he give you any information about Josh's -- who  
25    else was involved in the murder?

26          A.     No, sir, he did not.

27          Q.     What were you talking to him about?

28          A.     The crime scene.



1 Q. What did he tell you about the crime scene?

2 A. He said blood was everywhere.

3 Q. When you talked to Sergeant Arthur, did he give you  
4 any information about the nature of the causes of the injuries  
5 or anything of that nature?

6 A. I don't recall.

7 Q. When you began your attempts to get information  
8 from Josh, did you at that point know whether he was going to  
9 live or die?

10 A. For sure I did not know.

11 Q. In the training that you had as a deputy sheriff --  
12 well, you did -- you have had training as a deputy sheriff in  
13 the various aspects of your job; is that right?

14 A. Yes, sir.

15 Q. You went to the Mr. Bland's Academy and Glen Helen  
16 and did all the other in-service things that people require?

17 A. The basic academy, yes, sir.

18 Q. Part of that, do they teach you certain technical  
19 requirements about trying to get a dying declaration from  
20 somebody?

21 A. Yes, sir.

22 Q. And you have to be very careful to try and fulfill  
23 certain technical legal requirements when you're talking to  
24 somebody from whom you might be getting a dying declaration; is  
25 that right?

26 A. I would assume so; although, you know, I was never  
27 taught what you're talking about.

28 Q. Well, didn't they teach you in the basic academy

1 how to get a dying declaration, what you had to do?

2 A. They told us to get what information we could.

3 Q. Well, did they teach you --

4 THE COURT: Counsel, he answered negatively.

5 MR. NEGUS: Well, I think -- I don't think he's answered  
6 this question. If I could just ask the question.

7 Q. Did they teach you that you had to establish that  
8 the person was aware that they were dying?

9 A. No, sir.

10 Q. Did they teach you that had the person had to be  
11 aware that they were describing the circumstances which caused  
12 their injuries or their demise?

13 A. No, sir.

14 Q. Did you actually observe Josh to give to one of the  
15 medical people his birthdate?

16 A. I saw him pointing to the clipboard at some numbers  
17 that I had seen them written down -- write down.

18 Q. You saw a medical person write the numbers down?

19 A. Yes, sir.

20 Q. And was that the female person that you presumed  
21 was a nurse?

22 A. I believe so, yes, sir.

23 Q. After the female person that you presumed was a  
24 nurse wrote the numbers down, did you then put them in your  
25 notes?

26 A. Yes, sir.

27 Q. And before you destroyed your notes did you then  
28 dictates those into a tape recorder back at your -- at your

1 office?

2 A. Yes, sir.

3 Q. And did one of the typists that work for the  
4 Sheriff's Department then transcribe those notes?

5 A. Yes, sir.

6 Q. Did you ever go back and check to see that she --  
7 the transcriber had done it correctly?

8 A. You mean check the report with the notes?

9 Q. Yes.

10 A. No, sir.

11 Q. Did you check the report against the tape that you  
12 had made?

13 A. No, sir.

14 Q. I take it the tapes aren't preserved either; is  
15 that right?

16 A. No, sir.

17 Q. They are not preserved?

18 A. No, sir, they are not.

19 Q. Well, what was the date of birth that you obtained  
20 for Josh Ryen?

21 A. Probably have to check my report, but I believe it  
22 was 9-5-74.

23 Q. Did you also obtain a telephone number?

24 A. Yes, sir.

25 Q. And probably not going to be able to remember that,  
26 right?

27 A. Probably not.

28 Q. Would you like -- would it refresh your



1 recollection if you looked at your report?

2 A. Yes, sir.

3 Q. And is that report prepared from your notes?

4 A. Yes, sir.

5 Q. Would you do so, please. What was it?

6 A. 627-4294.

7 Q. While you were talking to Sergeant Arthur --

8 You had several conversations with him during the  
9 course of the time you were with Josh; is that right?

10 A. Yes, sir.

11 Q. Did you verify with Sergeant Arthur, as part of  
12 your process of trying to see whether Josh was alert or not, if  
13 that was in fact Josh's correct phone number?

14 A. No, sir.

15 Q. In your report you also put down that Josh -- you  
16 put down as coming from Josh the age 8; is that right?

17 A. Yes, sir.

18 Q. Did that come from Josh?

19 A. Yes, sir.

20 Q. So, the -- the person that was questioning him at  
21 that point in time asked him to point at how old he was and he  
22 pointed to 8?

23 A. Yes, sir.

24 Q. Asking you to look at Exhibit 697 that's behind you  
25 on the board; does that appear to be a reasonable facsimile of  
26 the paper that the medical person who was questioning Josh was  
27 using?

28 A. You're asking if the paper that they used had the

1 alphabet and the numbering system on it, yes, sir, that would be  
2 true. The, "yes and no", I don't recall.

3 Q. Was the -- was the person that was doing the  
4 questioning asking Josh any questions which required a yes or no  
5 answer?

6 A. I don't recall.

7 Q. Did you take notes of that?

8 A. I would have -- The notes I would have taken would  
9 have went in my report as to Joshua's name, age, date of birth,  
10 phone number. I don't believe there were any others -- any  
11 others that would have been asked. After that point I would  
12 have done with Joshua, and if anybody else asked those  
13 questions, you know, I asked them again and got in my report. I  
14 don't know whether they were asked or not.

15 Q. So you don't know whether other people got  
16 information with what you got or inconsistent or what?

17 A. I would have no idea, sir.

18 Q. You haven't checked -- you never did check to find  
19 out whether everything that you had in your notes was typed up  
20 in your report though, right?

21 A. I did read the report, and I was satisfied that  
22 that was what I had dictated, yes, sir.

23 Q. But you didn't do anything -- didn't do anything  
24 independently like look at the notes, make sure there wasn't  
25 something you had forgot and make sure of anything like that?

26 A. No, sir, I did not.

27 Q. When did you -- when did you make it, the report?

28 A. After I got back to the substation that day.

1 Q. What time would that have been?  
2 A. Approximately 1800 hours.  
3 Q. That would be 6:00 o'clock at night civilian time?  
4 A. Yes, sir.  
5 Q. And that was the end of your shift?  
6 A. Yes, sir.  
7 Q. What time did you review the written, typewritten  
8 report?  
9 A. Approximately two days later.  
10 Q. During that intervening two days had you been out  
11 in the field?  
12 A. Yes, sir.  
13 Q. And had you been -- had you been assigned to work  
14 this case?  
15 A. I had been assigned to work other cases, which  
16 would be the 6th, and then the following two days I worked on  
17 this case.  
18 Q. Did that involve the days in which the -- what's  
19 been referred to as the hideout, 2991 English Road, was  
20 discovered?  
21 A. I believe it was the end of the second day, yes,  
22 sir.  
23 Q. And that would have been prior to your reviewing  
24 your report?  
25 A. No, sir. I reviewed it before then.  
26 Q. Well, that would have been two days later, right?  
27 A. Well, we're talking two days from the point that I  
28 dictated it.



1 Q. That would have been Tuesday night, approximately  
2 6:00 o'clock, right?

3 A. Well, it would have been sometime -- well actually  
4 it was sometime Monday night because I picked up a copy of the  
5 report to bring it to to Sergeant Arthur after work on the day  
6 of the 6th.

7 Q. On June 6th, did you interview, yourself, and  
8 prepare written reports of an interview with Sue Lease?

9 A. I did an interview with Sue Lease, yes, sir.

10 Q. On the 6th?

11 A. I'm not sure if it was the 6th or the 7th.

12 Q. Do you have your reports with you?

13 A. Yes, sir.

14 Q. Could you check?

15 A. It was on the 6th.

16 Q. Same day you also did an interview with a member of  
17 the Edwards family, lived just down the hill from the Ryens?

18 A. No, sir. That interview would have been on the  
19 7th.

20 Q. Do you have the report?

21 A. Yeah. It would have been the 7th.

22 Q. How about Kimberly Ward?

23 THE COURT: Counsel, let's perhaps break it at this  
24 point. We will continue at 1:30. Please remember the  
25 admonition over the noon period.

26 We will take the noon recess until the hour of  
27 1:30.

28 (Noon recess taken.)

1        SAN DIEGO, CALIFORNIA, TUESDAY, JANUARY 8, 1985, 1:37 P.M.

2  
3        THE COURT: Go ahead, counsel.

4  
5                        DALE SHARP,

6        called as a witness on behalf of the Defendant, having been  
7        previously duly sworn, resumed the stand and testified further  
8        as follows:

9  
10                      DIRECT EXAMINATION (Continued)

11        BY MR. NEGUS:

12                Q.        Mr. Sharp, just before the break you testified that  
13        your interview with a member of the Edwards family was on the  
14        7th rather than the 6th of June.

15                      When you submitted your written report to your  
16        superiors, what date did you have in the report?

17                A.        It's hard to say whether I dictated the 6th or the  
18        7th, whether it was my error or the typist. Obviously, in the  
19        report it came out the 6th, but the interview was done on the  
20        7th.

21                Q.        Okay. Well, in the typed report that you submitted  
22        then to your superiors it reads June 6th?

23                A.        Yes, sir.

24                Q.        And I take it that when you were -- Did you read  
25        over that typed report before it was submitted?

26                A.        That particular report I did not receive until just  
27        before the prelim.

28                Q.        So, you were going through a process where -- Let

1 me see if I understand this then, you would --

2 Who do you normally submit your reports to?

3 A. This is a problem. The reports are submitted to  
4 the -- the first report that I would have taken at Loma Linda  
5 Hospital would have been submitted to one of the secretaries at  
6 Central Patrol, the initials on the bottom being K.J. who typed  
7 it, that's Kelly Jensen. She typed this on 6-6-83. I picked  
8 this report up. I read it and took it to Sergeant Arthur that  
9 night.

10 The other reports were done in the West End area  
11 and were typed by the West End stenographers. I would not know  
12 who they are. And I did not receive those particular reports or  
13 look at them until the prelim.

14 Q. I see. Well, at that point in time did you --  
15 right now you've sort of taken the date of June 6th and  
16 scratched it off that report of the Edwards; is that right?

17 A. I didn't do it right now. I did it prior to this  
18 date, yes, sir.

19 Q. When did you do that?

20 A. It would have probably been at sometime prior to  
21 the prelim.

22 Q. Well, did you put a supplemental in to indicate  
23 that there was a correction?

24 A. No, sir, I did not.

25 Q. And you just had an independent recollection that  
26 it was -- that the date was wrong just from the nature of the  
27 report?

28 A. Yes, sir.



1 Q. Any of your other reports that were incorrectly  
2 dated?

3 A. Yes, sir.

4 Q. Which other ones were those?

5 A. It would have been the report with Kathy Bilbia,  
6 B-i-l-b-i-a; the report with Cindy Reynolds, our contact with  
7 Cindy Reynolds and the interview with Cindy Reynolds; and the  
8 report with Kimberly Ward.

9 I have checked these reports and they look correct  
10 to me with the exception of the date. The times appear to be  
11 correct.

12 Q. Let me just look at the Bilbia one for just a  
13 second, will you?

14 Well, that Bilbia one wasn't really the -- wasn't  
15 really an interview with Kathy Bilbia; it was an interview with  
16 Sue Lease; is that correct?

17 A. Sue Lease that talked about Kathy Bilbia, yes, sir.

18 Q. And that interview according to what you had  
19 written down there was at 5:30 on 6-6-83; is that right?

20 A. According to what the -- is typed there, yes, sir.

21 Q. And now you have it crossed off and you put a "7"  
22 instead of a "6"?

23 A. Yes, sir.

24 Q. Did you do that at the lunch hour?

25 A. Yes, I did.

26 Q. You hadn't noticed that at the prelim when you were  
27 looking over it?

28 A. No, sir, I did not.

1 Q. Well, how about -- how about Dee Nolte, did you  
2 talk to her on June 6th?

3 A. I would have to check that report.

4 Q. Do you have that?

5 A. I believe so. This report is not dated.

6 Q. Well, when was it -- when was it done?

7 A. It would have been the -- I believe the late  
8 afternoon -- this is in reference to Cindy and it would have  
9 been the late afternoon of the 7th. I believe. Yes, sir, the  
10 7th.

11 Q. How about Deanna Johnson, did you talk to her?

12 A. Yes, I did.

13 Q. When was that?

14 A. That was on the 6th.

15 Q. Okay. At what time?

16 A. 1700 hours.

17 Q. And where did you talk to her?

18 A. That was at the substation in the West End.

19 Q. Well, did you go down to the Ryen residence on June  
20 the 6th?

21 A. No, sir, I did not.

22 Q. How about down to the Chino Hills area?

23 A. Yes, sir, I did.

24 Q. The interview with Kimberly Ward, did that take  
25 place at the -- at the check point that had been established  
26 there?

27 A. Yes, sir.

28 Q. About 5:30 in the evening?

1 MR. KOTTMEIER: Objection, your Honor. I see no  
2 relevance to this whole line of questioning.

3 THE COURT: I have been wondering did it, Mr. Negus.

4 MR. NEGUS: Well, it's a rather complicated offer of  
5 proof. I will be glad to make it if you want.

6 THE COURT: Sure, give me an outline.

7 MR. NEGUS: Okay. Mr. Sharp, I believe, is going to give  
8 statements inconsistent with Mr. O'Campo's as to when he and Mr.  
9 O'Campo first went to talk to Josh. I believe there's going to  
10 be inconsistent statements between Mr. O'Campo, Mr. Sharp, and a  
11 variety of other people about when certain information was  
12 elicited from Josh.

13 THE COURT: Perhaps then, Mr. Negus, you're premature, so  
14 let's save it then till you cross-examine the witness and let's  
15 see if that foundation is laid. You are anticipating. I don't  
16 know if Mr. Kottmeier and Mr. Kochis will ask those questions.

17 MR. NEGUS: Well, no. I'm thinking that I'm going to  
18 bring out the inconsistencies.

19 THE COURT: I will sustain his objection, Mr. Negus.

20 MR. NEGUS: There is one other point. It's also to  
21 disprove a fact that Mr. Sharp testified to earlier, which was  
22 that he had not participated in the investigation of the Ryen  
23 murders prior to his reviewing the report. We now have him  
24 picking up the report at 6:00 o'clock, I believe, Monday night  
25 in San Bernadino. We have him interviewing witnesses.

26 THE COURT: That's enough, Mr. Negus. Your objection is  
27 sustained. Next question.

28 BY MR. NEGUS:



1 Q. Well, when did you get back to -- when did you get  
2 back to -- to pick up your report in San Bernadino?

3 A. I would have picked it up at the end of shift on  
4 the 6th, which would have been 1500 hours. At that time I took  
5 it to Sergeant Arthur.

6 We're talking in reference the report of my time  
7 with Josh Ryen at the hospital?

8 Q. Right. So that would have been 3:00 o'clock in the  
9 afternoon civilian time?

10 A. Yes, sir.

11 Q. Did you at some point in time introduce Mr. O'Campo  
12 to Josh Ryen?

13 A. No, sir, I did not.

14 Q. Were you ever present when -- when Mr. O'Campo  
15 talked to Josh?

16 A. Not when he talked to Josh, no, sir. I was present  
17 I believe it was three days later while Josh was in Loma Linda  
18 hospital. He had been moved. I was sent to relay a message to  
19 Deputy Gilliam. At this time I was back on patrol and I relayed  
20 a message to Deputy Gilliam, something concerning Josh's family.  
21 At that time Detective O'Campo was present in the room.

22 Q. Mr. Gilliam is another deputy out of Central,  
23 right?

24 A. Yes, sir.

25 Q. He's a regular Deputy, right, not a reserve?

26 A. Yes, sir.

27 Q. Uh-huh. And what was Mr. Gilliam doing at the  
28 hospital when you went to relay this message?

1 A. Security.

2 Q. Well, Mr. Sharp, isn't it a fact that the only time  
3 that regular deputies as opposed to reserves were providing  
4 security for Josh Ryen was on the 5th and the 6th?

5 A. I don't believe -- I don't believe so, no, sir.  
6 I'm not sure of the dates, but I believe it was looking at three  
7 days later that Deputy Gilliam was there. This being Wednesday,  
8 I believe it was, or Thursday even.

9 Q. Thursday, June the 9th, you went to Loma Linda  
10 Hospital to deliver a message to Mike Gilliam and O.C.  
11 was there?

12 A. It was either the 8th or the 9th, I'm not sure.

13 MR. NEGUS: Excuse me a moment, your Honor, I thought I  
14 had this marked.

15 Q. When you -- when you delivered the message to Mr.  
16 O'Campo -- or Mr. Gilliam which one -- who was it that you were  
17 delivering to, Mr. Gilliam or Mr. O'Campo?

18 A. Deputy Gilliam.

19 Q. Was there anybody else present?

20 A. Detective O'Campo.

21 Q. Anybody else?

22 A. No, sir.

23 Q. What floor of the hospital was this on?

24 A. I believe it was the 8th floor.

25 Q. Intensive care or was it when he had gone down to  
26 the pediatric section?

27 A. It was high up, if that's the intensive care. I  
28 remember I took an elevator up.

1 Q. Between the 5th and the 8th you could say that it  
2 was definitely the 8th?

3 A. No, I would not. It seemed to me like it was the  
4 8th, but I'm unsure.

5 Q. Well, do you recall whether he was in a pediatric  
6 ward or an intensive care ward?

7 A. No, sir, I do not.

8 Q. Was he talking, Josh?

9 A. No, sir.

10 Q. Did you -- was he communicating some other way?

11 A. I don't know, sir. I did not talk to him.

12 Q. Did you see him to say, "Hi," or anything?

13 A. I said, "Hi," to him.

14 Q. Did he respond?

15 A. No, sir.

16 Q. Was he asleep?

17 A. No, sir.

18 Q. Just sat there.

19 A. Yes, sir.

20 Q. On the evening of June the 6th, did you ever talk  
21 to O.C.?

22 A. I don't recall.

23 Q. Did -- Did you, during the afternoon hours sometime  
24 on June the 6th, 1983, did you ever go down to Loma Linda  
25 University Medical Center and introduce Hector O'Campo to Josh  
26 Ryen?

27 A. I do not recall.

28 Q. Well, you just testified, did you not, that you had



1 no contact with Josh between the time that you saw him on Sunday  
2 and the time on Wednesday or Thursday that you went up to see  
3 Mr. Gilliam?

4 A. That's affirmative.

5 Q. So the answer would have to be that did you not?

6 A. I don't believe so, no, sir. I'm trying to recall,  
7 but I don't recall any time.

8 Q. When -- let's go back to the emergency room for a  
9 bit. First off, let me just --

10 Exhibit 697, you did see somebody using such an  
11 exhibit to try and get information from Josh, something like  
12 that?

13 A. Similar to that, yes, sir.

14 Q. When I first asked you about that at the prelim you  
15 denied that; is that correct?

16 A. I am not sure. I did advise you at one point that  
17 I was mistaken about that, or something similar to that, I  
18 forget.

19 Q. When you first testified at the preliminary hearing  
20 you said it was by blinking of eyes that the person was getting  
21 information?

22 A. I'm not sure at this point. Reading it over last  
23 night, I believe there was point of contention where I had made  
24 a mistake. At that time I had to go back and read my report at  
25 which time we had straightened it out.

26 Q. Can you do -- try and make a diagram for me of,  
27 like, the front entrance, where you parked your car, the  
28 emergency room, and where Josh Ryen was located within that

1 emergency room, including also the reception desk at Loma Linda  
2 University Medical Center?

3 A. (Witness complied.)

4 MR. NEGUS: While Mr. Sharp is doing that, your Honor,  
5 the record should reflect that as soon as we get a chance we  
6 will put exhibit tag 701 on the diagram that he is preparing.

7 THE COURT: All right.

8 You might stay is there, sir, he is going to ask to  
9 you to explain the diagram I'm sure.

10 Mr. Negus.

11 MR. NEGUS: I'm looking for something. Just a second,  
12 your Honor.

13 THE COURT: Then have a seat.

14 Mr. Negus, please, try and expedite. This witness  
15 is taking particularly long.

16 MR. NEGUS: Well, your Honor, I'm sorry, but --

17 THE COURT: Do your best, Mr. Negus.

18 MR. NEGUS: I'm trying to do my best, your Honor, but I  
19 don't always get the answers that I anticipate.

20 MR. KOTTMEIER: Object to that portion, your Honor.

21 THE COURT: Pardon?

22 MR. KOTTMEIER: I object to Mr. Negus' editorial comment.

23 THE COURT: Sustained.

24 BY MR. NEGUS:

25 Q. Mr. Sharp, at the hearing that we had on May 15th,  
26 1983, on page -- Page 1823 Lines 7 through 9, do you recall  
27 testifying:

28 "Question: And when you arrived did you park your

1 car right outside the emergency room?

2 "Answer: Yes, sir."?

3 A. Yes, sir.

4 Q. And is there a place you can park right outside the  
5 doors to the emergency room right here on the diagram?

6 A. That's where I'm parked, yes, sir.

7 Q. You have it down in the parking lot, according to  
8 the diagram.

9 A. Well, that would be -- I would consider that by the  
10 doors compared to most hospital parking lots.

11 Q. So you wouldn't have parked your vehicle there at  
12 the curb right next to the doors?

13 A. No, sir. It's marked in red.

14 Q. Oh, I see. Mr. Sharp, in the -- did all of your  
15 questioning of Josh Ryen take place in this particular area  
16 right here?

17 A. No, sir, it did not.

18 Q. How -- Approximately what percentage of it took  
19 place?

20 A. I ~~could~~ <sup>couldn't</sup> give a percentage of what questioning took  
21 place. It would have been 15 minutes worth of questioning I  
22 would imagine.

23 Q. Okay. Did that questioning take place from say,  
24 oh, 2:30 to 2:45?

25 A. Well, we are talking sometime ago, but in the -- in  
26 looking at the clock and guessing minutes and trying to be as  
27 close as we can, I believe it would have been around 2:20 or  
28 2:25 to 15 minutes past that that I actually --



- 1 Q. How did you arrive at that particular time?
- 2 A. What's that, sir?
- 3 Q. How do you arrive at that particular time?
- 4 A. Knowing the time that I arrived.
- 5 Q. You're just guessing from that point on?
- 6 A. Knowing what I did, yes, sir.
- 7 Q. Do you know what time Josh left to go to the next
- 8 place he went to?
- 9 A. No, sir, I do not.
- 10 Q. The next place Josh went to was the CAT Scan room?
- 11 A. Yes, sir.
- 12 Q. And let's -- let's if you would assume that he left
- 13 to go to the CAT Scan room at 2:45, would then 2:30 to 2:45 be
- 14 roughly how long you questioned him in the emergency room?
- 15 A. Yes, sir.
- 16 Q. Other than the female person that you assumed was a
- 17 nurse, did you observe anybody else obtaining information from
- 18 Josh Ryen in the emergency room by means of a clipboard?
- 19 A. No, sir, I did not.
- 20 Q. Did you observe any -- did you observe a male nurse
- 21 in the -- that is, a male who was a nurse -- in the emergency
- 22 room taking care of Josh while you were in there?
- 23 A. There were both males and females in the room.
- 24 Q. Okay. Did you observe a male who was a nurse
- 25 taking care of Josh?
- 26 A. I would be guessing as to what their occupation
- 27 was.
- 28 Q. Could have been a male nurse there?

1 A. Yes, sir.

2 Q. When you were -- when you began your interview with  
3 Josh, did you attempt to use the clipboard?

4 A. No, sir, I did not.

5 Q. Did that look to you to be a bad method of trying  
6 to get information from Josh?

7 A. No, sir, it did not.

8 Q. What method did you use?

9 A. I used a method of having Josh squeeze my hand for  
10 a yes answer and no squeeze for a no answer.

11 Q. How did you -- how did you determine that -- how  
12 did you differentiate between a no and a no response?

13 A. A no response would be equal to a no.

14 Q. So you assumed that Josh was responding to all your  
15 questions and didn't allow any room for him missing the question  
16 or something of that nature.

17 A. When I asked the questions, you know, it might take  
18 two or three questions to get to the meaning of what was behind  
19 it. I felt sure of it.

20 Q. That's again subjective rather than anything  
21 objective; is that correct?

22 A. At that point, yes, sir.

23 Q. Well, did you explain to Josh what you were going  
24 to do?

25 A. Yes, sir.

26 Q. And what was the -- what words did you explain it?

27 A. I told Josh that I was going to ask him some  
28 questions, and that if the answers to the questions were yes, he

1 was to squeeze my hand; if they were no, he was not to squeeze  
2 it.

3 Q. And what did you do then?

4 A. I then began asking him questions.

5 Q. What was the first question that you asked?

6 Apparently you don't remember right now, am I  
7 correct in making that assumption?

8 THE COURT: I am not sure he understood the last question  
9 or picked up the last question.

10 BY MR. NEGUS:

11 Q. Did you ask -- the last question I asked you was,  
12 what was the first question you asked Josh.

13 A. Yes, sir.

14 Q. Now, you then shuffled through some documents and  
15 you pulled out a piece of paper, right?

16 A. I have got the report laying in front of me so that  
17 there aren't any mistakes.

18 Q. Well, am I to assume from that that you don't  
19 really remember right now, without referring to your report,  
20 what the first question was?

21 A. The exact first question, no, sir.

22 Q. Then in your report, did you dictate that report in  
23 question and answer form? I mean like, question, "Joshua, what  
24 is your name?" Answer, "Josh", something like --

25 A. Not totally, no, sir.

26 Q. Basically then it is your conclusions about what  
27 you thought Josh was saying.

28 A. Well, those were the answers I felt I was getting,



1     yes, sir.

2             Q.     Basically your interpretation after Josh's hand  
3     squeeze.

4             A.     Yes, sir.

5             Q.     Can you recall -- well, the first statement that  
6     you have in your report was what?

7             A.     "Victim information."

8             Q.     That wasn't given to you though, right?

9             A.     It was information I had received while I was there  
10    with the clipboard.

11            Q.     But, when you have explained to Josh you were going  
12    to use the hand squeeze method, and you start off, you are going  
13    to get information out of Josh, and in your report what you have  
14    preserved for us, what's the first statement that you have  
15    emanating from Josh to you?

16            A.     "The victim first advised me that there were three  
17    white male adult subjects in the residence and he had been  
18    asleep."

19            Q.     I take it you have no particular memory right now  
20    as to what questions you asked to get that particular  
21    information; is that true?

22            A.     It would be a number of questions, yes, sir.

23            Q.     But you don't know what they were.

24            A.     The exact question, no, sir.

25            Q.     How did you set the scene for him? Do you remember  
26    that? I mean, how did you let him know that you were interested  
27    in the attack?

28            A.     I advised him we were going to use the hand squeeze

1 method, and I would have set the scene something similar to,  
2 "How many people were in your house last night?"

3 I was being very careful with the questions. I  
4 realize, in looking at this report, that it leaves a lot of  
5 questions unanswered. This is due to the fact of Josh's  
6 situation.

7 My first concern at this point was for Josh and the  
8 second, of course, is for the investigation.

9 Q. I understand that. But what -- do you remember now  
10 whether you asked him to describe, did you -- who was in your  
11 house last night? Who was in your house that didn't belong last  
12 night? Who attacked you? Who injured you? Who did this to you  
13 and your family? Can you tell me that? Can you exclude any of  
14 those as possibilities?

15 A. Yes, I can.

16 Q. Which ones?

17 A. One, I would not have used the word "attack." I  
18 would have not used "who injured you." I didn't want to say  
19 anything that might have him remember something that he didn't  
20 remember at this time and possibly go into shock.

21 Q. Well, so, how about, did you say, "who did this to  
22 you?"

23 A. Not at that point, no, sir.

24 Q. Well, you put, "and he had been asleep."

25 Does that mean you established, at least in your  
26 mind, that Josh had been asleep at the time that the attack  
27 began?

28 A. I asked him if he had been asleep at that time and

1 the answer would have been affirmative.

2 Q. What was that time? I mean, what were the words  
3 that you used to establish what "that time" meant?

4 A. When the three white male subjects were in the  
5 house.

6 Q. Did you establish that the three white male  
7 subjects were not Josh, his father and Chris?

8 A. No, I did not.

9 Q. Did you establish that -- did Josh say something to  
10 you, um, at that point in time, that you could use to infer that  
11 they were not himself, Christopher and his father?

12 A. No, sir, not at that point.

13 Q. Well, within that very, that series of questions  
14 that continued on from that point, as you were trying to get  
15 information about these three males, did he say anything that  
16 you could eliminate those three males being Doug Ryen, Josh and  
17 Chris?

18 A. I don't recall.

19 Q. If you could perhaps then go on to your report.

20 In your report you wrote, "The victim did not know  
21 who the suspects were." Is that correct?

22 A. Yes, sir.

23 Q. What led you to that conclusion?

24 A. I would have asked him to, you know, who the three  
25 male subjects were.

26 Q. And he would have given you no response.

27 A. No response.

28 Q. How many different questions did you ask to



1 determine that there were three white males involved?

2 A. Would have been several questions.

3 Q. Did you repeat the race question several times?

4 A. No, sir.

5 Q. How about the number?

6 A. Not at this point I didn't.

7 Q. How many -- at that point in time, how many  
8 different questions did it take you to elicit information that  
9 there were three white males?

10 A. Well, it would have been several questions. It  
11 would have been, "Were the people in your house males?" His  
12 answer. "Were they white?" I would have gotten a yes answer.  
13 "Were you asleep" or "had you been asleep?" I would have gotten  
14 a yes answer.

15 Q. Do you remember which?

16 A. What was that, sir?

17 Q. Do you remember whether the question was "Were you  
18 asleep" versus "Had you been asleep?"

19 A. I don't recall.

20 Q. Do you remember how you wrote this stuff down in  
21 your notes to key your memory later when you dictated the  
22 report?

23 A. It would have been something very close to what's  
24 on my report.

25 Q. You have used the word "victim." Would you have  
26 used the word "victim"?

27 A. In my notes, no, sir.

28 Q. Maybe just --

1 A. Not under a normal interview I wouldn't write  
2 "victim", no.

3 Q. "Three WMA"?

4 A. Quite possibly, yes, sir.

5 Q. Then just the word "asleep"?

6 A. No, I would have probably wrote that out.

7 Q. Did you try and determine during that same, in that  
8 same initial interview, the time of day that the attack  
9 occurred?

10 A. Yes, sir, I did.

11 Q. Did you use the word "attack"?

12 A. No, sir.

13 Q. Did you use the word "injuries"?

14 A. No, sir, I did not.

15 Q. How did you determine, you know, what time of day  
16 you were talking about?

17 A. I would have asked him what time he was awakened.

18 Q. Do you have an independent recollection of that?

19 A. Well, I know that I would not have used the word  
20 "injured" or "attacked", it would have been something very  
21 similar to that.

22 Q. "Awakened by the three white males." Did you use  
23 that phrase?

24 A. No, sir. I believe it was, "Were you woke up?"

25 Q. Well, in your -- in your report you wrote that "it  
26 was still dark outside at the time that the crime occurred." Is  
27 that right?

28 A. Uh-huh, yes.

1 Q. Yes?

2 A. Yes.

3 Q. Did the word "crime" come into your vocabulary?

4 A. No, sir, it did not.

5 Q. How did that get in your report?

6 A. That is something I put in there.

7 Q. Was the word "crime" in your notes?

8 A. Yes, sir, it would have been.

9 Q. Mr. Sharp, do you believe that Mr. Kochis and Mr.  
10 Kottmeier and Mr. Arthur desire that you testify in such a way  
11 that they can argue to the jury that in telling you that there  
12 were three white males involved in the crime, that Josh was just  
13 confused?

14 A. No, sir, I do not believe that.

15 Q. Have you discussed your testimony with either of  
16 those three gentlemen or all of those three gentlemen before  
17 getting on the stand today?

18 A. Yes, sir.

19 Q. How many?

20 A. Last night in my motel room I received a phone call  
21 and also talked this morning with Mr. Kottmeier. Mr. Kottmeier  
22 asked me the questions, in my report, is this a sequence of the  
23 things that you were talking about as you go down in your  
24 report? I advised him yes.

25 Q. That was the sum and substance?

26 A. I asked him last night on the phone if he, if I --  
27 if he felt that you were going to hit on some some of the same  
28 questions that you had in the Hitch's motion.



1 Q. Anything else?

2 A. He told me to be calm.

3 Q. Good advice.

4 After you elicited from Josh the information that  
5 there were three white males involved in the attack, that the  
6 attack had occurred, the crime had occurred during the  
7 nighttime, had been awakened up early in the morning, did you  
8 get a time for "early in the morning"?

9 A. Yes, sir, I did.

10 Q. What was that?

11 A. Between 4:00 and 5:00 o'clock.

12 Q. Did you do anything like ask Josh how sure he was  
13 of the time, or how he knew the time, or anything of that  
14 nature?

15 A. No, sir, I did not.

16 Q. I mean, time of attack, number of suspects, racial  
17 identity, and the fact that Josh did not know who they were.

18 At that point in time Josh had to leave, right?

19 A. Yes, sir.

20 Q. That took you 15 minutes to get that information?

21 A. Yes, sir.

22 Q. Was the fact that it took that long to get that  
23 information due to the fact that the hand squeeze method was  
24 somewhat awkward?

25 A. No, sir, it had to do with two things:

26 The questions were, of course, awkward, and how I  
27 was wording them, and trying to make sure that I didn't say  
28 something to hurt Josh.

1                   And the level of noise in the emergency room was  
2 high, and I wanted, you know, to take time and wait for the  
3 spots where the level wasn't so high so as to make sure that  
4 Josh heard me.

5           Q.     Which hand were you holding?

6           A.     His right hand.

7           Q.     Did he have -- did Josh have any difficulty  
8 maneuvering that hand?

9           A.     Not in the squeeze itself, no, sir.

10          Q.     Did he have an IV in it?

11          A.     Yes, sir, I believe I did.

12          Q.     Was Josh's eyes open during the entire 15 minutes  
13 that you were there in the emergency room with him?

14          A.     No, sir.

15          Q.     Did he ever go to sleep?

16          A.     No, sir. There was times that he closed his eyes,  
17 but it didn't appear to me that he did go to sleep.

18          Q.     When you -- when you obtained the information from  
19 Josh as to numbers, did you get a squeeze for the "three"?

20          A.     Yes, sir.

21          Q.     Did you get a squeeze for the "white"?

22          A.     Yes, sir.

23          Q.     Squeeze for the "males"?

24          A.     Yes, sir.

25          Q.     And a squeeze for the "adults"?

26          A.     Yes, sir.

27          Q.     When you asked Josh did he know who they were, was  
28 that the question you used; precise question?

1           A.    Do you know -- did you know who they -- "Did you  
2   know these people" would have, probably have been a more correct  
3   statement.

4           Q.    Well in your report you put down, "Did not know who  
5   the suspects were?"

6           A.    That's correct.

7           Q.    Did you use the word "suspects"?

8           A.    No, sir, I did not.

9           Q.    So you can't really tell from your report what  
10   exact question you asked, right?

11          A.    No, sir, that's the idea of what was said at that  
12   point. I did not do every question and every answer, I  
13   paraphrased it to the idea.

14          Q.    When you asked that question, I take it you got no  
15   response.

16          A.    Yes, sir.

17          Q.    And that was the last question you asked before the  
18   doctors moved in and took Josh out of the emergency room, right?

19          A.    Yes, sir.

20          Q.    During that point in time did you ever use, "Would  
21   you recognize the people?" Did you ever ask Josh that?

22          A.    Not at that point in time, no, sir.

23          Q.    Did you ever ask him if he could identify them?

24          A.    Not at that point in time, no, sir.

25          Q.    How much after you left the emergency room was it  
26   that you began to question Josh again?

27          A.    Would have been almost an hour.

28          Q.    So, if he left at 2:45, it would have been



1 approximately 3:45?

2 A. Yes, sir.

3 Q. During that period of time did you have any contact  
4 with Billy Arthur?

5 A. Yes, sir.

6 Q. Did you, amongst other things, relay to him the  
7 information that you'd already obtained from Josh?

8 A. Yes, sir.

9 Q. When you began questioning Josh again, where is the  
10 CAT Scan room with respect to the ER Room?

11 A. Up an elevator. It would be, there's a hallway  
12 that leads from the emergency room, and you go up an elevator,  
13 then you go down another hallway and you are there.

14 Q. How many people were in the CAT Scan room with you  
15 when you were interviewing Josh?

16 A. There were three people involved in the CAT Scan.  
17 They were in and out, for the most part. Nobody was there while  
18 I was interviewing him. I'd have to wait, of course, until  
19 after the CAT Scan was done.

20 Q. By the way, after you got through with Josh, did  
21 you ever go back and interview the people in the emergency room  
22 who had talked to him before you had to find out what they'd  
23 learned?

24 A. No, sir, I did not.

25 Q. How long did the second interview last?

26 A. Approximately 45 minutes.

27 Q. Were you able to get the information from Josh  
28 quicker than you were the first time?

1           A.     A little bit quicker, yes, sir.

2           Q.     In the CAT Scan room, did Josh remain awake?

3           A.     There were times that he closed his eyes. I don't

4 believe he ever went to sleep in the CAT Scan room.

5           Q.     Similar to the way he had behaved in the emergency

6 room?

7           A.     Yes, sir.

8           Q.     At that point in time was he still -- did he still

9 have IV's hooked up with him?

10          A.     I'm not sure.

11          Q.     Given the awkwardness of your questions and the

12 difficulty of getting information from Josh, in the intervening

13 hour, did you go out to the car and pick up your tape recorder?

14          A.     No, sir, I did not.

15          Q.     When you began requestioning Josh, what was the --

16 how did you rebegin the interview?

17          A.     I asked him if he lived in the house where he was

18 found.

19          Q.     And did he squeeze your hand?

20          A.     Yes, sir.

21          Q.     Did you ask him about any crimes that his family

22 had been the victim of recently?

23          A.     Yes, sir.

24          Q.     Did he squeeze your hand when you asked about that?

25          A.     No, sir, that was a negative response.

26          Q.     At this point in time in your notes, did you begin

27 to at least attempt to try and take some notes as to, as to what

28 questions you were asking him?

- 1 A. I was taking notes the whole way.
- 2 Q. What hand were you holding Josh's in yourself?
- 3 A. My right hand.
- 4 Q. What hand do you write with?
- 5 A. Left hand.
- 6 Q. And did you have your notebook pad so you were
- 7 writing with the one hand and squeezing with the other?
- 8 A. Part of the time. Sometimes I would, you know,
- 9 remove my hand from his and write and then place it back in his
- 10 hand.
- 11 Q. Were there like -- did you have gaps of time then
- 12 between the different questions?
- 13 A. Yes, sir.
- 14 Q. 10, 15, 20 seconds, something like that?
- 15 A. Yes, sir.
- 16 Q. Did you ask a question again trying to, in your
- 17 way, elicit information about suspects?
- 18 A. Yes, sir.
- 19 Q. Okay. Before you asked him that question, did you
- 20 indicate to him that you were essentially attempting to repeat
- 21 the questions that you had already asked him?
- 22 A. No, sir.
- 23 Q. When you first began talking to Josh in the CAT
- 24 Scan room, it was basically getting additional information that
- 25 you hadn't asked him before; is that right?
- 26 A. Both.
- 27 Q. The first question you hadn't asked him earlier, if
- 28 he lived in the house where he was found, right? That was new,



1 right?

2 A. Yes, sir.

3 Q. The second question about if his family had been  
4 the victim of burglaries and robberies, that also was new type  
5 of stuff.

6 A. Yes.

7 Q. The third question, did you take the approximate  
8 words that you used for that third question?

9 A. Yes, sir.

10 Q. And what did you write in your report?

11 A. I wrote -- I asked the victim if there was anyone  
12 around the house yesterday that didn't belong there, and the  
13 answer was in the affirmative.

14 Q. That particular question, then in your mind, that  
15 was to try to get back to the issue of suspects again.

16 A. Yes, sir.

17 Q. Did you actually use the phrase "Yesterday"?

18 A. Yes, I did.

19 Q. Did you clarify for Josh, when you used that  
20 phrase, that you were referring to the time of the attack?

21 A. No, sir, I did not.

22 Q. At that point in time did you try and go into that  
23 subject of having scene somebody around the house yesterday,  
24 that didn't belong there in greater depth?

25 A. Yes, sir, I did.

26 Q. How long did you ask Josh questions then about that  
27 subject, having seen somebody around the house yesterday that  
28 didn't belong there?

1           A.     It would have been on and off for approximately 30  
2 minutes. There were times that I stopped asking him questions  
3 and we talked about other things.

4           Q.     Well, in the narrative of your report --  
5                   Your report's essentially a two-paged typed report?

6           A.     Yes, sir.

7           Q.     Okay. And in the -- in the narrative of the report  
8 you essentially go on for well over 50 percent of all the  
9 information you have for Josh; is that correct?

10          A.     Yes, sir.

11          Q.     You're going into -- into descriptions, ages, that  
12 sort of thing about these people?

13          A.     Yes, sir.

14          Q.     You got rather detailed descriptions, did you not?

15          A.     Yes, sir.

16          Q.     Was that a very, very time consuming process?

17          A.     No, sir. It wasn't as long as you might think, you  
18 know, five minutes.

19          Q.     Five minutes to get all those descriptions?

20          A.     Yeah. It didn't take long.

21          Q.     Well, you were writing down -- you couldn't sort of  
22 just go tell me in ten words or less, you know, the description,  
23 right? I mean, you had to go each particular -- each particular  
24 thing, right?

25          A.     Yes, sir.

26          Q.     You got hieghts?

27          A.     Yes, sir.

28          Q.     Did you just happen to hit on the height, right

1 height the first time or did it take awhile?

2 A. I started at five foot.

3 Q. So, there would be a question, a "no" response --  
4 did you clarify that, make sure that the "no" was not a "no  
5 response"?

6 A. Not at that time. It wasn't that hard when I'm  
7 going five foot one, five foot two, five foot three, five foot  
8 five, on up to where the first one was five foot eight, and then  
9 I would show him marked on me where five foot eight was.

10 Q. Well, the first when you actually got the material  
11 that didn't involve getting descriptions of these -- of these  
12 individuals that had been at the house the day before, that was  
13 right towards the end of the interview, right?

14 A. Yes, sir.

15 Q. Within five minutes of the end?

16 A. Could you clarify exactly where you mean on the  
17 report?

18 Q. Okay. Well, let's -- let's back up a bit and go a  
19 bit slower.

20 First off, did you first try and clarify like  
21 when -- when in time it was that Josh had seen the people around  
22 the house that didn't belong there?

23 A. Yes, sir.

24 Q. Okay. And in your -- in your report you have the  
25 conclusion "approximately dusk"; is that right?

26 A. Yes, sir.

27 Q. Okay. I take it that the first question out of  
28 your mouth in order to get that particular -- that particular



1 bit of information was not the question, was it approximately  
2 dusk when all this happened, right, you had to sort of fish for  
3 it a little bit?

4 A. Yes, sir.

5 Q. And how did you fish for it?

6 A. Well, I would have started with probably morning  
7 and gone to afternoon and was it dark and gotten no response,  
8 and I would have asked, is it -- was it dusk, was it just -- in  
9 fact, I don't even believe I would have said the word "dusk",  
10 considering his age, I would have simply said something similar  
11 to was it getting dark outside.

12 Q. With ten or fifteen minutes -- ten or fifteen  
13 second pauses again between the questions?

14 A. I don't believe I paused there ten or fifteen  
15 seconds, but it would have been a pause between, you know, time  
16 to give him time to squeeze.

17 Q. Well, you are -- Well, you're also making an effort  
18 not to tire Josh out by going too fast or too intensely for him?

19 A. I was careful, but I really never thought about  
20 tiring him out.

21 Q. Anyway, through this elaborate method you got a  
22 vehicle description?

23 A. Yes, sir.

24 Q. Chevy Impala, older model?

25 A. Yes, sir.

26 Q. Each of those things I take it would be a separate  
27 series of questions?

28 A. Yes, sir.

1 Q. The number of doors?  
2 A. Yes, sir.  
3 Q. The color?  
4 A. Yes, sir.  
5 Q. In fact, you even got distinctive information about  
6 the paint job, right?  
7 A. Yes, sir.  
8 Q. You got information as to where -- where Josh had  
9 seen them there?  
10 A. At his -- at his residence?  
11 Q. Well, you wrote down, did you not, that --  
12 A. Yes, sir.  
13 Q. -- the Chevy had pulled into the driveway of his  
14 residence?  
15 A. Yes, sir.  
16 Q. That certainly wasn't an easy sort of thing to get  
17 by yes and no hand squeeze questions, was it?  
18 A. No, sir, it wasn't.  
19 Q. Took a bit of time?  
20 A. A little bit.  
21 Q. Three or four minutes?  
22 A. It would have been something similar to, did they  
23 go in your house, negative response; did they take talk to your  
24 dad, affirmative; were they in the front yard, negative; were  
25 they on the driveway; this type of thing.  
26 Q. And you -- again you determined the fact that these  
27 people where male?  
28 A. Yes, sir.

1 Q. And that these people were Mexicans?

2 A. Yes, sir.

3 Q. Okay. In answering those kind of questions, how  
4 many different racial categories did you give Josh?

5 A. I believe I would have started with White, Mexican,  
6 Black, and I don't believe I ever reached Black.

7 Q. So, when you -- in this particular situation then  
8 when you're getting the description of the people that had been  
9 up at the house the day before, you asked White, got no hand  
10 squeeze, then went on to Mexican, and -- and got a hand squeeze?

11 A. Yes, sir.

12 Q. Did you -- did you do anything to determine that  
13 they were all three the same ethnic background?

14 A. Yes, sir.

15 Q. How did you do that?

16 A. That came on the descriptions. In the same manner.

17 Q. Was Josh in any way being, I don't want to use the  
18 word "evasive", but showing reluctance to answer your questions  
19 during this -- during this period of time?

20 A. No, sir, he wasn't.

21 Q. Did his -- did his attention ever appear to wander?

22 A. Yes, sir.

23 Q. How did that happen?

24 A. He would start to close his eyes, at which point I  
25 would let him close them for a few seconds, then I would bring  
26 up the idea of baseball, and he seemed to like baseball and this  
27 kind of perked him up a little bit.

28 Q. So, essentially you were using baseball as sort of



1 an enticement to get Josh's mind back on the subject at hand?

2 A. Well, I would use it to perk him up, and then we  
3 might talk about baseball for a few minutes and then go back to  
4 the questions.

5 Q. How did you talk about baseball, hand squeeze  
6 method? Do you like the Dodgers? You like the Angels? That  
7 sort of thing?

8 A. No. I told him that I liked the Angels. And I  
9 asked him if he did, and I would have gotten a hand squeeze and  
10 then I would do most of the talking about the Angels, and he  
11 smiled.

12 Q. How many -- how many times did that happen during  
13 the conversation?

14 A. I don't recall. There was a few.

15 Q. Was that all during the time that you were getting  
16 the description?

17 A. The three descriptions that I got, no, those came  
18 all at one time. It would have been sometime in between the  
19 questions.

20 MR. NEGUS: I think this is probably as appropriate time  
21 as any to take the break, your Honor.

22 THE COURT: All right. Take the afternoon recess.

23 (Recess taken.)

24

25

26

27

28

1

2

THE COURT: Go ahead sir.

3

4

DIRECT EXAMINATION (Resumed)

5

BY MR. NEGUS:

6

Q. Mr. Sharp, to cut it short, could you please give the descriptions you got of the various suspects.

8

A. Suspect No. 1, five foot eight, slim build, long, shoulder-length black hair, just above the shoulders, wearing Levi's, white T-shirt, possibly aged 18 to 20, Mexican male.

10

11

Suspect No. 2, five nine, slim build, dark hair, short, wearing Levi's and a blue short sleeved shirt, 18 to 20 years, Mexican male.

12

13

14

Suspect No. 3, five eleven, slim build, dark hair, short, wearing Levi's, red long-sleeved shirt, aged 18 to 20, Mexican male.

15

16

17

Q. After that, is that when you started to talk a little bit about baseball?

18

19

A. We might have talked about it at that point. There was times when it was, the questioning was broke before that. To exactly what time that was done, I wouldn't recall.

20

21

22

Q. Did you then, after you got the information, did you then try and develop that a little bit further by trying to get some idea of what the suspects were doing?

23

24

25

A. Yes, sir.

26

27

Q. And did you use the word "suspect" with these particular people?

28

A. No, sir, I did not.

1 Q. How did you refer to them?

2 A. I told Josh that we were going to talk about the  
3 three people that were at his house at dusk, and I wanted him to  
4 get the No. 1 guy in his mind. And then we talked, then we went  
5 to the No. 2 guy, and the No. 3 guy.

6 Q. So, after you got all three guys and had them all  
7 described, with shirts and all, did you then still refer to them  
8 as the three guys that had gone in his house at night, or how  
9 did you refer to them?

10 A. I asked him what the three guys talked about with  
11 his dad,

12 Q. Did you say, three guys? Was that the word you  
13 used, or three Mexicans, three young guys. Do you recall?

14 A. I would have said "guys".

15 Q. At that point in time, had you asked -- as you were  
16 asking at the time, you were asking about the conversations the  
17 people that Josh had described as young Mexican had had with his  
18 father, had you done anything to try and determine whether or  
19 not the three guys that had been at his house yesterday had ever  
20 come back to the house that evening?

21 A. Not at that point, no, sir.

22 Q. So you continued talking about the three guys and  
23 did you get information that they were not there to talk about  
24 horses?

25 A. Yes, sir.

26 Q. And that Josh wasn't quite sure what they were  
27 there for, perhaps to get directions or something.

28 A. Yes, sir.



1 Q. How did you -- how did you determine that there was  
2 this doubt in Josh's mind about what they were there for. Was  
3 that because he gave you inconsistent responses?

4 A. Yeah. At that point I was going through a number  
5 of things, did they talk to your dad about horses, negative.  
6 Did they talk to your dad about work, negative. Did they talk  
7 to your dad about directions, negative.

8 And then I ran out of things to say, so I would  
9 have said something similar, do you believe that possibly your  
10 dad would have been giving directions? That was an affirmative  
11 response.

12 Q. Basically you would come -- after a long period  
13 when Josh would just lie there without squeezing your hand.

14 A. Yes, sir.

15 Q. During that period of time did Josh have his eyes  
16 closed?

17 A. No, sir.

18 Q. You are sure about that?

19 A. I don't believe he did. He might have, you know,  
20 closed it for a few seconds, but nothing for any length of  
21 period of time.

22 Q. Did you talk about baseball in that period of time?

23 A. We could have.

24 Q. After that, well, that was not -- you didn't really  
25 get any hard information out of that particular type  
26 conversation trying to figure out what the purpose of the  
27 Mexicans being there was; is that right?

28 A. Not at that point, no, sir.

1 Q. Then at that point after you got the information  
2 about the conversations with his father, did you, did you at  
3 that point in time try and find out whether or not those people  
4 had come back later or whether they were the same people he  
5 talked about earlier, or did you go back in to some other  
6 subject?

7 A. I went back into some other subject.

8 Q. And what was that?

9 A. I again asked him about the vehicle.

10 Q. Did you go through the whole thing again?

11 A. Yes, sir.

12 Q. And was this again the vehicle that the three guys  
13 had been in that you were talking to him about?

14 A. Yes, sir.

15 Q. And you specified it in those particular terms; is  
16 that right?

17 A. Yes, sir.

18 Q. At that point in time, the information you got was  
19 all consistent with information that you had received earlier?

20 A. With the exception of one part, yes, sir.

21 Q. Well, the one thing that was different about this  
22 particular go around was that Josh would refer to the vehicle as  
23 a low-rider; is that right? Somehow you got the idea that he  
24 was referring to it as a low-rider.

25 A. Yes, sir. And Josh advised that the vehicle had a  
26 appeared small to him.

27 Q. That wasn't necessarily inconsistent with what he  
28 had said earlier, just additional; is that right?

1           A.     Well, I thought it was inconsistent, because of the  
2 fact that a Chevy Impala is a large car.

3           Q.     At that point in time did you know what size the  
4 vehicles that Josh's family had?

5           A.     No, sir, I did not, with the exception that I had a  
6 conversation on the phone with Sergeant Arthur and he asked me  
7 to ask Josh if the family had owned a white station wagon. I  
8 did not know if they had owned it at that time, I was just asked  
9 to ask it.

10          Q.     When you were given the information from Sergeant  
11 Arthur about the white station wagon, was it described to you in  
12 anymore particular area than a white station wagon?

13          A.     No, sir.

14          Q.     No make, no year, anything of that nature?

15          A.     No, sir.

16          Q.     When you were asking the questions to Josh, were  
17 you aware that the Ryens station wagon was in fact a panelled  
18 station wagon?

19          A.     No, sir, I was not.

20          Q.     The information about the vehicle being a low-rider  
21 that the three guys had had, how was that developed?

22          A.     Due to the description that he gave me of the  
23 vehicle, Chevy Impala, older model Chevy Impala, this was what  
24 many vehicles look like and what is commonly known in the  
25 streets as a low-rider.

26          Q.     Did you -- so what you asked him, did you ask him  
27 if he knew what a low-rider was?

28          A.     No, I asked him if it was a low-rider.



- 1 Q. You just assumed that Josh knew?
- 2 A. Yes, sir.
- 3 Q. At that point in time he squeezed your hand?
- 4 A. Yes, sir.
- 5 Q. When you asked Josh the question that Sergeant
- 6 Arthur wanted you to ask him about the station wagon,
- 7 essentially you got -- you asked him in what words?
- 8 A. I asked him if his family had owned a station
- 9 wagon. Negative response.
- 10 I then asked him if he had seen a station wagon
- 11 around the area or anything. We spent a great deal of time on
- 12 that station wagon and nothing I got was positive.
- 13 Q. Well, in your report -- do you know that that's
- 14 important to the prosecution?
- 15 A. The station wagon?
- 16 Q. Yeah.
- 17 A. I know there was a station wagon missing.
- 18 Q. In your particular testimony --
- 19 A. I would not know whether that it was important or
- 20 not.
- 21 Q. In your report did you describe this extensive
- 22 conversation?
- 23 A. No, sir.
- 24 Q. What did you put in your report?
- 25 A. I asked the victim if his family owned a white
- 26 station wagon. The reply was negative.
- 27 Q. Reply singular?
- 28 A. Yes, sir.

1 Q. After that did you make some effort in your mind --  
2 did you attempt in your own mind to try and see whether or not  
3 the three Mexicans were in any way associated with the three  
4 White males?

5 A. I asked him if he felt that these were the people  
6 that were in his house this morning when everything went crazy.

7 Q. Is that the way that you phrased the question?

8 A. Yes, that is.

9 Q. So you said "this morning"?

10 A. Yes, sir.

11 Q. In the hospital, there in the CAT Scan room, were  
12 there any windows through which it would have been possible for  
13 Josh to look out and see what time of day it was?

14 A. There's windows in the CAT Scan room where you can  
15 seen a person laying down. Whether or not there was a clock  
16 there, I wouldn't recall.

17 Q. I was just thinking, would you be able to look out  
18 and see trees and --

19 A. No.

20 Q. -- daylight?

21 A. No, sir. It is just a window that would be between  
22 the controls of the CAT Scan and the CAT Scan machine itself.  
23 It is inside, there is no outside windows.

24 Q. So, there, as you sat there in the CAT Scan room  
25 you didn't have a watch to look at, there would be no way for  
26 you to know what time it was; is that correct?

27 A. That is correct.

28 Q. And when you asked that question, um, about people



# **EXHIBIT F**



## SHERIFF'S DEPARTMENT

County of San Bernardino  
California

CA 03600

12110029-01

REPORT AREA

CODE SECTION	CRIME	CLASSIFICATION
VICTIM'S NAME - LAST NAME	FIRST NAME	MIDDLE NAME (FIRM NAME IF BUSINESS)
ADDRESS	<input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS	PHONE ( )

SUPPLEMENTAL REPORTVICTIM INFORMATION:

RYEN, JOSH -DOB: 9-5-74, age 8; home phone is 627-4294. He is a white male juvenile.

VICTIM'S INJURIES:

Victim sustained laceration to throat area, laceration to top of skull, and a laceration to the left side of the facial area, extending from the area just below the earlobe down approx. three inches. Victim also sustained possible lacerations on back area. RO was advised of this by physicians working on the victim. RO did observe the laceration to the throat area, this being approx. a three-inch laceration.

FURTHER INFORMATION:

Time of interview with the victim, the victim could not talk. The interview was conducted having the victim write his name and point to numbers for his home phone number, date of birth, etc. Then, all other information was done by the suspect squeezing my hand in order to answer yes to any questions that I might ask.

*consulted w/ testimony**mostly family*INFORMATION RECEIVED:

On 6-5-83, 1339 hrs., Sheriff's dispatch advised me to go to Loma Linda Emergency Room and to give dispatch a phone call. At 1344 hrs., same date, I arrived and placed a call to dispatch. They advised me that a helicopter was flying a child in from the Westend area, and the child was found in a residence where several people had been murdered. 2 min before Josh arrived

INTERVIEW:*Before CT Scan*

The victim first advised me that there were three white male adult subjects in the residence, and he had been asleep. He was awakened in the early morning, approx. 4:00 or 5:00, and that it was still dark outside at the time that the crime occurred. The victim did not know who the suspects were. At this time the physicians moved the victim from the emergency room to the CT Scan Room. Once located in that room I began to question the victim again. At this time the victim seemed to be more alert. I asked the victim if he lived in the house where he was found, and the answer was in the affirmative. I then asked the victim if his house had been burglarized recently or if anything had been stolen, and the answer was negative. I asked the victim if there was anyone around his house yesterday that didn't belong there, and the answer was in the affirmative. I then began to ask questions about this. The victim advised

REPORTING OFFICERS	DATE	REVIEWED BY	TYPED BY	ROUTED BY	DATE
SP. D. S. 0086			hj		6-6-83
OTHER ACTION:	COPIES TO:	<input type="checkbox"/> SD/PA <input type="checkbox"/> Other	REMARKS		
<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> Detective <input type="checkbox"/> CII <input type="checkbox"/> Other				
	<input checked="" type="checkbox"/> Dist. Atty. <input type="checkbox"/> Patrol				



## SHERIFF'S DEPARTMENT

County of San Bernardino  
California

CA 03600

PAGE NO.

1211029-02

REPORT AREA

MODE SECTION	CRIME	CLASSIFICATION
VICTIM'S NAME - LAST NAME	FIRST NAME	MIDDLE NAME (FIRM NAME IF BUSINESS)
ADDRESS	<input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS	PHONE ( )

INTERVIEW: (Cont'd)

that at approx. dusk there was an older model Chevy Impala, blue in color, four-door, no primer, that had pulled into the driveway of his residence. He said his dad had talked to the people and they were Mexican males that appeared to be young in age; there were three of them.

SUSPECTS' DESCRIPTION:

Suspect No. 1 - 5'8", slim build, long, shoulder-length black hair (just above the shoulders), wearing Levi's and a white t-shirt; possibly aged 18 to 20, a Mexican male.

Suspect No. 2 - 5'9", slim build, dark hair, short, wearing Levi's and a blue, short-sleeved shirt, 18 to 20 years, a Mexican male.

Suspect No. 3 - 5'11", slim build, dark hair, short, wearing Levi's, red long-sleeved shirt, 18 to 20, a Mexican male.

The victim further advised that the subjects did not talk about any horses or anything like that, but they were possibly asking his dad directions. I again asked for a vehicle description and the victim advised of a older model car, Chevy Impala, blue in color, four-door; he advised the vehicle appeared small to him and that it was definitely a low-rider and he did not believe it had any primer marks on the vehicle. I asked the victim if his family owned a white station wagon. The reply was in the negative. I then asked him if he felt these were the people that were in his house this morning when everything went crazy, to which he advised in the affirmative. It should be noted that I did not want to ask direct questions about his family or about being cut due to the fact that I did not want the subject to go back into shock. I then asked the victim if he felt he could identify either one or all of the suspects, to which he advised in the affirmative. I again asked the victim if he was sure it was the three Mexicans rather than three white male adults. The victim advised of the three Mexicans. The victim then moved up his shoulders and appeared to be confused. At this time I was advised by the physicians that they were going to have to take him into surgery. The interview was concluded.

CONTACT WITH SGT. ARTHUR:

I had contact with Sgt. Arthur three times during the course of the interview and advised him of all of the above information.

REPORTING OFFICERS SHARP, D.	D 0986	DATE	REVIEWED BY	TYPED BY Kj	ROUTED BY	DATE 6-6-83
FURTHER ACTION: <input type="checkbox"/> YES <input type="checkbox"/> NO	COPIES TO: <input type="checkbox"/> Detective <input type="checkbox"/> Dist. Atty.	<input type="checkbox"/> SD/PO <input type="checkbox"/> CII <input type="checkbox"/> Fat-ol	<input type="checkbox"/> Other <input type="checkbox"/> Other	REMARKS		



# **EXHIBIT G**



## SHERIFF'S DEPARTMENT

County of San Bernardino  
California

CA 03600

CASE NO.

DR 1211029-02

REPORT AREA

CODE SECTION

P.C. 187

CRIME

MURDER

CLASSIFICATION

VICTIM'S NAME - LAST NAME

RYEN/HUGHES

FIRST NAME

SUSPECT: KEVIN COOPER

MIDDLE NAME

(FIRM NAME IF BUSINESS)

ADDRESS

☐ RESIDENCE☐ BUSINESS

PHONE

( )

## INTERVIEW:

HOYLE, JERRY

Child Psychologist on staff at Loma Linda Hospital

The time was approximately 0835 hrs., Date, 2/1/84. Interview took place in Room 1164 in the Administration Wing. Prior to the interview starting, I showed Mr. Hoyle two releases signed by Mary Howell and Mr. Ryen for release of any X-rays and/or medical reports in regards to Josh Ryen.

I then advised him that he did not have to speak to myself, being from the Sheriff's Office, if he didn't want to. Likewise, he doesn't have to speak to any defense private investigators or public defenders in reference to this case either. He stated that he had already spoken with David Negus, the Public Defender for the suspect in this case. I then explained to him why we were going into that type of line of questioning and asking him the type of questions that Negus asked him, was the reason that the prosecution is bound to give discovery on every facet of investigation done in that particular case. I then explained that the defense, whatever type of investigation that they conduct, is not compelled, or does not have to give discovery to the prosecution; therefore, we were simply trying to find out the type of questioning that they were conducting. Mr. Hoyle stated, after I explained to him the reason we wanted the information, he stated that Negus seemed to be zeroing in on the interview tape that had taken place between Josh and Detective O'Campo. He states that he was present during that interview. He stated his only reason for being present during that interview was to record and take notes of his reactions, his responses, and the emotional effect it was having on him. He also stated that the purpose for his being present during that interview was clinically in nature only. He also stated that when, during the interview with Mr. Negus, he read selective information for excerpts from his notes taken from that interview. He did state that there is certain information which he did not give to Mr. Negus because of its confidentiality. He stated he was asked several questions in regards to his professional opinion as to Josh's condition.

Mr. Hoyle further stated that the main thing that Negus was zeroing in on was a comment that was made, or a series of comments in which Josh made a comment about using the word "they" when talking about the person or persons that killed his mother and father. He stated that the word "they" was used in regards about talking about the number of suspects, and that Detective O'Campo's report did not contain that information, and he further states that apparently I was the only one to note that statement made by Josh Ryen, and that it was not contained in Det. O'Campo's report. I then asked him if he thought Det. O'Campo and Josh Ryen had a good rapport or relationship during the period of time he was in the hospital. Mr. Hoyle stated it was an excellent rapport, and that I then asked him if he thought he and Josh Ryen had a good rapport. He stated it was okay, probably not as good as O'Campo's.

REPORTING OFFICERS

W-2108

DATE

2/6/84

REVIEW BY

J. P. W.

TYPED BY

Jk K-1179

ROUTED BY

DATE

CATTLE ACTION:

☐ YES ☐ NO

COPIES TO:

☐ Detective☐ Dist. Atty.☐ SO/PO☐ CII☐ Patrol☐ Other☐ Other

REMARKS

5-35124-401 Rev. 3/83

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LEGIBILITY TEST: For quality of original document being filmed.

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SHERIFF'S DEPARTMENT County of San Bernardino California CA 03500		CASE NO. DR 1211029-02 REPORT AREA
CODE SECTION P.C. 187	CRIME MURDER	CLASSIFICATION
VICTIM'S NAME - LAST NAME RYEN/HUGHES	FIRST NAME SUSPECT: KEVIN COOPER	MIDDLE NAME (FIRM NAME IF BUSINESS)
ADDRESS	<input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS	PHONE ( )

Interview - HOYLE (Continued):

I then asked him if he'll be seeing Josh Ryen in the future for treatment, and he stated he doesn't believe so, he is seeing another doctor in the Pomona area. I then asked Mr. Hoyle what he thought about the contact with Mr. Negus, if he felt intimidated or under duress. Mr. Hoyle used the word, "aggravating," and that he seemed to be surprised when the difference between O'Campo's and his report came up in the usage of the word "they." I asked him how long did Mr. Negus talk to him. He stated the interview lasted about 45 minutes, and that he again advised him of the confidentiality in some of the content of his notes regarding that interview with Josh Ryen.

At the end of the interview, Mr. Hoyle again reiterated that Mr. Negus seemed very happy and was gleeful, as he put it, upon receiving information regarding the inconsistency between his own report and Det. O'Campo's report. He then went on to state the information about the three Mexican males came from a contact the day before the murders which his dad talked to three Mexican males outside the residence. He states, "I believe this is where the ~~men~~ came in on," and that they were asking for a job, and he stated that his dad doesn't like Mexicans, and that he thinks, or thought that was why they may have come back to hurt him. He also states that during that particular interview, he never at any time described seeing these guys.

Mr. Hoyle went on to state that they had prepared him for the interview with Det. O'Campo by prior discussing whether he was ready for that interview or not. He states that when the interview finally came to pass, he thought Josh handled himself very well, describing him as cool and clear in detailed information. Mr. Hoyle commended Det. O'Campo in his line of questioning. He stated that O'Campo started out before and earlier in the day in which the murders occurred and led him up to that specific point. He stated Josh walked through the whole thing like a real trooper, explaining as to his demeanor during the interview with O'Campo.

I asked Mr. Hoyle if at any time Mr. Negus referred to Kevin Cooper by name or just his defendant. Mr. Hoyle stated at no time did he mention or refer to his defendant or any other name. He stated, "He didn't rip his hand."

The interview with Mr. Hoyle was concluded at 0850 hrs.

PD (NG OFFICERS R. J. J. Det. W-2108	DATE 2/6/84	REVIEWED BY [Signature]	TYPED BY K-1179	ROUTED BY	DATE
OTHER ACTION: <input type="checkbox"/> YES <input type="checkbox"/> NO	COMES TO: <input type="checkbox"/> Detective <input type="checkbox"/> Det. Atty. <input type="checkbox"/> SO/PO <input type="checkbox"/> CII <input type="checkbox"/> Patrol	<input type="checkbox"/> Other	REMARKS		

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LEGIBILITY TEST: For quality of original document being filmed.

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# **EXHIBIT H**



Dr. Hoyle's notes of  
Interview of Josh by Dep. O'Campo.  
6-14-83

Interview - 6-14-83

4 a.m. Does Chores, Feed Rabbit, children, bath, make bed,  
clean room.

Spontaneous  
Thoughtful  
Answers

6:00 1-6-83  
10/6/83  
From L.L.  
Dr. Hoyle  
Go to Chris' House about lunch - side bit  
30 min Played Atari at Chris' - Got something to do. W  
Went back home <sup>after lunch</sup> - Chris came - Rode bike to be  
5:00 - got ready by 5:45

Chris got permission to spend night about 5:00

Whole idea  
(Josh's?)

Went to Blade's for Bar-36

Played Trage Tag - Steve Hilton  
Jessica.  
Chris

Accuracy? → Relates detail of what others do spontaneously - &  
- Parents' drunk wine - "They don't get drunk."  
about 2 glasses.

Went home around 10:00 p.m.

Sigh) dog breath \*

don't think door was locked

when door first - Always go to BR-4 See if everything  
there

Pulled stocking  
cap down over  
head

Got P.j.'s on - went to bed - it was late - both  
slept on floor - sleeping bags. - talked to Chris -

kind of like we had - light sleeper  
Sometimes I hear things that frighten

Mom screaming - we both ran in there

They "3 Mexican" - chased us around the house

2344

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LEGIBILITY TEST: For quality of  
original document being filmed.

Dr. Jerry Hoyle's notes of Josh's  
Interview by Deputy O'Campo  
6-14-83

77

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LEGIBILITY TEST: For quality of  
original document being filmed.

2-4 Tried to fight em off - tripped em up - fell on  
teeth - but it loosened em up.

Saw Jess - "Dead already - laying in the hallway  
Dad. laying over by closet like this

x Heard Christ get hit 'knock'

9 Went to B.R. to see what happened to him  
Felt heart - he was dead - They came + hit me.

o Ran to Laundry Rm. - to get something hid behind door

Saw (Mo) laying by desk.

High "Couldnt find anything in Laundry Rm - didnt kn  
what - if Id killed him or something then I might get  
sued - or get killed myself."

o Saw Jess in Hallway - on hands + knees - felt his head  
face squeezed up so bad -

Didnt chuck dad -

Parents - "They dont sleep in any clothes on."

6 "They smashed up to him one + hit me

Started waking up - it was morning - blind singing -  
couldnt move - could see - heard everywhere - esp  
back here (head) Bill Hughes came - kicked in the  
Heard Police C.B's -

\* { Thinks 3 Mexican who came Sat ~~before~~ a leaving.  
party, came back later that night. Little picking li

like a white camper shell. 1 Dark-Tall skinny - mustache - co  
Passage #2) - getting a little fat - younger than died, stayed in car

Passage #3) in back. short hair - skinny - chest up  
Probably could recog. them

2345



# EXHIBIT I



COPY

CASE NO. CRIM 24552

SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE  
OF CALIFORNIA,

PLAINTIFF,

-VS-

KEVIN COOPER,

DEFENDANT.

SUPERIOR COURT  
NO. CR-71787  
MOTIONS

APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY

HONORABLE RICHARD C. GARNER, JUDGE PRESIDING

REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT:

HON. JOHN D. VAN DE KAMP  
ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE  
110 WEST "A" STREET  
SUITE 600  
SAN DIEGO, CA 92101

FOR DEFENDANT-APPELLANT:

IN PROPRIA PERSONA

REPORTED BY:

LEONARD D. GUNN  
C.S.R. NO. 1109  
AND  
JUDITH L. MORRIS  
C.S.R. NO. 2400  
OFFICIAL REPORTERS

VOLUME

~~27~~ OF 34

PAGES

2069 THROUGH 2198

008613

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF SAN BERNARDINO  
3

4 THE PEOPLE OF THE STATE )  
5 OF CALIFORNIA, )

6 Plaintiff, )

7 vs. )

8 KEVIN COOPER, )

9 Defendant. )

NO. OCR-9319

CR-72787

VOLUME NO. 24

Pgs. 2069 thru 2198, Incl.

10  
11 REPORTERS' DAILY TRANSCRIPT

12 BEFORE HONORABLE RICHARD C. GARNER, JUDGE

13 DEPARTMENT 10 - SAN BERNARDINO, CALIFORNIA

14 Thursday, May 17, 1984

15 APPEARANCES:

16 For the People:

DENNIS E. KOTTMEIER  
District Attorney

17  
18 DENNIS E. KOTTMEIER  
District Attorney

19 By: JOHN P. KOCHIS  
Deputy District Attorney

20 For the Defendant:

DAVID MC KENNA  
Public Defender  
21 BY: DAVID NEGUS  
22 Deputy Public Defender

23 Reported By:

LEONARD D. GUNN  
Official Reporter  
24 C.S.R. No. 1109

25 JUDITH L. MORRIS  
Official Reporter  
26 C.S.R. No. 2400

0008614

1 MR. NEGUS: Dr. Hoyle, Jerry Hoyle.

2 THE BAILIFF: Step up to the witness stand, raise  
3 your right hand to be sworn.

4 THE CLERK: Raise your right hand, please.

5  
6 J E R R Y H O Y L E, called as a witness by and on behalf  
7 of the Defense, was sworn and testified as follows:

8 THE CLERK: You do solemnly swear that the testimony  
9 you are about to give in the action now pending before this  
10 Court shall be the truth, the whole truth, and nothing but  
11 the truth, so help you God.

12 THE WITNESS: Yes.

13 THE CLERK: Please be seated. State your name,  
14 please, for the record, and spell your last name.

15 THE WITNESS: Jerry Hoyle, H-o-y-l-e.

16  
17 DIRECT EXAMINATION

18 BY MR. NEGUS:

19 Q Dr. Hoyle, what's your occupation?

20 A I'm a clinical psychologist.

21 Q Are you connected with any particular medical facility?

22 A With the Loma Linda University Medical Center.

23 Q And in June of 1983, did you have a patient by the name  
24 of Josh Ryen?

25 A That's correct.

26 Q On the morning of June the 14th, 1983, did you have a

008714



1 that conversation with Josh, he did in fact spontaneously  
2 tell him things. Dr. Hoyle didn't take any notes of that  
3 conversation and Dr. Hoyle doesn't have any independent  
4 recollection of it. And the only thing that he has  
5 independent recollections of is the thing he took notes of.

6 Why I wanted to do it is because I believe he also  
7 would testify that he's not sure what Josh told him in the  
8 morning as opposed to what he told him --

9 THE COURT: Whatever Josh told him at whatever time,  
10 what's the relevancy of him --

11 MR. KOCHIS: Your Honor, hearing that offer of  
12 proof, I'm going to withdraw my objection. I'm sure if that  
13 offer of proof is anywhere accurate, I'm going to be going  
14 into the same area.

15 THE COURT: Proceed.

16 Q. (BY MR. NEGUS:) Do you now remember?

17 A. Repeat the question.

18 Q. Do you remember what Josh told you about the crime on  
19 the morning of June the 14th when you talked to Craig  
20 Jackson?

21 A. No. I don't have any independent memory of that.

22 Q. And you didn't take any notes of that?

23 A. That's correct.

24 Q. When Mr. O'Campo -- did Mr. O'Campo from the sheriff's  
25 department and yourself talk to Josh in the afternoon  
26 of June 14th?

- 1 A. That was in the afternoon of June 14th?
- 2 Q. Yes.
- 3 A. That's correct.
- 4 Q. Where did that interview take place?
- 5 A. It took place in the conference room, I believe, adjacent  
6 to Unit 5300 in the medical center.
- 7 Q. During the course of that interview once the introductions  
8 had been -- once Josh had been as it were set up for  
9 the interview, did Mr. O'Campo do all the questioning?
- 10 A. That's correct.
- 11 Q. What was your role?
- 12 A. My role was simply there as one of emotional support as  
13 well as observer of Josh as he made his way through  
14 the interview for purposes of any kind of clinical  
15 follow-up that I would have to be involved in, let's  
16 say subsequent to his discussion of the incident.
- 17 Q. Were you particularly concerned to get the details of  
18 the crime down in your notes or anything like that?
- 19 A. That was not my intention.
- 20 Q. Did you in fact take some notes of that interview?
- 21 A. Yes, I did.
- 22 Q. How long did that interview last?
- 23 A. I would only have a rough guess, but it could have been  
24 an hour and a half, it could have been an hour.
- 25 Q. How many pages of notes did you take?
- 26 A. Two pages.



1 Q. Showing you Exhibit H-2, is this a Xerox copy of the  
2 original which you happen to have in front of you?

3 A. Yes, that's correct.

4 Q. During the course of that interview, did Josh describe  
5 his being attacked?

6 A. Yes. He made several references, I believe, to it.

7 Q. In your notes have you indicated that he described his  
8 assailants either by the word they, them, or 'em at least  
9 six times?

10 A. I haven't counted the number, but it could be something  
11 like that.

12 Q. Included in that are some direct quotes, is that  
13 correct, from Josh?

14 A. Fairly correct quotes, yes, a few of them.

15 Q. For example --

16 MR. NEGUS: Excuse me, Your Honor.

17 Q. (BY MR. NEGUS:) Did you quote Josh as saying they  
18 snuck up behind me and hit me?

19 A. That's correct.

20 Q. And you have that in quotes as opposed to the rest of  
21 your notes?

22 A. Yes, I do.

23 Q. Now, the first time that you have "they" in your notes  
24 is down at the bottom of the first page; is that correct?

25 A. That's correct, I think.

26 Q. And then after that you have in quotation marks "three



1       Mexicans"?

2       A.   That's right.

3       Q.   Is that three Mexicans something that Josh said at the  
4       time that he was making that first statement, or is that  
5       something you added parenthetically later?

6       A.   I don't remember.

7       Q.   But the sentence is they, whatever, three Mexicans,  
8       parenthetically or not, chased us around the house.  
9       Is that what Josh said?

10      A.   I don't recall whether or not he three Mexicans at that  
11      time.

12      Q.   So he either said "three Mexicans chased us around the  
13      house," or "they chased us around the house"?

14      A.   He could have said either one.

15      Q.   On the second page you have an arrow with a statement  
16      leading to "saw MO," I take it meaning mother, "laying  
17      by desk"; is that correct?

18      A.   That's right.

19      Q.   Does that mean that that statement "saw mother laying  
20      by desk" actually refers us to the statement from which  
21      the arrow emanates?

22      A.   Would you repeat that, please?

23      Q.   Well, are your notes basically in chronological order  
24      of the way that Josh said them?

25      A.   Basically, they are, yes.

26      Q.   Now, a lot of stuff that Josh said you didn't take notes

1 because it was of no clinical interest to you, is that  
2 right?

3 A. Possibly, among other reasons.

4 Q. Whatever.

5 A. Yeah.

6 Q. These two pages of notes that you took do not purport  
7 to be a complete record of what Josh said during that  
8 hour and a half or two hours' interview?

9 A. No, I don't think so.

10 Q. Except for the sentence which is connected by an arrow  
11 and the possibility of the three Mexicans, are they in  
12 chronological order?

13 A. Generally speaking, I think so.

14 (No omissions.)

15

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1 Q At one point in time did Josh describe during that  
2 interview that he tried to fight them off, he tripped  
3 them up, they fell on their teeth, loosened them up?

4 A That's correct.

5 Q Was that of some clinical interest to you?

6 A Not directly, no. Of course, I would have been  
7 interested in what initiative he might have taken to  
8 defend himself or something, yes.

9 Q Did that statement in the context in which Josh made  
10 it sound like perhaps he was imagining that?

11 MR. KOCHIS: Your Honor, I'm going to object. That  
12 calls for some speculation. The question itself, of course,  
13 is leading and suggestive. It's his witness.

14 THE COURT: I believe it does call for an expert  
15 opinion. I'm not sure you have laid the proper foundation.

16 Q (BY MR. NEGUS:) Dr. Hoyle, how long have you been a  
17 clinical psychologist?

18 A I have been licensed in California for approximately  
19 three years.

20 Q And what background or training do you have in order  
21 to be a clinical psychologist?

22 A Well, I have completed a Ph.D. with a two-year post-  
23 doctoral internship which requires taking licensing  
24 boards, oral and written boards in the State of California.

25 Q Do you have a specialty within the field of clinical  
26 psychology, that is, you specialize in any particular



1 kind of patient?

2 A Yes, I do.

3 Q What is that?

4 A I probably specialize in a number of areas. Stress-  
5 related disorders. And I also spend a good share of  
6 my time in consult work with children in the hospital.

7 THE COURT: That's sufficient.

8 Q (BY MR. NEGUS:) Did it appear to you during the  
9 interview that Josh was imagining in that particular  
10 description?

11 THE WITNESS: Well, your Honor, I'm a bit confused  
12 because I'm not clear whether or not I have been called  
13 today as an expert witness or as simply one who witnessed  
14 the facts of the interview.

15 THE COURT: Does the question itself in any way  
16 confuse you? For whatever role you are in, if you can  
17 answer the question, we will permit you to do so.

18 MR. KOCHIS: Your Honor, my initial objection would  
19 be that although he may be qualified as a psychologist, it  
20 would still call for speculation on his part as to whether  
21 or not that statement was a fantasy or some basis in fact.

22 THE COURT: There is a fine distinction between  
23 speculation and opinion which I'm unable to appreciate at  
24 the moment in this instance. The objection is still overruled.  
25 Doctor, if you can, will you try and answer the question.

26 THE WITNESS: Yes.

11-3

1 THE COURT: Do you recall it?

2 THE WITNESS: Would you repeat that.

3 Q (BY MR. NEGUS:) Josh's description of trying to fight  
4 them off, how he tripped them up, how they fell on their  
5 teeth, that Josh bet that loosened them up, does that  
6 appear to you to be imagining?

7 A The fact that he attempted in some way perhaps to defend  
8 himself, that maybe he tripped someone up and they fell,  
9 those facts seem clear to me as factual. However, I do  
10 believe that he very likely inserted certain details  
11 into his account in order to make it complete because  
12 a child of nine years old, when asked a question by an  
13 adult, feels that he has to have some kind of an answer  
14 and I think he could have answered some questions filling  
15 in details that he may or may not have been clear about.

16 Q Did Josh likewise describe to you a thought process that  
17 Josh himself had gone through while he was hiding in  
18 the laundry room?

19 A That's right.

20 Q What was that?

21 A He stated that he ran to the laundry room to get some-  
22 thing. He hid behind the door. He couldn't find any-  
23 thing in the laundry room. He didn't know, what if I  
24 would have killed him, or something, then I might get  
25 sued or get killed myself.

26 Q In stating that, is that Josh telling his reasoning

1 presented him with a copy of the notes, is that correct?

2 A I only recall one of those instances. I don't recall  
3 that there were two, but I do recall that at least  
4 one occasion I gave him a copy with a signed release.

5 Q Did you also give a copy to the Sheriff's office without  
6 a signed release?

7 A I don't recall that I did.

8 Q Do you have a copy of the signed release?

9 A I don't know that I have it with me. It could be a  
10 part of the complete clinical record which I didn't  
11 bring.

12 MR. NEGUS: Nothing further.

13

14

CROSS-EXAMINATION

15 BY MR. KOCHIS:

16 Q Dr. Hoyle, on the 14th, in the second interview with  
17 Joshua, the interview that took place with you and  
18 Detective O'Campo, do you recall the seating arrangement  
19 of the persons in that interview?

20 A I believe I can.

21 Q Was Detective O'Campo essentially seated on a bed  
22 next to Joshua?

23 A No. I believe the interview took place in an adjacent  
24 room, either a conference room or a children's play room  
25 adjacent to a patient room.

26 Q Were you seated behind Detective O'Campo and Josh Ryen



1 during the interview?

2 A No, I wasn't.

3 Q Was Detective O'Campo seated closer to Joshua Ryen than  
4 you were?

5 A I think so.

6 Q Is it fair to say that you were at the second interview,  
7 the interview with Josh Ryen and Detective O'Campo,  
8 solely for the purpose of supporting Joshua emotionally?

9 A That's true.

10 Q And you were also there to be aware of his reaction  
11 to his attempting to recover some type of memory of  
12 what took place in the house?

13 A That's correct.

14 Q Is it also true that your purpose for being there, at  
15 least in your own mind, was not to obtain accurate  
16 information about what happened in Josh Ryen's house?

17 A That's correct.

18 Q I believe you testified on direct examination by  
19 Mr. Negus, and correct me if I'm wrong, that you  
20 cannot recall what information passed during the inter-  
21 view with Josh Ryen and Mr. Jackson and the information  
22 that passed during the second interview. Would that  
23 be fair to say?

24 A Well, correct. If I understand your question correctly,  
25 it would be yes to the first part. I don't recall any  
26 comments nor did I make any notes about comments that

1 Joshua made of the incident during the first interview  
2 that I and Craig Jackson had with Josh.

3 (No omissions.)  
4  
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1 Q So is it fair to say that when you sat in the room  
2 with Detective O'Campo during the second interview you  
3 already had some information from Joshua as to what  
4 he recalled taking place in his parents' home?

5 A I had some.

6 Q Is it possible that that information that you had prior  
7 to the time O'Campo started his interview affected the  
8 manner in which you took notes?

9 A I don't think it would have had a large effect.

10 Q Is it true that during your interview with Josh Ryen  
11 that was conducted by Detective O'Campo that Josh Ryen  
12 never described actually seeing anybody inside the house  
13 when this incident took place?

14 A That's correct.

15 Q Did you place an assessment that Joshua assumed that  
16 some people he would later describe were in the house  
17 and responsible for this event?

18 MR. NEGUS: Objection. I think that is something  
19 outside the doctor's expertise, because he particularly  
20 stated that he was not trying to evaluate the circumstances  
21 of the crime. So his assessment would be irrelevant.

22 THE COURT: Overruled. You may answer that, sir.

23 THE WITNESS: Okay.

24 Q (BY MR. KOCHIS:) Now the problem is do you have the  
25 question in mind?

26 A No. Would you repeat it, please.



1 Q Did it appear to you that Joshua assumed -- let me  
2 break that down.

3 In the interview did Joshua describe three male  
4 persons who came to the house prior to the time that  
5 his parents and he left for a barbecue?

6 A That's right.

7 Q Did he describe them as people of Hispanic heritage  
8 or Mexican?

9 A That's right.

10 Q In fact did you include portions of those descriptions  
11 in your notes?

12 A Yes, I did.

13 Q And did it appear to you in evaluating the interview  
14 that Joshua assumed that these persons were the ones  
15 responsible for what happened to him and his parents?

16 MR. NEGUS: Objection. Again, I think that calls  
17 for speculation.

18 THE COURT: Overruled. Did it?

19 THE WITNESS: I'm sorry. I didn't catch what just  
20 happened.

21 THE COURT: Let's read it back, Mr. Kochis, because  
22 in repeating you've been coming up with different questions.  
23 Perhaps --

24 MR. KOCHIS: Well, it's easier for me to reask it  
25 and I'll attempt to.

26 THE COURT: Every time you reask it I get another

1 objection. Suit yourself.

2 Q (BY MR. KOCHIS:) Did it appear to you that Joshua  
3 assumed those people were responsible for committing  
4 those acts on his family?

5 A I didn't understand the last two or three words that  
6 you just said.

7 MR. NEGUS: Before he asks the question, could I  
8 object to it, because I know I'm going to object.

9 THE COURT: You didn't want to disappoint me, Mr.  
10 Negus?

11 MR. NEGUS: I didn't want to disappoint you, Your  
12 Honor. Mr. Kochis has changed it. I'll object now.

13 MR. KOCHIS: I want to ask a question in another  
14 area.

15 Q (BY MR. KOCHIS:) Doctor, do you have a hearing problem  
16 at all?

17 A Well, no, I don't. Your voice trailed off on those  
18 last three words and I just didn't catch what you said.

19 Q Directing your attention back to the Mexican males  
20 Joshua described sitting at his parents' house before  
21 they left for the barbecue, do you have those three  
22 people in mind?

23 A Right.

24 Q Did it appear to you during the interview that Joshua  
25 assumed those three male Mexicans were the persons  
26 responsible for committing these acts on his family?

1 MR. NEGUS: Objection.

2 THE COURT: The objection is overruled.

3 THE WITNESS: Yes, it did appear that to me.

4 Q (BY MR. KOCHIS:) That assumes that you noted -- let me  
5 strike that and start over.

6 One of the reasons you took notes was to assist  
7 you in your clinical observations. Would that be fair  
8 to say?

9 A. That's right.

10 Q You're not a stenographer?

11 A. That's right.

12 Q You weren't taking things down word for word?

13 A. No, I wasn't.

14 Q Would you take notes that would later help you recall,  
15 trigger your memory, as to things that were important  
16 in your clinical observations?

17 A. That's right.

18 Q Would those include, for example, assumptions Joshua  
19 was making?

20 A. Sure.

21 Q Could that have affected -- let me strike that and start  
22 over.

23 Would you have on your notes made some type of  
24 writing that would have allowed you later to recall  
25 that in your clinical observation, in your clinical  
26 assessment, that Joshua was making an assumption?



1 A. I didn't make any such notes about assumptions on my  
2 paper.

3 Q. Could you have been putting Joshua's assumptions as  
4 opposed to what he actually said in your notes in your  
5 interview?

6 A. I think my notes are largely based upon the information  
7 that he stated, and if there are one or two occasions  
8 in which I inserted something parenthetically, it would  
9 be an exception.

10 Q. When you talk about inserting parenthetically, in nuts  
11 and bolts terms what are you talking about?

12 A. Well, I'm talking about, for instance, my own observations  
13 of him behaviorally as he sat there and talked, my own  
14 questions, about the accuracy perhaps of some of the  
15 details perhaps that he was giving. And then it  
16 occurs to me that in this one case I may have inserted  
17 parenthetically quotes three Mexicans as a way of  
18 referring to who I think he meant when he used the  
19 word they. But I testified earlier that that sentence  
20 could have come out either way and I don't remember.

21 Q. Did you also in the interview, for example on Page 2 when  
22 you were referring to Joshua's recollection of the  
23 events, use a singular pronoun as opposed to a plural  
24 pronoun?

25 A. I'm sorry. Did I ever notice that he did it that way  
26 or did I ever write it?

1 Q Did you ever write it down singularly?

2 A I'll have to review that.

3 Q Doctor, directing your attention to the exhibit Mr.  
4 Negus has marked Page 2, for example, on the second  
5 page approximately half way down the page on a line  
6 underneath the word that you wrote "sigh," did you  
7 indicate at that point?

8 A Yes, I see that I said "if I'd killed him or something  
9 I might get sued."

10 Q This assailant or assailants that Joshua was assuming  
11 were in the house, would he refer to them both in the  
12 singular and the plural during the interview, or do you  
13 recall?

14 A Well, the only thing I can recall is what's on the note  
15 here, and in one case it appears that I've referred to  
16 him in the singular, which I just read, and in other  
17 cases in the plural.

18 Q Do you recall when Detective O'Campo started the inter-  
19 view whether he started with Joshua's recollection of  
20 what happened when he woke up in response to his mother's  
21 screams, or if he started at some earlier point in time?

22 A Well, he started out the interview actually Saturday.  
23 I think he even talked to him in general about lots of  
24 other things, about his routine at home. So we started  
25 out well in advance of the night of the incident.

26 Q So in terms of chronology of the incidents, it's your



1 recollection that Detective O'Campo started discussing  
2 what took place perhaps earlier on Saturday in the  
3 morning?

4 A. Saturday morning.

5 Q. And then progressed on through Saturday?

6 A. That's right.

7 Q. Now, when the topic of the three Mexicans came up, was  
8 that after Detective O'Campo had interviewed Joshua about  
9 Joshua's recollection of the incidents he observed  
10 from the time his mother screamed until the time he got  
11 in the helicopter to go to Loma Linda?

12 A. I'm not sure I understand.

13 Q. Let me ask the question this way: Did Detective O'Campo  
14 in a question and answer format take Joshua through  
15 what Joshua recalled from the time his mother screamed,  
16 he woke up, and the time he was taken by a helicopter  
17 to the hospital?

18 A. Yes, he did.

19 Q. Do you recall after that sequence whether or not Detective  
20 O'Campo asked Joshua if Joshua had any idea who was  
21 responsible for these things?

22 A. I believe that the notes that I made about that at the  
23 bottom of Page 2 contain some direct statements by  
24 Joshua, because there's all the detail there about what  
25 the men looked like. I may have inserted some other  
26 information parenthetically in that statement as well.



1 Q. Now, can you recall the question or questions that  
2 triggered Joshua's response about the three Mexican men?

3 A. No, I can't recall those questions.

4 Q. But as you indicated in your notes, Joshua apparently  
5 related that information and that those people came  
6 Saturday as he and his family were leaving for the  
7 party?

8 A. Yes.

9 Q. And is it true that after Joshua related that, he then  
10 related a description of the people he saw outside his  
11 house prior to the time his parents went to the party?

12 A. That's right.

13 Q. Then was there a discussion between Joshua and Detective  
14 O'Campo about what Joshua observed in terms of some  
15 interaction between his father and those people?

16 A. Yes.

17 Q. You didn't make any notes on that?

18 A. I think -- I believe I noted that -- I think I noted  
19 somewhere that his father talked to them and he sent  
20 them away and didn't have any work for them.

21 Q. And is that the extent of your recollection of the  
22 conversation between Josh and Detective O'Campo on that  
23 point?

24 A. Well, I recall that he stated at some point that his  
25 father didn't like Mexicans and that he assumed these  
26 three men were angry because his father didn't give them

1 any work.

2 Q Did Joshua at any time during the interview describe  
3 actually seeing three white men inside the house  
4 attacking his family?

5 A No.

6 Q Did Joshua at any time describe actually seeing three  
7 Mexican adults inside his house attacking his family?

8 A No.

9 MR. KOCHIS: I have nothing further.

10 THE COURT: Redirect.

11

12

REDIRECT EXAMINATION

13

BY MR. NEGUS:

14

Q The first time that you used the word they or he or  
15 anything to describe the assailants was at the bottom  
16 of your first page; is that right?

17

A That's correct.

18

Q And that's also the point in time that you have three  
19 Mexicans in parenthesis?

20

A That's right.

21

Q Your notes seem to go down in a fairly even way down  
22 the page so that you're starting most of your lines  
23 about one-third of the way through the page with space  
24 for your assessment of Josh on the left; is that correct?

25

A That's right.

26

Q And the statement "they, three Mexicans chased us around

1 the house," the day begins directly beneath the "mom  
2 screaming" on the line above; is that right?

3 A. That's true.

4 Q. So it doesn't appear from the way that you took your  
5 notes that the three Mexicans would have been inserted,  
6 say, after, towards the end of the interview; is that  
7 correct?

8 MR. KOCHIS: Well, objection. That's a leading and  
9 suggestive question.

10 THE COURT: Mr. Negus, sustained.

11 Q. (BY MR. NEGUS:) Looking at your notes, was the phrase  
12 three Mexicans inserted after you had finished taking  
13 the rest of your notes?

14 A. Well, what I'm allowing for is that as I was writing  
15 I could have inserted parenthetically into the text  
16 certain information even that he had told me earlier  
17 which clarified what certain pronouns might have referred  
18 to. And so what I'm telling you is that I don't remember  
19 whether or not I inserted that parenthetically or not,  
20 and there's two areas on the notes where I might have  
21 included other details not given at the time of that  
22 particular interview with Detective O'Campo.

23 Q. What's the other place on the notes?

24 A. The bottom of the second page.

25 Q. Was that "probably could recognize them"?

26 A. No, the last six lines.



1 Q The description of the three Mexicans?

2 A The descriptions were in fact quite verbatim. The first  
3 part, "thinks three Mexicans who came Saturday night  
4 before as they were leaving for the party came back  
5 later that night," that's kind of a general impression  
6 that I've gleaned from probably a number of conversations,  
7 more than just that interview that day. And he probably  
8 went over it again that day.

9 Q The only other time that you talked to Josh about the  
10 actual crime and what had occurred to him that night  
11 was when he brought it up with Mr. Jackson there that  
12 morning, is that correct, prior to this?

13 A I couldn't tell you. I think it was probably not  
14 limited to that. I think there were other occasions  
15 before and after the interview that we're discussing  
16 here.

17 Q Do you remember telling myself and Mr. Gindler that you  
18 only talked to Josh about the crime twice, once in the  
19 morning with Mr. Jackson and once with Mr. O'Campo?

20 MR. KOCHIS: Your Honor, I'm going to object as  
21 leading and suggestive, and I think there's a foundational  
22 impeachment problem that I don't know that Mr. Negus is going  
23 to be able to take the stand and attempt to impeach this  
24 witness.

25 MR. NEGUS: I can always have Mr. Gindler.

26 THE COURT: Counsel, when you ask him do you recall

# **EXHIBIT J**



## SHERIFF'S DEPARTMENT

County of San Bernardino  
California

CA 03600

DR 1211029-02

REPORT AREA

SECTION PC 187	CRIME Murder	CLASSIFICATION
IM'S NAME - LAST NAME RYEN/HUGHES	FIRST NAME	MIDDLE NAME (FIRM NAME IF BUSINESS)
RESS	<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS
		PHONE ( )

SUSPECT:

COOPER, Kevin

SUPPLEMENTAL INFORMATION:

At about 1715 hours, 5-15-84, I received a telephone call (while in the Homicide Office) from Sheriff's Reserve Deputy Luis SIMO.

Deputy SIMO told me that he had just read an article in the Sun Telegram regarding the COOPER case in which a nurse apparently had testified that JOSHUA (RYEN) mentioned something about three people having committed the crime.

Apparently, the article mentioned that the nurse testified that JOSHUA had apparently raised three fingers to indicate three people with regards to the crime. Deputy SIMO said the article reminded him of a particular telephone conversation he had with me, which occurred while he was providing security at Loma Linda Hospital for Joshua RYEN.

Deputy SIMO recalled that he was playing the card game UNO and the television was on. It seemed that the television was on and a newscast regarding the RYEN/HUGHES murder was being televised. Part of the newscast was a photograph of Kevin COOPER which was shown.

JOSHUA commented that it was not him that did it, it was three Mexicans.

Deputy SIMO remembers calling me on the telephone and informing me of JOSHUA's statement. He remembers me saying something to the effect of "It's probably a flashback caused by the trauma."

I told Deputy SIMO that I would contact him later for a detailed interview.

REPORTING OFFICERS O'CAMPO, Det. 0-0030	DATE 5-29-84	REVIEWED BY	TYPED BY mary S1037	ROUTED BY	DATE
OTHER ACTION: YES <input type="checkbox"/> NO <input type="checkbox"/>	COPIES TO: <input type="checkbox"/> Detective <input checked="" type="checkbox"/> Dist. Atty.	<input type="checkbox"/> SD/PD <input type="checkbox"/> CII <input type="checkbox"/> Patrol	<input type="checkbox"/> Other <input type="checkbox"/> Other	REMARKS  2783	



## SHERIFF'S DEPARTMENT

County of San Bernardino  
California

CA 03600

DR 1211029-C

REPORT AREA

CODE SECTION PC 187	CRIME Murder	CLASSIFICATION
VICTIM'S NAME - LAST NAME RYEN/HUGHES	FIRST NAME	MIDDLE NAME (FIRM NAME IF BUSI)
ADDRESS	<input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS	PHONE ( )

INTERVIEW:

SIMO, Luis  
Sheriff's Reserve Deputy, Badge No. R-1606

1 At about 1025 hours, 5-24-84, while at the Sheriff's Homicide Office, I interviewed Deputy SIMO.

2 I referred to a report and told Deputy SIMO that he provided security on Joshua RYEN on two different days, the first being 6-08-83 (a Wednesday) between 1500 and 2400 hours, and 6-15-83 (Wednesday) between 1500 and 2400 hours.

3 **JOSH STATEMENT**

I asked Deputy SIMO which time would it have been that he telephoned me. Deputy SIMO said he believed that it was during the time that Joshua RYEN was in the Pediatrics section because he was able to walk around and talk. He recalled that at the time he and JOSHUA were playing the card game UNO, and the time would probably have been around 10:00 pm, when the newscast came on and showed Kevin COOPER's photograph. Deputy SIMO remembers JOSHUA seeing the newscast and saying that that wasn't the guy that did it, the Mexicans did it.

4 Deputy SIMO asked Joshua RYEN, "What Mexicans?" and he said that "the three Mexicans in the white pickup truck with a camper shell did it."

5 **CONTACT HOMICIDE**

Deputy SIMO said that he called the Sheriff's Desk attempting to locate me, and the Deputy at the other end said I was not in.

6 Deputy SIMO told the Desk Officer to call me at home and have me call him at the hospital.

7 Deputy SIMO remembers that about a half hour elapsed before I, in fact, called him at Loma Linda Hospital and he told me of the statement JOSH had made.

8 Deputy SIMO remembers me saying something to the effect of that I had talked to him, that I mentioned something about flashbacks, and also mentioned something about "those guys were looking for work earlier that day," in addition to mentioning something about a barbecue.

9 **ASSIGNMENT**

With regards to the night that JOSHUA made these statements and Deputy SIMO had this conversation with me, he remembers that he stayed a little later than his

REPORTING OFFICERS 11. L. O'CAMPO, Det. 0-0030	DATE 5-29-84	REVIEWED BY	TYPED BY mary S1037	ROUTED BY	DATE
FURTHER ACTION: <input type="checkbox"/> YES <input type="checkbox"/> NO	COPIES TO: <input type="checkbox"/> Detective <input type="checkbox"/> Dist. Atty.	<input type="checkbox"/> SD/PD <input type="checkbox"/> CII <input type="checkbox"/> Patrol	<input type="checkbox"/> Other <input type="checkbox"/> Other	REMARKS  278	

## SHERIFF'S DEPARTMENT

County of San Bernardino  
California

CA 03600

DR 1211029-02

REPORT AREA

CODE SECTION PC 187	CRIME Murder	CLASSIFICATION	
VICTIM'S NAME - LAST NAME RYEN/HUGHES	FIRST NAME	MIDDLE NAME	(FIRM NAME IF BUSINE
ADDRESS	<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS	PHONE ( )

Page 2

INTERVIEW: SIMO, Luis (Continued)

9:00 assigned time (was supposed to be off duty at 2400) because a Deputy from the Yucaipa Sheriff's Station was supposed to relieve him, however, did not show up, so Deputy Jim MARTINEZ from Central Station relieved him at about 1:30 or 2:00 am.

10 Deputy SIMO remembers that Sgt. D'AMICO was the graveyard Watch Commander and was the one that arranged for the relief.

11 Deputy SIMO had no additional information to offer and the interview was concluded.

PARTICIPATING OFFICERS 1. L. O'CAMPO, Det. 0-0030		DATE 5-29-84	REVIEWED BY	TYPED BY mary S1037	ROUTED BY	DATE
FURTHER ACTION: <input type="checkbox"/> YES <input type="checkbox"/> NO	COPIES TO: <input type="checkbox"/> Detective <input type="checkbox"/> Dist. Atty.	<input type="checkbox"/> SD/PD <input type="checkbox"/> CII <input type="checkbox"/> Patrol	<input type="checkbox"/> Other <input type="checkbox"/> Other	REMARKS  278		



# **EXHIBIT K**



1 wrong lady when I said "Dr. Howell," apparently.

2 Who's your first witness, Mr. Negus?

3 MR. NEGUS: Dr. Howell.

4 THE COURT: Come forward, please.

5 THE CLERK: Take the witness stand, please and  
6 raise your right hand.

7

8 M A R Y A. H O W E L L, having been called as a witness  
9 by and on behalf of the Defense, was sworn and testified  
10 as follows:

11 THE CLERK: You do solemnly swear the testimony  
12 you are about to give in the action now pending before this  
13 Court shall be the truth, the whole truth and nothing  
14 but the truth so help you God?

15 THE WITNESS: I do.

16 THE CLERK: Please be seated. State your name,  
17 please, for the record and spell your last name.

18 THE WITNESS: Mary A., it's my middle initial,  
19 Howell, H-o-w-e-l-l.

20 THE COURT: Thank you.

21

22 DIRECT EXAMINATION

23 BY MR. NEGUS:

24 Q Dr. Howell, you're the grandmother of Josh Ryan?

25 A Yes, I am.

26 / / / /

1 A He had a pad and pencil.

2 Q At some time while Josh was in the hospital, were you in  
3 the room when Kevin Cooper's picture was shown on the  
4 television?

5 A That was near the end, yes.

6 Q Did -- when Kevin Cooper's -- well, when the television  
7 was shown, did it first show a picture of Josh?

8 A Yes. Josh was in the bathroom then.

9 Q Okay, and then --

10 A I was -- I was waiting. I was on his bed, sitting on  
11 his bed waiting for him to come out.

12 Q When he came out, what was on the television screen?  
13 Do you recall?

14 A Cooper's picture.

15 Q At that point in time, did you ask Joshua any questions?

16 A I just asked him if he ever saw that man.

17 Q What did Josh say?

18 A Right at the moment, Josh said no.

19 Q Was there any other conversation at that point in time?

20 A Not then, no.

21 Q At some point in time while Josh was in the hospital,  
22 did he give you -- that is towards the end, give you a  
23 little bit longer narrative about what had occurred?

24 A Not in the hospital.

25 Q When did he first give you a longer narrative?

26 A When he came back after -- after September 23.



# EXHIBIT L



SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

DEPARTMENT NO. 7 (ONT)

HON. PHILIP E. SCHAEFER, JUDGE

In re the Guardianship of the )  
Person and Estate of )

JOSHUA RYEN, )

No. GW 713

A Minor. )

REPORTER'S TRANSCRIPT

September 15, 1983

APPEARANCES:

For the Petitioner  
Richard Ryen:

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and  
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Los Angeles, CA 90014

For the Cross-Petitioner  
Dr. Mary Howell:

IRELL & MANELLA  
BY: GEORGE T. CAPLAN  
and  
MICHAEL S. GENDLER  
Attorneys at Law  
1800 Avenue of the Stars  
Suite #900  
Los Angeles, CA 90067

TAMI FRAZIER, C.S.R. #5293  
Official Reporter

1 practice this week, and he was looking forward to  
2 his first game this Sunday, and he's a little uptight  
3 about that, but he's looking forward to it. And I  
4 think he's meeting more friends as we go along every  
5 week, particularly when he started school, and he's  
6 feeling a lot more positive about the surroundings and --

7 Q Have you or your wife asked or have you asked Josh  
8 anything about the tragedy with his parents?

9 A Nothing specific. I want him to forget about this  
10 thing. I want to get on with my life, and that's my  
11 purpose in raising this youngster.

12 This was a tragedy. He is going to have memories  
13 of this thing, but I want to minimize them.

14 The only time we discussed about them, discussed  
15 it was when they captured Kevin Cooper, and that  
16 discussion didn't last very long.

17 I talked to Mary. She called. It was quite late  
18 that Saturday night. We just got back from a fishing  
19 trip, and Josh was already in bed, and she informed me  
20 that the news picked up the fact that he was captured  
21 in Santa Barbara.

22 The next morning when he got up, he got out of the  
23 house to tell his friends how many fish he caught before  
24 I had a chance to talk to him about it. So, I went  
25 down to the neighbor's house where he was having his  
26 second breakfast. I went to mow my lawn, which he

1 promised to do one day, and our dog, Tasha, which is  
2 a Doberman, and Josh and I were standing in the garage  
3 cranking up the lawn mower. I said, "Josh, I just want  
4 to let you know that they caught Kevin Cooper." In  
5 the meantime I heard it on the radio that morning, and  
6 I said, "I wanted to let you know that there will  
7 probably be some radio and television and some press  
8 coverage, and we may pick it up out here."

9 And he said, "When does the news come on?"

10 And I said, "Well, the best news is probably around  
11 6:00."

12 And he said, "I'll be there. I want to see him."

13 I said, "Fine."

14 And he went on about to play and crisscrossed my  
15 yard a few times and mowed the lawn or whatever and  
16 played the rest of the day.

17 A quarter of 6:00 he remembered, and I turned the  
18 television on, and finally it came on. There was about  
19 a three or four minute clip describing Kevin Cooper  
20 and picturing him, picturing the family as it was,  
21 picturing the house, picturing his bike, and Sally and  
22 I were sitting in the TV room one on one side and one on  
23 the other just to see what his reaction would be. He  
24 looked at this thing and he said -- the thing was over,  
25 and he stood up, and I didn't know what to expect, but  
26 he says, "Well, I guess I'll take the dog for a walk,"



1 and just casually walks off.

2 But, when I told him in the garage that morning it  
3 was kind of fascinating because I said -- he said,  
4 "Are they sure he's the right one?"

5 I said, "Well, they're very positive that  
6 Kevin Cooper is the man they were looking for," and  
7 there was a little silence.

8 And he said, "Dad, how about you and Tasha and me  
9 going out and seeing this Kevin Cooper."

10 Tasha is our Doberman. I thought that was kind of  
11 a positive reaction. It was kind of humorous, and I  
12 said, "No, I think justice will prevail out there,  
13 Josh, and they'll take care of him."

14 He said, "Maybe we ought to get some of these  
15 baseball bats, and I'll get my buddies, and we will go  
16 out there with baseball bats."

17 And I said, "We can use Kevin for the ball," and  
18 he kind of liked that idea.

19 So, he said, "I'll see you later."

20 I know he's hiding something, but he's a pretty good  
21 friend of mine.

22 MR. YOUNG: That's all.

23 THE COURT: Okay.

24 Mr. Caplan?

25 / / /

26 / / /

# **EXHIBIT M**



Q Okay, now start out and see if you can tell me all that you remember from Saturday, about afternoon, until you got in the hospital.

A (unintelligible) Saturday.

Q Well, remember, tell me about that day that it all happened. Like when you went to the party and the things like that with your folks.

A (unintelligible).

Q Hum?

A (unintelligible)

Q They're on, sure. You'll forget all about them in just a second, don't worry about them. I've done them a lot. Catches you as much as it catches me, so you just, so start out, you talked to me about before. Let's see maybe we can start out by talking about what happened before you went to the party with your folks? Like when you, maybe you can start with how Christopher came over to you house and everything.

A He came over about maybe noon. Then we went down to his house and asked if he could spend the night over at my house. <sup>She says</sup> fine. And we came home and got ready for the party and three Mexicans pulled up and then we <sup>we</sup> left after that. And then we got.

Q Well, did you, what happened when the Mexicans were there? Why did they come?

A I don't know what was the <sup>Reason</sup> (unintelligible).

Q Well did they say anything to you <sup>Dad</sup> or to you?

A To my Dad, but I don't know.

Q Oh! Okay.

A Then we went to the party, came home, went to bed.

Q What time do you think you came home, or do you remember?

A Ten or so.

Q About ten.

A And then went to bed.

Q Who went to bed first, you guys? Or everybody all together, or what?

A



A I think my Mom, I and my sister, and Chris went to bed and my Dad stayed up.

Q You don't remember for sure?

A Um um. That's what I think it was. When I heard my Mom screaming and I walked in there to the bed and I saw someone.

Q Well, did, this, you mean, where did you see them?

A Over by the bed. My Mom's bed.

Q I didn't understand what you said, honey. Like over by the bed, but what?

A Like by the bed.

Q Okay. Now was the person standing up, or what?

A Huh?

Q Was the person standing up?

A And then I went back and.

Q Well why did you go back? What was happening with the person standing by the bed? Was he standing with, facing you, or what did you see?

A He was standing in back of (unintelligible).

Q He was. And what did you see that made you go back?

A I saw a big puff of hair.

Q You saw a big puff of hair. And what did you think he was doing?

A I don't know.

Q Well did you hear anything, cause you said you heard.

A I heard my Mom screaming and she stopped. And I saw him but then I went, it was in the laundry room.

Q Well, what, did you not understand what your Mom was screaming?

A No.

Q You didn't. Were you scared?

A Yeh. So I went in the laundry room and I think hid behind the door and Chris went in there.

Q Went in where?

A In my Mom and Dad's room.

Q Oh, he didn't go with you the first.

A Then he went in there, then he was gone and I went in there and then I was gone. Then the next one.

Q What do you mean, you were gone?

A I was down.

Q Well, do you remember, all you remember.

A He knocked me out.

Q I understand. Do you remember seeing him doing anything to your mother when she was screaming?

A No, I just saw his back and his hair.

Q And his hair. And was he bending over, or standing up straight, or what?

A Seems like his head was down, it was down. And then the next morning about ten or so, Bill Hughes came up and he saw us and he said 'can you move anything', no. And then he called, kicked down the kitchen door and called the police and stuff and then he went down back to his house. And Bob Howie came up. Then I remember getting a ride to the helicopter. Then that's all I remember (unintelligible).

Q You remember getting in the helicopter to where, to go to the?

A In the morning they had me on like a board and they put me in the helicopter.

Q Okay, do you remember getting to the hospital?

A No.

Q Now, do you remember anything about what you saw about what happened there? Say like where your mother and, was or anything? Cause you said you went back. What made you go back?

A I was scared that something was going to happen, like we had a closet, my Mom's closet and my Dad's closet, then the bed and a glass window. And Chris was laying by my Mom's closet, my sister was laying like right there, I was laying next to Chris and my Mom and my Dad over on the side of the bed.

Q Was he on the bed or just beside it?

A He was right down like that.

Q You mean kind of leaning on the bed?

A Yeh.

Q So he was kind of kneeling by the<sup>head</sup>, with his head on<sup>it</sup>

A Yeh, like praying, but like that.

Q Okay. And your Mom was lying on the floor?

A Right next to me.

Q Right next to you? Uh uh. And was she all dressed or do you know, do you remember? She didn't have any clothes on or what?

A No.

Q And how about, that bothers you, right, to say that?

A What?

Q Talk like that.

A Yeh.

Q And then next to her was, who was next to her?

A Okay, my sister, my sister, here's the hall, my sister's right here by the door where you walk in. Here's the closet and here's the closet and here's the bed, and over by the closet there's a big sliding glass window and Chris was by the, my Mom's closet, I was like right here, my Mom was right here and my Dad was right here.

Q Okay. What did you think about that when you saw that?

A I didn't know what happened.

Q No, I'm sure you didn't.

A Cause I got hit on the head. I still have that bump.

Q I understand that. And I'm really, I'm, you got hit, you did say what you remember, but then if you don't remember, then let, you tell me so we make it clear. Did you notice anything about your sister and any of them? Did you think that they were still alive?

A I don't know. Like I said I got bumped on the head and I didn't know what happened. So I didn't know what they were, if they were.

Q Yeh, I understand that. Did you, when you went back in there though, what made you go back? Was it all quiet then or what? Did you think he was gone or what?



A I didn't really know what was happening and then when I went back in.

Q I, now you, if I remember you talked to me before about how you felt guilty that you were the only one that came out alive. Is that ~~uh~~?

A I know, that was when I was in the hospital. My Grandma told me that my Mom and Dad and my sister, and Chris was dead.

Q Yeh. Yeh, right. And what's the first thing you remember in the hospital?

A What do you mean?

Q Well, what's the thing, when you look back on it. You got to the hospital and you don't remember getting there, but what what's the first thing that you remember then when you did wake up from getting hit on the head?

A I didn't know anything.

Q Oh, I'm sure for a while. But then what's the next thing you remember, your Grandma being there or what?

A No. Lot of doctors being around me.

Q Yeh. Were you surprised to be in the hospital?

A I didn't know where I was.

Q I'll bet you didn't. Did you ask them?

A No.

Q Hum um.

A And then finally I figured out I was in the hospital, but I still didn't know what happened.

Q Yeh, I understand that. Now, did you ever go into your parent's bathroom, do you remember?

A No, I didn't go in there.

Q You didn't go in there. I gather from what you said you didn't. You went into the bedroom, partway, and you saw that and then you got scared and you went back and meanwhile when you went back Christopher went in, is that right? And then apparently.

A I went back in.

Q Yeh. But after you'd hidden for a while.

A Yeh, I think about five second or so.

A Can I go?

Q Honey, no, there's a lot more. Can you remember if your Mom and Dad drank any wine before they went to the party?

A What do you mean?

Q Well, remember did you like before you went to the party, like lots of times grown-ups when they are, just before dinner or something they'll sit down and have a cocktail or a drink before, wine, something before they go.

A Oh. My Dad had one in the truck.

Q Your Dad had one in the truck? Did he drink any that night before he went to the party?

A Yeh.

Q He did?

A Not, he, not whiskey or anything, just.

Q No, no, right, no. And did you Mom have any?

A She had a little sip.

Q Um hum. And did, then after, then they had ~~the~~ few, the wine and went to the party. How much do you think, have your parents ever, did they ever get drunk ever?

A My Dad a few times.

Q Um hum, well, I'm just trying to find out, if you know what it is when they act drunk. Did, have you ever seen a person be drunk so they can't walk very well, things like that?

A The Little Rascals they, this kid was shining the horses legs or something with whiskey and the horse bent down and got the bottle and his tail goes up. He's walking along, and his, he's (hiccup) going (hiccup).

Q Well what about your Dad, like had he had that much to drink?

A He didn't, wasn't really a drinker. He'll drink wine but he's not like (visual description) like all the time, he'll take ~~and~~ he'll wait a like, who knows, hour or half hour or something.

Q And then he'll take another, he keeps a wine bottle in the truck so he can take more liquor.

A No they never had a wine bottle in the truck.

Q Oh, I thought you said he kept wine there.

A No, he had a glass of wine in there.

Q Oh, I see, he had a glass. Okay. And he drank that. And she had some sips from that glass or did she have her own glass?

A She had a couple sips from their glass.

Q How big was his glass?

A About that big.

Q Like a drinking glass that you drink water out of?

A Yeh.

Q Okay. Now did you remember if they, anybody used the jacquize <sup>area</sup> before you went to the party?

A No.

Q Nobody did? Had they used it the day before do you think?

A No, we really didn't use it that much, only when we first got it cause it was really so cold and the breaker wasn't working.

Q Oh, oh. I don't blame you. Do you remember when your Dad went to sleep or anything, where would he put his wallet? I don't if you would know that, but.

A I don't know, I never see (unintelligible).

Q You what?

A I never see.

Q Well, but sometimes like, you know, my husband when he comes home he always puts his wallet in the bureau drawer and the kids all used to know it was there, cause he sent them to get money there. Would you, you didn't have any idea about where he would keep things?

A Usually he kept it under the truck seat.

Q He kept it under the truck seat. And would he leave it there when he went to bed even at night? Do you think so?

A That's usually where it always was.

Q I see. Now where did he keep his keys, do you know?

A No.

Q Did you father have a brown leather jacket? What did it look like, was it a long one or was it?

A



A It was like, it had, it was long sleeved and was a, not that brown but, see this color right here?

Q Okay, you're describing a light brown.

A Yeh. It had buttons, it was like a-----

Q Kind of like a coat or like a?

A Yeh.

Q Yeh, okay. And did he wear it to that party?

A (inaudible) yes

Q He did? Do you know where he, your Dad kept that jacket?

A In his closet.

Q In his closet. Do you know that night, well you, from what we've done so far I gather you're not sure if he stayed up but do you by any chance remember where he put it that night?

A What, his jacket?

Q Um hum.

A He probably put it in his closet, cause he never leaves his clothes around.

Q He doesn't. Okay. Now.

A More?

Q Oh, honey, more. Relax. Do you want to, we'll take a rest in a minute, all right? And then (unintelligible).

What time, you, did you go to sleep? I think you already told me that. What time do you think you went to sleep that night?

A About ten-thirty or so.

Q Okay, and did Jessica, does she go to bed the same time or did she stay up later?

A She goes to bed the same time.

Q Uh huh. But did she stay up later that night? Do you know?

A No.

Q Everybody went the same time?

A I don't know, I'm not sure about my Dad.

Q Right, okay. Which side of the bed did you Mom sleep on?  
On the left?

A The bed's here, she slept on this side (unintelligible).

Q Well, okay, but see it would make a difference. Say whether  
it was near the sliding glass door or away from it.

A About to there, to there.

Q Well was she closer to the sliding glass door or you Dad?

A No, my Dad was.

Q You Dad was closer, okay. He was on the side that was closer  
to the door. Who usually drove the station wagon?

A My Dad.

Q Did you Mom ever drive it?

A Sometimes.

Q Sometimes? And your Dad drove it more?

A Yep.

Q Did you, do you know if they left the keys in the car or  
did they hang them up or what did they do?

A I don't know cause I read in the newspaper when I was in  
the hospital our Buick was found in Long Beach.

Q Really? Well, but I'm, lets talk about other nights than  
that night. Say, ordinarily would your Dad leave the keys  
in the car or would he hang them up someplace?

A I'm not sure.

Q Hum?

A I'm not sure.

Q Okay. When you rode with your sister in the station wagon  
where did you ride? What seat?

A Well it was just the fight over the back or the front.  
Cause we wanted to sit in the front.

Q And so what did, how did you solve that? Who got to sit  
in the front?

A We took turns.

Q You took turns? Did Jessica ride in the front more than  
you or?



A Yeh.

Q Huh? She did? How did she get away with it?

A Huh?

Q If she rode more than you, how did she get away with it?

A I let her.

Q You let her, okay. When you got home that night, Saturday night, do you remember where the station wagon was parked?

A By the garage, I think.

Q Can you remember how far it was from the truck and the garage and the kitchen door?

A What do you mean?

Q Well, say was it real close to the garage or was it closer to the kitchen door?

A It was like in the middle.

Q Okay. And where was the truck, it was on which side? Nearer the garage or nearer the kitchen door?

A Near the fence.

Q Near the fence, okay.

A We have the fence, the house, the garage and the barn.  
(unintelligible)

Q So it was parked by the fence and then the Buick was parked by the garage. Okay. This bothering you a lot?

A What?

Q Telling me this?

A Little bit.

Q I know honey. Well, we'll take a break here for a minute so if I.

A How many more pages?

Q Oh, we got quite a few pages. You just, but they'll go faster.

A Oh, boy.

Q I know. About, did your father ever smoke a pipe when he drove?



A Sometimes.

Q Did he that night?

A Huh?

Q Did he that night?

A I don't think so.

Q Um hum. What's the last time you ever rode in the station wagon, do you remember if you rode Saturday morning or Friday or what?

A I don't know, I'm not sure.

Q Can you remember? Is it Friday?

A I'm not sure when I did it.

Q Okay. When did you usually ride in it?

A When my Mom had it.

Q When your Mom had it, okay. Do you want me to stop for a minute and rest or should we go on?

A I don't know. How many more pages?

Q Well let's see, we've got about three more pages.

A How long would that be?

Q Oh, I will take quite a while.

A How long?

Q Maybe half an hour.

A Let's go.

Q Okay. Let's go. See one of them is the drawing of the house, so.

A It is?

Q Yeh, so that makes it shorter. Okay?

A Um hum.

Q All right?

A Um hum. So we only really have two?

Q We maybe have two and a half. All right? Now when your parents went to sleep did they leave some lights on in the

Q (continued) house, or what?

A I'm probably asleep.

Q What?

A I'm probably asleep.

Q No, no. I'm talking about every night when you went to bed.

A Oh.

Q I mean like did they leave some lights on in the house or?

A I'm not sure. Usually not.

Q Far as you remember they always turned all the lights off?

A (unintelligible)

Q I thought you told me once though that your Dad sometimes fell asleep in the chair.

A Yeh, but then my Mom would turn off the light.

Q Oh, and he'd just stay asleep in the chair with it dark?

A Um hum.

Q Oh, I see. Okay.

A Cause he stays up pretty late.

Q He would stay up real late. Did they leave any lights on outside, you know, like over the garage.

A The barn lights on the barn?

Q Hum?

A The barn.

Q The light was on the barn?

A I think the barn light was on.

Q Um hum. And any others?

A The light (unintelligible) barn.

Q And you think you saw that light on.

A Um hum.

Q Did the lights of the barn go off and on, do you know what an automatic light is? Did they do that?

A No. Like, you know those light cords? Well there was one big one on the side of the barn and that was like a light.

Q I see. Who turned, who would turn the lights all off in the house, your Dad? Except when he set up late, and your mother did that?

A (inaudible)

Q Now, do you know if the barn, you said you thought the light was on on Saturday night, the night that happened, okay?

A Um hum.

Q And then what's, did that light show in your Mom's bedroom too some, so you could see them?

A Not really.

Q So that's why it was so hard to see what was going on? The light shown mostly in your room?

A (inaudible)

Q Did your mother and father leave any lights on in the house when they went to the party?

A Yes.

Q Which lights did they leave on then?

A By the front door and the back door.

Q Yeh. And when you went to sleep, do you know if they left those on?

A I think they turned them off.

Q Far, you don't know for sure, but you think so. You think the only light that was on was the barn light?

A (inaudible)

Q And that was the one that shown in your room. Did you have to pull your curtains so you wouldn't see that, would it keep you awake?

A I don't have curtains?  
You don't have curtains.

Q /Well would it keep you awake, that light?

A No.



Q Could you tell me, you had lots of times trouble getting to sleep, remember.

A From when?

Q Well, even before this happened.

A Light?

Q Well, not from the light necessarily, but remember you said sometimes you'd go to bed and you'd have trouble getting to sleep right away.

A Oh, yeh.

Q Well, right. And did you have trouble that night?

A I was tired.

Q Uh huh. And, but I guess it wasn't the lights that bothered you then. Okay. Now then is that why you said to me, you said to me that when you saw who was there, your Mom and Dad and everything, you coul, you. See I don't <sup>what</sup> to tell you what to say, but I want you to tell me how you saw, how much you saw of them, if it was that dark in the bedroom.

A I just.

Q You just recognized.

A Yep.

Q Did you see anything else, that, you know?

A No.

Q We have to stop for a moment here.

A Why?

Q Because these. Okay, now let's go to see, when you left the house that night to go to the party, did you see anything different about the house than usual?

A No.

Q And things were just the same as when you got back?

A (inaudible)

Q Now tell me about the dogs.

A What do you mean? They didn't bark that night.

Q They didn't bark that night?

A No, I don't think so.

Q You don't think so? Where were they, where did they stay when you went to bed?

A Pike sleeps (unintelligible).

Q Which one?

A Pike, my dog.

Q Yeh. Pike sleeps with you on the bed or on the floor or what?

A (unintelligible) but my Mom didn't like her on the bed.

Q Well that night did he sleep on the bed?

A He woke, me and Chris both slept on the floor.

Q Yeh, so he slept beside you on the floor?

A Yeh.

Q And was he awake when you got up? Was he yelling?

A He was gone then, I don't know where he went.

Q You don't know where he was.

A Then the kittens were (unintelligible).

Q The kittens were where?

A In my room.

Q In your room. And they were around you?

A No, they were in a box right near me.

Q Oh, I see. Now where were the other dogs?

A What other dogs?

Q Didn't you have two dogs?

A We had four dogs.

Q All right. Well, where were the other dogs besides Pike.

A I don't, I think J.J. was sleeping with my sister. She'll sleep with anyone.

Q What's her name?

A J.J. She died. She died when she went to my Grandma house.

A     Nope.

Q     And you know your own had disappeared even. Would you say they're kind of, well say, I have a Sheltie and he barks but then a thief comes near him he runs. Would you say your dogs were kind of like that?

A     One of the dogs, J.J., ran up to someone.

Q     What?

A     And then run back.

Q     And then run back? And what would Pike do if, in other words if somebody started to go up to them would they be scared or would they fight them?

A     Probably run.

Q     Probably run. I think they're like mine, right? Yeh. Well you already answered this, they said does J.J. stay inside the house?

A     Yes.

Q     And did she have a place where she hides?

A     She hides everywhere.

Q     Everyplace?

A     She hides under the couch, she'll hide under the covers.

Q     What's the most common place she hides?

A     The closet.

Q     The closet. How does she get in the closet?

A     She'd be like you would the shoes, she'd be in the corner.

Q     Oh, wow. Which closet did she like the best?

A     My Mom's.

Q     Oh, wow. Now, but you don't think she went to your Mom's room that night. You already answered this, you didn't hear any dog bark while this was happening.

A     Nope.

Q     And were you awake before your heard your mother screaming?

A     (inaudible)



A (continued) From puppies. And Charlie, I don't know. And Ruffie. Charlie and Ruffie I think were sleeping at my Mom's and Dad's floor, in the bedroom.

Q Now, were your dogs watchdogs, honey, would they bark if people came in?

A They're not really trained to be a watchdog.

Q No. I understand that, but like, you know, in my house if anybody comes in, not just the dogs but our bird make a noise and everything. Would you dogs do that if, bark if a visitor comes up? Or say like when the people came up to, you said the Mexicans came up and you thought they wanted to go to work, did the dogs bark then?

A Yeh, they were in the house but they barked and barked.

Q Um hum. Well, so was there any barking when your mother was yelling?

A Uh uh (negative).

Q You didn't hear the dogs at all.

A No, I didn't (unintelligible).

Q That's not funny.

A Oh.

Q Do you remember seeing the dogs at all that night, say after you got hit or before you got hit? Do you remember seeing them, him, the dogs, one in your room with you and J.J. with your sister and you think the others were with your parents. Then when you got hit do you remember where they were?

A No.

Q They seemed to all disappear, huh?

A Yes.

Q They must have gotten scared. Do you remember them even coming around you at any time?

A No.

Q Honey, take your jacket down so I can hear you, cause they can't, I know this is very painful.

A When?

Q When you, at, that night when you got up out of bed and everything, did you see the dogs around at all?

Q No, you just heard the screaming and that's, uh huh. Did she say anything?

A She was just screaming.

Q But you told me once that she said, maybe you don't remember that anymore, so, well.

A She said, she like, she was trying to yell something.

Q Yeh, cause you told me something about that she said for your to get away, to go hide, or something. Do you remember that?

A Yes. She was trying to say something like when I first saw her she was trying to say something.

Q And, but you couldn't see. Could you see much of her when he was, when he was?

A No.

Q Was he attacking her or your Dad when you came in there? Do you know?

A I don't think any of them.

Q You don't think any of them?

A I think they tore up the sheets. God entered before I got in there.

Q I see, I see. So when you got in there she wasn't screaming anymore at all?

A No.

Q And did you ever hear Jessica scream or?

A No, no.

Q Apparently Jessica got in there before you did, right?

A She must have.

Q Yes. Now which horses did they keep in the barn at night?

A Hard to say, we had a lot of horses.

Q Yeh, but you mean, were there special ones that were always kept in the barn and some outside?

A Yeh.

Q Which ones were outside? You don't remember their names?

A Most of the time?

Q Uh huh.

A (inaudible)

Q Well maybe you can just tell me were there, were the ones that were kept inside, were they ones that?

A We showed.

Q That you showed. And which ones did you show, did you have a lot that you showed?

A Oh, we showed Chaucta, Tooth Tall, Albert and one more.

Q So that's three, did they stay in the barn most of the time?

A They stayed, uh huh. And Kristi and Some Sun Sol.

Q Were any of the others in the barn, usually just those?

A Um.

Q But I bet they came in the barn if they're going to have babies, did they?

A (inaudible)

Q Do you remember where the ones that stayed out stayed?

A They stayed on the very bottom pasture. Like here's the house, here's the barn, we had hills and pastures.

Q They like it way down there? Bet it was warmer. Now when you arrived at the hospital, do you remember being questioned by a dark skinned man from the hospital?

A No. When? When I was in the helicopter?

Q Well, tell me any time you remember him so that.

A Who?

Q Do you remember a dark skinned man?

A Ostey.

Q Is that his name? When did you talk to him?

A I don't remember.

Q Okay. When you said in the helicopter, did anybody question you in the helicopter?



A No.

Q And after you got there.

A I went right to surgery.

Q Okay. But then after you woke up, this is after you woke up from the surgery and everything, do you remember.

A They didn't really question me that much at first. At first you (unintelligible).

Q Okay, and then do you remember a dark skinned man questioning you then?

A Yes.

Q Okay, and, do you remember anything that he asked you? Boy is this boring.

A (unintelligible)?

Q Um hum.

A Anything what happened, stuff like that.

Q Um hum. And do you remember a man nurse talking?

A Huh?

Q Do you remember a nurse that was a man talking to you?

A (unintelligible) nurse?

Q Oh, no, honey, a man nurse is ah.

A Oh, a man doctor, doctor?

Q Well, you might have thought he was a doctor cause they looked dressed the same way. They're dressed in white. Do you remember a man talking to you?

A Only a doctor.

Q Um hum. And what did the doctor talk to you about?

A How do you feel.

Q Um. And do you remember being questioned by a Deputy Sheriff?

A That was Ostey.

Q Oh, I see. And did he have a uniform on?

A No.

Q He didn't?

A He was wearing his disguise.

Q He was?

URN TAPE OVER

Q And did he have a uniform on?

A No.

Q He didn't?

A He was wearing his disguise.

Q He was? What did he wear?

A He had like he had a strap that comes down, he had a like a gun right here and bullets.

Q Um huh.

A And he had (unintelligible) on.

Q Uh huh. He showed you his gun?

A Well he'd take his jacket off you could see it.

Q Oh, I see. And I guess he took his jacket off, huh? Did you understand what he said to you?

A What do you mean?

Q Well, like you know here when I ask you questions sometimes I have to explain it cause like when I asked about the horses in the barn, you.

A No, I didn't really know what he was talking about.

Q Okay. How did you answer him?

A I don't really remember.

Q Did you ever use your fingers or anything, or try to write or anything? Do you remember any of that?

A No.

Q Oh, I don't know how he knew either. Did you, could you shake your head?

A Not really.

Q You couldn't. Okay. Can you remember all that happened when they were questioning you?

A Huh uh (negative). I couldn't.



Q Well, that's all right.

A Now how long is there?

Q Oh, keep going. Be cheerful here. You didn't remember, do you remember telling them anything, honey?

A What do you mean?

Q Well, like when they answered you any, asked you any questions, do you remember telling them anything?

A No.

Q I know you couldn't talk, cause I know you had a tube in, right?

A Yeh.

Q Do you remember telling somebody about three men? Who'd you tell that?

A To (unintelligible).

Q And then can you tell me why you mentioned the three men?

A Cause I thought it was them. And, you know, like (unintelligible) that night.

Q Yes. But the reason you thought that was cause it was they, had you ever seen three men?

A No.

Q No. Uh huh. It's just the thing that you connected because of the three men. Did he ask if you had seen three men, do you remember if he asked you that?

A No.

Q Ah. How did you describe three men if you couldn't talk?

A Oh, the doctor said you have to start like trying to talk, and then we started to talk and then (unintelligible).

Q Oh, I see. Did he ask you how many you'd seen?

A Huh?

Q Did he ask you how many you'd seen?

A I don't, I'm not sure.

Q Yeh, I know it. You can't remember for sure, or what?

A Yeh, that's, I can't remember.



Q Now, at least DeLori told me this. After you had your first operation do you remember talking to O.C. How many times did you talk to O.C., do you think?

A Maybe four.

Q Four times? And did O.C. ever tell you what happened?

A No.

Q He didn't? Didn't he tell you anything?

A No.

Q Really? Can you remember him telling you anything, honey?

A NOPE!

Q Oh, I'm making you mad. I'm sorry. I know this is hard but we'll get over it, and you have to remember.

A We still a half a page to go?

Q Yes, honey.

A Just a half?

Q Just a half a page.

A Then we're all done?

Q Yes. But then we might have to do some more, see, so if we do a good job here.

A Again?

Q Yeh. We might if we don't do a good enough job, so that's why I'm trying to help you do.

A We only have to do a half a page till we're done?

Q Now, today, yeh, right.

A Oh, okay let's go.

Q Now do you remember seeing a picture of Kevin Cooper on T.V.? And telling your grandmother you remember seeing that man?

A No.

Q You don't, huh? But you remember seeing, what happened that you told me about with your uncle? You, when you saw a picture on T.V. down at your uncles?

A What do you mean?

- Q Well, did you recognize him as anybody or did you?
- A They had him in the picture (unintelligible).
- Q Um hum.
- A So I guess (unintelligible).
- Q Well, but I mean, had you seen him?
- A Before?
- Q Uh huh?
- A (inaudible)
- Q You had seen him before?
- A What, on television or?
- Q Well did you ever, what I'm trying to get is when you saw him on T.V. did you think he was the same guy? But if you told your grandmother you'd never seen him, you must not have thought he was the same guy, is that right? Or did you just, after they said on T.V. that he, thought he must have been the same guy, is that correct?
- A Uh huh (affirmative).
- Q When you saw him that night, trying to make it clear, all you saw was this man with the bushy hair and his back to you.
- A Um hum.
- Q So you really didn't.
- A Didn't get a good look.
- Q You didn't get a good look. Uh huh. Now we have to ask about the week before, okay?
- A A week?
- Q Oh yeh, that takes more memory. Do you remember back on Wednesday before, did you go in the station wagon to get Jessica some tennis shoes?
- A No.
- Q You didn't go?
- A No.
- Q Who went?

A Me, we didn't get tennis shoes for her.

Q What'd you get?

A Nothing.

Q Oh, you didn't go on Wednesday?

A We had school.

Q And you don't remember anything about that.

A Nope.

Q Do you remember Jessica having a cold?

A She didn't.

Q She didn't have a cold?

A Nope.

Q Did you and Jessica go to school together?

A Not in the same classroom, we went to the same school.

Q Yeh, but like you told me didn't your mother or your dad, whoever took you to school, didn't they drive you together at the same time?

A Yeh.

Q Did you get, you usually go in the station wagon or the truck?

A Off and on like.

Q Well, that's good. How much is, which one did you go the most?

A In C.J.

Q The truck? Say it clearly so we know what we're talking about. Who usually took you?

A My Mom.

Q Ah, you mother. That's what you told me before, that you went down to the barn, right, and she'd, then she'd come back up after you ate breakfast and everything and take you to school most of the time.

A But she would get up about five.

Q Yeh, she got up real early. Do you remember going to the Burger King the week before the, this happened?



A Burger King?!

Q Um hum.

A No.

Q You don't remember going there?

A No.

Q Well then I don't know how you could say when it was that you went. Just not the day, honey, do you remember several days before going to Burger King?

A No.

Q Okay. Well, this, then I think that's it. Let's see if there's anything else you can tell me so we have it clear. Did I, if I got it clearly the only way you could see who it was in the room was to just make out their figures. Did you see the blood or anything, things like that?

A No. I saw his body and puff of hair.

Q Um hum. But, and with your folks, did you see anything more than their bodies or?

A No. Not really.

Q Um hum. Did you.

A It was dark out that night. It was like dark, it was just like getting light.

Q Okay. And as far as you can remember the thing that you don't remember how you told them that there were three at all when you talked to O.C.?

A I'm not, I don't remember. What was that question?

Q Yeh, I just said how you told them.

A Oh. I really thought it was them, but after a while I saw on television that it was Cooper.

Q Um hum. But you, but then really what you're saying to me is you really didn't have any idea. You, if it, whatever, three that you thought there, you didn't see three ever in the bedroom anyway.

A No.

Q And did you ever see three people there at that time?

A No.

Interview of Josh Ryen by Lorna Forbes  
Page 27  
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Q Okay. All right, then let's stop it.

ND OF INTERVIEW

# **EXHIBIT N**



1 to.

2 THE COURT: Without further adieu then, we're going to  
3 have to man the lights somewhere.

4 MR. KOTTMEIER: I don't think it is necessary to change  
5 the lighting at all, your Honor. I may be wrong but I don't  
6 think so.

7 THE COURT: Go ahead.

8  
9 (The following is a transcript of a video tape,  
10 reported, and made a part of this record.)  
11

12 MR. KOTTMEIER: This is Sunday, December 9th, 1984, about  
13 9:30 in the afternoon. We're here at the home of Dr. Mary  
14 Howell and her grandson, Joshua.

15 Josh, how old are you?

16 JOSHUA RYEN: 10.

17 MR. KOTTMEIER: 10? And what grade are you in?

18 JOSHUA RYEN: 5th.

19 MR. KOTTMEIER: 5th? I am going to ask your grandmother  
20 now to administer what we call the oath, and it is just an  
21 effort for you to tell the truth.

22 Dr. Howell.

23 MRS. HOWELL: You want me to stand?

24 MR. KOTTMEIER: Well, no, you can stay seated.

25 MRS. HOWELL: Joshua, raise your right hand.

26 Do you solemnly swear to tell the truth, the whole  
27 truth and nothing but the truth so help you God?

28 JOSHUA RYEN: I do.

COMPUTERIZED TRANSCRIPT

018594

1 MR. KOTTMEIER: Dr. Howell, you've talked with Josh this  
2 morning also, telling him to tell the truth, the same as we've  
3 asked; that he only answer the questions in regard to what he  
4 can remember from his own mind. Is that correct?

5 MRS. HOWELL: That's correct.

6

7

DIRECT EXAMINATION

8 BY MR. KOTTMEIER:

9 Q. Josh, did your father or mom smoke?

10 A. No, just my dad.

11 Q. And your dad's first name was?

12 A. Doug.

13 Q. Your mom's first name?

14 A. Peg.

15 Q. And did you have any brothers or sisters?

16 A. My sister.

17 Q. And her first name?

18 A. Jessica.

19 Q. How old was Jessica?

20 A. Oh, 11.

21 Q. 11? Was she ahead of you in school?

22 A. Yeah.

23 Q. And did your father smoke?

24 A. Yeah. He smoked a pipe.

25 Q. And do you know what kind of tobacco he smoked?

26 A. No.

27 Q. Can you think of any way of identifying the kind of  
28 tobacco he smoked?

COMPUTERIZED TRANSCRIPT

018595

- 1 A. Had like an old pirate ship on it.
- 2 Q. On the package?
- 3 A. Package.
- 4 Q. Uh-huh. Did your dad smoke in the car?
- 5 A. Yes. Sometimes.
- 6 Q. Had anyone else smoked in the station wagon or
- 7 truck that you know of?
- 8 A. No.
- 9 Q. Have you ever seen anyone smoke a cigarette in the
- 10 station wagon?
- 11 A. No.
- 12 Q. At some point did your grandmother live next to
- 13 you?
- 14 A. Yes. She lived right next door, down the hill.
- 15 Q. When you say "down the hill", how would you get
- 16 there?
- 17 A. Walk.
- 18 Q. Well, all right. From your mom and dad's bedroom
- 19 where was your grandmother's house?
- 20 A. Well, like here's my mom's sliding door, my mom and
- 21 dad's sliding glass. You go down up on the grass, there was a
- 22 wooden fence like around -- and you hop that and you go down in
- 23 where the lunging room is. There's a little hill. Her house
- 24 was right there.
- 25 Q. Did you and Jessica ever take a shower at your
- 26 grandmother's house?
- 27 A. Yeah.
- 28 Q. In fact you had stayed there sometimes on weekends?



- 1 A. Yeah.
- 2 Q. Do you know when your grandma moved away from that  
3 house?
- 4 A. No.
- 5 Q. Was it a long time ago?
- 6 A. This is the fourth year in --
- 7 Q. She's been in the house we're in today four years?
- 8 A. Uh-huh.
- 9 Q. You will have to answer yes or no, Josh.
- 10 A. Yes.
- 11 Q. And had your -- had your dad ever visited your  
12 grandma's house?
- 13 A. Yeah.
- 14 Q. Had he ever stayed overnight at your grandmother's  
15 house?
- 16 A. Why did he ever take a shower at your grandmother's  
17 house?
- 18 A. Well, he used to come down here sometime when he  
19 had to deliver a horse down here.
- 20 Q. Okay. You are talking about the house right here,  
21 that we're in today.
- 22 What I'd like to know is about the house back up by  
23 your house, your old house where your mom and dad used to live.
- 24 Did your dad ever spend the night at that house?
- 25 A. No.
- 26 Q. Did he ever take a shower at that house?
- 27 A. No.
- 28 Q. But you and Jessica did take a shower.

018597

1 A. Yes.

2 Q. Because you'd spend the night on weekends at your  
3 grandmother's house when she lived next door to you.

4 A. Yes.

5 Q. Okay. Josh, I'd like to show you a towel, and it  
6 is from Exhibit 160.

7 Have you ever this Star Trek-type towel before?

8 A. No.

9 Q. In the living room there were some sliding glass  
10 doors.

11 A. Yes.

12 Q. Okay. And I would like to show you now photograph  
13 255. In this picture there is some cuts in the screen door by  
14 the living room. Had you seen those before?

15 A. Yeah.

16 Q. How were those caused?

17 A. Well, right below us was the Edwards. Their dog  
18 used to try to get in our house. He used to scratch at the  
19 screen and rip it.

20 Q. So, that screen had been ripped like that for quite  
21 awhile.

22 A. Yeah.

23 Q. In Photograph 197 we have a picture of the kitchen  
24 of your mom and dad's house where you lived.

25 A. Yeah.

26 Q. In that picture, there's what looks to be a lot of  
27 groceries by the stove.

28 Were those purchased by your mom or your dad?

1 A. Uh-huh.  
2 Q. Do you know when they were purchased?  
3 A. No.  
4 Q. Did your mom go to the store just before she was  
5 killed?  
6 A. Uh, I -- yes.  
7 Q. Any idea how long?  
8 A. No.  
9 Q. Okay. Whose job was it to put those groceries  
10 away?  
11 A. Well, it was -- we'd switch off.  
12 Q. Whose job was it this time that didn't get them put  
13 away?  
14 A. I think my mom's.  
15 Q. Josh, did your dad drink beer?  
16 A. Yeah.  
17 Q. Very often?  
18 A. Yeah.  
19 Q. What kind did he drink, if you know?  
20 A. Lowenbrau.  
21 Q. Lowenbrau?  
22 A. Uh-huh.  
23 Q. Did you ever see him drink Oly Gold?  
24 A. Sometimes.  
25 Q. Do you know if he had any beers to drink from the  
26 refrigerator of an Oly Gold type?  
27 A. No.  
28 Q. Do you know if your mom bought beer when they

010599



- 1     bought the other groceries?
- 2           A.     Yeah.
- 3           Q.     She did buy beer.
- 4                   Did you see your dad have any of those beers that
- 5     she bought?
- 6           A.     Yeah. She used to keep them in the barn in the
- 7     little refrigerator.
- 8           Q.     Oh, there was a refrigerator in the barn?
- 9           A.     Yeah.
- 10          Q.     Speaking of the barn, you are talking about that
- 11     area of your house that is right here virtually outside your
- 12     bedroom.
- 13          A.     Yes.
- 14          Q.     And at the barn was there a light right over the
- 15     main door?
- 16          A.     Yeah.
- 17          Q.     And would that light come on each time at night?
- 18          A.     Yes.
- 19          Q.     And when it would come on, would it light up the
- 20     yard around this area?
- 21          A.     Just by the swing set.
- 22          Q.     By the swing set?
- 23          A.     Yeah.
- 24          Q.     Now, Josh did you have curtains in your room?
- 25          A.     No.
- 26          Q.     Did Jessica have curtains in her room?
- 27          A.     Nope.
- 28          Q.     How about your mom and dad. Did they have curtains

1 in their room?

2 A. I can't remember.

3 Q. Okay. Would that light shine into the rooms?

4 A. No.

5 Q. Was it fairly light in your room, when you'd go to

6 sleep at night?

7 A. Sometimes.

8 Q. Um, had you had any problems before the attack on

9 your mom and dad with somebody breaking into your house?

10 A. No.

11 Q. Okay. Had you played outside with that light on by

12 the barn?

13 A. No, except when we got our new gocart and we'd test

14 ride it out in that big area, was the only time.

15 Q. Do you know where your mom and dad slept most of

16 the time?

17 A. Yeah. In their room.

18 Q. Well, all right. Did they sleep on one side of the

19 bed or the other?

20 A. Yeah. My mom slept on the left side and my dad

21 slept on the right.

22 Q. Okay. Can you tell me, was your dad closest to the

23 sliding glass doors in the bedroom or furthest away?

24 A. Furthest away.

25 Q. Your mom was closest to the sliding glass doors?

26 A. Yes.

27 Q. Okay. And did your mom and dad have closets in the

28 bedroom?

1 A. Yeah. Two.  
2 Q. All right. And was one closet your mom's and one  
3 your dad's?  
4 A. Yes.  
5 Q. Do you know which was which?  
6 A. Yeah. The back one here was my mom's and this one  
7 closest to the bed was my dad's.  
8 Q. The one closest to the bed was your dad's closet?  
9 A. Yes.  
10 Q. And he slept closest to that closet at night?  
11 A. Yes.  
12 Q. Okay. We have a diagram here, Josh. What I would  
13 like you to do is, first of all, I have shown you this diagram  
14 just a minute, few minutes ago; is that correct?  
15 A. Yes.  
16 Q. I would ask your grandmother to hold those or hold  
17 it. What I would like you to do, first of all, is take this  
18 blue pen and if you would write "Josh Ryen" up there on that  
19 piece of —  
20 A. This piece?  
21 Q. Yeah. Okay. And put today's date, "12-9-84".  
22 A. (Witness complied).  
23 Q. All right. Now, do you see around this diagram  
24 where your mom and dad's bedroom is?  
25 A. Right here.  
26 Q. Okay. Would you write "dad" on the side of the bed  
27 that he normally slept on. Is this the bed?  
28 Q. Yes.

018602



1           A.    Okay. And your mom on the side she normally slept  
2    in.  
3           A.    (Witness complied).  
4           Q.    Great. Did either your mom or dad wake up easy at  
5    night?  
6           A.    My mom.  
7           Q.    Your mom would wake up easy?  
8           A.    Yeah. If she heard a cricket.  
9           Q.    It would wake her up?  
10          A.    Yeah.  
11          Q.    How about Jessica. Did she wake up easy?  
12          A.    Pretty easy.  
13          Q.    And how about yourself?  
14          A.    Sorta.  
15          Q.    Sometimes?  
16          A.    Yeah. Sometimes I would wake up early and  
17    sometimes not.  
18          Q.    When I say easy, not necessarily waking up early in  
19    the morning, but if you heard something in the night, who would  
20    normally wake up?  
21          A.    My mom.  
22          Q.    And --  
23          A.    And sometimes me.  
24          Q.    Okay. And how about your dad. Was he a heavy  
25    sleeper?  
26          A.    Yeah.  
27          Q.    Could you explain whose room is whose in the  
28    diagram.

1 A. Like the whole thing, or just the rooms?  
2 Q. Do you see your room in there?  
3 A. Yeah. It is right here.  
4 Q. Okay. Could you write "Josh" in that room.  
5 A. (Witness complied).  
6 Q. And do you see Jessica's room?  
7 A. Right here.  
8 Q. Would you write "Jessica" in that room.  
9 A. (Witness complied).  
10 Q. Okay. You can sit up back on the seat again,  
11 please, Josh.  
12 I'd like to take you back for just a moment to that  
13 Saturday before your mom and dad and Chris and Jessica were  
14 killed.  
15 Did you get up early that morning?  
16 A. Saturday?  
17 Q. Yes.  
18 A. Yes.  
19 Q. And after you got up, what did you do?  
20 A. I dressed.  
21 Q. All right. When you got dressed, what did you do  
22 next?  
23 A. Eat breakfast.  
24 Q. And after that breakfast, what did you do?  
25 A. Watched television.  
26 Q. When you had breakfast, did you have any dishes for  
27 breakfast? Where did you put them?  
28 A. We put them in the cabinet.

018604

- 1 Q. Did you wash them all?
- 2 A. Yes.
- 3 Q. And after you watched television, did you have any
- 4 chores that you did?
- 5 A. Yeah.
- 6 Q. And what chores were those?
- 7 A. Clean my rabbits cage, and than make my bed, clean
- 8 my room, and sometimes I would feed the dogs and the cats.
- 9 Q. When you talk about the dogs, how many dogs did you
- 10 have at your house?
- 11 A. Four.
- 12 Q. Do you know their names?
- 13 A. Ruffy, Charlie, J.J. and Pipes.
- 14 Q. What kind of a dog was Ruffy?
- 15 A. Irish Setter.
- 16 Q. And Charlie
- 17 A. Golden Retriever.
- 18 Q. Golden Retriever. And J.J.?
- 19 A. Lhasa Apso.
- 20 Q. Never heard of it.
- 21 A. Lhasa Apso.
- 22 Q. You may be right?
- 23 A. Lhasa Apso.
- 24 Q. Big dog or little dog?
- 25 A. Small, little house dog.
- 26 Q. And Charlie? Or did he --
- 27 A. Golden Retriever. J.J.
- 28 What was the other?



1 A. Pipes.  
2 Q. Pipes.  
3 A. Bearded Collie.  
4 Q. Did any dogs stay in the house?  
5 A. Yes.  
6 Q. Which dogs?  
7 A. All four of them.  
8 Q. All four. Were they friendly dogs?  
9 A. Yeah.  
10 Q. Did they ever bite anyone?  
11 A. No.  
12 Q. Did they bark a lot in the house?  
13 A. Sometimes.  
14 Q. When they barked, would somebody tell them to shut  
15 up?  
16 A. Yeah.  
17 Q. Who?  
18 A. I would just hear "shut up".  
19 Q. Let me stop for just a second. You just hear "shut  
20 up"?  
21 A. Yes.  
22 Q. Would they shut up when they were told to shut up?  
23 A. Well, they'd bark a few times after that, then  
24 they'd be quiet.  
25 Q. Okay. Did you have lunch that Saturday after you  
26 had done your chores and fed the animals and everything?  
27 A. Yes.  
28 Q. Do you recall what you had for lunch?

018606

- 1 A. Pancakes rolled up in sugar.
- 2 Q. Who made pancakes for you?
- 3 A. Well, it was left over from Saturday morning when
- 4 we had pancakes, and we had leftovers, so I rolled them up in
- 5 sugar and eat them.
- 6 Q. After lunch, did you go down to Chris' house?
- 7 A. Yes.
- 8 Q. And do you know Chris' last name?
- 9 A. Hughes.
- 10 Q. He was a good friend of yours?
- 11 A. Yeah.
- 12 Q. Okay. And how did you get down to Chris' house?
- 13 A. Bike.
- 14 Q. And what kind of bike did you have?
- 15 A. Schwinn.
- 16 Q. What kind?
- 17 A. Schwinn.
- 18 Q. Schwinn brand, yes. But was it a racing bike,
- 19 motorcross bike?
- 20 A. Oh, just a BMX.
- 21 Q. BMX. After you rode down to Chris' house, what did
- 22 you do?
- 23 A. We played with his slot machine.
- 24 Q. And what else?
- 25 A. And his remote control car.
- 26 Q. Did you go to the creek?
- 27 A. A lot of times.
- 28 Q. Did you go that Saturday?

018607

1 A. I -- yep.

2 Q. And did you walk, ride bikes, take a car, how did  
3 you get to the creek?

4 A. We rode bikes.

5 Q. Anyone else go with you besides Chris?

6 A. No. Just me and Chris.

7 Q. When you came down back to Chris' house, what did  
8 you do?

9 A. Played Atari?

10 Q. Can you recall the games?

11 A. We played, Pitfall, Donkey Kong and Centipede.

12 Q. How did you do in Pitfall?

13 A. Just about got to the goal.

14 Q. Didn't quite make it?

15 A. No. Scorpion got me.

16 Q. At some point during the afternoon, when you were  
17 playing with Chris, did he ask his mom and dad to go to the  
18 Blade Barbecue with you and stay over at your house?

19 A. Yep. We first went up and asked my mom and she  
20 said, yep. So we rode back down and his mom said yes.

21 Q. So, did Chris take anything up to your house to  
22 spend the night with?

23 A. Yes. A book bag with some clothes in it.

24 Q. Do you recall what kind of clothes he took?

25 A. Just regular clothes.

26 Q. Your trip backup to the house, about what time was  
27 that?

28 A. Oh, around maybe 3:00, 2:00, around there.

018608



1 Q. What time were you supposed to go to the barbecue  
2 at the Blades?

3 A. What time did it start, or what time we had to  
4 leave? It started at 7:00 and we left like around here at 6:30.

5 Q. When you said "around here", you mean at your old  
6 house?

7 A. Yes.

8 Q. I would like to show you a picture now, 233. Do  
9 you see your bike in that picture Josh?

10 Would you write "Josh" next to that.

11 A. (Witness complied).

12 Q. Do you see Jessica's bike?

13 A. Right there.

14 Q. Would you write "Jessica".

15 A. (Witness complied).

16 Did you -- do you see Chris's bike in that picture  
17 there?

18 A. Right there.

19 Q. Would you write "Chris" by it.

20 A. (Witness complied.) What's that?

21 Q. That's a Sheriff's patrol car.

22 Did everyone get ready to leave to go to the Blade  
23 barbecue?

24 A. Um, what time?

25 Q. Well at some point in the evening.

26 A. Yeah.

27 Q. At some point in the evening, either before you  
28 went -- or excuse me. Before you got dressed or after you got

018609

1 dressed, did somebody come up to your place looking for work?  
2 A. Yep.  
3 Q. And who was that?  
4 A. Three Mexicans.  
5 Q. What were they driving, if anything?  
6 A. Like a little -- you know, the kind of like not  
7 really a truck, but a car that has like a truck back end.  
8 Q. And was there anything --  
9 A. Blue with a white camper shell.  
10 Q. Okay. A very small truck?  
11 A. It was a car, but it had like a back end like a  
12 truck.  
13 Q. And did those three Mexicans talk to anyone?  
14 A. Yeah. They talked to my dad.  
15 Q. And anyone else?  
16 A. No.  
17 Q. Did your dad say anything after he talked to the  
18 Mexicans?  
19 A. No. Just looking for work.  
20 Q. Okay. Did you talk about the Mexicans with your  
21 mom or your dad after that?  
22 A. No.  
23 Q. Hear either of them talk about them?  
24 A. Nope.  
25 Q. Had you ever seen those three Mexicans before?  
26 A. No.  
27 Q. Had your dad said that he had seen the three  
28 Mexicans before?

018610

1 A. No.  
2 Q. Or your mom?  
3 A. No.  
4 Q. Or anyone else?  
5 A. No.  
6 Q. Okay. Was that before you got dressed to go to the  
7 Blade barbecue or after?  
8 A. After. Just when we were leaving.  
9 Q. Just as you were leaving.  
10 When you went to the Blade barbecue, what did you  
11 drive in?  
12 A. The truck.  
13 Q. I would like to show you picture 214. Do you  
14 recognize this truck?  
15 A. That's ours.  
16 Q. Is that the truck that you drove in?  
17 A. Yeah.  
18 Q. Where were the keys for this truck when you left?  
19 A. Uh, you mean under the seat?  
20 Q. Is that where they were normally kept?  
21 A. Sometimes.  
22 Q. Now, when you went to the barbecue, who went with  
23 you?  
24 A. My mom, my dad, my sister and me and Chris.  
25 Q. And while you were at the barbecue, what did you  
26 do?  
27 A. Played tag.  
28 Q. With who?



- 1 A. Some other kids.
- 2 Q. And what did you have to eat?
- 3 A. I had a piece of watermelon, and hamburger, a coke,
- 4 and that's it.
- 5 Q. What did your mom and dad have?
- 6 A. I don't know because I was playing.
- 7 Q. Okay. Did you see what Jessica had?
- 8 A. No.
- 9 Q. Did you see your mom have any wine to drink at the
- 10 party?
- 11 A. Uh, not that I know of.
- 12 Q. How about your dad?
- 13 A. Yes.
- 14 Q. He had a glass of wine?
- 15 A. Yeah.
- 16 Q. Okay. And then you came back home after the party
- 17 or the barbecue at the Blade house, right?
- 18 A. Yes.
- 19 Q. And when you got back home, did you see what your
- 20 dad did with the keys to the truck?
- 21 A. No.
- 22 Q. All right. When you came home, was the station
- 23 wagon still in the driveway?
- 24 A. Yes.
- 25 Q. I would like to show you 181. Do you recognize the
- 26 car in that picture?
- 27 A. Yeah.
- 28 Q. Whose car is that?

- 1 A. My dad's.
- 2 Q. And where were the keys to this car kept?
- 3 A. Normally?
- 4 Q. Yes.
- 5 A. Sometimes in the ignition, sometimes under the
- 6 seat, sometimes on the dashboard and sometimes in the bedroom.
- 7 Q. But most of the time where would you find the keys
- 8 to the car?
- 9 A. In the bedroom.
- 10 Q. Do you know where the keys to the car were the
- 11 night that you went to the barbecue at the Blades house?
- 12 A. No.
- 13 Q. After you returned home, who was the first to go
- 14 into the house?
- 15 A. My mom.
- 16 Q. Was the door locked or unlocked?
- 17 A. Locked.
- 18 Q. And did you see her unlock the door?
- 19 A. Yes.
- 20 Q. Do you normally keep the doors around the house all
- 21 locked when you are gone or are they left unlocked?
- 22 A. Unlocked.
- 23 Q. And after you got into the house, did anyone have
- 24 anything else to eat?
- 25 A. No.
- 26 Q. Did you see anyone have anything to drink?
- 27 A. I had a glass of water and that's it.
- 28 Q. Did you see your mom and/or dad have any wine?

018613

1 A. No.

2 Q. Were the dishes in the sink when you had your glass  
3 of water?

4 A. Yes.

5 Q. Do you know where the dishes came from?

6 A. Yeah.

7 Q. Were they left over from breakfast?

8 A. Yeah.

9 Q. At that point in time when you came in, was anyone  
10 bleeding from a cut of any kind?

11 A. No.

12 Q. No one had any injuries to themselves?

13 A. No.

14 Q. After you got in the house, where did you go, after  
15 you had your drink of water?

16 A. My room.

17 Q. And did Chris go with you?

18 A. Yes.

19 Q. What did you do when you got to your room?

20 A. Uh, talked and looked at magazines.

21 Q. What did you talk about?

22 A. Getting new bikes,

23 Q. And where did you sleep that night?

24 A. On the floor.

25 Q. Okay. I would like to show you a couple pictures.  
26 First of all, Photograph 200. Do you recognize the bed in that  
27 picture.

28 A. Yeah, it's mine.

018614



- 1 Q. And also Photograph 199. Are those yours and  
2 Chris' sleeping bags on the floor?
- 3 A. Yes.
- 4 Q. Which one is yours?
- 5 A. The blue one.
- 6 Q. The blue one, and Chris' is the white one?
- 7 A. Yeah.
- 8 Q. Is that how your bed looked that night?
- 9 A. Yeah.
- 10 Q. You didn't make it?
- 11 A. No.
- 12 Q. Do you know where your mom slept that night?
- 13 A. Yes.
- 14 Q. Where?
- 15 A. In her room.
- 16 Q. You're dad?
- 17 A. Same.
- 18 Q. And Jessica?
- 19 A. In her room.
- 20 Q. Everybody go to bed about the same time?
- 21 A. My dad stayed up a little longer.
- 22 Q. Do you know what he was doing?
- 23 A. No. Watching television.
- 24 Q. And where did he watch television?
- 25 A. In the living room.
- 26 Q. Did he have a chair he normally sat in?
- 27 A. The rocking chair.
- 28 Q. Towards the back that you just pointed to?

010615

- 1 A. Yeah. Right there.
- 2 Q. Where is the television in that room, if you see an  
3 outline of it that you can recognize.
- 4 A. Right here.
- 5 Q. Okay. Do you know what time your dad went to bed?
- 6 A. No.
- 7 Q. Were you and Chris still talking after the  
8 television was turned off?
- 9 A. No. We fell asleep.
- 10 Q. Can you hear the television from your room?
- 11 A. No.
- 12 Q. All right. And there was some bedding in the  
13 living room. I'm showing you Exhibit 187, looks like a Raggedy  
14 Ann and Andy type of sleeping bag, and maybe blanket.  
15 Have you seen those before?
- 16 A. Yeah.
- 17 Q. Do you know what they were doing in the living  
18 room?
- 19 A. No.
- 20 Q. Is one of the dogs picture on the coffee table  
21 there?
- 22 A. Right there.
- 23 Q. Uh-huh. Who was that?
- 24 A. J.J..
- 25 Q. GiGi?
- 26 A. J.J.
- 27 Q. J.J. Would you write "J.J." over the dog.
- 28 A. On top of it?

018616

- 1 Q. Well, maybe you can put right here in the bedding  
2 next to it so it would just show up. Put an arrow that points  
3 to him.
- 4 A. (Witness complied).
- 5 Q. Had anyone stayed over at your house before that  
6 night and left the bedding in the living room?
- 7 A. No.
- 8 Q. Had your mom slept out in the living room before  
9 that night?
- 10 A. No.
- 11 Q. Did you kiss your mom and dad good night that  
12 night?
- 13 A. Yes.
- 14 Q. Where did you do that?
- 15 A. In the room.
- 16 Q. In your room? Did they come in and see you before  
17 you went to sleep?
- 18 A. Yes.
- 19 Q. And did you hear them saying "good night" to  
20 Jessica next door?
- 21 A. Yes.
- 22 Q. And then you went to sleep?
- 23 A. Yes.
- 24 Q. What was the next thing that you can remember?
- 25 A. When?
- 26 Q. After you went to sleep?
- 27 A. Waking up again.
- 28 Q. And what was it that caused you to wake up?



1 A. I wasn't sure.

2 Q. I think we may be getting a shadow, Dr. Howell. If

3 you could turn the lamp on. Great.

4 After you woke up, what was the next thing that you

5 remember hearing, seeing or doing?

6 A. Turning over on my side.

7 Q. And then what?

8 A. Falling back to sleep.

9 Q. And what happened after that?

10 A. Waking up again.

11 Q. And what caused you to wake up again?

12 A. Uh, scream.

13 Q. Could you recognize the voice of the scream?

14 A. No.

15 Q. What did you do after you heard the scream?

16 A. Got up.

17 Q. And then what?

18 A. Walked.

19 Q. Where did you go walk?

20 A. Through the hall.

21 Q. Showing you the diagram again. Would you please

22 point the direction that you walked through the hall.

23 A. Okay. We were sleeping on the floor, and we came

24 along like that and we stopped here at laundry room and then,

25 uh, then I don't know.

26 Q. When you say "we", who was with you?

27 A. Me and Chris.

28 Q. All right. Did he wake up at the same time you

1 did?  
2 A. No.  
3 Q. Did you wake him up?  
4 A. Yeah, in the bedroom.  
5 Q. What did you say to him?  
6 A. "Get up".  
7 Q. And what else?  
8 A. "I heard something".  
9 Q. And did he go with you?  
10 A. Yes.  
11 Q. When you got to the hallway by the laundry room,  
12 what did you see?  
13 A. Dark.  
14 Q. And what happened next?  
15 A. Um, I don't remember.  
16 Q. And after you got there towards the laundry room,  
17 did you go on towards your mom and dad's room?  
18 A. Yes.  
19 Q. And what happened after that?  
20 A. I don't know.  
21 Q. What was the first thing you remember seeing as you  
22 went toward your mom and dad's room?  
23 A. A wall.  
24 Q. And then what?  
25 A. A door.  
26 Q. And what was in the door?  
27 A. Nothing.  
28 Q. What happened next?

018619

1 A. I don't know.  
2 Q. Did you see Jessica?  
3 A. Yeah.  
4 Q. Where was she?  
5 A. Right by the door. Here's the door and here's her.  
6 Q. Can you point on the diagram to where she was.  
7 A. Is this -- yeah. She's right here.  
8 Q. Would you write "Jessica" in that area.  
9 A. (Witness complied).  
10 Q. Where were you when you saw Jessica in that  
11 position?  
12 A. Right here.  
13 Q. And from that position could you reach up and touch  
14 her?  
15 A. No.  
16 Q. Did you walk up close enough to touch her?  
17 A. No.  
18 Q. What did you do after you saw Jessica there?  
19 A. Started walking.  
20 Q. And where did you go?  
21 A. A little closer.  
22 Q. Got a little closer. Could you see anything else  
23 besides Jessica in the hallway?  
24 A. No.  
25 Q. At some point in time could you see your mom or dad  
26 in the bedroom?  
27 A. No.  
28 Q. When you got by Jessica, and looked in the bedroom,

018620



- 1     what did you see?
- 2           A.     Um, dark.
- 3           Q.     And what else?
- 4           A.     I don't remember.
- 5           Q.     Did you hear any sounds in the house after you got
- 6     Chris up and started to walk down the hall?
- 7           A.     No.
- 8           Q.     Any screams from anybody?
- 9           A.     (Witness shaking head).
- 10          Q.     Any words? Nothing?
- 11          A.     No.
- 12          Q.     After you saw Jessica, what was it that you and
- 13     Chris did next?
- 14          A.     I don't remember.
- 15          Q.     At some point in time did you walk away from
- 16     Jessica?
- 17          A.     Um, I don't remember.
- 18          Q.     Did you go into the laundry room?
- 19          A.     I looked in there but I didn't go in.
- 20          Q.     Did you hide?
- 21          A.     Um, well we started getting a little scared.
- 22          Q.     And what did you do then?
- 23          A.     Then I started to look around.
- 24          Q.     And what happened next?
- 25          A.     I don't remember.
- 26          Q.     After you saw Jessica in the doorway, did you hear
- 27     Chris call your name at all?
- 28          A.     No.

1 Q. What was the next thing that happened after Jessica  
2 was seen by you in the doorway? What can you recall, if  
3 anything?

4 A. Nothing that I can --

5 Q. At that period of time, where was Chris when you  
6 looked at Jessica?

7 A. Uh, right here right beside me.

8 Q. Right beside you?

9 A. Yeah.

10 Q. Did he leave your side?

11 A. Yeah. He came up to this side.

12 Q. And then what happened?

13 A. I don't remember.

14 Q. After seeing Jessica, do you remember anything else  
15 at all?

16 A. Just waking up.

17 Q. Do you remember being hit?

18 A. No.

19 Q. Did you ever see your mother or your father?

20 A. When I woke up.

21 Q. And where were they?

22 A. Right next to me there. It was my mom, and my dad  
23 was right over a little ways.

24 Q. When you say over a little ways, do you see in the  
25 diagram where he was located?

26 A. Right there. On the bed right there.

27 Q. Right where you wrote "Dad"?

28 A. Uh-huh.

01080927

- 1 Q. Do you see in the diagram where your mother was?  
2 A. Right here.  
3 Q. Would you write "Mother" where you saw her.  
4 A. (Witness complied).  
5 Q. And do you see in that diagram where Chris Hughes  
6 was when you woke up?  
7 A. Um, right here.  
8 Q. Would you write "Chris".  
9 A. (Witness complied).  
10 Q. And do you see where you were?  
11 A. Right here.  
12 Q. Would you write "Josh" there.  
13 A. (Witness complied).  
14 Q. Were you ever in your mom and dad's bathroom that  
15 evening after you heard the screams?  
16 A. No.  
17 Q. Did you ever see Chris injured that evening?  
18 A. Nope.  
19 Q. Did you see your father leaning up against the bed  
20 at all before you were hit?  
21 A. No.  
22 Q. And before you were hit, did you see your mother  
23 laying in the middle of the room?  
24 A. Nope.  
25 Q. Do you know if you were hit before or after Chris?  
26 A. I don't know.  
27 Q. You don't know?  
28 A. No.



1 Q. Did you hear Chris call out or say anything to you?  
2 A. Huh-uh.  
3 Q. Do you know how you got from where Jessica is in  
4 the doorway to the place where you have written your name in the  
5 bedroom?  
6 A. No.  
7 Q. Showing you 194, a picture. Do you recognize that?  
8 A. It is the laundry room.  
9 Q. Were you ever in the laundry room?  
10 A. When?  
11 Q. That night.  
12 A. No.  
13 Q. Do you remember the paramedics coming?  
14 A. No.  
15 Q. What was the first thing you remember after waking  
16 up?  
17 A. Uh, hearing Bill Hughes say, "Can you open the  
18 door?"  
19 Q. And where was he standing?  
20 A. Right there.  
21 Q. Would you write "Bill Hughes" in that area.  
22 A. What should I write, "Bill?"  
23 Q. All right. That would be fine.  
24 A. Just write "Bill".  
25 A. (Witness complied).  
26 Q. After you saw him at that door, what's the next  
27 thing that you remember?  
28 A. Um, being picked up.

018624

1 Q. In what way?  
2 A. I don't remember.  
3 Q. When you say "picked up", you mean people picking  
4 you up or what? Lifting up your head or lifting up your whole  
5 body?  
6 A. I felt my head go like that.  
7 Q. In that point in time, do you know how many people  
8 were around you?  
9 A. No.  
10 Q. Do you know what they were doing to you?  
11 A. No.  
12 Q. Could you feel anything?  
13 A. Just my head going up.  
14 Q. Did you feel any injuries?  
15 A. No.  
16 Q. Were you taken from your house at that time?  
17 A. Yeah.  
18 Q. How were you taken?  
19 A. I don't remember.  
20 Q. Do you remember being taken on a helicopter?  
21 A. Yes.  
22 Q. And do you remember people talking to you?  
23 A. No.  
24 Q. Do you remember anything you said?  
25 A. No.  
26 Q. Do you have some injuries?  
27 A. Yeah.  
28 Q. What kind of injuries?

COMPUTERIZED TRANSCRIPT

0100625

- 1 A. What do you mean?
- 2 Q. Well, where did you hurt? Where were you hurt?
- 3 A. My ear, my back, my neck, and that's it.
- 4 Q. Do you remember which injury or which pain you got
- 5 first?
- 6 A. No. I couldn't even feel them.
- 7 Q. The first time when you were knocked out?
- 8 A. No, I couldn't feel them when they were -- I was
- 9 flying in the chopper.
- 10 Q. No. What I'm concerned about now, Josh, is back
- 11 when you were looking at Jessica, do you remember where you were
- 12 hit or hurt first as you were looking at her?
- 13 A. No.
- 14 Q. Okay. Just kind of as though you could see her at
- 15 one point and another point you were out?
- 16 A. Yes.
- 17 Q. How long did you spend in the hospital?
- 18 A. I don't know.
- 19 Q. Any idea? Days? Weeks?
- 20 A. Maybe two weeks, or more.
- 21 Q. Have you recovered now?
- 22 A. Yeah.
- 23 Q. Do you still have any scars?
- 24 A. Yeah.
- 25 Q. Where did you have your scars?
- 26 A. In my ear. And you can barely see one on my back
- 27 and on my neck.
- 28 Q. Do you have scars on your head?

COMPUTERIZED TRANSCRIPT



1 A. Yeah. Right here.  
2 Q. Right at the top. You are pointing to your kind of  
3 left side now.  
4 A. Yeah. Right here.  
5 Q. And when you say to your ear, where on your ear do  
6 you have the scar?  
7 A. Right back here.  
8 Q. And do you still have a scar on your throat?  
9 A. Yeah.  
10 Q. Where is that?  
11 A. Right here.  
12 Q. Have you tried to forget what happened that night?  
13 A. Yeah.  
14 Q. What effort have you made? What have you done to  
15 try and forget?  
16 A. Think happy thoughts.  
17 Q. All right. Let me stop and change the tape at this  
18 point. Stop for just -- we still have a few minutes left on the  
19 same tape, so we will continue. We also moved you over in  
20 between the lights to try and get some lighting on you.  
21 Josh, do you remember talking to a Sheriff's deputy  
22 or detective in the hospital?  
23 A. O.C. Bill Arthur.  
24 Q. And when you talked to them, do you remember  
25 telling them that you hid in the laundry room?  
26 A. I'm not sure.  
27 Q. Did you hide in the laundry room?  
28 A. No. But like -- see, like here's the laundry room.

1 I went in a little ways and looked, and then I went just back  
2 out.

3 Q. When you went in the laundry room, did you leave  
4 Chris out in the hallway? You will have to answer outloud.

5 A. Yep.

6 Q. Okay. And when Chris was in the hallway, did you  
7 hear him call "Josh, Josh, Josh"?

8 A. No, no, no.

9 Q. All right. Did you tell that to Bill Arthur and  
10 Hector O'Campo?

11 A. They didn't ask me.

12 Q. Did you make any statements about hearing Chris  
13 Hughes run around the center of the house?

14 A. No.

15 Q. By "the center", I mean through the hallway.

16 A. No.

17 Q. You can virtually run a great big circle by just  
18 running the hallway, right?

19 You don't recall hearing Chris run through the  
20 hallway then.

21 A. No.

22 Q. Do you recall telling O.C. or Billy Arthur that you  
23 saw your dad, after you saw Jessica, leaning up against the bed?

24 A. No. They didn't say anything.

25 Q. Do you recall telling Billy Arthur that after you  
26 went into the laundry room, you came back out, saw Jessica, your  
27 dad, in the same position, and your mom, now, on the other side  
28 of Jessica, and Chris Hughes on the other side of your mom?

1 A. Uh-huh.  
2 Q. Did you tell them that?  
3 A. Yes.  
4 Q. Was that true?  
5 A. Yes.  
6 Q. When did you see that?  
7 A. I don't know the exact time.  
8 Q. Well, was it before you were hid or after?  
9 A. After.  
10 Q. When you were laying down on the floor?  
11 A. Uh-huh.  
12 Q. Yes or no.  
13 A. Yes.  
14 Q. Okay. And while you were laying on the floor and  
15 saw Chris Hughes, did you ever hear any sounds that were like he  
16 was still alive?  
17 A. No. Nothing.  
18 Q. Is there anything that you want to add to what  
19 happened that night; any part of the story that we may have left  
20 out?  
21 A. No.  
22 MR. KOTTMEIER: I have nothing further to ask.  
23 MR. NEGUS: I just have one or two questions.  
24  
25 CROSS EXAMINATION  
26 BY MR. NEGUS:  
27 Q. Did you get to know O.C. when you were in the  
28 hospital?

0186269



1 A. Yep.

2 Q. Was he a nice guy?

3 A. Well, yeah.

4 Q. Did he like talk to you about baseball and things  
5 like that?

6 A. Yes.

7 Q. Did you also talk to him about what had happened to  
8 you?

9 A. Yes.

10 MR. NEGUS: Thank you. That's all I have.

11

12 REDIRECT EXAMINATION

13 BY KOTTMEIER:

14 Q. Just one other factor that we may have covered in  
15 my earlier questions. I just want to make sure we have it down.

16 Did you ever see anybody in the house that didn't  
17 belong there?

18 A. I can't really tell at night, 'cause it could be  
19 anyone. It could be my mom or something.

20 Q. And I guess what I am asking you is, did you see  
21 anyone that you knew shouldn't be in your house?

22 A. No, because it could have been someone like my mom  
23 or something. You can't really tell in the dark.

24 Q. And when you say it could have been someone like  
25 your mom, who are you talking about, or what did you see that --

26 A. I don't really -- saw like a shadow or something.

27 Q. Where did you see the shadow?

28 A. Like the bathroom was here. I saw it right like

018630

1 the bathroom.

2 Q. By the bathroom?

3 A. Yeah.

4 Q. When did you see the shadow?

5 A. When I saw my sister.

6 Q. And how many shadows did you see?

7 A. Just one.

8 Q. Just the one?

9 A. Could you see what that shadow by the bathroom was

10 doing?

11 A. No.

12 Q. Did you hear any talking at that point?

13 A. No.

14 Q. Just to make sure we're somewhat clear as to

15 where -- let's do it this way.

16 When you were by Jessica, this is before you got

17 hit, right?

18 A. Yep.

19 Q. You saw a shadow somewhere in the bathroom or

20 bedroom.

21 A. Right here.

22 Q. You are indicating right here?

23 A. That's where I saw the shadow on the wall.

24 Q. Would you write "Shadow" in that area.

25 A. How do you spell it?

26 Q. S-h-a-d-o-w.

27 A. (Witness complied.)

28 Q. But you don't know who that was?

018631

1 A. No.

2 Q. When you saw a shadow, do you know whether it was  
3 the person standing here or a person somewhere in the room?

4 A. It -- I don't really know, because the shadow could  
5 be from a far distance or right there.

6 Q. Could you see any light at that point?

7 A. No.

8 Q. It was dark.

9 A. Yeah. It was pretty -- the sun was just like  
10 coming up. Just like almost dusk.

11 Q. All right. You don't know what time it was when  
12 you heard your mother scream though, do you?

13 A. No.

14 Q. Do you know if it was your mother who screamed?

15 A. No.

16 Q. So you have no idea who it was you heard scream.

17 A. No.

18 Q. Could it have been Jessica?

19 A. It could have been. I don't know.

20 MR. KOTTMEIER: Okay, Josh. I have no further questions,  
21 Dr. Howell, is there anything that you'd like to  
22 ask Josh?

23 MRS. HOWELL: No.

24 MR. KOTTMEIER: Thank you very much, Josh.

25 THE COURT: Ladies and gentlemen, we're going to have a  
26 recess that will permit them to take down the equipment, and I  
27 think next you will hear an audio tape of another interview.

28 So, remember particularly the admonition I have

010632



# EXHIBIT O

COPY

CASE NO. CRIM 24552

SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE  
OF CALIFORNIA,

PLAINTIFF,

-VS-

KEVIN COOPER,

DEFENDANT.

SUPERIOR COURT  
NO. CR-72787  
MOTIONS

APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY

HONORABLE RICHARD C. GARNER, JUDGE PRESIDING

REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: HON. JOHN D. VAN DE KAMP  
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FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

REPORTED BY:

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C.S.R. NO. 1109  
AND  
JUDITH L. MORRIS  
C.S.R. NO. 2400  
OFFICIAL REPORTERS

VOLUME ~~45~~ OF 50

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010701



1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF SAN BERNARDINO  
3

4 THE PEOPLE OF THE STATE )  
5 OF CALIFORNIA, )

6 Plaintiff, )

7 vs. )

8 KEVIN COOPER, )

9 Defendant. )

NO. OCR-9319

CR-72787

VOLUME 40

Pgs. 4100 thru 4212, incl.

10  
11 REPORTERS' DAILY TRANSCRIPT

12 BEFORE HONORABLE RICHARD C. GARNER, JUDGE

13 DEPARTMENT 10 - SAN BERNARDINO, CALIFORNIA

14 Monday, June 25, 1984

15 APPEARANCES:

16 For the Plaintiff:

DENNIS KOTTMEIER  
District Attorney

17 DENNIS KOTTMEIER  
18 District Attorney  
19 By: JOHN P. KOCHIS  
Deputy District Attorney

20 For the Defendant:

DAVID McKENNA  
Public Defender  
21 By: DAVID NEGUS  
22 Deputy Public Defender

23 Reported by:

24 LEONARD D. GUNN  
Official Reporter  
C.S.R. No. 1109  
and  
25 JUDITH L. MORRIS  
Official Reporter  
26 C.S.R. No. 2400

0-1-007-002



1 A Oh, I would say around 50 perhaps, approximately. It  
2 was pretty crowded. Fifty to sixty.

3 MR. KOCHIS: I have nothing else.

4 THE COURT: Mr. Negus.

5 MR. NEGUS: Nothing further.

6 THE COURT: Thank you very much, Ms. Killian.

7 THE WITNESS: Thank you.

8 MR. NEGUS: Luis Simo.

9 THE CLERK: Raise your right hand, please.  
10

11 L U I S S I M O, called as a witness by and on behalf of  
12 the People, was sworn and testified as follows:

13 THE CLERK: Please be seated. State your name,  
14 please, for the record and spell your first and last name.

15 THE WITNESS: My name is Luis Simo, L-u-i-s,  
16 S-i-m-o.  
17

18 DIRECT EXAMINATION

19 BY MR. NEGUS:

20 Q Mr. Simo, in June of 1983, were you a reserve deputy  
21 sheriff for the County of San Bernardino?

22 A Yes, I was.

23 Q And in that month were you assigned to provide security  
24 for Joshua Ryen?

25 A Yes, I did.

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1 A. The television was on, yes, and we were playing games.

2 Q. You were playing a card game?

3 A. Yes, I was.

4 Q. And basically the things that you were doing with Josh  
5 was trying just to keep him amused and make the time go  
6 by quickly for him?

7 A. Yeah, and build up his spirit type thing.

8 Q. Had you received any instructions not to have news about  
9 the case on television?

10 A. No, I did not.

11 Q. Had you received any instructions not to discuss the case  
12 with Josh?

13 A. No, I did not.

14 Q. On that particular evening on the news, did Kevin Cooper's  
15 picture appear on the screen?

16 A. Yes, it did.

17 Q. When Kevin Cooper's picture appeared on the screen, did  
18 Joshua make a comment?

19 A. Yes, he did.

20 Q. What was that comment?

21 MR. KOCHIS: Objection, hearsay.

22 THE COURT: Mr. Negus?

23 MR. NEGUS: This is one of the withheld pieces of  
24 information.

25 THE COURT: Withheld from whom? No reports or any-  
26 thing about it?

1 MR. NEGUS: Reports were not made until May the 15th  
2 when Mr. Simo read about this in the paper and called Mr.  
3 O'Campo.

4 THE COURT: All right. Overruled.

5 Q (BY MR. NEGUS:) What did Josh say?

6 A He stated that that was not the guy who did it. The  
7 three Mexicans did it.

8 Q Did he say anything else about the three Mexicans?

9 A Yes. He stated that three Mexicans in a white pickup  
10 truck, possibly with a camper shell.

11 Q When Josh said that's not the guy that did it, was Kevin  
12 Cooper's picture on the television screen?

13 A Yes, it was.

14 Q Did you attempt to communicate this information to anybody?

15 A Yes, I did.

16 Q Who did you make contact with?

17 A I called the desk in the sheriff's office and requested  
18 to talk to Detective O'Campo.

19 Q Why did you try and get O'Campo?

20 A Well, because he had been there a couple of times and he  
21 was -- I thought he was handling the case, so I went to  
22 call him to let him know about this information.

23 Q By the way, do you remember what shift you were working?

24 A It was a swing shift, from 4:00 on, 5:00 o'clock, right  
25 in there.

26 Q Until about midnight?



- 1 A Right in that area, yes.
- 2 Q When you got ahold of Mr. O'Campo, did you relay to him  
3 the information that you've relayed here in court?
- 4 A Yes, I did. First when I called the station he was not in,  
5 and I had him call me at the hospital, and which he did.  
6 And then I relayed that information.
- 7 Q Did Mr. O'Campo make any comment when you relayed the  
8 information?
- 9 A He stated something to the effect that, you know, he knew  
10 about the three Mexicans that had been in there prior  
11 looking for a job or something.
- 12 Q Did he describe anything about -- did he tell you anything  
13 about what he thought, why he thought Joshua said that?
- 14 A No. He said it could have been, you know, the trauma.  
15 Maybe we don't know. But the last people that were there  
16 were the Mexicans were there that he can remember.
- 17 Q Did you have any other contact with -- did Mr. O'Campo  
18 ever recontact you?
- 19 A No, he didn't.
- 20 Q Did anybody else ever recontact you from the sheriff's  
21 department?
- 22 A No.
- 23 Q In May of this year, did you read an article in the Sun  
24 Telegram about the testimony of a nurse in the hospital?
- 25 A Yes, I did.
- 26 Q When you read that article, did you again call Mr. O'Campo?

# **EXHIBIT P**



Copy

SUPREME COURT - STATE OF CALIFORNIA

THE PEOPLE OF THE  
STATE OF CALIFORNIA,

Plaintiff-Respondent,

vs.

KEVIN COOPER,

Defendant-Appellant.

SUPREME COURT NO. Crim 24552  
FROM SAN DIEGO COUNTY  
HON. RICHARD C. GARNER,  
JUDGE

San Diego County Superior Court Case No. CR 72787

REPORTERS' TRANSCRIPT

VOLUME 100

January 9, 1985, Pages 6059 through 6164  
January 10, 1985, Pages 6165 through 6282

APPEARANCES:

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For the Defendant  
and Appellant:

IN PROPRIA PERSONA

ROBERT L. ROACH, CSR #1727  
DONNA D. BEARD, CSR #1874  
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San Diego County Superior Court  
220 West Broadway  
San Diego, California 92101

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

MENT NO. 30

HON. RICHARD C. GARNER, JUDGE

PEOPLE OF THE STATE  
CALIFORNIA,

Plaintiff,

vs.

COOPER,

Defendant.

NO. OCR-9319

REPORTERS' TRANSCRIPT  
January 9, 1985

RANCES:

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ROBERT L. ROACH, CSR #1727  
DONNA D. BEARD, CSR #1874  
Official Reporters

COMPUTERIZED TRANSCRIPT

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1 1 SAN DIEGO, CALIFORNIA, WEDNESDAY, JANUARY 9, 1985 9:35 A.M..

2 --oo0oo--

3

4 THE COURT: Good morning.

5 Mr. Negus, your next witness is Mr. O'Campo?

6 MR. NEGUS: That is true.

7 THE COURT: Come forward, please.

8 You testified so long ago, let's have you take the  
9 oath again, please.

10

11 HECTOR L. O'CAMPO,

12 called as a witness on behalf of the Defendant, having been duly  
13 sworn, testified as follows:

14 THE CLERK: Thank you. Would you state your full name  
15 for the record and spell your last name, please.

16 THE WITNESS: Hector L. O'Campo. O-'-C-a-m-p-o.

17 THE COURT: Pull that a little closer to you, please.

18

19 DIRECT EXAMINATION

20 BY MR. NEGUS:

21 Q. Mr. O'Campo, what is your occupation?

22 A. I am a deputy Sheriff.

23 Q. And how long have you been a deputy Sheriff?

24 A. About thirteen and a half, fourteen years.

25 Q. All that time you have been with the County of San  
26 Bernardino?

27 A. Yes, sir.

28 Q. What is your present rank?

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1 6th?

2 A. I wouldn't describe it a conversation, no.

3 Q. Well, did you attempt to communicate with him, you  
4 by talking and he by sign language and mouthing words and  
5 writing?

6 A. Although at this point I don't specifically  
7 remember him mouthing words; however, after reading my report  
8 and noting that I did indicate that, I would agree with you that  
9 he mouthed words. I don't recall any motions or sign language.

10 Q. How about writing?

11 A. He did write something on that day, yes.

12 Q. During that period of time, that process, were you  
13 seated on the bed?

14 A. I don't know if I was on the bed or sitting on the  
15 bed or standing.

16 Q. Do you recall which side of the bed you were  
17 standing on or seated on?

18 A. No.

19 Q. You may be seated.

20 Getting back to the list that you prepared of the  
21 different -- of the different deputies that were guarding Josh;  
22 Mr. Gilliam's name, you got that from your own personal  
23 knowledge; is that correct?

24 A. No, I don't believe I did.

25 Q. Well, what kind -- how -- how did you determine  
26 that? How did you make up that particular list?

27 A. I think I talked to him.

28 Q. So essentially it was just word of mouth?

019810



1 A. As far as Deputy Gilliam, yes.

2 Q. How about -- how about the other names on the list?

3 A. May I see the list again?

4 Q. Once again, showing you 1976 through 1979 of the --  
5 of the discovery.

6 A. Well, according to the list that I compiled here, I  
7 would have had to probably have asked Deputy Sharp how long he  
8 stayed at the hospital Sunday, and he would have told me till  
9 7:00 p.m. because I didn't know, and that's the only way I can  
10 think of I could have received that information.

11 Q. Okay. What about the reserves?

12 A. Well, there is a blank from 7:00 p.m. Sunday till  
13 7:00 a.m. Monday, and if I didn't put it in it would have been  
14 because I was not able to ascertain who watched Josh during that  
15 period of time.

16 A reserve deputy, Tom Inglesman from the West End  
17 Reserve Unit, relieved Deputy Mike Gilliam on Monday at 3:30  
18 p.m., June the 6th. I think Deputy Gilliam would probably have  
19 told me that it was a reserve -- a West End Reserve Deputy who  
20 relieved him. I don't think he knew the reserve officer's name.

21 I would have probably have contacted the West End  
22 Substation and either spoke with the reserve commander or some  
23 officer in the reserve unit or the reserve coordinator, who is a  
24 regular deputy sheriff, where I probably would have recovered  
25 Reserve Officer Inglesman's name.

26 Q. Without touching on each name of each reserve  
27 that's on that list, is that the same general process that you  
28 followed all the way through until the morning of June the 18th

019811

1 when Josh left the hospital?

2 A. No, sir.

3 Q. At some point in time did somebody start keeping a  
4 list?

5 A. At some point in time I believe there was a list.  
6 There was either at list or one of the reserve officers kept  
7 notes. And when I started checking he would have given me the  
8 information either from his list or his notes.

9 Q. Okay. So there wasn't any official list kept, just  
10 you got that information, essentially pieced it together from  
11 the people who had been there?

12 A. From the people who had been there or the people  
13 who were aware of the people that had been there.

14 Q. Did you yourself take notes of your activities on  
15 June the 6th?

16 A. Only -- only with regards to recovering the bag  
17 containing Josh's hair and taking the information from Deputy  
18 Gilliam as to where he received it from, or who he received it  
19 from, with regards to asking Dr. Mary Howell's permission to  
20 release family photographs to the press, to getting Mrs.  
21 Howell's address and home phone number. That would have been  
22 the extent of my notes, I believe, on that Monday June the 6th.

23 Q. Were those notes -- what have you -- where are  
24 those notes now?

25 A. They're in the form of a report now.

26 Q. You didn't have a typewriter with you when you were  
27 at the hospital, right?

28 A. No, sir.

COMPUTERIZED TRANSCRIPT

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1 Q. What happened to the actual notes that you took at  
2 the hospital?

3 A. After I dictated my report and reviewed the  
4 typewritten report against my handwritten notes I destroyed the  
5 handwritten notes.

6 Q. That would have been on June the 8th?

7 A. It would have been about June the 8th.

8 Q. Were they all on one page?

9 A. That I don't know.

10 Q. Basically, do you just go through your notebooks  
11 ripping out pages as you review reports; is that the way it  
12 goes?

13 A. After I reviewed my report and compared them  
14 against the typewritten report, if the typewritten report  
15 satisfactorily reflects the information I received, then, yes, I  
16 tear those -- that portion of my handwritten notes up and throw  
17 them away.

18 Q. Did -- did you take any notes of your interview  
19 with Josh, your talk with Josh?

20 A. On June the 6th, no, sir.

21 Q. Was one of the main reasons that you were having  
22 contact with Josh on that day was to develop a rapport with the  
23 youngster?

24 A. Yes, sir, that's one of the reasons.

25 Q. What time did your -- did your communication with  
26 him take place?

27 A. In the afternoon hours. I don't know what time.  
28 It would have had to have been somewhere between 11:00 -- 11:00



1 a.m. and 3:00 p.m.

2 Q. Did you -- you just looked at a document in front  
3 of you; is that right?

4 A. Yes.

5 Q. When was that particular document prepared?

6 A. November 17, the 1983.

7 Q. Do you normally wait five months to prepare reports  
8 of your interviews with victims of murders -- or surviving  
9 victims of murders?

10 A. No, sir, not normally.

11 Q. Well, where you -- in the -- in the report you did  
12 prepare of your activities of June the 6th, nothing to tell  
13 anybody that you had ever even talked to Josh, said hello to  
14 him, right?

15 A. Yes, sir, you're right.

16 Q. And, in fact, in the documentation that you had  
17 submitted to the Sheriff's Office as of October, 1983, there was  
18 nothing to indicate that you had talked to Josh on any occasion  
19 other than June the 14th; is that correct?

20 A. You are correct.

21 Q. How many times did you talk to Josh in June of  
22 1983?

23 A. Several times.

24 Q. 20?

25 A. I don't remember how many individual conversations  
26 I had with him. I believe I probably visited him somewhere in  
27 that area.

28 Q. With the exception of June the 9th, 1983, from June

1 the 6th till Josh left the hospital you were out there every  
2 day, right?

3 A. No, I don't believe I was out there every day.

4 Q. How many days did you miss in that period of time?

5 A. Somewhere between one or three days, one to three  
6 days, rather.

7 Q. So it could have been just June the 9th?

8 A. I'm sorry. What could have been just June the 9th?

9 Q. June the 9th could have been the only day that you  
10 missed, if it were one to three days, right?

11 A. It could have been one of the days.

12 Q. And on some of those days you visited Josh and  
13 chatted with him on more than one occasion; is that right?

14 A. Yes, sir.

15 Q. The first day that you talked to Josh he was not  
16 able to make sounds because of the tube that was going into his  
17 trachea; is that right?

18 A. He was able to grown; he wasn't able to verbalize,  
19 no.

20 Q. On Tuesday, June the 7th and from that point on,  
21 Josh was able to verbalize, was he not, first by putting his  
22 finger over the tube in the trachea and then gradually as he  
23 healed just by being able to verbalize in a normal manner; is  
24 that correct?

25 A. No, sir.

26 Q. When -- when did Josh begin to be able to speak?

27 A. The first time I recall him being able to speak he  
28 was in pediatrics and I remember walking in the room and he

019815

1 greeted me verbally.

2 Q. With a "Hi, O.C.."?

3 A. I don't remember what his words were. I do

4 remember he did it in a manner that he expected to surprise me

5 in some way, and I knew I should -- the natural response was to

6 react surprised, which I was.

7 Q. Which floor was the pediatric -- Excuse me, I

8 didn't want to interrupt.

9 A. That's all I have to say.

10 Q. Which floor was the pediatrics?

11 A. It was also, if I remember, above ground. I don't

12 remember which floor.

13 Q. Did Josh when he was able to speak, call you O.C.?

14 A. I think he did.

15 Q. That's your nickname?

16 A. Yes, sir.

17 Q. Mr. O'Campo, in failing to record -- Well, let me

18 back up.

19 The November report as to the initial conversation

20 that you had with Josh, that was again prepared in response to

21 an order from a superior?

22 A. Yes, sir.

23 Q. That is, it wasn't something that you -- it wasn't

24 your idea to write that report; is that right?

25 A. I guess I'd have to agree with you, yes.

26 Q. You indicated that Josh wrote something. Showing

27 you Exhibit 703, a piece of paper that says, "How is mom, dad,"

28 on it; is that the piece of paper person that Josh wrote on on

0-198-16



1 June the 6th?

2 A. Yes, sir.

3 Q. And it's got your initials and a date of June the  
4 6th and a DR number on it; is that right?

5 A. Yes, sir.

6 Q. The DR number is the -- is part of the sheriff's  
7 filing system for -- for -- so that you can locate reports and  
8 documents by a particular case; is that right?

9 A. Yes, sir.

10 Q. It also indicates time; is that right?

11 A. Yes, sir, that's correct.

12 Q. 12:20 in the afternoon?

13 A. Yes.

14 Q. Did you put that date and time on the document on  
15 June the 6th or at some later time?

16 A. That would have been on June the 6th.

17 Q. Are you sure?

18 A. Yes, sir.

19 Q. When you were communicating with Josh on June the  
20 6th, at that point in time had you formed any particular  
21 theories in your mind about who was responsible for the Ryan  
22 murders?

23 A. I had an opinion.

24 Q. On June the 6th?

25 A. Oh, on June the 6th. I don't remember about June  
26 the 6th, no.

27 Q. When you were communicating with Josh, did you ask  
28 him anything about what happened?

COMPUTERIZED TRANSCRIPT

1 A. No, sir.

2 Q. Was Linda in the room at that time?

3 A. Like I said, she, as well as other medical staff, I  
4 believe, were in and out.

5 Q. How about Dr. Hall? Howell?

6 A. She was there and she was also in and out.

7 Q. Well, during the time that you were communicating  
8 with Josh, how long did that last?

9 A. Not very long.

10 Q. Twenty minutes?

11 A. No. I would say probably less than two or three  
12 minutes.

13 Q. On that date did you talk to Josh again in the  
14 evening?

15 A. For some reason I seem to feel I did, although I  
16 don't specifically remember it.

17 Q. Well, you believe at one time, when I was reading  
18 from the transcripts, you referred to a document in front of  
19 you, looked like you were reading along.

20 Was that a copy of the transcript? I mean, do you  
21 have that transcript of your previous testimony there in front  
22 of you?

23 A. Yes, sir.

24 Q. Have those been furnished to you by the  
25 prosecution?

26 A. Yes, sir.

27 Q. Have you gone over them in preparation for your  
28 testimony here today?

COMPUTERIZED TRANSCRIPT

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1 A. I have read them, yes, sir.  
2 Q. Page 1955, Lines 11 through 15.  
3 MR. KOTTMEIER: I have the location, your Honor.  
4 BY MR. NEGUS:  
5 Q. Indicates at that point in time, eight months ago,  
6 that you believed you talked to Josh in the evening; is that  
7 right?  
8 A. Yes, sir.  
9 Q. In the afternoon, when Linda was there, do you  
10 recall a conversation with Josh about three Mexicans?  
11 A. No, sir.  
12 Q. On June the 6th did you know that Josh had  
13 described three Mexicans being at his house, um, shortly before  
14 he and his family left for the party on Saturday night?  
15 A. I remember hearing, first of all, about three White  
16 men, and not too long later that changed to three Mexicans. And  
17 the next thing that I heard about was a low-rider.  
18 Q. Well, you had interviewed the Blades yourself,  
19 along with Mr. Clifford, and knew about the party. Right?  
20 A. Yes, sir.  
21 Q. That was on June the -- the evening of June the 5th  
22 that you interviewed them, right?  
23 A. Yes, sir, I believe that's when it was.  
24 Q. At that point in time, when you were talking to  
25 Josh, on the afternoon of June the 6th, you had no leads  
26 whatsoever as to who had done these crimes; is that right? Or  
27 as far as the Sheriff's office is concerned.  
28 A. If you describe leads as a direction, a direction



1 to go, I believe, yes, we did have a lead.

2 If you describe leads more towards the direction of  
3 a suspect or a -- yes, a suspect or suspects -- I would again  
4 have to answer, yes, we did have leads.

5 Q. So, you had an idea of who the suspect or suspects  
6 were?

7 A. No. As of Sunday, the last I was aware of anyway,  
8 was that three Mexicans and a lo-rider car, and that was it.

9 Q. Did you think it important to try and clarify with  
10 Josh that information so you could go out and catch the people  
11 who were still at large?

12 A. Well, sure, if he could talk; if he was in a  
13 condition to talk I would have, yeah.

14 Q. What words do you recall Josh mouthing to you?

15 A. I don't recall him mouthing any words, or at least  
16 me being not able to discern what he was attempting to mouth  
17 other than his mouth was moving.

18 Q. When you prepared the report in November, at that  
19 point in time that was done in the homicide office or in the  
20 DA's office?

21 A. No. I believe it was in the homicide office.

22 Q. You are not sure though.

23 A. No. I'd have to say the homicide office. I don't  
24 remember the D.A.'s office entering into it at all.

25 Q. Well. Did you show that piece of paper there, the  
26 Exhibit 703, to Mr. Kochis at some point in time?

27 A. Yes, sir.

28 Q. He wasn't, say, excited, as to where that had been

1 all that time?

2 A. Yes, sir.

3 Q. Did you get a copy of the nursing notes from Linda  
4 Headley which described your interviewing Josh in drafting that  
5 November report?

6 A. No, sir, I never received any medical reports.

7 Q. Never looked at those documents?

8 A. No.

9 MR. NEGUS: That's as good time as any, your Honor.

10 THE COURT: During the recess, if the students and their  
11 teacher would like to come to chambers, if you will wait a  
12 minute the bailiff will bring you back.

13 We'll take the morning recess.

14 (Recess.)

15

16 THE COURT: We're all again assembled. Please continue,

17 Mr. Negus.

18

19 DIRECT EXAMINATION (Resumed)

20 BY MR. NEGUS:

21 Q. Mr. O'Campo, during your talk or your communication  
22 with Josh on June the 6th, did you ever use the word "Mexicans"  
23 in talking to him?

24 A. No, sir.

25 Q. Did you talk about a red shirt?

26 A. No.

27 Q. Were Josh's hands free to, if he wanted to, put up  
28 three fingers?

COMPUTERIZED TRANSCRIPT

019821

1 A. I don't remember his hand being restrained or  
2 restricted other than the IV's.

3 Q. Well, were the IV's, were his arms like strapped  
4 down or were the IV's just loose, too, taped to his arm?

5 A. I believe they were taped to his arm. I don't  
6 remember if his arms were strapped down or if his IV's were  
7 strapped down or anything to that effect.

8 Q. Do you remember -- do you remember saying to Josh  
9 or asking him any questions about his mother being asleep?

10 A. No, sir.

11 Q. Do you remember saying anything to Josh or asking  
12 him questions about his mother screaming?

13 A. No, sir.

14 Q. Do you remember -- excuse me.

15 Do you remember -- I misasked the first question.

16 Do you remember him saying anything about being in  
17 his room asleep, asking him any questions about him being in his  
18 room asleep or anything of that nature?

19 A. No, sir.

20 Q. Making any statements to him about that?

21 A. No, sir.

22 Q. Do you remember him, other than the message he  
23 wrote you asking him how his mom and dad were, do you remember  
24 him mentioning his parents at all?

25 A. No, sir.

26 Q. Do you remember asking Josh questions about it  
27 being dark?

28 A. No, sir.

COMPUTERIZED TRANSCRIPT

019822



1 Q. Are you sure that Josh never held up three fingers  
2 while you were talking to him on June the 6th?

3 A. Yes, sir.

4 Q. While you were talking to Josh on June the 6th,  
5 were you watching any television?

6 A. That, I don't know.

7 Q. What about on June the 7th?

8 A. Again, I don't know.

9 Q. Were you ever in the room with Josh while watching  
10 television he talked about trying to beat somebody up with his  
11 fists?

12 A. No.

13 Q. Were you ever in the room with Josh while anything  
14 about this particular case came on the television?

15 A. No. I believe there was one time when the news was  
16 coming on, and the television was changed prior to it coming on.  
17 That's the only instance of coming close to what you described.

18 Q. At least while you were there there was a policy to  
19 try and keep news broadcasts from -- about the case from, you  
20 know, from Joshua seeing those.

21 A. Yes, sir.

22 Q. Do you remember how many times that you talked to  
23 Josh on June the 7th, the second day that you knew him?

24 A. No, I don't.

25 Q. You did go out to see him on that day, did you not?

26 A. I don't remember.

27 Q. Would your answers to all the questions I asked you  
28 about conversations, about Mexicans, red shirts, mother

COMPUTERIZED TRANSCRIPT

0-16027

1 screaming, being asleep in his room, being dark out, apply to  
2 the 7th as well as to the 6th? Do you understand my question?

3 A. I think so. Not knowing I was there on the 6th,  
4 not remembering whether I was there on the 7th, specifically,  
5 taking into consideration, I'd say that there was somewhere  
6 between one and as much as three days that I missed. I don't  
7 think I can answer that.

8 Q. Well, let's just try then a different approach.

9 Can you remember how many times that you came there  
10 when Linda was his nurse?

11 A. No, sir.

12 Q. Can you sort of remember in your mind -- well,  
13 basically, most of the time that Josh was in the hospital he was  
14 down at pediatrics, right? The vast majority.

15 A. If you told me what day he was moved down I would  
16 be able to tell you.

17 Q. Would June 9th refresh your recollection as to the  
18 date that he was moved down?

19 A. If he was moved down to pediatrics on June 9th,  
20 then, yes, most of the time he was in pediatrics.

21 Q. Can you isolate a picture in your mind the  
22 difference between his room in intensive care and his room in  
23 pediatrics?

24 A. Somehow I want to believe that they were the same,  
25 and I don't know; I don't really know if they were.

26 Q. Okay. You don't have an independent recollection  
27 of the two different rooms?

28 A. The only thing that distinguishes one room from the

0-168824

1 other in my mind is that when he was in pediatrics the  
2 atmosphere was more cheerful, the room was decorated. By that  
3 time he had started to have helium-filled balloons with  
4 characters patterned on them, flowers, things along those lines.

5 Q. Well, as best you can, then, any of those questions  
6 that I was asking you before about having conversations with  
7 Josh, about Mexicans, red shirt sleeves, being dark, his mother  
8 screaming, being in his room asleep when it began, any of those  
9 questions, did he ever do that while he was in intensive care  
10 with you? Did you ever have any such things where you said that  
11 or he said that?

12 A. No, sir.

13 Q. Did you ever recall him holding up three fingers  
14 while he was in intensive care, indicating the number of  
15 suspects?

16 A. No, sir.

17 Q. Or the number of Mexicans that had been at his  
18 house prior to the firemen?

19 A. No.

20 Q. Did you ever talk to Josh prior to June the 14th,  
21 1983, about three Mexicans?

22 A. No.

23 Q. About suspects?

24 A. No.

25 Q. About what happened, and his family?

26 A. No.

27 Q. Mr. O'Campo, are you trying to cover up some  
28 information that you received from Josh which you now feel is

COMPUTERIZED TRANSCRIPT

0-1-988255



1 harmful to the prosecution case?  
2 A. Not at all.  
3 Q. On June 5th, 1983, did you go to 2943 English Road,  
4 the Ryen residence?  
5 A. Yes, sir.  
6 Q. And what time did you arrive there?  
7 A. It would be somewhere between 12:00 and 1:00 or  
8 2:00 in the afternoon.  
9 Q. The latest would have been 2:00, the earliest would  
10 have been noon?  
11 A. I believe so, yes.  
12 Q. Did you come in a Sheriff's vehicle or your own  
13 personal vehicle?  
14 A. In a Sheriff's vehicle.  
15 Q. Did you have a code number on that particular day?  
16 That is, a code number for the radio, like 20-B, whatever?  
17 A. Yes, sir.  
18 Q. What was that?  
19 A. 20-Henry-9.  
20 Q. And did you broadcast a Code 97 when you arrived?  
21 A. I don't know. I don't remember.  
22 Q. When you first arrived at the Ryen residence, where  
23 did you go?  
24 A. I believe I went to Sergeant Arthur's location.  
25 Q. Where was that?  
26 A. Outside the sliding glass doors at the bedroom.  
27 Q. Okay. On this exhibit which I placed on the board,  
28 and giving you a black marker, could you then indicate under the

COMPUTERIZED TRANSCRIPT

0-1988259

1 third column "Patio Outside Master Bedroom", that being Exhibit  
2 226. somewhere between 12:00 to 2:00, or let's use 1200 to 1400  
3 for "Patio Outside Master Bedroom."

4 A. (Witness complied).

5 Q. At some point in time, did you enter the house?

6 A. Yes, sir, I did.

7 Q. What time was that?

8 A. That would probably have been somewhere a little  
9 after 5:00.

10 Q. Could you put then -- did you enter through the  
11 master bedroom, the sliding glass doors into the master bedroom?

12 A. Yes, I think I did.

13 Q. Then could you put circa, or little "c", 1700 in  
14 that column I just pointed to where it says "Master Bedroom,  
15 Hall near Jessica and Master Bathroom."

16 A. Little letter "c"?

17 Q. Little letter "c".

18 A. (Witness complied.)

19 Q. While you were there that particular evening, did  
20 you also go throughout the rest of the Ryen residence?

21 A. Yes, sir.

22 Q. Do you remember when you first left the master  
23 bedroom to go wandering throughout the rest of the house, or  
24 walking throughout the rest of the house, excuse me?

25 A. No.

26 Q. Was it daylight?

27 A. That, I don't remember.

28 Q. You can sit down again.

1                   When you got inside the house, did you have a  
2   strong emotional reaction?

3           A.    I had an emotional reaction. I don't know if you'd  
4   describe it as strong.

5           Q.    Did you feel angered?

6           A.    Angered?

7           Q.    Yes.

8           A.    I am sure I sensed anger, I normally do when  
9   someone is murdered. It wasn't the strongest emotion that I was  
10   experiencing.

11          Q.    Did you feel hatred to whoever it was that was  
12   responsible?

13          A.    No, I don't think so.

14          Q.    In your experience was that the worst crime scene  
15   that you had ever been at?

16          A.    That is hard to answer. It is the only crime scene  
17   I have been where there has been four murder victims. I have  
18   been to multiple homicides scenes in the past; more than one  
19   person.

20          Q.    One person being, a number of people being the  
21   factor, but just in terms of like, I guess, the horror or the  
22   disgust that one would feel at that kind of a scene, was that  
23   among the worst then?

24          A.    I'd put it up there at the top, yes, with others.

25          Q.    Did you take it personally?

26          A.    No.

27          Q.    Between June the 6th and June the 9th, 1983, did  
28   you become convinced in your own mind that Kevin Cooper was the

COMPUTERIZED TRANSCRIPT

019828



1 person that was responsible for that crime?

2 A. Yes, sir.

3 Q. Did you have hatred against Kevin Cooper after you  
4 formed that opinion?

5 A. No, sir.

6 Q. Anger?

7 A. I am sure I was angry,

8 Q. Did you have a strong desire to see that he was  
9 convicted of the crime?

10 A. I think my strongest desire was for him to be taken  
11 into custody. Whether or not he's convicted was something that  
12 is not in my hands.

13 Q. I understand that. But you, yourself, have a  
14 strong desire that he be convicted.

15 A. I would have to agree with you. I wouldn't  
16 describe it as strong. I would have to say that any  
17 investigation I participate in that results in an arrest,  
18 hopefully there will be a conviction.

19 Q. Did you in fact form a conviction stronger than  
20 just a mere belief on June the 9th that Kevin Cooper was  
21 responsible for the crime?

22 A. I would have to say, yes, I had more than a mere  
23 belief.

24 Q. You told Yolanda Jackson on June the 9th, did you  
25 not, that: "I know that he slaughtered those people?" Is that  
26 the words you used?

27 A. Words to that effect, yes, sir.

28 Q. Were you at all concerned that Joshua's initial

019826

1 statements to Mr. Sharp might be used to attempt to refute that  
2 which you knew to be true, that Kevin Cooper was the person  
3 responsible for the crimes?

4 A. Somehow I forget the first part of your question.  
5 Could you go over it again?

6 Q. Want me to ask it again?

7 A. Please.

8 Q. Were you concerned that Josh's initial statement to  
9 Dale Sharp as to the number and ethnic background of the  
10 suspects could be used to attempt to refute your knowledge that  
11 Kevin Cooper was guilty?

12 A. No. I don't think I was concerned that whatever it  
13 was he told Sharp would refute what I believed that I knew at  
14 that time.

15 Q. What were you concerned -- Well, were you concerned  
16 what he told you could be used to refute your knowledge that he  
17 was -- that Kevin Cooper was responsible? "He" meaning Josh.

18 A. No. When I speak to anyone or when I receive  
19 information, I don't do it with a concern of whether or not it's  
20 for or against what I believe or know, I simply receive it.

21 Q. Is that the way you interviewed Yolanda Jackson?

22 A. Initially, yes.

23 Q. Did you tape record the interview with Yolanda  
24 Jackson?

25 A. Yes.

26 Q. Did you tell Yolanda Jackson that one of the  
27 reasons that you tape record these conversations is because: "I  
28 feel I do darned good work."? Page 4.

COMPUTERIZED TRANSCRIPT

0198720

1 A. Yes, sir, that's a quote.  
2 Q. Did you tape record the interview that you had with  
3 Josh Ryen on June the 14th, 1983?  
4 A. No, sir.  
5 Q. Is that because you were not doing good work in  
6 that interview?  
7 A. No, sir.  
8 Q. We mentioned an interview with a man named Jim Rush  
9 that you took at 8:55 on the morning of June the 6th. You wrote  
10 out a half page report on that interview; is that right?  
11 A. I believe I did, yes.  
12 Q. Jim Rush was a man that believed he had a vision as  
13 to what had happened in the crime; is that right?  
14 A. I believe so, yes.  
15 Q. Did you think that Jim Rush's vision was more  
16 significant to the case than a description of all the contacts  
17 you had with Josh Ryen prior to June the 13th, 1983?  
18 A. No, sir.  
19 Q. On June the 6th, 1983, you do remember that at  
20 least during apart of your conversation Dr. Mary Howell was  
21 present in the room with you; is that right?  
22 A. Yes, sir.  
23 Q. When Josh wrote out the question on the piece of  
24 paper, it was Dr. Howell who attempted to respond or rather to  
25 not respond; is that right?  
26 A. Yes, sir.  
27 Q. On June the -- June the 14th did you take  
28 handwritten notes again of your interview with Josh?

COMPUTERIZED TRANSCRIPT

019831



1 A. Yes, sir, I did.

2 Q. And you again after a short period of time

3 destroyed the notes, right?

4 A. Yes, sir, after I compared them against the

5 typewritten transcription of those written notes.

6 Q. To your personal knowledge is that process of

7 destroying your notes so quickly followed by all the people just

8 in the homicide division?

9 A. No. I believe I can safely say it's probably

10 followed by most members of the Sheriff's Office.

11 Q. Well, Mr. Clifford doesn't do that, does he?

12 A. I don't know what he does.

13 Q. Mr. Hall doesn't do that, does he?

14 A. Again, I don't know.

15 Q. When you talked to Josh on June the 14th, was he

16 able to speak?

17 A. Yes, sir.

18 Q. Did he have any trouble speaking?

19 A. No.

20 Q. How long did you talk to him?

21 A. I believe it was about two hours.

22 Q. Did -- Did you have Sergeant Arthur there?

23 A. No, sir.

24 Q. Did -- was -- did Sergeant Arthur to your knowledge

25 want to be there when you talked to Josh?

26 A. I don't know if he wanted to be there or not.

27 Q. By the time that Josh got down to the pediatric

28 unit a person by the name of Dr. Hoyle had become involved with

COMPUTERIZED TRANSCRIPT

0-1-60772

1 his treatment; is that right?

2 A. Yes, sir.

3 Q. Dr. Hoyle is a psychologist assigned to Loma Linda  
4 University Medical Center; is that correct?

5 A. Yes, sir.

6 Q. And by that time in attempting to ask Josh about  
7 what had occurred, Dr. Hoyle wanted to have a say in when and  
8 how that was done. is that true?

9 A. Yes, I guess you could describe it as that. He  
10 wanted some input.

11 Q. Well, had -- at some point in time prior to --  
12 Well, what time did that take place on June the  
13 14th, the interview with Josh?

14 A. That was about 5:10 p.m.

15 Q. Sometime earlier that morning, same date, had you  
16 and Dr. Hoyle and Sergeant Arthur and perhaps some other medical  
17 people had a discussion about whether Josh was ready for a  
18 full-blown lengthy formal interview?

19 A. Yes, sir, there was a discussion.

20 Q. During that discussion had Sergeant Arthur  
21 expressed an interest in being at that -- at that interview?

22 A. I don't remember.

23 Q. Does the Sheriff's Office of your -- does your  
24 Sheriff's Office have available to it video taping equipment?

25 A. Yes, sir.

26 Q. Is that used in the homicide department more  
27 frequently than any other department?

28 A. I don't know.

COMPUTERIZED TRANSCRIPT

0-168773

1 Q. Is it used -- is it used by the homicide  
2 department?

3 A. We occasionally use it.

4 Q. Are there essentially two classes of persons that  
5 the equipment is used for more than the any other class, to wit,  
6 suspects and kids?

7 A. I don't know. That question would probably be more  
8 well directed towards the operator of the camera.

9 Q. What about yourself, do you think it's important to  
10 video tape interviews with kids so that you can obtain their --  
11 people can see their demeanor, evaluate whether the interviewer  
12 is suggesting answers to the child or not?

13 A. That would depend on the situation. With regards  
14 to kids I feel safe in saying that it's certainly should be kept  
15 in mind, yes.

16 Q. Well, in this particular situation you didn't want  
17 to video tape Josh Ryen, did you, because you didn't know  
18 whether what he was going to say was going to help your case  
19 against Kevin Cooper or hurt it, right?

20 A. No, I can't agree with you on that.

21 Q. Did you know what he was going to say was going to  
22 help Kevin or not?

23 A. No, sir, I didn't.

24 Q. In the conversation you had with Sergeant Arthur  
25 and the Loma Linda people in the morning, were there certain  
26 ground rules laid out for that interview?

27 A. The only thing I remember of that discussion is  
28 that it was agreed on that Dr. Hoyle would be present during the

0-16874



1 interview with Josh.

2 Q. Dr. Hoyle was not going to ask any questions,  
3 right?

4 A. That's correct.

5 Q. And his purpose being there was not to help you  
6 elicit information either; is that correct?

7 A. That's correct.

8 Q. Basically he was just to observe to make sure that  
9 the interview did not adversely affect Josh's mental health?

10 A. As I remember, I think his concern was to have  
11 firsthand information as to what happened so that he would know  
12 what he's dealing with insofar as treating Josh.

13 Q. Well, the effect of the interview on Josh's mental  
14 health was not something that he was there for?

15 A. Oh, I'm sure it was.

16 Q. Did the interview with Josh take place in the same  
17 room in the pediatrics place that he had been staying all along?

18 A. Yes, it did.

19 Q. And Dr. Howell was asked not to be present? You  
20 asked Dr. Howell that she not be present during the interview;  
21 is that right?

22 A. I may have or probably did if she wanted to be. I  
23 don't remember if she wanted to be or not.

24 Q. That night you finished the interview at  
25 approximately 7:00 o'clock; is that right?

26 A. Yes, sir.

27 Q. Did you go back to homicide and dictate from your  
28 notes your report while it was still fresh in your mind?

0-1-5700775

1 A. Not that evening, no, sir.  
2 Q. When did you dictate your report?  
3 A. I believe it was the next morning.  
4 Q. Were you tired?  
5 A. I don't remember.  
6 Q. Was there any particular purpose you had in  
7 delaying dictating your report till the next morning?  
8 A. I can't think of any.  
9 Q. Well, did you want to -- did you want to think  
10 about what Josh had said so that you could dictate it in your  
11 report in a way which wouldn't help Kevin Cooper?  
12 A. I don't believe so.  
13 Q. In police work is it -- is it considered an  
14 advantage in certain kinds of interviews to not tape record and  
15 just do it from a written report because that way you can shape  
16 the context that the interview is presented, is that so, shape  
17 the information that is presented in the report?  
18 A. I don't think I can agree with you on that, no.  
19 Q. Is that the reason why you didn't tape record --  
20 even tape record your interview with Josh?  
21 A. No, sir.  
22 Q. Basically you have no other reason why you didn't  
23 tape record the interview with Joshua?  
24 A. I can't think of any at this point in time, no,  
25 sir.  
26 Q. Did you have any trouble hearing Josh as you -- as  
27 you asked him questions?  
28 A. No, sir.

COMPUTERIZED TRANSCRIPT

0-1688339

1 Q. Does -- does Josh speak more clearly than the  
2 average eight year old does when he talks?

3 A. I don't know what you mean by "clearly." He was  
4 understandable.

5 Q. Well, compared to -- compared to just the average  
6 eight year old Josh is pretty easy to understand, right?

7 A. Yes, sir.

8 Q. While you were talking to Josh was he still in his  
9 hospital bed or was he up and around?

10 A. He was laying in his hospital bed when I talked to  
11 him.

12 Q. You were sitting on the bed beside him?

13 A. Yes.

14 Q. And Dr. Hoyle was in a chair a few feet away?

15 A. Yes, sir.

16 Q. Dr. Hoyle was seated in the chair in such a way  
17 that he could watch Josh; is that right?

18 A. I don't know if he could watch him. I believe he  
19 could have. I believe he heard him, yes. I don't know if he  
20 could see him from where he was sitting.

21 Q. Well, was there any -- did you have any purpose in  
22 preventing Dr. Hoyle, as far as getting a picture of Josh's  
23 mental state, from observing his facial expressions?

24 A. No. Dr. Hoyle was behind me, so whether he could  
25 see or not see I can't answer; only he can.

26 Q. You essentially let Dr. Hoyle sit wherever he  
27 wanted to?

28 A. Sure.

0-16837



1 Q. During the preliminary hearing in this case you  
2 testified on -- about these particular matters at Loma Linda on,  
3 I believe, December the 28th, 1983; is that correct?

4 A. Yes, sir, I believe it was then.

5 Q. During that interview I mentioned to you the name  
6 Linda Headley, did I not?

7 A. I believe you did, yes, sir.

8 Q. And I also mentioned the full name Dr. Jerry Hoyle,  
9 correct?

10 A. Yes, sir.

11 Q. And essentially I challenged in my examination of  
12 your version of what Josh told you; is that correct?

13 MR. KOTTMEIER: Objection. Calls for a conclusion, your  
14 Honor.

15 THE COURT: Yes. Sustained.

16 BY MR. NEGUS:

17 Q. Did I question you in your testimony -- In my  
18 questioning of you did I suggest to you that Dr. Hoyle's version  
19 of what Josh had said was different than your own?

20 MR. KOTTMEIER: Objection. Calls for a hearsay  
21 recollection, is well --

22 THE COURT: We are concerned now with state of mind, Mr.  
23 Kottmeier. Whether or not he took it as a suggestion is a  
24 factual matter he can testify to.

25 MR. KOTTMEIER: Then I would object on the basis of  
26 relevance. What his frame of mind was at the preliminary  
27 hearing has no relevance as far as today.

28 THE COURT: I'm sure it's offered for credibility

3  
COMPUTERIZED TRANSCRIPT

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# **EXHIBIT Q**



Copy

SUPREME COURT - STATE OF CALIFORNIA

THE PEOPLE OF THE  
STATE OF CALIFORNIA,

Plaintiff-Respondent,

vs.

KEVIN COOPER,

Defendant-Appellant.

SUPREME COURT NO. Crim 24552

FROM SAN DIEGO COUNTY

HON. RICHARD C. GARNER,  
JUDGE

San Diego County Superior Court Case No. CR 72787

REPORTERS' TRANSCRIPT

VOLUME 100

January 9, 1985, Pages 6059 through 6164  
January 10, 1985, Pages 6165 through 6282

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IN PROPRIA PERSONA

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

DEPARTMENT NO. 30

HON. RICHARD C. GARNER, JUDGE

THE PEOPLE OF THE STATE  
OF CALIFORNIA,

Plaintiff,

vs.

KEVIN COOPER,

Defendant.

NO. OCR-9319

REPORTERS' TRANSCRIPT  
January 10, 1985

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Official Reporters

COMPUTERIZED TRANSCRIPT

01988

1 A. No.

2 Q. And during that conversation Mr. Negus, in effect,  
3 put the words in your mouth saying, "Well, wasn't it June the  
4 6th that O.C. talked to Josh and got the information about the  
5 Mexicans?"

6 A. Could be.

7 Q. You just, in effect, were agreeing with him based  
8 upon the way he was asking the questions.

9 A. Possibly.

10 Q. You, today, are certain, aren't you, Dr. Howell  
11 that there was no conversation about suspects or number of  
12 suspects that first day in the intensive care room on June the  
13 6th.

14 A. Josh was too sedated, too sick, to be bothered.

15 MR. KOTTMEIER: I have no further questions, your Honor.

16 THE COURT: Back to you Mr. Negus.

17 MR. NEGUS: No questions, your Honor.

18 THE COURT: You may step down.

19 MR. KOTTMEIER: May Dr. Howell be excused until -- at  
20 least until being recalled?

21 THE COURT: Yes. Subject to being recalled later on.

22 THE WITNESS: Not for today.

23 THE COURT: Oh, for the rest day you won't be.

24 Mr. Negus, please.

25 MR. NEGUS: Calvin Fischer.

26

27 CALVIN FISCHER,

28 called as a witness on behalf of the Defendant, having been duly

1 sworn, testified as follows:

2 THE CLERK: Thank you. Would you have a seat on the  
3 witness stand, please.

4 THE WITNESS: Okay.

5 THE CLERK: Would you state your full name for the record  
6 and spell your last name.

7 THE WITNESS: My name is Calvin Fischer. F-i-s-c-h-e-r.  
8

9 DIRECT EXAMINATION

10 BY MR. NEGUS:

11 Q. Mr. Fischer, on June the 5th, 1983, how were you  
12 employed?

13 A. Where was I employed?

14 Q. I said "how" first. But where and how?

15 A. As a registered nurse at Loma Linda University  
16 Medical Center.

17 Q. And did you have a particular assignment on that  
18 day?

19 A. Yeah. I was covering the emergency department as a  
20 staff nurse.

21 Q. That afternoon were you notified, by a charge  
22 nurse, to prepare for an incoming patient who was being brought  
23 in by helicopter for emergency treatment?

24 A. Yes, sir, that's correct.

25 Q. Do you, at this point in time, remember the  
26 identity of that particular charge nurse?

27 A. No, I don't.

28 Q. At that point in time was there employed at Loma



- 1 he wasn't able to speak?
- 2 A. Right.
- 3 Q. You also -- however, he was looked at, his eye
- 4 response. What did you note for his eye response?
- 5 A. That he had spontaneous eye opening.
- 6 Q. Is -- of the choices that you are allowed on that
- 7 trauma score, is that the one that got the highest level of
- 8 consciousness that you are allowed to check?
- 9 A. Under eye opening? Yes.
- 10 Q. And did you also -- did you also put -- is there
- 11 also a motor response?
- 12 A. Yes, there is.
- 13 Q. What did you check for that?
- 14 A. Obedient.
- 15 Q. Is that the highest level of consciousness that you
- 16 can get from a motor response?
- 17 A. That's right.
- 18 Q. What time was the first IV started on Josh?
- 19 A. 1349.
- 20 Q. So that would have been three minutes after he got
- 21 there?
- 22 A. That's right.
- 23 Q. When he first arrived did he appear to have
- 24 suffered considerable amount of blood and fluid loss?
- 25 A. As I recall -- as I recall his coming in, he didn't
- 26 appear to have had a significant amount in terms of the amount
- 27 that his body was covered with.
- 28 Q. I don't understand what you mean.

1           A.    All I mean is, on his person he didn't have a large  
2   amount of blood as if he had been laying in a large amount of  
3   blood or that type of thing; hadn't run down his chest, didn't  
4   appear to have run down his chest, or that sort of thing.

5                   And from looking at his vital signs here it could  
6   be that he -- it could be that he had -- that he did have some  
7   fluid loss, but not a life threatening amount at this point yet.

8           Q.    What was the -- at the beginning, what particular  
9   injury to Josh caused the most concern as far as the trauma team  
10  was concerned?

11          A.    Probably the neck laceration.

12          Q.    Was that life threatening?

13          A.    It turned out not being life threatening.

14          Q.    Did you continue to monitor Josh's vital signs  
15  throughout the time that he was in the emergency room?

16          A.    Yes, I did.

17          Q.    And did he begin to stablize after he was in there  
18  for a time?

19          A.    Yes. He seemed to be stable throughout his stay.

20          Q.    Did you note any loss of consciousness by Josh  
21  while he was in the emergency room?

22          A.    No, sir, I did not.

23          Q.    At some point in time did you note that a name and  
24  date of birth was obtained from Josh himself?

25          A.    Yes. About 1423 hours I made a notation of that.

26          Q.    And did you observe that yourself?

27          A.    I don't recall anymore if I actually saw him  
28  wrote -- write on the piece of paper. I recall that we did, we

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1 acquired a clipboard with a piece of paper on it for him for  
2 writing purposes, and I recall seeing, in almost illegible  
3 writing his name, that he had written here as Josh Ryen.

4 Q. Did you also see written his date of birth or did  
5 you obtain that information some other way?

6 A. It is too vague. I don't recall that for sure.

7 Q. But did you at that point in time enter down a date  
8 of birth for Josh Ryen?

9 A. Yes, I did.

10 Q. What was that?

11 A. September 5 of 1974.

12 Q. You indicated that you recall, in addition to  
13 questions about name and date of birth, that sort of thing, one  
14 other particular question that Don Gamundoy asked at that point  
15 in time.

16 MR. KOTTMEIER: Objection, leading and suggestive.

17 MR. NEGUS: I think he already -- I was just  
18 recapitulating. It was foundational.

19 THE COURT: Reframe it. Sustained.

20 BY MR. NEGUS:

21 Q. Other than the questions about name and date of  
22 birth, do you recall any particular questions that Don Gamundoy  
23 asked Josh?

24 A. Yes. He -- I recall that he at one point had  
25 pointed to his -- to his own skin color. He is dark  
26 complected -- excuse me -- and asked Joshua if the person, that  
27 in essence if the person that had done it was of a dark skin  
28 color, and Josh's reply was a negative response.



1 Q. Did you -- do you recall whether Mr. Gamundoy asked  
2 how many persons were responsible for Josh's injuries?

3 MR. KOTTMEIER: Objection. Leading.

4 THE COURT: No. That's not suggestive of an answer.

5 MR. KOTTMEIER: It is, your Honor, in that there are two  
6 different people doing the questioning. This witness doesn't  
7 really know whether this question was asked by Gamundoy or the  
8 deputy sheriff that was doing the questioning.

9 MR. NEGUS: I'm trying to specific, Mr. Gamundoy, so we  
10 can find out whether --

11 MR. KOTTMEIER: My objection is that that is suggesting  
12 the answer he wants this witness to give.

13 THE COURT: The last question you may answer if you can  
14 recall it.

15 THE WITNESS: I don't recall who asked the question.

16 BY MR. NEGUS:

17 Q. Okay. Do you recall Josh giving a response --

18 A. Yes.

19 Q. -- to the number of attackers?

20 A. Yes.

21 Q. And what was the response?

22 A. Three.

23 Q. Do you recall how Josh gave the response?

24 A. It seems that he'd held up three fingers and in  
25 indicating the numbers of individuals.

26 Q. Do you have a positive recollection of that at the  
27 present time or is that vague?

28 A. It's vague. I don't have a positive recollection.

01-99-98

# **EXHIBIT R**



Repat to x. H-189

FLOYD TIDWELL  
OFFICE OF ~~PROSECUTOR~~ SHERIFF

County of San Bernardino  
California

CA 03600

69. CASE NUMBER

DR 1211029-0

70. CODE SECTION P.C. 187	71. CRIME MURDER	72. CLASSIFICATION
73. VICTIM'S NAME - Last, First, Middle (Firm, if Business) RYEN/HUGHES		74. ADDRESS Residence Business
		75. PHONE

INTERVIEW:

RYEN, Joshua (Victim)

At about 1710 hrs., 6/14/83, while at the Loma Linda University Medical Center, Wing 5300, Room 2, I interviewed Joshua Ryen with regards to the murder investigation.

FRIDAY

I first asked Joshua if he recalled Friday, the Friday before the incident, with regards to what he did that date. Joshua told me they woke up early and prepared themselves for school (referring to himself and his sister). Joshua told me that his mom took both he and Jessica to school, arriving about 8:30 a.m. Joshua said that he got out of school about 3:00, however, played soccer with a few guys after school until his mother picked him up around 4:00 or 4:30 p.m.

Joshua told me that from the school he, his sister and mother, went home. Joshua said that when they arrived home, he did his homework, after which he ate dinner. Joshua said that he did not remember what they had for dinner on that Friday, but after dinner he watched television until possibly around 10:00 p.m. Joshua said that he does recall watching the program Mathew Starr and going to bed around 10:00 p.m. Joshua said that 10:00 p.m. is normally the time he will go to bed unless he is exceptionally tired, in which case he'll go to bed around 9:00 p.m.

SATURDAY

Joshua said that he woke up about 6:00 a.m. Saturday and ate breakfast. Joshua said that he ate breakfast before he washed up, and that for breakfast, he had a cereal called Product 19. Joshua related that his mother got up around 7:30 a.m. and his father slept late until about 10:00 or 11:00 a.m. Joshua said that he did not really recall what time Jessica, his sister, got out of bed, but does know that it was in the morning before his dad woke up.

Joshua told me that, after breakfast, he cleaned up and dressed himself, after which he did his chores which consisted of feeding the rabbits, chickens, his birds, and making his bed.

*Hayle adds clean room.*

Joshua related that about lunchtime he rode his bicycle down to Chris Hughes' house, and that from Chris Hughes' house, both he and Chris rode to the creek area which is by a two-story house.

Joshua said that he and Chris played in the area of the creek for a little while, after which they returned to Chris' house and played Atari. Joshua said that he remembers playing the following games: Grand Prix, Pitfall, and possibly Pac Man.

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<input type="checkbox"/> Yes	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Patrol			
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	<input type="checkbox"/> S.O./P.D.	<input type="checkbox"/> Other			
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FLOYD TIDWELL  
OFFICE OF [REDACTED] SHERIFF

County of San Bernardino  
California

CA 03600

69. CASE NUMBER

DR 1211029-02

0. CODE SECTION P.C. 187	71. CRIME MURDER	72. CLASSIFICATION
3. VICTIM'S NAME - Last, First, Middle (Firm, if Business) RYEN/HUGHES		74. ADDRESS Residence Business
		75. PHONE

-2-

INTERVIEW - RYEN, Joshua (Continued):

Joshua said that he believes they played Atari for possibly one-half hour to one hour, after which they went back to his (Joshua's) house on their bikes.

I then asked Joshua if he could describe Chris' bike, and he said that it was a blue and red in color Schwinn Motocross type bicycle.

HUGHES VEHICLES  
I asked Joshua if he could describe any of the vehicles belonging to the Hughes family. Joshua told me that Chris' father owns a big blue and white GMC pickup which has both a front and a back seat constructed of brown leather. Joshua said this vehicle has an automatic transmission in addition to dual wheels (a total of six wheels).

Joshua told me that Chris' mom has a little car which is navy blue in color and has four doors in addition to being a stick shift, and possibly having a hatchback. Joshua said that the Hughes also have another vehicle which he described as an old light blue broken down GMC pickup parked on the property.

Joshua told me that when he and Chris returned to his (Joshua's) house, his mom and dad and sister were still there.

BLADES PARTY  
Joshua said it was probably sometime just before 6:00 p.m. when everyone got ready to go to the barbecue. Joshua said that he had known about the barbecue which was going to take place at the Blades' residence for about a week, and that it was sometime during the day that Chris had asked for permission to go with them in addition to spending the night.

PAJH - 5 PM Chris asks permission.  
Joshua told me that they went to the Blades' house in his father's big white Chevy truck which has an automatic transmission.

Joshua said that when they got to the Blades, he, his sister, Chris, and a boy by the name of Steve Hilton played freeze tag for a little while, after which they ate. Joshua said that it was just starting to get dark when they sat down to eat.

Joshua said that he ate some watermelon, a hamburger and ice cream. He said that his sister Jessica and Chris ate the same thing in addition to a serving of baked beans. Joshua told me that Steve Hilton ate everything that Jessica and Chris did in addition to some cheese flavored Ruffle potato chips.

Joshua told me that they left the Blade house after it was already dark, and he believes the time might have been 10:00 p.m. but he is not certain. Joshua related that, while at the party, he, himself, had a can of Shasta cola, Chris had a rootbeer, Jessica had a

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ACTION? <input type="checkbox"/> Yes <input type="checkbox"/> No		REVIEWED BY DATE 440		



FLOYD TIDWELL  
OFFICE OF [REDACTED], SHERIFF

County of San Bernardino  
California

CA 03600

69. CASE NUMBER  
DR 1211029-02

0. CODE SECTION P.C. 187	71. CRIME MURDER	72. CLASSIFICATION
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-3-

INTERVIEW - RYEN, Joshua (Continued):

Shasta cola as did Steve. Joshua related that he believes his mom and dad had possibly two glasses of wine while at the party, and that they normally drink pink chablis. Joshua remembers that his mom and dad took their own bottle of wine with them, and believes that it would have been a bottle of pink chablis. He said he thinks that when they went home, his mom and dad took the bottle of wine with them. *SH "they don't get drunk"*

I asked Joshua if he recalls what his mother and father ate, he told me that he could not remember. I asked Joshua what he was wearing when he went to the party, and he told me it was his pair of blue Wrangler jeans, checkered Vans slipon tennis shoes (as he additionally described as "grubby"), and he did not remember what shirt he wore.

Joshua said that he did not remember what clothes Chris was wearing, but did remember that Jessica was wearing her Wrangler jeans, a blue and white shirt and tennis shoes.

Joshua said that his dad was wearing a light brown leather, three-quarter length (in describing the length, Joshua pointed to my sportscoat and said it was as long as my sportscoat) jacket, blue levis, fancy brown cowboy boots. Joshua's mother was wearing a red and white short sleeve shirt, levis and sandals.

HOME

*omit 10pm SH* Joshua told me that when they got home, all the lights both inside and out, were off as that was the way they left the house. Joshua said that his dad was driving the truck, as he did when they left, and that the truck was parked next to (by next to, Joshua described the truck being parked to the side of the station wagon) the station wagon. At this point, I asked Joshua what was normally done with the car keys, and he told me that the car keys are normally left in the car, and that on this particular evening, he recalled his father pulling the key out of the ignition just enough so it would not make noise when the door was opened. *SH. Josh = light sleeper. JR leave things that frighten him.*

Joshua told me that he was the first one to go into the house, and that he entered by way of the kitchen door which was unlocked. Joshua said that he turned on the kitchen lights and the other lights on the way to his bedroom, as he was anxious to check on some of his pets which he had there.

Joshua told me that he recalls that both he and Jessica put their pajamas on and went to bed. Joshua said that Chris slept in whatever it was he had on, and that both of them went to bed on top of their sleeping bags which were sitting on the floor in his room.

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-4-

INTERVIEW - RYEN, Joshua (Continued):

Joshua told me that Chris and he talked for awhile prior to going to sleep.

Joshua told me that he does not really remember what time it was, but it was still dark and probably very late, when he was awakened by his mother's screams. Joshua told me that he woke Chris up and that both of them got up and went towards his mom and dad's bedroom. And Joshua said that as he was walking towards the bedroom, they saw Jessica lying in the hall at the bedroom door.

ATTACK

*"We both ran in there. They - 3 min - chased us around the house."*

Joshua told me that he could tell that Jessica was dead. I asked Joshua how he knew that Jessica was dead, and he said, "I bent down and put my hand on her heart and I couldn't feel anything, she was hurt in the head real bad."

*"Fighthen" etc.*

*Different details in JH*

Joshua told me that after checking Jessica, he looked into the bedroom and saw his father over by his (his father's) closet.

Joshua said that he ran into the laundry room and hid and heard what sounded like Chris running in circles. Joshua then demonstrated the running steps that he heard by raising and lowering his feet rapidly on top of the hospital bed mattress which he was lying on. I asked Joshua if these footsteps could have been, or belong to, anyone else, and he told me, "No." I asked Joshua why he felt that way, and he told me that it was because Chris was also calling out to him. I asked Joshua how Chris was calling out to him, and Joshua demonstrated by repeating his own name in a shrill/scream type manner.

*JR heard Chris but - unph.*

I asked Joshua what happened next, and he told me that he came out of the laundry room and went back to his mom and dad's bedroom. *JR has this Q later.*

I stopped Joshua at this point and took him back to the point where he and Chris came out of his (Joshua's) bedroom and saw Jessica, asking if he saw anyone else around. Joshua told me no. I then asked Joshua if, when he looked into the bedroom and saw his father, if he was also able to see his mother, to which he replied, "No." I asked Joshua if he was sure that his mother was not visible the first time he poked his head in the bedroom, and he again told me that he was sure. I asked Joshua if he saw anyone in the bedroom or could hear anyone, or smell anyone, and he told me "No."

I then asked Joshua to continue with what he did after he came out of the laundry room.

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15-15184-401

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FLOYD TIDWELL  
OFFICE OF [REDACTED], SHERIFF

County of San Bernardino  
California  
CA 03600

69. CASE NUMBER

DR 1211029-02

0. CODE SECTION P.C. 187	71. CRIME MURDER	72. CLASSIFICATION		
73. VICTIM'S NAME - Last, First, Middle (Firm, if Business) RYEN/HUGHES		74. ADDRESS Residence	Business	75. PHONE

-5-

INTERVIEW - RYEN, Joshua (Continued):

*At this time he felt he was back home*  
Joshua told me that he went back to his mom and dad's bedroom, and that Jessica was still in the same position (it should be noted that Joshua then demonstrated to me the position that he remembers Jessica lying in when he discovered her. I noted the demonstrated position to be similar, if not the same position I observed Jessica in on Sunday, 6/5/83).

Joshua told me that he entered the bedroom, and this time he saw his mother lying on her back, nude, next to her desk. *Parents don't sleep w/ clothes on.*

Joshua told me that his father was in the same place, by his closet, and that he also saw Chris, who was lying by the ironing board.

I asked Joshua if he saw or heard anyone else, and he told me that he did not see anyone else, but he did hear Chris making a gurgling sound (Joshua again attempted to demonstrate the sound which he heard Chris make).

I asked Joshua what he did next or where he was standing when he made these observations, and he told me that he was standing by Chris. Joshua told me that he did not do anything, the next thing that happened was that he felt himself getting hit on the head. Joshua said that he did not remember anything else until he woke up.

*"They snuck up behind + hit me"*

I asked Joshua if any of the interior residence lights were on while all this was happening, and he told me that they were all off. I asked Joshua if he knew if the outside lights were on, and he told me that he believed they were off also.

*RESCUE*

I asked Joshua if it was still nighttime when he woke up, and he told me, "No," that it was already daytime. Joshua then told me that he is not sure, but he believes that it was not too much longer after he woke up that he believes he saw Bill Hughes (Chris' father) attempting to open the bedroom glass door. Joshua told me that he remembers that he (Joshua) wanted to open the door for Bill Hughes, but he could not move.

Joshua told me that from the time he remembered awakening, it seemed like everything went pretty quick. Joshua said that he remembers Bill Hughes did get into the house somehow, and that shortly thereafter, there were several people there helping him. Joshua told me that he definitely remembers the helicopter ride to the hospital.

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INTERVIEW - RYEN, Joshua (Continued):

3 MEXICANS

I then asked Joshua if he had any idea who might have done this to him and his family, and he said he thought it was the three Mexicans. I asked Joshua which three Mexicans, and he told me that he and his mother, father, sister, and Chris were leaving the driveway to go to the Blade residence, and a little light blue pickup, having a white camper shell, arrived at his house.

Joshua said that the little blue pickup had three Mexicans in it, and that the driver of the pickup got out and spoke with his father, who had also gotten out of his own truck.

Joshua said that he saw the Mexican and his father talk for a few moments, after which, the Mexican got back in his truck and drove off, and they proceeded to the Blade residence.

I asked Joshua if he could hear what his father and the Mexican were talking about and he told me "No." I asked Joshua if he could tell if his father was upset or angry when he was talking to the Mexican, and Joshua told me it did not look like his dad was mad or upset. I asked Joshua if, when his father got back into the truck, anything was said between his father and mother in regards to the Mexican whom his father had talked to, and again he said, "No."

I asked Joshua if, after his father got back in the truck, he (his father) appeared to be upset or angry, and again he said, "No," his dad did not look like he was mad or even upset.

I then asked Joshua if he could describe the Mexican who was the driver of the light blue small pickup, and he said that the Mexican looked about 18 years old and looked like he was just starting to grow a moustache. He described the Mexican as being tall, pointing to my height (which is 5'10½") and skinny. Joshua said that the driver had short, brown hair, and he did not remember what kind of clothing or color of clothing he had on.

Joshua described the passenger in the pickup as being younger than the driver and possibly fatter. Joshua said the passenger had black short hair, and he did not notice what color or kind of clothing he had on.

Joshua said the third Mexican was riding in the bed of the pickup (camper shell area) and he could only see that that person had short dark hair, was possibly skinny, and that he only saw him from the waist up.

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REVIEWED BY			DATE		

15-15184-401

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FLOYD TIDWELL  
OFFICE OF [REDACTED], SHERIFF  
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INTERVIEW - RYEN, Joshua (Continued):

I then asked Joshua if he was of the opinion that these three subjects returned at some time later and were the ones that caused harm to himself and his family. Joshua told me that is exactly what he believed.

✓ It should be noted that I did not share with Joshua any of the information with relation to the suspect which had been developed in this case, nor did I comment on his statement regarding the Mexican.

Special Note:

It should be noted that throughout the entire interview, Dr. Jerry Hoyle, psychologist, business phone number of 824-4505, was present. It should additionally be noted that, prior my to my interviewing Joshua, a conference was had between myself, Sgt. Arthur, Dr. Jerry Hoyle, and Dr. Keith Georgeson with regards to what approach and/or timing should be considered with regards to approaching Joshua for interview in relation to the murder investigation. It was during this conference that it was decided that it would be in Joshua's best interest to have the psychologist present so that he might have observation and information which he would use to assist him in attending Joshua.

Interview Continued:

Joshua had no additional information to offer and the interview was concluded.

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