

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF SAN BERNARDINO

3 THE PEOPLE OF THE STATE)
4 OF CALIFORNIA,)

5 Plaintiff,)

6 vs.)

7 KEVIN COOPER,)

8 Defendant.)
9

NO. OCR-9319

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10 REPORTERS' DAILY TRANSCRIPT

11 BEFORE HONORABLE RICHARD C. JARVER, JUDGE

12 DEPARTMENT 3 - ONTARIO, CALIFORNIA

13 Monday, March 19, 1984

14 APPEARANCES:

15 For the People:

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District Attorney

16 DENNIS KOTTMEIER
17 District Attorney
18 By: JOHN P. KOCHIS
Deputy District Attorney

19 For the Defendant:

DAVID McKENNA
Public Defender
20 By: DAVID NEGUS
21 Deputy Public Defender

22
23 Reported by:

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Official Reporter
24 C.S.R. No. 2314
and
25 BRIAN RATEKIN
Official Reporter
26 C.S.R. No. 3715

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1 ONTARIO, CALIFORNIA; MONDAY, MARCH 19, 1984; 9:59 A.M.

2 DEPARTMENT NO. 3 HON. RICHARD C. GARNER, JUDGE

3 APPEARANCES:

4 The Defendant with his Counsel, DAVID NEGUS,
5 Deputy Public Defender of San Bernardino
6 County; DENNIS KOTTMEIER, District Attorney
7 of San Bernardino County, JOHN P. KOCHIS,
8 Deputy District Attorney of San Bernardino
9 County, representing the People of the State
10 of California.

11 WILLIAM L. GENTLEMAN, F.R.S., Official Reporter, C-7314,
12 Brian Ratekin, C.S.R., Official Reporter, C-3715.)

13
14 (Whereupon, the following proceedings
15 were had in chambers:)

16 THE COURT: All right. On the record.

17 Counsel, you have all three come into chambers,
18 and you are without your client. He's out in the courtroom,
19 and you waive his appearance, Mr. Negus?

20 MR. NEGUS: I do.

21 THE COURT: All right.

22 MR. NEGUS: First, I wanted to just apprise the
23 Court that Carol Mann, a prospective witness, is in the
24 courtroom, and she hasn't been subpoenaed by the
25 prosecution, but it is conceivable that she could be
26 called to testify at trial.

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1 THE COURT: Carol Mann?

2 MR. NEGUS: Yes.

3 MR. KOCHIS: I believe if she's called to testify,
4 it won't be by the prosecution.

5 MR. NEGUS: Possibly she would be by the defense.

6 THE COURT: Is she a person from the community?

7 MR. NEGUS: Yes.

8 MR. KOCHIS: She's a neighbor of the deceased.

9 THE COURT: Okay. Well, you're asking me to
10 exclude her?

11 MR. NEGUS: Yes.

12 THE COURT: Are you telling me for sure that
13 there's a distinct possibility that she might testify?

14 MR. NEGUS: Yes.

15 THE COURT: Are you telling me that in some
16 manner that her testimony might be changed if she hears
17 what other witnesses testify to?

18 MR. NEGUS: Yes.

19 THE COURT: What witnesses are you going to have
20 today? I almost feel an obligation to evaluate those kinds
21 of statements, because I don't like to exclude such
22 witnesses here. They have lived with this nightmare all
23 this time, and they have really got a vital, legitimate
24 interest in observing the proceedings. I don't like to
25 kick them outside. I think we do that, everybody. I mean
26 not just the people in this room. I think it's done in

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1 our profession almost by rote nowadays, and I have a
2 dislike of doing that, so, Mr. Negus, I feel that way.
3 Can we avoid it and let her go ahead and sit here or
4 something? She's an interested person in the community.

5 MR. NEGUS: The problem is that I don't want to
6 be in a situation where I jeopardize my client's fair
7 trial rights, and various -- these neighbors have
8 testimony which may bear upon various prosecution and
9 defense theories.

10 THE COURT: Well, you are going to do this for
11 every single witness that might wander in the court, then,
12 every possible witness?

13 MR. NEGUS: Everybody -- everybody whose testimony
14 might be affected by what they hear, yes, because --

15 THE COURT: Well, that's a blanket request on
16 your part then. If I lay that foundation, I am going to
17 simply deny it. I can see certain places where you have
18 overlapping possibilities and a suggestibility factor,
19 which I would like to be able and receptive to, but if
20 it's going to be simply a blanket thing with all the many
21 witnesses that we have, I am simply going to deny the
22 exclusionary request.

23 MR. NEGUS: The problem is, Your Honor, that, for
24 example, one critical issue which comes up in the Chino
25 Hills witnesses has got to do with the times that various
26 things happened, and all of these different people gave

8 They also gave equivocal statements about certain
9 things. Mrs. Mann, for example, gave a whole bunch of
10 testimony -- or not testimony -- a whole bunch of
11 statements to a Sheriff's officer indicating that there
12 might be motives for other people to have committed the
13 crime, and I don't know why she did that, but she did
14 give a long and extensive statement about it, and a lot
15 of that -- those statements were very nebulous when she
16 gave it to the Sheriff's Office.

24 All these people also had --

25 THE COURT: I can't see how she would testify to
26 that, in any event.

1 MR. NEGUS: She could.

2 THE COURT: An opinion type of statement that it
3 could be somebody else --

4 MR. NEGUS: They are statements that Peg Ryen
5 allegedly has made to her and things that she's observed.

6 THE COURT: I see no reason to be completely
7 against the position that I have previously taken, even
8 though this is a serious case. I will deny your motion
9 to exclude her.

10 In the presence of my clerk and all counsel,
11 regretfully, gentlemen, I've got a death in my family,
12 a brother-in-law in Ojai. I must attend the funeral
13 tomorrow. I've got to take other members of my family
14 there, as well as the need for me to be there as well.
15 Hopefully, you can -- I will be back on Wednesday, and
16 we've got all day today. I'll come in tomorrow morning
17 on my -- it's not till 2:00 o'clock tomorrow, so I will
18 come in and handle the morning calendar otherwise, and
19 then I will take off at 9:30 or 10:00 tomorrow.

20 MR. NEGUS: Is it possible that we could do one
21 short witness tomorrow morning, even starting --

22 THE COURT: If it's short. I mean I want to leave
23 here before, say, 10:00 o'clock.

24 MR. NEGUS: If we started exactly at 9:30, the
25 man's name is Owen Handy. He has no phone. He lives on
26 a boat.

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1 THE COURT: That's going to take a long time,
2 though, isn't it?

3 MR. NEGUS: No. I mean the questions I have of
4 him are relatively brief.

5 THE COURT: I am perfectly willing to do it,
6 Mr. Negus, but I've got close to a three-hour drive, I
7 understand, in an area that I am not familiar with up
8 there, so let's see, and so I want to get there by 1:00,
9 so that's going to push me. I need to leave here by
10 around tenish.

11 MR. NEGUS: Well, I will see if I can get -- we
12 have no phone to call him off, so he's already set to come
13 in. That's the problem I have.

14 MR. KOCHIS: Let me see if I can use my resources
15 through Sergeant Arthur to locate him.

16 MR. NEGUS: And have him here on Wednesday?

17 MR. KOCHIS: Have him here on Wednesday.

18 THE COURT: I am willing to push it and to hurry.
19 I regret I must do this, but I've got to be there.

20 MR. NEGUS: Second thing, I have intestinal flu
21 myself, and if I have to run out, no insult is intended.

22 Thirdly, could we address the issue of Mr. Cooper's
23 haircut in chambers so we don't have to do it in open
24 court --

25 THE COURT: Sure.

26 MR. NEGUS: -- and have -- Mr. Cooper had the deputy

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22 THE COURT: Have you verified this in any way?
23 I feel like, you know -- like I'm really humoring the
24 man to give him two haircuts within a matter of days,
25 if they're going to say that dumb judge back there is
26 catering to his complete whims and vanities. Do they have

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Mr. Kochis.

MR. KOCHIS: I think they have been talked to.

I didn't witness what Mr. Negus --

1 THE COURT: I did a little bit. I didn't see any
2 laughing. The only thing that I saw was at some point
3 when I said you're probably not the most popular man in
4 the County Jail, or words to that effect, I saw them turn
5 to each other and smile.

6 MR. NEGUS: After you left the bench, Your Honor,
7 they were laughing in a "ha-ha-ha" manner to Mr. Cooper,
8 and I saw it myself.

9 THE COURT: Okay. Well, I will accept that.
10 Admonish them, Mr. Archib. I don't want to have to
11 admonish the people.

12 Good morning, Mr. Kottmeier.

13 MR. KOTTMEIER: Good morning.

14 There may be one other small factor that I would
15 just offer so that, at least from my viewpoint, the
16 record is complete. Mr. Cooper turned around earlier in
17 the day and apparently had engaged in some visual eye
18 contact with Mary Ann Hughes, and that he had turned
19 around again on the occasion mentioned by Mr. Negus, so
20 that I think that it's one of those kinds of things;
21 absent an audience to play to, that is, if Mr. Cooper does
22 not make the eye contact, that it might be better in
23 that the tensions won't be so great.

24 THE COURT: Well, the admonishment should be two
25 ways then.

26 MR. NEGUS: Mr. Cooper turned around and saw them.

1 That's when he started.

2 THE COURT: Well, that's not proper, and we really
3 should tell them to keep great stony faces out there.

4 All right. Let's get going, shall we? Thank you.

5 (Whereupon, the following proceedings
6 were had in open court:)

7 THE COURT: Good morning.

8 I mentioned to counsel in chambers that I have a
9 death in my family, and I wouldn't be able to spend any
10 time on this case tomorrow. There was one witness perhaps
11 that will not be too long that we may handle between 9:30
12 and 10:00. I will have to come in briefly tomorrow, but
13 for those of you in the audience, I may not be going on
14 this case at all tomorrow. If there's a problem with
15 reference to your witness' attendance tomorrow, since he's
16 already coming in, and you have communication problems,
17 we'll do our best to handle him; otherwise, there will be
18 no hearings on this case tomorrow, because I've got to
19 travel to Ojai.

20 Who's the next witness, Mr. Negus?

21 MR. NEGUS: Phil Danna.

22 (No omissions.)
23
24
25
26

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1 P H I L L I P D A N N A, called as a witness by and on behalf
2 of the Defense, was sworn and testified as follows:

3 THE CLERK: You do solemnly swear the testimony you
4 are about to give in the action now pending before this
5 Court shall be the truth, the whole truth and nothing but
6 the truth so help you God.

7 THE WITNESS: Yes, I do.

8 THE CLERK: Please be seated.

9 State your name, please, for the record and spell
10 your last name.

11 THE WITNESS: My name is Phillip Danna, two L's in
12 Phil, two N's in Danna. D-a-n-n-a.

13
14 DIRECT EXAMINATION

15 BY MR. NEGUS:

16 Q Mr. Danna, what is your occupation?

17 A I'm a deputy sheriff with the County of San Bernardino.

18 Q And in June of 1983, did you have the rank of a detective
19 and were you assigned to the West End Sheriff's Office?

20 A Yes, I was.

21 Q On that date, did you go to the California Institution
22 for Men to obtain some information they had on two recent
23 escapees?

24 A Yes.

25 Q What information were you given?

26 A I was given two, if I recall, two sheets of paper, one

1 with a subject by the name of Knori and one with the
2 information on Mr. Cooper.

3 Q At the time that you received that information, Mr.
4 Cooper was known to you by the name of David Trautman;
5 is that correct?

6 | **A. Yes.**

7 Q And you don't recall having actually heard the name
8 "Kevin Cooper" on that particular night; is that correct?

9 | A. Yes.

10 Q Did you receive any other information other than just
11 a flyer at that time?

12 A. No. It was just a -- what appeared to be a flyer or
13 face sheet or something with a photograph of Mr. Cooper.
14 Or, Mr. Trautman at that time.

15 Q At -- a few days later, during the week, did -- did you
16 return to CIM to get some additional information?

17 | A. Yes.

18 Q And do you remember what -- what day that was?

19 A No, I don't. It was some days later.

20 Q Who did you receive the additional information from?

21 A If I'm not mistaken, it was Zeke Hernandez, eventually
22 met with myself, and a reserve deputy who also works
23 at the prison.

24 Q Was that Pat Whelchel?

25 | **A** Yes.

26 Q And did he accompany you down there the first night as

1 well?

2 A Yes, he did.

3 Q What additional information did you get from -- from
4 Mr. Hernandez?

5 A It was a portion of some medical records. It's all I
6 can recall, some medical records.

7 Q Do you recall whether that was a complete medical file
8 or just certain selected records?

9 A Well, I don't know if it was a complete medical file.
10 It was just what -- whatever they handed me.

11 Q Did -- did you make some particular request of them
12 for certain information?

13 A Yes.

14 Q What was that?

15 A Any information pertaining to any medical files that they
16 may have.

17 Q And for what purpose were you seeking medical files?

18 A I was asked to go down to the prison and see if I could
19 obtain those documents for the investigation.

20 Q Who asked you?

21 A I believe it was -- I'm not sure. It could have been
22 Sergeant Mauldin, but I'm not positive.

23 Q And were you told why you were getting those particular
24 documents?

25 A No.

26 Q Included in the documents that you received, was there a

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1 what's called a chrono, a approximately five by eight --
2 by eight piece of paper which authorized the issuance of
3 tennis shoes to Mr. Trautman?

4 A I don't -- I don't remember exactly what was attached to
5 those papers. I just received a package and delivered
6 it.

7 Q To whom did you deliver it?

8 A To Sergeant Arthur.

9 Q And where did you deliver it?

10 A At the substation.

11 Q Was that in a period of time when the investigative
12 command post was still in the West End Substation?

13 A Yes.

14 Q Do you recall, on June the 9th, a press conference in
15 which it was announced that formal charges had been filed
16 against Mr. Cooper?

17 A I wasn't involved in that press conference, nor was I
18 near the area where the press conference was held.

19 Q Were you aware that it was being held?

20 A I couldn't tell you. You're giving me a date, and I
21 could really not answer that question as to whether that
22 happened on that date. I heard of a press conference
23 being given, but I don't know when.

24 Q Do you remember whether or not you obtained these
25 documents from the California institution for Men before
26 or after that press conference?

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1 A I couldn't give you an answer on that.

2 Q Did you prepare any report about the receipt of these

3 documents?

4 A No.

5 Q On -- on approximately June the 7th, did you interview

6 a gentleman named Larry Lease?

7 A Yes.

8 Q And did that interview take place after it had been

9 discovered that an unauthorized person had been living

10 in the residence at 2991 English Road?

11 A Yes.

12 Q During that interview, did Mr. Lease describe to you an

13 ax that had been kept on the property at 2991 English

14 Road?

15 A Yes, he did.

16 Q And did he indicate to you that ax was missing?

17 A Yes.

18 Q Did he describe the ax?

19 A Somewhat, yes.

20 Q Did he describe it to you as somewhere between 12 and

21 14 inches long, of an unknown color and type?

22 A Yes, I believe so.

23 Q And he gave you no further description than that?

24 A Yes.

25 Q Were you aware of an ax that had been recovered by Mr.

26 Roper on English Road near the intersection of Peyton?

1 A Yes.

2 Q Was the description that Mr. Lease gave you sufficiently
3 detailed to identify the ax discovered by Mr. Roper as
4 the ax that Mr. Lease was talking about?

5 | A. I -- I don't know.

6 Q Did you --

7 A I didn't see the ax that was recovered, so I couldn't
8 tell you.

9 Q. Where did your interview with Larry Lease take place?

10 A. At his home.

11 Q And do you know whether it was the same day that the --
12 that it had been discovered that an unauthorized person
13 was living in 1991 or a different day?

14 A. I just -- I don't know.

15 Q Your report of this interview doesn't indicate a date;
16 is that correct?

17 A Unfortunately, it does not.

18 Q It was typed June the 8th; is that true?

19 | A. Yes.

20 Q Do you know if it was -- if you received the interview
21 from Mr. Lease the same day that the report was typed
22 or the day before?

23 A I -- again, I could not answer that question. I -- I
24 just don't know how backlogged the stenos were on the
25 typing.

26 Q The -- were you attending the morning briefings at the

1 West End Sheriff's Office during the first week after
2 the crime was committed?

3 | A. Most of them, yes.

4 Q Did you report on your interview with Larry Lease on
5 those morning briefings?

6 | A. No, I don't recall doing that at all.

7 Q Did you ever tell anyone that Larry Lease had identified
8 the ax discovered by Mr. Roper as the ax coming from
9 2991?

10 | A. No.

11 Q. Once your report was typed by the typist, was it then
12 returned to you for approval?

13 A. Yes.

14 Q And once you went over it, did you then turn it into
15 Sergeant Arthur?

16 A. Yes.

17 Q And was that done on June the 8th, the same day it was
18 typed?

19 A. Could have been, yes.

20 Q You -- you don't remember for sure?

21 A No. There were times that I were -- was assigned to
22 do specific things involving this case and I was out of
23 the office, and it could have been the day after when I
24 was finally able to proofread.

25 (No omissions.)

26

- 1 Q At the time that you picked up the medical file at
2 CIM, could Lieutenant Don Smith have been present
3 as well?
- 4 A I don't recall the name Don Smith to a face. If I
5 knew what he looked like, possibly I could tell you.
- 6 Q A relatively short man with -- with bald hair -- bald
7 head and a moustache, Anglo?
- 8 A I don't believe he was there, if it's the same person
9 I spotted outside in the lobby. No. I don't believe
10 he was at that location. He might have been. The
11 person I was dealing with was a sergeant, but I don't
12 remember his name. He was a sergeant that works at
13 CIM.
- 14 Q Was he on the investigative staff or some other --
- 15 A He just worked that area where he had taken myself
16 and Reserve Deputy Whelchel.
- 17 Q Was that where area -- do you know where that was?
- 18 A It was by the infirmary, I guess, the medical area.
19 We waited in a -- in a room, and I noticed a few
20 nurses going back and forth, so I would assume that
21 would be the facility hospital.
- 22 Q Are you familiar with the building which is the
23 administration building at CIM where the investigators
24 have their office?
- 25 A I don't believe I am. I could have been there, but
26 I'm not sure if that's the administration office.

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1 Q Well, when you enter CIM, are you familiar with a
2 sort of large open area with a two-story building to
3 the north and then a prison structure to the south?

4 A Yes.

5 Q Designating the building to the north there as the
6 administration building --

7 A That would be the building.

8 MR. NEGUS: I have nothing further.

9

10 CROSS-EXAMINATION

11 BY MR. HODGES:

12 Q Detective, the first day that you went to CIM on
13 this case, was that Sunday, June the 5th, the day
14 the homicides were discovered?

15 A Yes.

16 Q Who went with you to CIM?

17 A Reserve Deputy Pat Whelchel.

18 Q Do you recall which CIM personnel you talked to on
19 that particular Sunday?

20 A Well, I recall the name Zeke Hernandez as the person
21 I eventually personally dealt with. There was a
22 lieutenant that was on the phone when we first went
23 up to the guard shack, and I had Pat Whelchel make
24 contact with this lieutenant requesting information
25 on the escapees.

26 Q Directing your attention to an exhibit which has been

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1 marked for identification as S-33, does this appear
2 to be a copy of one of the two pieces of paper you
3 received from CIM on that particular Sunday?

4 A Yes. I believe this is the copy.

5 Q And did you then take that back to the homicide
6 officers who were working on this particular case?

7 A Yes.

8 Q How many days passed, if you can estimate, between the
9 day of Sunday, June the 5th, and the second time that
10 you went back to CIM and received the medical records?

11 A Possibly maybe four to five days. Just a guess.

12 Q When you picked up the medical records, did you simply
13 take them back to homicide without reviewing the
14 contents of the record themselves?

15 A Yes.

16 MR. KOCHIS: I have nothing else.

17 MR. NEGUS: Nothing further.

18 THE COURT: Thank you, Detective.

19 You may step down.

20 MR. NEGUS: Teresa Cordua.

21

22 T E R E S A C O R D U A, called as a witness by the
23 defendant, was examined and testified as follows:

24 THE CLERK: You do solemnly swear the testimony
25 you are about to give in the action now pending before
26 this court shall be the truth, the whole truth, and

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26 I have it in my report. I gave a box full of tennis

2 Q Okay. Was that the first or the second time, that
3 you recall?

6 Q Were they made to you or to other persons?

8 Q When was the second time that you personally were
9 involved with furnishing tennis shoes?

12 Q Did you ever transport any shoes, tennis shoes or other-
13 wise, from the institution up to the West End Sheriff's
14 Office?

16 Q How do you know they were?

18 Who did you see taking them?

20 Q And when was that?

23 Q How many -- how many shoes did Lieutenant Smith take
24 up to West End Sheriff's Office?

25 A He had a box. I don't -- there were several. I don't
26 know the amount.

1 Q In the -- in the box that you prepared, do you remember
2 how many tennis shoes there were?
3 A The number? No.
4 Q Were they all the same brand?
5 A I couldn't say.
6 Q Where did you get them?
7 A I personally got them from the R.C. West gym -- the
8 room, where they store the tennis shoes.
9 Q Did you go into that storeroom and pick out the boxes
10 yourself or did you have somebody else do it?
11 A I did it myself.
12 Q Who was present when you did it?
13 A There were other people there, but I'm -- I was doing
14 it on my own. I don't know -- they weren't with me.
15 Q They were there with other people working in that
16 room?
17 A Yes. There was -- there was an officer. He's the
18 gym officer. He's -- he has a Mexican surname. I
19 can't think what his name is, offhand. He was in
20 there.
21 Q Was there any inmates in there?
22 A There may have been. There were other people there.
23 I'm not certain.
24 Q The shoes that you got in the -- in the R.C. West gym,
25 there is an office area; is that right?
26 A It's like a storeroom.

1 Q Okay. Well, the side of the gym that's closest to
2 Reception Center Central should be the --

3 A The east side.

4 Q The east side; correct. There's an office in the
5 center of that -- of that side of the gym. There's
6 an equipment room where equipment is issued from to
7 the north, and then there's a storeroom to the south.
8 Is the storeroom to the south the place you got it?

9 A I couldn't say. It was the room that had all the
10 tennis shoe boxes in it.

11 Q Small room?

12 A Not little, no.

13 Q Was it a room from which tennis shoes were being
14 issued to inmates?

15 A I don't know if they issued them from there. They
16 store them there.

17 Q Were the tennis shoes that you got new tennis shoes?

18 A I don't recall if they were brand new.

19 Q The tennis shoes that Don Smith took up to WESO, did --
20 did you see those shoes being obtained?

21 A No.

22 Q Do you know obtained them?

23 A No. I only know who had them.

24 Q Did you ever transport any tennis shoes from the
25 institution up to that address at 2991 English Road
26 in Chino Hills?

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1 A No, I did not.

2 Q Did you ever see anybody else do that?

3 A No, I did not.

4 Q Were you ever up at that location?

5 A No, I was not.

6 (No omissions.)

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- 1 Q Did you ever have an occasion to look at David Trautman's,
2 also known as Kevin Cooper's, central and medical files?
- 3 A Yes, I did.
- 4 Q In those files, is there any documentation to indicate
5 that Mr. Cooper was ever issued a pair of tennis shoes?
- 6 A As I recall, there is a documentation authorizing or that
7 he had been issued a pair of tennis shoes. It's a
8 doctor making the request.
- 9 Q The document says he can -- he can be allowed to have a
10 pair of tennis shoes; is that correct?
- 11 A I'm not sure that was the wording, no --
- 12 Q Was there --
- 13 A -- because of a medical problem.
- 14 Q Was there ever any documentation to show that he actually
15 received them?
- 16 A No.
- 17 Q Was there ever any documentation to show that he was to
18 receive a particular brand of tennis shoes?
- 19 A I don't -- I wouldn't know.
- 20 Q In the documentation that you saw, was any particular
21 brand mentioned?
- 22 A I don't recall. I only glanced at that document.
- 23 Q Did you ever tell John Clifford that you had seen
24 documentation which showed that Kevin Cooper was in fact
25 issued a pair of Pro-Ked tennis shoes?
- 26 A Could you repeat the first part.

4 A That I was aware, there was a report.

8 A Not the word "documentation."

11 A. I was aware of one.

13 | A. No.

15 A I was told by my partner.

17 | A. Zeke Hernandez.

19 A That he had interviewed an inmate concerning issuance of
20 tennis shoes.

23 A That was basically all he told me. And then I believe
24 Mr. Hernandez passed on the rest of it to the sheriff's
25 department.

26 Q Did you personally ever relay any information from

- 1 Mr. Hernandez to Mr. Clifford?
- 2 A Yes.
- 3 Q What was that?
- 4 A That Mr. Hernandez had an inmate who had told him about
- 5 some tennis shoes.
- 6 Q When you talked to Mr. Clifford, did you ever -- did you
- 7 ever specify any particular brand of tennis shoes?
- 8 A I don't recall. I may have. I don't know.
- 9 Q What brand may -- might you have specified?
- 10 A It could possibly have been Pro-Ked, but I'm not positive.
- 11 Q Why do you say "it possibly could have been Pro-Ked"?
- 12 A Because I'm aware that Pro-Ked tennis shoes are on the
- 13 yard. And I don't know if that's why I think that or not.
- 14 Q Did Mr. Hernandez tell you that the same inmate had
- 15 also told him that the inmate had issued Kevin Cooper a
- 16 pair of P.F. Flyers?
- 17 A I don't remember that.
- 18 Q Did you ever mention P.F. Flyers to Mr. Clifford?
- 19 A I -- I couldn't say. I don't know.
- 20 Q Are you familiar with the procedures whereby tennis
- 21 shoes are issued to inmates at the various facilities of
- 22 the California Department of Corrections in Chino?
- 23 A Just the basic.
- 24 Q What basics are you aware of?
- 25 A That they're issued shoes.
- 26 Q You don't know the specifics of what kind of shoes or how

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1 the -- how that process goes on?

2 A No, not into the process.

3 Q Did you ever tell Mr. Clifford that you were familiar
4 with the procedures whereby shoes are issued to inmates
5 at CIM?

6 A Are we talking about shoes or tennis shoes?

7 Q Let's just take shoes in general, all types of shoes.

8 A I'm sure that I told him shoes are issued when a man
9 comes in.

10 Q Did you tell him that you're familiar with that process?

11 A The basic part of it, that he gets shoes when he --
12 on his arrival.

13 Q Did you tell him that you knew what kind of shoes that he
14 got what he -- when he came in?

15 A I may have. I know what kind.

16 Q What kind is that?

17 A The regular inmate manufactured hard soled shoes, brown
18 shoes, sometimes the high top brown shoes.

19 Q Did you ever tell him that you were familiar with the
20 process by which inmates get tennis shoes?

21 A I may have.

22 Q And how is that, what did you tell him?

23 A According to the facility that a man is in, that it
24 would require a doctor's request to obtain tennis shoes.
25 They're not just given to anyone.

26 Q Did you ever tell Mr. Clifford that you're familiar with --

1 with what kinds of -- what different brands of tennis
2 shoes are available at CIM facilities?
3 A. I may have, because only one kind really comes to mind.
4 Q. What do you mean -- what do you mean when you say
5 "comes to mind"?
6 A. Because I'm familiar with one brand.
7 Q. Does that mean that only one brand is available there?
8 A. No.
9 Q. How many different brands are available?
10 A. I have no idea.
11 Q. Five, six, twenty?
12 A. I have no idea.
13 Q. Certainly more than one; is that true?
14 A. I would have to assume.
15 Q. Why -- why do you say that?
16 A. Because I don't know.
17 Q. Well, in the -- in the shoes that you provided to Mr.
18 Mascetti, there were six different kinds of tennis shoes,
19 were there not?
20 A. I wouldn't know.
21 Q. When you were selecting the shoes yourself from the
22 storeroom, did you just randomly take shoes or did you
23 try to get one of each that was available?
24 A. I took -- I took one of each kind they had.
25 Q. So certainly there was at least more than one available --
26 one brand available because you took more than one; is

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1 that not correct?

2 | A Or style.

3 Q Did you ever go to the Security Housing Unit in June
4 or July of 1983 to check on what types of tennis shoes
5 they had available to them there?

6 | **A.** **No.**

7 Q And did you ever go to CIM minimum to check on what
8 brands of tennis shoes they had available to them there?

9 | A I did not, no.

10 Q. Do you know to your knowledge that somebody else did?

11 A Not to my -- well, I don't know where Lieutenant
12 Smith obtained his shoes.

13 Q When you gave Mr. Clifford information about an inmate
14 issuing tennis shoes to Mr. Cooper, were you aware that
15 that inmate had a pending CDC 115 disciplinary action
16 for possessing contraband in the prison against him?

17 A I wouldn't have known that, because I don't believe I
18 ever knew the inmate's name, only that one existed.

19 Q So when you told -- talked to Mr. Clifford, you had no
20 facts one way or the other about that inmate's credibility
21 other than he was an inmate?

22 A That's right.

23 Q Did you ever give a pair of Pro-Ked tennis shoes to
24 Mr. Stockwell from the San Bernardino Sheriff's Office
25 Crime Lab?

26 | A. Yes, I did.

1 Q When was that?

2 A That was quite a bit later. The exact date I don't know.

3 Q Were you aware of the capture of Mr. -- Mr. Cooper in
4 Santa Barbara?

5 A Was I aware when he was captured?

6 Q At that --

7 A Is that the question?

8 Q Yes.

9 A Yes, I know when he was captured.

10 (No omissions.)

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1 Q Did you give the shoes to Mr. Stockwell before or
2 after that capture?

3 A I really couldn't say.

4 Q How did you deliver the shoes to him?

5 A I took them over there to the San Bernardino County
6 Sheriff's Crime Lab.

7 Q How many pair did you take?

8 A I took one pair.

9 Q At the preliminary hearing you testified, did you
10 not, that prior to giving shoes to Mr. Mascetti, you
11 believe that you had taken some tennis shoes to WESO
12 yourself?

13 A Yes. I believe I said at the prelim that I was aware
14 that shoes had been taken to WESO, but I wasn't certain
15 if I was the one that took them or not, but I knew
16 that some went.

17 Q At that point in time, at the preliminary hearing,
18 did you indicate that you believed that possibly it
19 was yourself that took the tennis shoes to West End
20 Sheriff's Office?

21 A Yes; that I was certain that a box had gone, but I
22 wasn't certain who. Perhaps even myself had taken
23 them.

24 Q Have you done something since then to refresh your
25 recollection?

26 A No, just that I believe it was Lieutenant Smith who

1 took the shoes, and I saw him taking them.

2 Q What caused you to -- you didn't mention Lieutenant
3 Smith taking the shoes when you testified at the
4 preliminary hearing; is that true?

5 A I don't remember whether I did or not.

6 MR. NEGUS: If I could read to refresh her
7 recollection from page 142 of Volume 21, lines 16 through
8 23.

9 THE COURT: Just a minute.

10 MR. KOCHIS: I have that page and line.

11 THE COURT: Okay. Go ahead.

12 Q BY MR. NEGUS:

13 "Q Was that before or after you
14 gave the tennis shoes to Mr. Mascetti?

15 "A I gave the criminalist his
16 tennis shoes after; however, I believe there
17 were some tennis shoes taken, and I -- possibly
18 it was myself that took some of them to West
19 End prior when the -- when they were still
20 having the watch meetings at the West End.
21 I believe I provided some tennis shoes then,
22 but I'm not certain."

23 Has something happened since then, since you
24 testified to those words at the preliminary hearing, to
25 sharpen your recollection?

26 A No, but it -- I'm -- I believe it was Lieutenant Smith,

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1 wearing a CDC camp jacket.

2 Q Did -- in the reports that you had available to you,
3 did Mr. Shephard identify the person that he had seen
4 running down Edison as Kevin Cooper?

5 A Did Lieutenant Shephard?

6 Q Yes.

7 A In the body of his report, I don't recall if the name
8 is given. It's put on the cover sheet of that
9 incident report.

10 Q But did Lieutenant Shephard tell you that -- that --
11 that that inmate that he saw running down Edison
12 was in fact Kevin Cooper?

13 A He would have -- it was in the David Trautman incident
14 report.

15 Q Did he tell you that the inmate that he'd seen running
16 down Edison was in fact David Trautman?

17 A Not -- I don't know if it was in the body of his
18 report. Like I say, it was on the cover of the
19 incident report.

20 Q First of all, did Lieutenant Shephard ever state to
21 you that he was sure that the person he'd seen running
22 down Edison was in fact an inmate?

23 A No, not to me.

24 Q To your knowledge, had he stated to someone else?

25 A I don't have any idea.

26 Q In -- you have reviewed his -- the report, the memo

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1 that he drafted to go to Superintendant Carroll about
2 the -- about what he observed; is that correct?

3 A It's been over -- it's been since last June. That's
4 why I'm not sure if it's in the body of his report.

5 Q But you did last June you -- you reviewed that; is
6 that right?

7 A Yes, I did.

8 Q I don't remember if I asked this. Do you remember if
9 it's in his report whether or not the person running
10 down Edison was an inmate?

11 A Could I repeat that?

12 Q In Lieutenant Shephard's report, did it state that
13 the person running down Edison was an inmate?

14 A I believe it says something of the fact that it
15 appeared to him to be an inmate because of the clothing
16 he was wearing.

17 Q And he described the clothing as what appeared to be
18 prison-issued clothing?

19 A Yes. I believe he describes the camp jacket, the
20 pants and shoes, as I recall.

21 Q He said he was wearing blue denim pants, a white
22 T-shirt, tan shoes and a prison-issued camp jacket
23 brown in color?

24 A It's been a long time. That sounds like possibly it.
25 I'd have to see it.

26 Q I'm showing you my copy, which is more colorful than

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26

1 THE COURT: Are you ready to proceed, Counsel?

2 MR. NEGUS: Your Honor, Mr. Kochis contacted the
3 San Bernardino County Jail. They have no objection to my
4 proposed order.

5 THE COURT: I have already spoken with the clerk to
6 prepare another order. And we need the witness back on the
7 stand.

8 MR. NEGUS: She's here.

9 THE COURT: Mrs. Cordua.

10 You remain under oath.

11 Q (BY MR. NEGUS:) Other than the statement of Mr. Shephard,
12 did you have any other evidence that a camp jacket was
13 issued to Mr. Cooper?

14 A Not that I can think of, other than what was contained
15 in the incident report.

16 Q And what was that?

17 A That would be the face sheet that I spoke of, and that
18 contains Mr. Shephard's report.

19 Q At the Preliminary Hearing, did you testify that you told
20 Mr. Clifford that it was possible that a jacket was
21 issued but you would have no way of knowing whether in
22 fact one was?

23 A I'm not certain if that was my exact wording. It would
24 be that there would be no record kept of an inmate
25 issued clothing.

26 MR. NEGUS: If I could read, Your Honor, from

1 Volume 21, Page 147, Lines 13 through 15.

2 THE COURT: Go right ahead.

3 Q (BY MR. NEGUS:)

4 "Q Did you ever tell Mr. Clifford
5 that a jacket, camp jacket was issued to
6 Kevin Cooper?

7 "A I would have no way of knowing
8 it was."

9 Did you provide Mr. Clifford with the description
10 of clothing that was contained in Mr. Shephard's report?

11 A Yes, I did.

12 Q And that was from the memo that I showed you just before
13 the break?

14 A From the incident report.

15 Q That's the -- that's the thing that I showed you just
16 before the break that we quoted from?

17 A Yes, a piece of it.

18 Q Well, that was the complete quoted description we quoted,
19 was it not?

20 A Yes, but that's not the complete report.

21 Q Did you give -- did you tell Mr. Clifford everything
22 that was in that report or just the clothing description?

23 A I believe the whole report was made available to the
24 sheriff's department.

25 Q I'm talking specifically about -- about Mr. Clifford.

26 Did you -- did you tell him that -- him personally that --

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- 1 that clothing description?
- 2 A That's possible, yes. I told him what the incident
- 3 report said that the inmate that had escaped had on.
- 4 Q Did you ever show Mr. Cooper's central file to anybody
- 5 in the sheriff's office?
- 6 A I don't recall that I personally did. I am aware it was
- 7 shown.
- 8 Q Are you aware of when it was shown?
- 9 A The exact day, no.
- 10 Q Approximately?
- 11 A I couldn't give you a date.
- 12 Q June, July?
- 13 A No. It would have been in June.
- 14 Q At the beginning of the investigation?
- 15 A Yes.
- 16 Q And do you know who -- who was the person that did that?
- 17 A I'm not certain.
- 18 Q And do you know if in fact it was shown to Sergeant
- 19 Arthur?
- 20 A I -- I don't know. I showed the medical file. Are you
- 21 just speaking of the central file or and the medical
- 22 file?
- 23 Q I'm getting to the medical file. But you showed the
- 24 medical file -- file to somebody?
- 25 A I had it, yes.
- 26 Q And who did -- did you show it to somebody in the

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- 1 sheriff's office?
- 2 A I believe I showed it to Sergeant Arthur.
- 3 Q And when was that?
- 4 A I -- the day that I -- I Xeroxed some copies out of it.
- 5 It was when they were over at -- back over at the homicide.
- 6 The date I don't know.
- 7 Q It was when the command center, as it were, had shifted
- 8 from the West End back over to homicide?
- 9 A Well, they were over there. I don't know if it had
- 10 shifted. They were over there the day that I -- that I
- 11 was Xeroxing.
- 12 Q And did you personally take those papers over to the
- 13 homicide department?
- 14 A Yes.
- 15 Q And gave them to Sergeant Arthur?
- 16 A There were several people in the room. I handed them
- 17 to Sergeant Arthur, I believe. There were others present.
- 18 Q Did you ever show contracts between a vendor and -- and
- 19 the -- and any of the facilities at California Institution
- 20 for Men to the sheriff's office for the sale of tennis
- 21 shoes?
- 22 A I saw them, but I was not the person that showed them.
- 23 Q Were you present when they were shown?
- 24 A No.
- 25 Q When did you -- when did you first see the contracts?
- 26 A I saw them -- Lieutenant Smith had them, and I believe

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A. I don't recall. I just recall seeing them.

A. No. I also ended some to the District Attorney, I believe to Mr. Kochis, right before we started, I believe it was, the Prelim, the last time. There were some that Lieutenant Smith sent for me to give to him when I came up here.

A I don't have any idea. I only glanced he -- when he told me, "Take these. This is what they are."

A. I only handed them once.

A But this other one, I'm aware that there was a time prior that -- that I saw some.

A. No.

Q And did you, like, ever discuss contracts at the briefing -- at the morning briefings or anything like

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(No omissions.)

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1 Q Did you ever ask him about that?

2 A No.

3 Q When -- when a person gets one of those medical
4 chronos for the issuance of tennis shoes, from whom
5 do they get the tennis shoes?

6 A I don't know. I would assume the person that works
7 the gym area, but I don't know.

8 Q Is it also possible that they can have tennis shoes
9 sent in from outside, from their families or their
10 friends?

11 A Not that I'm aware of.

12 MR. NEGUS: Nothing further.

13

14

CROSS-EXAMINATION

15 BY MR. KOCHIS:

16 Q Mrs. Cordua, on Thursday, June the 2nd of 1983, did
17 you become involved in the investigation of an
18 alleged escape from CIM?

19 A Yes, I did.

20 Q And was that investigation initiated by observations
21 Lieutenant Shephard had made earlier that afternoon?

22 A That's correct.

23 Q And, essentially, in terms of sequence, is what took
24 place that Mr. Shephard observed a person on the
25 outside of the perimeter fence on Edison Avenue,
26 wearing what appeared to him to be State-issue prison

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1 clothing?

2 A That's correct.

3 Q Was then a count done of the inmates at CIM?

4 A Yes, it was.

5 Q Did that count reveal that there were two inmates that
6 in fact could not be accounted for?

7 A No.

8 Q Did it reveal that there was at least one inmate that
9 you could not account for?

10 A There was one.

11 Q And was that Mr. Trautman or Mr. Knori?

12 A That was Trautman.

13 Q During the month of June of 1983, how many inmates
14 in fact escaped from CIM?

15 A Two.

16 Q And was one of those Mr. Knori?

17 A Yes, it was.

18 Q Was the other one Mr. Trautman?

19 A Yes, it was.

20 Q When Mr. Shephard made his observations, did he
21 observe the physical description of the person he
22 saw wearing the State-issue clothing?

23 A Yes, he did.

24 Q And did that include height, weight and race?

25 A Yes.

26 Q The description of the person Mr. Shephard observed,

1 that was consistent with Mr. Trautman's physical
2 appearance, was it not?

3 A Yes, it was.

4 Q It was not consistent with Mr. Knori who is a Caucasian?

5 A Mr. Knori had not escaped.

6 Q But Mr. Knori is a Caucasian?

7 A That's correct.

8 Q Did you then go on June the 2nd of 1983 and review
9 Mr. Trautman's central file?

10 A Yes.

11 Q When you opened the file, was there any documentation
12 inside the file that indicated that Mr. Trautman may
13 in fact be another person?

14 A Yes, there was.

15 Q Was that documentation from a jurisdiction other than
16 California?

17 A Yes, it was.

18 Q And did it indicate a name that was either an AKA
19 used by Mr. Trautman or in fact Mr. Trautman's true
20 name?

21 A Yes, it did.

22 Q Was that name Kevin Cooper?

23 A Yes, it was.

24 Q And were you aware of that name on Thursday, June
25 the 2nd?

26 A Yes, I was.

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4 | A. Yes.

8 | A. Yes, we were.

10 A Yes.

15 A Yes, it was.

17 | A. Yes, I did.

19 | A. Yes.

21 | A. Yes, it did.

26 | A. Numerous times.

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1 Q Were you keeping records of every time you had a
2 conversation with a San Bernardino County deputy
3 sheriff about Mr. Cooper?

4 A No, I was not.

5 Q Were you keeping records of every piece of
6 information you passed to the Sheriff's homicide
7 investigators about Mr. Cooper?

8 A No, I was not.

9 Q Can you recall with specificity concretely every day
10 that you passed information to Mr. Clifford, for
11 example?

12 A No, I can't.

13 Q Can you recall with exact specificity the content of
14 every conversation you had with Mr. Clifford about
15 Mr. Cooper?

16 A No, I can't.

17 Q Did you take brown camp issue jackets to Homicide?

18 A Yes, I did.

19 Q How many occasions?

20 A I took once to West End and once to Homicide.

21 Q Directing your attention to an item which has been
22 marked for identification as Exhibit S-24, which
23 appears to be a jacket, I am going to ask you to
24 examine the jacket and tell the Court if you recognize
25 the jacket.

26 A Yes, I do.

1 Q First of all, with the type of clothing, do you
2 recognize that jacket as a piece of clothing that is
3 issued to inmates at CIM?

4 A Yes, it is.

5 Q And is that what is commonly referred to as a camp
6 issue jacket?

7 A Yes.

8 Q Do the colors on those particular jackets vary among
9 the individual jackets, depending on the type of
10 laundering they receive and the age of the jacket
11 itself?

12 A That's correct.

13 Q The exhibit in front of you, which I believe is
14 S-24, did you take that exhibit to Homicide in
15 San Bernardino and give it to Mr. Clifford?

16 A Yes, I did.

17 Q Is there a reason you took the particular jacket
18 that's in front of you on the witness stand over to
19 Homicide in San Bernardino and gave it to Mr. Clifford?

20 A Yes, there is.

21 Q What is the reason?

22 A I asked Lieutenant Shephard to find -- go to the
23 clothing room and get me a jacket that was the same
24 shade as the one he saw on the inmate on the perimeter.

25 Q Now, you mentioned earlier on direct examination
26 that the Shephard report was kept in the Trautman

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1 escape file; is that true?

2 A That's correct.

3 Q Is the theory the institution was operating under
4 during those first weeks in June, 1983 -- was the
5 institution's theory that the man that Mr. Shephard
6 saw was Mr. Trautman?

7 A That's correct.

8 Q In fact, was Mr. Shephard's observation report filed
9 under the Trautman escape?

10 A That's correct.

11 Q When you went to Mr. Clifford in Homicide and gave
12 him that particular jacket, do you recall the words
13 you imparted to Mr. Clifford when you explained why
14 you brought that particular jacket to him?

15 A Basically, yes.

16 Q What were the words?

17 A That Lieutenant Shephard had picked this one out as
18 this was the shade of jacket that he saw on the man
19 on the perimeter.

20 Q And you were aware at that time that the institution's
21 theory was that that man was Mr. Trautman?

22 A That's correct.

23 Q Did you pass that information on to Sheriff's homicide?

24 A Yes, I did.

25 Q And is that essentially a jacket that an inmate gets
26 from CIM if he's issued the clothing?

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1 A Yes.

2 Q When inmates get to a State Prison, for example, Chino,
3 are they issued particular types of clothing?

4 A Yes.

5 Q And does that include the blue -- dark blue bluejean
6 dungarees?

7 A Yes.

8 Q And the blue denim shirts?

9 A Yes.

10 Q White T-shirts?

11 A Right.

12 Q Camp jackets such as that in front of you on the
13 witness stand?

14 A Yes, right.

15 Q When an inmate leaves the institution, must he
16 return all those pieces of clothing back to CIM?

17 A That's correct.

18 Q Did you also pass to Detective Clifford information
19 pertaining to tennis shoes?

20 A Yes.

21 Q Did you pass to Detective Clifford information that
22 in Mr. Trautman's medical file there was a report
23 indicating that a physician had recommended that he
24 be issued tennis shoes for a medical problem?

25 A That's correct.

26 Q Were you also aware that your -- one of your partners,

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1 Zeke Hernandez, had interviewed an inmate who stated
2 that he had issued tennis shoes to Mr. Trautman?

3 A That's correct.

4 Q And did you make that available to Mr. Clifford?

5 A Yes, I did.

6 Q Now, Mr. Negus asked you the question about the
7 different types of tennis shoes that are available
8 at CIM. What type of tennis shoes stands out in your
9 mind?

10 A Pro-Ked.

11 Q In fact, when you went into the storage room in
12 CIM, were there numerous boxes containing brand new
13 Pro-Ked tennis shoes?

14 A Yes.

15 Q And were you aware when you talked to Mr. Clifford
16 that inmates at CIM are issued in the gym Pro-Ked
17 tennis shoes?

18 A Yes.

19 Q Did you pass that information on to Mr. Clifford?

20 A Yes, I believe I did.

21 (No omissions.)

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1 Q Mrs. Cordua, then, you were aware as early as June the
2 2nd that Mr. Trautman's possible true name was Kevin
3 Cooper?

4 A Yes.

5 MR. KOCHIS: I have nothing further.

6 THE COURT: Mr. Negus.

7

8

REDIRECT EXAMINATION

9

BY MR. NEGUS:

10 Q The -- the inmate that Mr. -- Mr. Hernandez had talked
11 to hadn't indicated in any way that the tennis shoes
12 that he claimed he had given to Mr. Cooper were given
13 pursuant to any medical authorization, had he?

14 A I don't know.

15 Q Did you ever tell Mr. Clifford that the information that
16 the inmate had -- had purported to have issued tennis
17 shoes pursuant to a medical authorization?

18 A I only passed on that there was an inmate, and the rest
19 Mr. Hernandez took care of. I only gave the initial
20 that there was an inmate available.

21 Q In all the -- in all the -- in all the times that you
22 were talking to the sheriff's office, even if you can't
23 remember what specific information that you gave them,
24 in any of those times would you have given information
25 that would be more than facts that you actually knew?

26 A I don't know what you're trying to ask me.

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1 Q Well, would you have -- would you have, for example,
2 made up information to give to -- to any of the people
3 in the briefings?

4 | A. No, I would not.

5 Q And if -- if in fact you didn't know a fact, you wouldn't
6 tell them that that fact existed, would you?

7 | A. No, I would not.

8 Q So the information that you passed on to the sheriffs
9 during those West End briefings and countless other
10 contacts you had with them was only stuff that was
11 either based on your own personal knowledge or accurately
12 reflected what you had been told by somebody else in the
13 institution; is that correct?

14 A. Yes, by some -- perhaps something that someone else had
15 told me.

16 Q All right. But when you were passing on something that
17 somebody else had told you, you would only pass accurately
18 what they had given to you and not inaccurately; is that
19 true?

20 | A. That's correct.

21 Q The -- the request of Lieutenant Shephard to -- to pick
22 out a camp jacket of the -- of the proper color, was
23 that made by somebody outside the institution or inside
24 the institution?

25 Let me withdraw the question. I think maybe it's
26 ambiguous.

1 Did -- were you requested to get Lieutenant Shephard
2 to do that by -- by -- by the sheriff's office or did
3 that idea originate with the investigators?

4 A I don't really recall. The first jacket or jackets that
5 I took up were brand new. And I believe then I asked
6 Shephard if -- you know, what color was the one he saw.
7 And then I asked him to get me one of that color. I
8 don't recall if they had asked me to get that or not or
9 if I just went ahead and asked him to get one.

10 Q When -- when did -- when did Mr. Shephard pick this jacket
11 up?

12 A They were already back over at homicide. The exact date
13 I don't recall.

14 Q It would have been in the month of June, though?

15 A. I'm not certain.

16 Q The -- the day that -- that he picked it out, would that
17 have been the same day that you took it over to homicide?

18 A. I don't remember.

19 Q Would it -- within -- within a short period of time,
20 though?

21 A Yes. I don't remember if I took it that afternoon or
22 locked it up and took it the next morning.

23 Q Did you -- did you include that information in the
24 report that you wrote?

25 | A. No.

26 Q Why not?

- 1 A I -- I'm not certain whether I did or not. I may have.
- 2 Q Is there any reason why you would have omitted it?
- 3 A I don't know whether it's in there or not.
- 4 Q Assuming it's not, is there any reason why you would have
- 5 omitted it?
- 6 A Not that I can think of.
- 7 Q According to your knowledge of procedures, did everybody
- 8 every inmate who -- who's issued clothing at CIM minimum,
- 9 are they issued a camp jacket?
- 10 A No.
- 11 Q How -- how does -- how does -- how does the institution
- 12 pick and choose between those that get one and those
- 13 that don't?
- 14 A The -- it depends on the weather.
- 15 Q An inmate may be more apt to get one if it's cold outside
- 16 than if it's warm?
- 17 A That, or his preference, or the type of job that he has,
- 18 or a number of things. If he requests one, he can have
- 19 one.
- 20 Q Well, they always have them available?
- 21 A I wouldn't know. I would assume.
- 22 Q Well, have you been over there recently? Do you know if
- 23 the have them available now?
- 24 A I have -- yes, I have seen them a couple of months ago
- 25 when they had hundreds.
- 26 Q The place we're talking about issuing them is the -- the --

1 the laundry room at the north -- excuse me, the western
2 part of CIM?

3 A That was the one that I was in, yes, on the minimum
4 side.

5 Q Well, those camp jackets aren't available at West or
6 Central or East, are they?

7 A I don't know offhand. They wouldn't be available at
8 Central.

9 Q When an inmate passes from one part of the institution
10 to another, does that inmate give up most of his clothing?

11 A Yes.

12 Q And is reissued new clothing when he gets to the new
13 place?

14 A Yes.

15 Q Is there any items of clothing that the inmate doesn't
16 give up?

17 A I wouldn't have any direct knowledge of that.

18 Q When -- when the fact that -- that David Trautman was
19 not a first term or not only a first term burglar from
20 Los Angeles became known, did the institution immediately
21 publicize that fact?

22 A Could you restate that again.

23 Q When the fact -- on June 2nd, when it became known that
24 David Trautman was not what he seemed to be and was in
25 fact somebody from Pennsylvania with a series of holds
26 and retainers on him, was his identity -- his true

200-1-000

1 identity immediately publicized by the institution?

2 A I have no idea.

3 Q The institution did release to the public, did it not,
4 a brief statement that a person by the name of David
5 Trautman had escaped from CIM?

6 A I have nothing to do with that department. I don't know
7 what they release.

8 Q During your -- your search for Mr. -- for Mr. Trautman
9 on the -- on the night of June 2nd, his true -- his true
10 identity was an embarrassment to the department, was it
11 not?

12 A His true identity as David Trautman?

13 Q The fact that he was also known as Kevin Cooper, a
14 person Pennsylvania had wants and holds on, that was an
15 embarrassment to the department, was it not?

16 A I would have no idea. I don't -- I don't have anything
17 to do with that department.

18 Q Did you have any -- any contact with Mr. Bales that night?

19 A I saw him.

20 Q Did you hear any of the publicity about Mr. Cooper's
21 escape, say, June 5th, June 6th?

22 A I saw someone on T.V.

23 Q All that publicity on June the 5th and June the 6th
24 mentioned only the name David Trautman and nothing about
25 Mr. Cooper, an escaped mental patient from Pennsylvania,
26 or anything like that; is that true?

676-1-100

1 A I -- I wouldn't know.

2 Q Did you ever release, prior to June the 7th, to any
3 member of the media the information that David Trautman
4 was in fact a person wanted by the State of Pennsylvania
5 with the true name of Kevin Cooper?

6 A I do not make press releases.

7 Q So the answer is no?

8 A Absolutely.

9 (No omissions.)

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40-1-000

1 MR. NEGUS: Nothing further.

2
3 RECROSS-EXAMINATION

4 BY MR. KOCHIS:

5 Q Mrs. Cordua, did you see on TV after the Ryen homicides
6 were discovered any of that pretrial publicity?

7 A Some, yes.

8 Q And do you recall that when the crime was first
9 discovered, that the publicity mentioned that there
10 were three escapees from neighboring facilities that
11 were wanted for questioning in conjunction with the
12 homicides?

13 A Yes, I do.

14 Q And do you recall on the press releases on TV pictures
15 of those individuals being displayed on the TV with
16 their names?

17 A Yes.

18 MR. KOCHIS: I have nothing else.

19 THE COURT: Mr. Negus.

20
21 FURTHER REDIRECT EXAMINATION

22 BY MR. NEGUS:

23 Q When you saw those pictures displayed, the picture
24 of Mr. Cooper was a -- taken from his inmate I.D.
25 card; is that correct?

26 A As I recall, it was the same one as on the flier, yes.

007105

9-2

1 Q And the only name that went out on the television
2 was that of David Trautman; is that not correct?

3 A I couldn't say for sure.

4 MR. NEGUS: Nothing further.

5 MR. KOCHIS: No further recross.

6 THE COURT: Thank you, Mrs. Cordua.

7 You may step down.

8 MR. NEGUS: Don Smith.

9 Do you want to start? We can wait.

10 THE COURT: Five minutes or so.

11 MR. NEGUS: Five minutes is fine.

12

13 D O N A L D E D W I N S M I T H, called as a witness
14 by the defendant, was examined and testified as
15 follows:

16 THE CLERK: You do solemnly swear the testimony
17 you are about to give in the action now pending before
18 this court shall be the truth, the whole truth, and
19 nothing but the truth, so help you God?

20 THE WITNESS: I do.

21 THE CLERK: Please be seated.

22 State your name, please, for the record, and spell
23 your last name.

24 THE WITNESS: Donald Edwin Smith, S-m-i-t-h.

25 ---

26 ---

679-1-0000

9-3

DIRECT EXAMINATION

BY MR. NEGUS:

Q Mr. Smith, what is your occupation?

A I am an investigative lieutenant for the California Institution for Men in Chino.

Q And were you so employed in June of 1983?

A Yes, I was.

Q In the month of June of 1983, did you ever furnish any shoes of the types issued to inmates to the San Bernardino Sheriff's Office?

A Yes, I did.

Q On how many occasions?

A One occasion.

Q And when was that?

A Approximately the week of the 7th -- 6th or 7th of June.

Q Where did you take them?

A I brought them to the West End Sheriff's Station.

Q And whom did you give them there -- to whom did you give them there?

A I believe I gave them to Sergeant Arthur.

Q And you say it was the week of the 6th or the 7th.

Do you remember what day of the week it was?

A I believe it was on a Thursday.

Q Was that in the morning or the afternoon?

A That was in the morning.

9-4

- 1 Q Had you been requested to bring those shoes?
- 2 A Yes.
- 3 Q By whom?
- 4 A I don't remember who called. It was from the
- 5 Sheriff's Department, though.
- 6 Q What did they request that you bring?
- 7 A They requested me to bring samples of shoes that
- 8 were issued to inmates.
- 9 Q Just any old inmates in the institution?
- 10 A Samples of shoes that were available to be issued to
- 11 inmates.
- 12 Q How many shoes did you bring?
- 13 A I believe it was five to six.
- 14 Q What type of shoes were they?
- 15 A They were various types, leather with usually a
- 16 composition sole.
- 17 Q Were there any tennis shoes or sporting shoes?
- 18 A No, sir.
- 19 Q Where did you get the shoes?
- 20 A I directed a watch sergeant at R.C. Central to go to
- 21 R and R, Receiving and Release, and get me pairs of
- 22 the various shoes that were available there.
- 23 Q What -- where is R and R located?
- 24 A It's located in Reception Center Central.
- 25 Q Do they still have shoes there?
- 26 A Yes, they do.

007100

- 1 Q Let's see. Friday, the 9th, you escorted Mr. Forbush,
2 Mr. Kottmeier, Mr. Kochis and myself around the
3 institution. Did we visit R and R when we were there
4 on that day?
- 5 A No, sir.
- 6 Q Are there any tennis shoes available in R and R?
- 7 A Not to my knowledge.
- 8 Q After that initial time, did you ever cause any
9 other shoes to be gathered?
- 10 A No, sir.
- 11 Q Did you -- or have you discussed that action on your
12 part in gathering the shoes and taking them up to
13 the West End with Teresa Cordua?
- 14 A I believe we talked about it, yes.
- 15 Q When was that?
- 16 A Over the last few weeks.
- 17 Q And did you tell her that you were the person that
18 had picked up the shoes and took -- had taken them
19 up on the first trip?
- 20 A I believe I did, yes.
- 21 Q Did that conversation take place in your office at
22 the administration building at CIM?
- 23 A I believe it did.
- 24 Q Did you ever attempt to gather contracts within the
25 various facilities at CIM and certain vendors, the
26 contracts being for tennis shoes?

100-1-100

2 Q When did you do that?

5 Q So assuming that that first discovery motion was
6 sometime in the month of September, it would have been
7 in that particular time frame?

9 Q. Was that the first time that you gathered those
10 *contracts*
contents?

12 Q Had you ever shown them to anybody before that from
13 the Sheriff's Office or anyplace?

15 Q Had you ever provided copies of them to anybody
16 before?

18 Q And did you -- did you bring those -- those copies
19 of contracts up to the District Attorney's Office
20 yourself?

22 Q Just prior to the preliminary hearing in November,
23 did you find some additional contracts which you
24 then had Mrs. Cordua bring up to the prosecutor's
25 office?

26 A. I believe I brought them up.

007110

3 | A I believe I did, yes.

6 A. That's correct.

9 THE COURT: 1:30?

11 THE COURT: You may step down, sir.

12 Please return at 1:30 this afternoon.

--o0o--

1 ONTARIO, CALIFORNIA; MONDAY, MARCH 19, 1984; 1:35 P.M.

2 DEPARTMENT NO. 2 HONORABLE RICHARD C. GARNER, JUDGE

3 (Appearances as heretofore noted.)

5 THE COURT: I remind you you're still under oath.

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: Go ahead.

9 DIRECT EXAMINATION (Resumed)

10 BY MR. NEGUS:

11 Q Did you ever trans -- relay any information about an
12 inmate named James Taylor to the San Bernardino Sheriff's
13 Office?

14 A No, sir.

15 Q Did you ever have any discussions with them about --
16 about him or about him issuing tennis shoes to Mr. Cooper?

17 A No, sir.

18 Q Did you ever attend any of the -- the morning briefings
19 either at the West End Sheriff's Office or back in
20 homicide?

21 A No, sir.

22 Q On the night of June the 5th, did -- did you meet with
23 a detective named Phil Danna at the front gate of the
24 institution?

25 A Yes, I did.

26 Q And what was the purpose for that meeting?

1 A Detective Danna wanted information regarding the recent
2 escapees from CIM.

3 Q One of those recent escapees was a person known to you
4 at that time as David Trautman?

5 A Yes.

6 Q You were aware, were you not, that the State of
7 Pennsylvania had at some point in time attempted to
8 place a hold on Mr. Trautman?

9 A At that time I was, yes.

10 Q You were also aware at that time, were you not, that,
11 had that information been known to the people who did
12 the classification of Mr. Trautman, he would never have
13 been placed in a minimum security institution --

14 MR. KOCHIS: I'm going to object.

15 Q (BY MR. NEGUS:) -- is that correct?

16 MR. KOCHIS: That calls for speculation on his part
17 as to whether someone overlooked it or didn't do their job
18 or what have you.

19 THE COURT: He may know what the policy is and the
20 procedures are. Overruled.

21 THE WITNESS: Could you restate the question, sir.

22 Q (BY MR. NEGUS:) You were aware, were you not, that,
23 according to CIM classification procedures, that, if the
24 information that Mr. Trautman was -- was -- was wanted
25 by Pennsylvania and had a hold and detainer placed on
26 him had been included in his classification summary, he

007-1-13

1 never would have been placed in a minimum institution;
2 is that correct?

3 A At that particular time, I did not have any more details
4 regarding why he was wanted or any details about his
5 case in Pennsylvania.

6 Q When did you become aware of those details?

7 A It wasn't until the next after the escape.

8 Q Do you remember approximately when?

9 A Probably Monday, the following Monday.

10 Q When did you become aware that Mr. Trautman's true name
11 was Kevin Cooper?

12 A The week after the escape. I don't -- I don't remember
13 the exact date, sir.

14 Q The same time you became aware of the -- of the signifi-
15 cance of the holds and detainers?

16 A That's very likely.

17 Q Are you aware of the procedures by which the institution
18 issues press releases to the media about escapees?

19 A Only in that they are released through the administrative
20 assistant to the superintendent.

21 Q That would be Mrs. Stephens?

22 A That's correct.

23 Q In the case of Mr. Trautman, prior to noon on the 7th
24 day of June, Wednesday, was there any announcement made
25 that David Trautman had a true name of Kevin Cooper?

26 A I have no idea, sir.

007-1-4

- 1 Q Did you hear any such announcement made?
- 2 A No, sir.
- 3 Q Did you hear any of the publicity about the escape in
- 4 the -- in the time up to June the 7th?
- 5 A Quite possibly, and on the T.V. news.
- 6 Q On the T.V. news at that point in time, the only name
- 7 that was mentioned in connection with -- with Mr. Cooper's
- 8 escape was the name of David Trautman; is that correct?
- 9 A I don't know that for a fact, sir, no.
- 10 Q At some point in time after June the 5th, did you have
- 11 a -- another contact with Mr. Danna?
- 12 A After June the 5th?
- 13 Q Yes.
- 14 A I had a contact with him, yes, at CIM.
- 15 Q Approximately how long after June 5th was it?
- 16 A I believe it was around the 7th or 8th of June.
- 17 Q And did that take place in your office?
- 18 A No, sir.
- 19 Q Where did it take place?
- 20 A At the medical clinic.
- 21 Q Is that in the administration building?
- 22 A No, it's not. It's in the hospital.
- 23 Q That hospital is a -- is a smaller building directly
- 24 north of the administration building?
- 25 A That's correct.
- 26 Q At that point in time, did you release to Detective Danna

007-1-15

1 parts of Mr. Trautman's medical file?

2 A Yes. I gave him Xerox copies of papers that were in the
3 file.

4 Q Did you give him the whole file or just parts of them?

5 A I believe it was the entire file.

6 Q Had somebody requested of you that you provide that to
7 Mr. Danna?

8 A I believe it was Mr. Danna.

9 Q Had you had any prior notice that he was going to make
10 that request?

11 A I don't recall at this time, no.

12 Q Did Mr. Danna tell you what he wanted it for?

13 A I don't believe he did, no.

14 Q Included in the information that you released to Mr.
15 Danna was a chrono dated May 3rd, signed by a Dr.
16 Bailey; is that true?

17 A There was a chrono signed by Dr. Bailey. I'm not sure
18 of the date on it.

19 Q And that chrono indicated that Dr. Bailey was prescribing
20 tennis shoes for Mr. Cooper due to a foot defect?

21 A I believe it was due to knee surgery.

22 Q Showing you Page 360 of the discovery, there down at the
23 bottom appears to be a copy of a chrono from Dr. --
24 authorized by Dr. Bailey; is that correct?

25 A Well, I can't read the -- any signature at the bottom
26 where the doctor would normally sign it.

- 1 Q Okay. Well, this chrono that's -- there's a chrono here
2 dated May 3rd, 1983, correct?
- 3 A That correct.
- 4 Q And is that the chrono that was in Mr. Cooper's medical
5 file that you released to Mr. Danna?
- 6 A I can't tell from this whether it is or not, sir. It's
7 not signed, not with a signature that I can read.
- 8 Q Well, you don't remember whether this is the piece of
9 paper that you gave him?
- 10 A Sir, the piece of paper that I -- that I originally
11 saw in there had a signature signed by Dr. Bailey.
12 That does not.
- 13 Q Do you recall in the chrono that you released to Mr. Danna
14 it stated, "Please permit this man the use of tennis
15 shoes due to plantar's wart on right foot per Dr. Bailey"?
- 16 A I don't -- I don't recall the exact wording on the
17 chrono, no, sir.
- 18 Q Is there more than one chrono in the medical file
19 authorizing a release -- authorizing tennis shoes?
- 20 A No, sir.
- 21 Q Did you at any time after that encounter with Mr. Danna
22 in the medical facility, other than the contacts that
23 you have already talked about, ever release any
24 documentation about Mr. Cooper to the San Bernardino
25 Sheriff's Office?
- 26 A Nothing other than the discovery.

1 Q By "the discovery," you mean documents that I had
2 specifically requested through written motions filed
3 with the Court?

4 A That's correct.

5 MR. NEGUS: Nothing further.

6

7

CROSS EXAMINATION

8 BY MR. KOCHIS:

9 Q Lieutenant Smith, did you keep a record of every time
10 you had a conversation with somebody from sheriff's
11 homicide about the Trautman-Cooper escape?

12 A No, sir.

13 Q Did you keep any record of the type of information you
14 passed on to sheriff's detectives about the Trautman-
15 Cooper escape?

16 A No, sir.

17 Q Is it fair to say that you had conversations with
18 sheriff's detectives about the Cooper-Trautman escape
19 on numerous occasions?

20 A Yes, that is correct?

21 Q Directing your attention back to Sunday, June the 5th,
22 the day at which you gave some material to Detective
23 Danna from the sheriff's department, did one of those
24 pieces of paper consist of a state prison escape bulletin?

25 A Yes, it did.

26 (No omissions.)

007118

11-1

- 1 Q On Mr. Trautman?
- 2 A Yes.
- 3 Q Directing your attention to an item which has been
4 marked for identification as Exhibit S-33, does this
5 appear to be a copy of the bulletin you handed to
6 Mr. Danna on that Sunday night?
- 7 A Yes, it is.
- 8 Q And that piece of paper contains the aliases that
9 Mr. Trautman was believed to have used; is that not
10 correct?
- 11 A Yes.
- 12 Q One of those is the name Kevin Cooper?
- 13 A Yes, it is.
- 14 Q You made that available to Mr. Danna on June the 5th?
- 15 A Yes, I did.
- 16 Q Mr. Danna was not the only person to whom a copy of
17 that bulletin was given, was he?
- 18 A On the night of June the 5th, I believe he was the
19 only one I gave it to.
- 20 Q Let's put that night aside for a moment, Lieutenant.
21 What is the purpose when an inmate escapes for
22 preparing a bulletin such as S-33's?
- 23 A We distribute them to the various law enforcement
24 agencies in the area.
- 25 Q Was that done in the case where Mr. Trautman escaped?
- 26 A Yes, it was.

007119

1 Q Would that process have started on June the 2nd, the
2 day you determined that he was no longer at the
3 institution?

4 | A Yes, it would.

5 Q Do you recall the first time that you were contacted
6 by the Sheriff's Department and requests were made
7 for copies of tennis shoe contracts? Do you recall
8 what month that was in?

9 | A. No, sir, I do not.

10 MR. KOCHIS: I don't have anything else.

11 THE QUEST: Anything?

12

13 REDIRECT EXAMINATION

14 BY MR. NEGUS:

15 Q The wanted flier, that's an instrument that goes
16 strictly to law enforcement; is that correct?

17 | A That's correct.

18 Q I mean, it has confidential information about
19 addresses of friends and things like that on the
20 bottom which would not be circulated just to any
21 old person; is that -- is that correct?

22 | A. That's correct.

23 Q The press gets a different piece of paper, does it not,
24 a press release from the institution about escapes?

25 | A. I don't know, sir.

26 Q You would not in the course of your business normally

11-3

1 distribute such a wanted poster as you have before
2 you to the press?

3 A No, I would not.

4 MR. NEGUS: Thank you.

5 I have nothing further.

6 MR. KOCHIS: No redirect -- or no recross.

7 THE COURT: Thank you, Mr. Smith.

8 MR. NEGUS: Zeke Hernandez.

9
10 EZEKIEL HERNANDEZ, called as a witness by
11 the defendant, was examined and testified as follows:

12 THE CLERK: You do solemnly swear the testimony
13 you are about to give in the action now pending before
14 this court shall be the truth, the whole truth, and
15 nothing but the truth, so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Please be seated.

18 State your name, please, for the record, and spell
19 your first and last name.

20 THE WITNESS: Ezekiel Hernandez, E-z-e-k-i-e-l
21 H-e-r-n-a-n-d-e-z.

22
23 DIRECT EXAMINATION

24 BY MR. NEGUS:

25 Q Mr. Hernandez, what is your occupation?

26 A I am an investigator for the California Department

11-4

1 of Corrections, California Institution for Men, Chino
2 State Prison.

3 Q And were you so employed in June of 1983?

4 A Yes, sir.

5 Q On that -- in June of 1983, did you make contact
6 with an inmate by the name of James Taylor?

7 A Yes, I did.

8 Q And did you interview him?

9 A Yes, I did.

10 Q Did you relay the results of that interview to anybody
11 in the San Bernardino Sheriff's Office?

12 A No, I did not.

13 Q Did you ever pass on any of the information that you
14 had in that interview to anybody in the Sheriff's
15 Office?

16 A Yes.

17 Q To whom?

18 A Teresa Cordua. She in turn relayed the message to
19 San Bernardino S.O.

20 Q Well, did you ever go up and tell the people in the --
21 in the Sheriff's Office, you know, what you had learned
22 from this man?

23 A I don't believe I did, no.

24 Q In the interview that you had with Mr. Taylor, he
25 first told you, did he not, that he had issued a
26 pair of P.F. Flyers to Kevin Cooper?

2 Q Did you relay that information onto Teresa Cordua?

4 Q Why not?

5 A I just don't remember. I may have. I may not have.

7 Q Did you tell Teresa Cordua that at the time that
8 Mr. Taylor spoke to you, he had pending charges under
9 CDC 115 for possessing contraband in the prison?

11 Q. No. Did you tell her that at the time you talked to
12 James Taylor, Mr. Taylor had pending CDC 115 charges
13 for possessing contraband in the prison?

14 A I don't recall, but I'm sure she was aware of it.

15 Q Why do you say you're sure she's aware of it?

16 A. Because that case was assigned to me.

17 Q Mr. Taylor's case?

18 A Yes.

19 Q And so she would have become aware of your caseload
20 by working with you?

21 | A. Yes.

22 Q And you were the person that investigated the
23 possession of the roach by Mr. Taylor?

24 A Not until after. I'm trying to think of some dates
25 when he was picked up for possession of marijuana.

26 I think it was sometime in May.

007123

11-6

- 1 Q How long after Mr. Taylor was picked up -- well, would
2 the date of May 10th refresh your recollection?
- 3 A That's the date.
- 4 Q How long after May 10th was it that you first began
5 investigating that case?
- 6 A I don't recall when it was assigned to me after that.
- 7 Q It would have been within a week, two weeks, three
8 weeks?
- 9 A Probably within ten days.
- 10 Q Are there any time limits on CDC 115 investigations
11 because of procedural time limits in those prosecutions?
- 12 A There are time limits; however, when there's a felony
13 involved, there's no time limits as far as the inmate
14 can be heard -- have his 115 heard, or he can give up
15 that right.
- 16 Q Did Mr. Taylor give up his right to have --
- 17 A I have no idea. I don't have anything to do with
18 115's.
- 19 Q You were just investigating the case to take it to
20 court?
- 21 A Yes.
- 22 Q Was it in connection with that investigation that you
23 began talking to Mr. Taylor about Mr. Cooper?
- 24 A I didn't talk to Mr. Taylor about his case until way
25 after. If any, I talked to him after June the 10th.
26 I didn't know who Mr. Taylor was.

JUN 17 1967

- 1 Q Maybe I didn't understand you. You had Mr. Taylor's
2 case to investigate within a week or two after May the
3 10th, right?
- 4 A I did.
- 5 Q And you spoke to Mr. Taylor on June the 10th?
- 6 A I did.
- 7 Q And so when you spoke to Mr. Taylor on June the 10th,
8 you were aware that Mr. Taylor had the marijuana charge,
9 did you not?
- 10 A I did.
- 11 Q So did the conversation you had with Mr. -- with Mr.
12 Taylor on June 10th have anything to do with his
13 pending marijuana charges?
- 14 A Nothing whatsoever.
- 15 Q Was that mentioned to him at all?
- 16 A No, sir.
- 17 Q Had you done anything to indicate to Mr. Taylor that you
18 were the person that was investigating his pending
19 marijuana charges?
- 20 A No, sir.
- 21 Q Did you ever attend any of the briefings that the
22 San Bernardino Sheriff's Office had in connection with
23 the -- their investigation into the Ryen homicides at
24 either the West End Sheriff's Office or the homicide
25 department?
- 26 A No, I did not.

1 Q Did you ever act as a person that carried information
2 from the Department of Corrections investigation of the
3 case to the sheriff's office?

4 A No, sir.

5 Q Did you ever gather any shoes from the institution to
6 take to the sheriff's department?

7 A No, sir.

8 Q And did you ever actually transport any shoes that
9 somebody else had gathered from the institution to the
10 sheriff's department?

11 A No, sir.

12 Q Were you present on June the 13th when a deputy named
13 Michael Mascetti interviewed Mr. Taylor?

14 A I was.

15 Q During that interview, Mr. Taylor did not mention P.F.
16 Flyers to Mr. Mascetti; is that correct?

17 A I don't recall, but I don't think it was mentioned.

18 Q Did you tell Mr. Mascetti that -- that Taylor had
19 previously told you he had given Mr. Cooper P.F. Flyers?

20 A I don't recall whether I did or not.

21 Q Did you tell Mr. Mascetti that Mr. Taylor had a pending
22 charge against him of possessing marijuana in prison?

23 A No, I did not.

24 Q Why not?

25 A Because I hadn't gone into the case.

26 Q He still had the charges pending, though, did he not?

- 1 A Well, there was charges pending as far as the institution
2 goes. However, we hadn't received the crime laboratory
3 analysis that it was in fact marijuana.
- 4 Q So why didn't you tell -- was that the reason you didn't
5 tell Mr. Mascetti that he had these charges pending,
6 that you hadn't got the crime lab results?
- 7 A I didn't think it was important.
- 8 Q Mr. Taylor at that point in time had been informed,
9 had he not, pursuant to Department of Corrections rules,
10 that there were charges pending against him?
- 11 A As far as the 115 is concerned.
- 12 Q And the 115 would involve a substantial loss of good
13 time; is that correct?
- 14 A That's correct.
- 15 Q Did you meet with Phil Danna on the night of June the
16 5th, 1983, at the -- at the entrance to the institution?
- 17 A Yes, I did.
- 18 Q Did you give yourself -- give him any information at
19 that time?
- 20 A No, I did not. Verbally, I might have. I don't remember,
21 as far as the escape was concerned.
- 22 Q You may have told him that you had two escapees and
23 what their names were, or something like that?
- 24 A Yes.
- 25 Q Did you give any details about them?
- 26 A I could have, but I don't remember.

1 Q Was your conversation on June the 10th with Mr. Taylor
2 tape recorded?

3 A Yes, it was.

4 Q By whom?

5 A Gary Murray.

6 Q Did you tell that fact to Mr. Mascetti?

7 A I don't recall whether I did or not.

8 Q Did you provide Mr. Mascetti with a copy of the tape?

9 A I don't think so.

10 Q Why not?

11 A I didn't have the tape.

12 Q Well, Mr. Murray did in his desk, did he not?

13 A What did you say?

14 Q Mr. Murray had the copy of the tape in his, Mr. Murray's,
15 desk, did he not?

16 A Yes, he had the tape. I completely forgot about the tape.

17 Q You were aware, were you not, that the information
18 contained on the -- on the tape was inconsistent in some
19 particulars with the information that Mr. Taylor gave
20 to Mr. Mascetti?

21 MR. KOCHIS: Objection. That assumes a fact that's
22 not in evidence, and there's no foundation he has any
23 personal knowledge as to that.

24 THE COURT: Lay a better foundation, Mr. Negus.

25 Q (BY MR. NEGUS:) You were present for the entire interview
26 with -- that was tape recorded on June the 10th between

007-1-28

1 yourself, Mr. Murray and Mr. Taylor, correct?

2 A. Correct.

3 Q. You were present for Mr. Mascetti's interview with

4 Mr. Taylor on June the 13th; is that correct?

5 A. That's correct.

6 Q. And did you indicate to Mr. Mascetti that there were

7 discrepancies between what Mr. Taylor said on June the

8 10th and what he said on June the 15th?

9 A. You might have to speak a little bit louder. I can't

10 hear you. You're trailing off.

11 Q. Did you tell Mr. Mascetti that there were discrepancies

12 between what Mr. Taylor told you on June the 10th and

13 what he said on June the 13th?

14 A. No, I did not.

15 Q. Why not?

16 A. I didn't take any notes on June the 13th, and I don't

17 know that there was discrepancies.

18 Q. Did you see Mr. Taylor furnish tennis shoes to Mr.

19 Mascetti?

20 A. Did I see Taylor furnish tennis shoes to Deputy Mascetti?

21 Q. Yes.

22 A. No, I did not.

23 Q. When Mr. Mascetti left from his interview with Mr.

24 Taylor, did he have anything with him?

25 A. I don't know.

26 Q. When Mr. Taylor talked to Mr. Mascetti on June the 13th,

17 (No omissions.)

2 | A I don't remember.

4

6 BY MR. KOCHIS:

11

15 A Yes.

18 A. Yes.

21 | A. That's correct.

24 | A Yes.

25 Q Did you likewise talk to any San Bernardino County
26 homicide detectives about this particular case?

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1 Q And was Mr. Danna solely on June the 5th?

2 A That is correct.

3 MR. NEGUS: Nothing further.

4

5 RECROSS-EXAMINATION

6 BY MR. KOCHIS:

7 Q Were you ever present when other members of your
8 office had conversations with homicide detectives
9 about this case?

10 A I couldn't tell you.

11 MR. KOCHIS: I don't have anything else.

12 THE COURT: Thank you very much, Mr. Hernandez.

13 MR. NEGUS: Gary Murray.

14

15 G A R Y M U R R A Y, called as a witness by the
16 defendant, was examined and testified as follows:

17 THE CLERK: Raise your right hand, please.

18 You do solemnly swear the testimony you are
19 about to give in the action now pending before this
20 court shall be the truth, the whole truth, and nothing
21 but the truth, so help you God?

22 THE WITNESS: I do.

23 THE CLERK: Please be seated.

24 State your name, please, for the record, and
25 spell your last name.

26 THE WITNESS: Gary Murray, M-u-r-r-a-y.

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Q Mr. Murray, what is your occupation?

Q And for whom are you employed?

Q And were you so employed in June of 1983?

2 In June of 1983, were you requested to gather any shoes from the institution at the request of the San Bernardino Sheriff's Office?

Q Did you ever transport any shoes from the institution to any member of the San Bernardino Sheriff's Office?

A. A pair of shoes was transported, but not by me.

Q When was that?

A I don't know -- I don't recall the exact date. It was myself and Lieutenant Don Smith.

Q Was that just one pair of shoes?

A. I'm not sure. I don't know.

Q You didn't have anything to do with the gathering or processing of those shoes? You just drove along with them, as it were?

A. Yes.

Q On June the 10th, 1983, did you -- were you present

007134

13-5

1 when an inmate by the name of James Taylor was
2 interviewed by Mr. Hernandez?

3 A Mr. who?

4 Q Mr. Hernandez.

5 A Yes, I was.

6 Q Did you tape record that interview?

7 A Yes, we did.

8 Q When you say "we," did you personally do it?

9 A I believe I did.

10 Q Did you take custody of the tape when you were through?

11 A Yes, I did.

12 Q Were you present on June the 13th when a Deputy Mascetti
13 came down to interview the same Mr. Taylor?

14 A No, I wasn't.

15 Q Did you become aware that the information when --
16 that some information from Mr. Taylor had been
17 transmitted to the San Bernardino Sheriff's Office?

18 A Can you rephrase that question again, please?

19 Q Did you become aware that Mr. Taylor had talked to the
20 Sheriff's Office?

21 A I don't believe I was.

22 Q The tape that you had of Mr. Taylor's conversation,
23 did you ever make that available to the San Bernardino
24 Sheriff's Office?

25 A No.

26 Q Why not?

13-6

- 1 A It was placed in my desk drawer, and it completely
2 slipped my mind.
- 3 Q You just forgot about it?
- 4 A I forgot about it.
- 5 Q For how long?
- 6 A Until I recall making a taped statement with James
7 Taylor, at which time we notified the District
8 Attorney's Office and transcribed the tape for them
9 and gave them a copy of it.
- 10 Q That was not until after Mr. Taylor testified at the
11 preliminary hearing; is that correct?
- 12 A That's correct.
- 13 Q You prepared a report of your conversation with
14 Mr. Taylor to submit through channels to Mrs. Carroll,
15 did you not?
- 16 A It was a report, I believe, of our events concerning
17 this case.
- 18 Q That report was dated June the 20th, I believe; is
19 that correct?
- 20 A I don't know.
- 21 Q Do you have it with you?
- 22 A No.
- 23 Q Showing you a memorandum dated June 20, 1983, actually
24 it's titled to Lieutenant Don Smith from G. E. Murray --
25 is that a copy of the report that you prepared?
- 26 A Yes. That's a copy of it.

13-7

1 Q In that report, you have a summary of your conversation
2 with James Taylor; is that correct?

3 A That's correct.

4 Q James Taylor, when he spoke to you and Mr. Hernandez,
5 described giving a pair of P.F. Flyers to Mr. Cooper,
6 and also described giving a pair of Pro-Keds to
7 Mr. Cooper; is that correct?

8 A That's correct.

9 Q In your report, you only mentioned the Pro-Keds;
10 is that correct?

11 A Could I see my report?

12 Q Be my guest.

13 A Yes; that's correct.

14 (No omissions.)
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1 Q Why did you leave out the P.F. Flyers?

2 A. One again, it was just a brief report to Lieutenant
3 Don Smith, and we did have a -- we did have a copy of
4 the tape interview with James Taylor. And there wasn't
5 any particular reason why I left them out, why I left
6 out the Pro-Keds.

7 Q You put in the Pro-Keds.

8 A P.F.L. Flyers -- P.F. Flyers, excuse me.

9 Q In the -- in the report, did you indicate that there was
10 a tape available?

11 A. No.

12 Q Why not?

13 A At that time, when -- it wasn't any particular reason.
14 I don't know.

15 Q Were you aware that a copy of your report was being sent
16 to the San Bernardino Sheriff's Office for their use in
17 the investigation?

18 A. No, I don't think so.

19 Q Did you yourself ever appear at any of the briefings that
20 the San Bernardino Sheriff's Office had either at the
21 West End Substation or at the homicide department about
22 the -- their investigation into the Ryen killings?

23 A No.

24 Q Did you ever pass any information that CIM had gathered
25 in their investigation onto any member of the sheriff's
26 department?

1 A No.

2 Q Did you make Teresa Cordua aware that there was a tape

3 of Mr. Taylor?

4 A I don't think I did. I don't remember.

5 Q Any reason why not?

6 A No, there's no reason why not.

7 Q Were you aware that Teresa Cordua was acting as the

8 liason between the Department of Corrections and the

9 sheriff's office in this investigation?

10 A No, I wasn't aware of that.

11 Q Were you aware that she was the person that was attending

12 the briefings on the depart -- on the behalf of your

13 department to transfer information along to the sheriff's

14 department?

15 A I don't believe she was attending the briefings.

16 Q Were you aware that she was a conduit for information

17 from your department to the sheriff's office?

18 A No.

19 Q Did you ever tell Lieutenant Smith that you had a tape?

20 A I may have. I don't know. I don't recall.

21 Q Prior to the beginning of the Preliminary Hearing, did

22 you have any contact with Mr. Kochis or other members

23 of the District Attorney's Office about this case?

24 A Prior to -- can you repeat the question again.

25 Q Prior to the beginning of the Preliminary Hearing, did you

26 ever have any contact with Mr. Kochis or other members

2 A I may have had some contact with Mr. Kochis.

5 A No --

6 Q Why --

7	A.	No.
---	----	-----

8 | Q Why not?

9 A. Once again, it -- I forgot about the case.

10 MR. NEGUS: Nothing further.

11 THE COURT: Mr. Kochis.

14 BY MR. KOCHIS:

15 Q Mr. Murray, prior to the time you interviewed Mr. Taylor,
16 you and Lieutenant Smith went to the West End or
17 homicide with a group of shoes; do you recall that?

18 A. Yes, I do.

19 Q And were you in the car with Lieutenant Smith?

20 A. Yes, I was.

21 Q Where did the exchange take place? Was it at the West
22 End or homicide in San Bernardino, as you recall?

23 | A. It was at the West End.

24 Q And was Lieutenant Smith the one who actually was
25 responsible for carrying the shoes into the West End?

26 A. That's correct, he was.

26 / / / /

REDIRECT EXAMINATION

BY MR. NEGUS:

Q Who was the one that actually handed the tennis shoes to the two officers, one black, one white?

A I'm not for sure. I believe it was Officer Hill or Arjo.

Q Was James Taylor present at that time?

A No.

Q Was there any inmates in the -- in the gym area at that time?

A I don't know, because I didn't go to the gym area.

Q So you weren't actually -- you were not actually along when -- when they got the tennis shoes?

A No.

Q How many tennis shoes did the officers bring back with them?

A The officers did not bring back any tennis shoes with them.

Q Did they bring anything back with them?

A No, because they never did leave the boardroom.

Q Did somebody bring in tennis shoes to the boardroom?

A Yes.

Q Who was that?

A I believe it was Officer Hill.

Q And how many did he bring?

A I believe two. I'm not -- two pair.

Q Were they different brands?

1 A I don't recall.

2 Q Did the -- did, assuming the officers' names were Mr.
3 Walker and Mr. Zeiner, those two officers, take the
4 tennis shoes away with them when they left?

5 A I believe they did. I'm not sure.

6 Q Do you recall the brands of the two pairs of tennis
7 shoes?

8 A No.

9 Q Had you requested that -- that Mr. Hill bring the shoes
10 over to the boardroom?

11 A Pardon me.

12 Q Had you requested that Mr. Hill bring the shoes over to
13 the boardroom?

14 A No.

15 Q Do you know who did?

16 A I believe it was Arjo.

17 Q And did he request that they bring an example of each
18 type of tennis shoes with a diamond shaped pattern?

19 A I believe he did, but I'm not sure.

20 MR. NEGUS: Nothing further.

21

22 RECROSS EXAMINATION

23 BY MR. KOCHIS:

24 Q Mr. Murray, there's a boardroom where the transfer took
25 place. Is it -- is it in a building that is separate
26 and apart from the gym itself?

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1 A Yes, it is.

2 Q But it is on the west side of the facility?

3 A Correct.

4 Q Is it the same building where Mr. Arjo now has an office?

5 A Yes.

6 MR. KOCHIS: I have nothing else.

7 THE COURT: Anything?

8

9 FURTHER REDIRECT EXAMINATION

10 BY MR. NEGUS:

11 Q Is this boardroom close to a Xerox machine, like, right
12 across the hall?

13 A No.

14 Q How far from the -- well, there is an area along one
15 of the north-south corridors where there's a Xerox
16 machine in R.C. West; is that true?

17 A Yes.

18 Q How far was this boardroom from that Xerox machine?

19 A Maybe about 50 or 75 feet, maybe.

20 Q Was the boardroom on a north-south corridor or an east-
21 west corridor?

22 A Probably would have to draw me a map.

23 MR. KOCHIS: Your Honor, I wonder about the
24 relevance of this detail and would be interposing a relevancy
25 objection at this time.

26 THE COURT: Mr. Negus.

007-1-44

1 MR. NEGUS: Actually, it relates to the credibility
2 of Mr. Hill, another witness. It may not be --

3 THE COURT: I wondered about other testimony as well.
4 It seemed like just general cross examination, with Hernandez,
5 for instance. I fail to connect that, a lot of it. Is this
6 going to take long?

7 MR. NEGUS: No.

8 THE COURT: Proceed.

9 Q (BY MR. NEGUS:) If I could just have -- I'm giving a
10 piece of paper, ask to have it marked as an exhibit
11 when he's through with it, and ask if you could draw a
12 rough sketch of R.C. West indicating the location of the
13 Xerox machine at the location of the boardroom.

14 MR. KOCHIS: Well, Your Honor, again, I think this
15 may have to do with Mr. Hill's credibility. I don't think
16 Mr. Hill's going to be called at this hearing. He may be
17 deposing Mr. Murray to later impeach Mr. Hill at another
18 hearing or the trial. But that shouldn't be the purpose of
19 this motion to suppress.

20 THE COURT: Appears that that is going to take some
21 time, Mr. Negus. Unless you can be more specific, I'll
22 sustain the objection.

23 MR. NEGUS: Well, I was just wanting to sketch those
24 two things. That's all I was going to ask him.

25 THE COURT: All right. Sustained.

26 MR. NEGUS: Nothing further.

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1 THE COURT: Mr. Kochis.

2 MR. KOCHIS: No further questions.

3 THE COURT: Thank you Mr. Murray.

4 Next witness.

5 (No omissions.)
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1 MR. NEGUS: Mr. Mascetti.

2

3 M I C H A E L J O S E P H M A S C E T T I, called as a
4 witness by the defendant, was examined and testified
5 as follows:

6 THE CLERK: Raise your right hand, please.

7 You do solemnly swear the testimony you are
8 about to give in the action now pending before this
9 court shall be the truth, the whole truth, and nothing
10 but the truth, so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Please be seated.

13 State your name, please, for the record, and
14 spell your last name.

15 THE WITNESS: Michael Joseph Mascetti, M-a-s-c-e-t-t-i.

16

17 DIRECT EXAMINATION

18 BY MR. NEGUS:

19 Q Mr. Mascetti, you are a deputy sheriff, San Bernardino
20 Sheriff's Office, assigned to the Career Criminal
21 Division; is that correct?

22 A Yes.

23 Q And you were so assigned in June of 1983?

24 A Yes.

25 Q On June 13, 1983, did you go down to the California
26 Institution for Men?

27 A I did.

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- 1 Q On that date did you pick up six pairs of tennis shoes
2 and four pairs of hard-soled shoes?
- 3 A I did.
- 4 Q What did you do with those shoes after you got them?
- 5 A I took them to the West End Substation where a
6 temporary command post had been set up and gave them
7 to Sergeant Arthur.
- 8 Q Was the temporary command post still in place at the
9 West End Substation on that -- on June the 13th?
- 10 A Yes.
- 11 Q Had you made any other trips to the California
12 Institution for Men in order to pick up tennis shoes
13 prior to that?
- 14 A No.
- 15 Q Did you ever transport any men's shoes from the
16 California Institution for Men up to a crime scene
17 at 2991 English Road?
- 18 A I don't believe so.
- 19 Q What do you mean you don't believe so?
- 20 A I don't think so.
- 21 Q Did you receive -- the tennis shoes that you
22 received and took to Sergeant Arthur, did you receive
23 those from an inmate?
- 24 A Yes, I did.
- 25 Q And was that inmate asked to provide you with every
26 type of tennis shoes that were available to other

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(

1 inmates at R.C. West?

2 A Yes, he was.

3 Q And did he provide you with six different brands of
4 shoes?

5 A Yes.

6 Q Was his name James Taylor?

7 A Yes, it was.

8 Q Did you subsequently take an interview from Mr. Taylor?

9 A Yes, I did.

10 Q Were you informed that while you were interviewing
11 Mr. Taylor, he had charges pending against him and
12 institutional disciplinary hearings for possessing
13 marijuana inside the prison?

14 A No.

15 Q Were you informed that the investigators at the
16 California Institution for Men had previously inter-
17 viewed him on June the 10th?

18 A No.

19 Q Were you informed that a tape recording existed of a
20 conversation of investigators with Mr. Taylor?

21 A No.

22 Q During the time that you were interviewing Mr. Taylor,
23 was an investigator by the name of Ezekiel Hernandez
24 present?

25 A For a short time, I believe.

26 Q Were you ever left alone with Mr. Taylor?

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2 MR. NEGUS: Nothing further.

5 BY MR. KOCHIS:

10 | A. Yes, he did.

11 Q And did you reduce that to writing in your report?

12 | A Yes, I did.

13 Q Did you make that information available immediately
14 to Homicide?

15 A. Yes, I did.

16 MR. KOCHIS: I have nothing else.

17 THE COURT: Mr. Negus.

20 BY MR. NEGUS:

21 Q Did he also tell you about an assault that Mr. Cooper
22 was supposed to have committed in Hollywood on a
23 woman?

24 A. Yes, he did.

25 Q And did you include that in the report?

26 A Yes, I did.

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15-5

1 MR. NEGUS: Thank you.

2 Nothing further.

3 MR. KOCHIS: I have one other area, Your Honor.

4

5 RECROSS-EXAMINATION

6 BY MR. KOCHIS:

7 Q Did you also ask Mr. Cooper -- excuse me -- Mr. Taylor
8 questions about whether or not Mr. Cooper smoked?

9 A Yes, I did.

10 Q And based on that, did you get some institutional
11 tobacco from CINC?

12 A Yes.

13 Q Did you bring that back to Homicide?

14 A Yes, I did.

15 Q Did Mr. Taylor tell you that Mr. Cooper from time to
16 time would roll his own cigarettes?

17 A Yes, he did.

18 MR. KOCHIS: I have nothing else.

19 THE COURT: Anything?

20

21 FURTHER REDIRECT EXAMINATION

22 BY MR. NEGUS:

23 Q The tobacco, did you take it to the same place in
24 the West End Substation that you took the tennis
25 shoes?

26 A Yes, I did.

007151

15-6

1 MR. NEGUS: Thank you.

2 Nothing further.

3 THE COURT: You may step down, Mr. Mascetti.
4 Anything?

5 MR. NEGUS: Can I have just a second? I think we
6 are going to take somebody out of order here. Let me just --
7 I need to get reorganized.

8 Mr. Ogino.

9 MR. KOCHIS: Your Honor, I wonder if we might
10 this afternoon take our recess at this time, as opposed
11 to later.

12 THE COURT: Sure. All right. We'll take the
13 afternoon recess.

14 (Recess.)

15 (No omissions.)
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1 THE COURT: Mr. Negus.

2 MR. NEGUS: Mr. Ogino.

3

4 C R A I G O G I N O, called as a witness by and on behalf
5 of the Defense, was sworn and testified as follows:

6 THE CLERK: Raise your right hand, please.

7 You do solemnly swear the testimony you are about
8 to give in the action now pending before this Court shall be
9 the truth, the whole truth and nothing but the truth so
10 help you God.

11 THE WITNESS: I do.

12 THE CLERK: Please be seated.

13 State your name, please, for the record, and spell
14 your last name.

15 THE WITNESS: My name's Craig Ogino, O-g-i-n-o.

16

17 DIRECT EXAMINATION

18 BY MR. NEGUS:

19 Q What's your occupation?

20 A. I'm a criminalist for the San Bernardino County Sheriff's
21 Crime Laboratory.

22 Q And were you so employed in June of 1983?

23 A. Yes, sir.

24 Q On June 7th, 1983, were you involved in processing a
25 house at 2991 English Road in the Chino Hills?

26 | A. Yes, sir.

26 Q The next day, June 8th, while you were still processing

1 the house, was your attention directed to some -- to
2 some further drops of blood outside?

3 A Yes.

4 Q And on that diagram S-25, is the approximate area where
5 those drops of blood were depicted by a blue oval shape?

6 A Yes.

7 Q Did you take samples of those drops of blood and put them
8 in a pillbox which you labeled K-1 and K-2 with the
9 same laboratory number?

10 A Yes, sir.

11 Q And did you likewise turn those scrapings in to the --
12 in to the crime lab in San Bernardino?

13 A Yes, I did.

14 Q While you were processing that house at 2991 English
15 Road, did you see any visible blood?

16 A Yes.

17 Q Where?

18 A It was on what looked like knobs which led from the
19 entrance to the bedroom. As you're -- as you're entering
20 the front door, you turn directly to the right. There
21 are some drawers, and there was a reddish stain which
22 was on one of the white knobs.

23 Q Did you collect that knob and likewise turn that in to
24 the crime lab?

25 A Yes, sir.

26 Q And what number did you give that? Was it J-26?

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- 1 A Yes, sir, it was.
- 2 Q Did you do any tests at the time that you collected
3 those knobs to determine -- to determine if -- did you
4 do any presumptive tests for blood at the time you
5 collected those knobs?
- 6 A I don't believe I did.
- 7 Q Did you see any other substances that you thought were
8 blood inside the house that were visible to the naked
9 eye?
- 10 A No, I don't believe I saw anything else.
- 11 Q Showing you Exhibit S-32 for identification, does that
12 appear to be a floor plan of the house that you were
13 processing on June 7th and 8th?
- 14 A Yes.
- 15 Q Asking you to look at an area that's labeled "counter"
16 in the living room area where there is a red circle and
17 a blue circle, do you recall seeing that counter in the --
18 in the house?
- 19 A Yes, I do.
- 20 Q On the surface of that counter, did you see any blood
21 stains?
- 22 A I don't remember.
- 23 Q Were you particularly looking for blood stains?
- 24 A Yes.
- 25 Q And had you seen them, would you have noted them?
- 26 A Yes.

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4 | A Yes.

8 | A. I don't remember.

10 | A. If I'd seen them, yes.

13 A Not that I could see this -- this moment, no.

16 A No, no. My notes don't reflect a stain there.

19 A Yes.

22 | A. No.

25 | A. Yes, sir.

26 Q If blood is present on a shower in small quantities,

007158

2 | **A** **Yes.**

4 | A. Yes.

6 A That's possible, yes.

10 | A. I don't know.

14 A. Anything that has a heme group will react with
15 luminol. Some microorganisms might have this heme
16 group present.

19 | A. Yes.

22 | A. In high concentrations, yes.

25 | A. Yes.

007159

2 A I believe on repeated applications, it was running
3 down the side.

5 | A I believe so.

8 | A. No, I do not.

12 | A. Yes.

15 A They were positive indications for blood, yes.

17 A. All luminol is is a screening test for blood.

21 | A. Yes.

24 A I stated that it's giving a positive indication for
25 blood.

26 Q Did you explain to them it could also be something else?

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- 1 A I don't remember if I did that or not.
- 2 Q To whom in the Sheriff's Department did you communicate
- 3 that?
- 4 A Sergeant Arthur.
- 5 Q Did you ever have any communications with Detective
- 6 Clifford?
- 7 A I don't remember that night.
- 8 Q At any time, about the luminol.
- 9 A I know in past cases I -- I probably have talked to
- 10 him about that.
- 11 Q In past cases, have you explained to him that -- that
- 12 the luminol is only presumptive for blood and not
- 13 conclusive?
- 14 A I don't remember specifically saying that.
- 15 Q Why didn't you tell him that?
- 16 A I don't know.
- 17 Q In the residence at 2991 English Road, did you find
- 18 any cigarette butts?
- 19 A Yes.
- 20 Q Did you find any tailor-made cigarette butts?
- 21 A I don't believe so.
- 22 Q Would you check.
- 23 J-20 was the only cigarette butt that you found
- 24 inside the Lease residence; is that correct?
- 25 A Yes; that's correct.
- 26 Q And that was a Viceroy?

0007151

17-5

1 A I don't remember.

2 Q While you were in the house, did -- strike that
3 question. The J-20 cigarette butt was found in a --
4 a headboard of a bed; is that correct?

5 A Yes, sir.

6 Q While you were in the -- in the house, did you look
7 inside a washer-drier that was in the kitchen area?

8 A I remember seeing the washer and drier. I'm not sure
9 if I looked inside.

10 (No omissions.)

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3 A. Not to my knowledge.

6 A (The witness examined a document.) I don't believe so.

9 THE COURT: Let's let Mr. Kochis ask a few questions
0 first, if he wishes.

13 BY MR. KOCHIS:

19 | A. Yes, sir.

22 | A. Yes, sir.

26 | A Yes, it does.

- 1 Q They do not include a description of the observation you
2 made when you went into the Lease house; is that fair
3 to say?
- 4 A Yes.
- 5 Q Is it fair to say that in those green reports you didn't
6 note the description of the inside of the house, the
7 furniture, furnishings, the light fixtures, the clothing
8 and those types of things?
- 9 A That's correct.
- 10 Q The list you're looking at is simply a list of items you
11 chose to take from the house?
- 12 A Yes.
- 13 Q And is your memory of what you saw at the Lease house in
14 part limited by your list of the items you actually took
15 from the house?
- 16 A Yes.
- 17 Q When you saw the reddish stains that appeared to be
18 blood to you on the porcelain knobs inside the Lease
19 house, did you communicate that observation to other
20 members of homicide that may have been there?
- 21 A Yes, I believe so.
- 22 Q Was homicide and CCD also present when you luminolled
23 the shower in the bathroom?
- 24 A Yes.
- 25 Q When you applied the luminol, did you get the reaction
26 that was consistent with the presence of blood?

[4-67-1-100-1]

- 1 A Yes.
- 2 Q And is that reaction in part a change in the color of
3 the luminol itself?
- 4 A It's a -- you get a chemical reaction which gives off
5 light. It's, I guess you could call it, a change in
6 color, yes.
- 7 Q In addition to the chemical reaction itself, was there
8 any significance that you attached to the pattern of
9 the luminol reaction that was consistent with the presence
10 of blood?
- 11 A It was more consistent with possibly being blood rather
12 than bleach, since it was in a localized area.
- 13 Q What do you mean, "When it was in a localized area"?
- 14 A Well, if -- if you -- if you bleach the shower or if you
15 wash the shower with bleach, usually you're going to
16 scrub more than just a small area with bleach.
- 17 Q Would you have expected, then, if the luminol was
18 reacting to bleach, would you expect it to show a pattern
19 different from the pattern you saw on the night you
20 placed the illumin -- luminol in the shower?
- 21 A I would expect to see a more greater area reacting than --
22 than what reacted in this case.
- 23 Q Were you present when the orthoden-tolidine (sic) test
24 was performed on the shower itself?
- 25 A I was there, but I don't remember witnessing the test.
- 26 Q Was that performed by Mr. Stockwell?

0007-1-55

2 Q Is that a specific test or is that a presumptive test?

5 Q Did Mr. Stockwell communicate to you the results of that
6 test?

Q And did he tell you that that second test, the results of that test were also present -- were also consistent with the presence of blood in that particular shower?

12 Q Was that information also passed on to the other
13 deputy sheriffs who happened to be at the scene?

15 Q Did you likewise collect at the Lease house what appeared
16 to you to be loose tobacco?

18 Q And did you collect the loose tobacco from a box in a
19 closet in the bedroom where you found the cigarette butt?

21 Q Did you communicate that finding to the other deputy
22 sheriffs that were at the scene?

24 MR. KOCHIS: I have nothing else.

26 / / / /

REDIRECT EXAMINATION

1

2 BY MR. NEGUS:

3 Q Showing you sheriff's identification photograph L-85,

4 does that appear to be a portion of that bed stand I

5 spoke about?

6 A The headboard?

7 Q Yes.

8 A Yes, it does.

9 Q And according to your notes, the cigarette butt that

10 you recovered from the Lease residence was recovered

11 from that headboard and not from the closet with the

12 loose tobacco in it; is that correct?

13 A Yes, that's correct.

14 Q And handing you a magnifying glass, can you see what

15 appears to be a manufactured cigarette filter inside

16 the napkin.

17 A Yes.

18 Q Does that refresh your recollection as to whether the

19 cigarette butt that you seized was roll-your-own or

20 tailor-made?

21 A Yes, it does.

22 Q And what was it?

23 A It was manufactured.

24 Q The ortho-tolidine reacts to the same chemical substance

25 in blood as does luminol, correct?

26 A Yes.

- 1 Q Ortho-tolidine will -- ortho-tolidine reacts by changing
2 color, correct?
- 3 A Yes, sir.
- 4 Q Ortho-tolidine will change color if you put it in contact
5 with bleach, correct?
- 6 A I don't believe that's true. I'm not sure. But I
7 don't believe that's true.
- 8 Q The chemistry of the ortho-tolidine reacts similarly
9 with the luminol reaction; is that -- well, with the
10 ortho-tolidine, there are two chemical substances that
11 are used, is that not correct? One is ortho-tolidine
12 and one is a peroxide?
- 13 A Yes, that's correct.
- 14 Q And with blood, the ortho-tolidine will act as a
15 catalyst for an oxidizing reaction between the blood
16 and the peroxide, correct?
- 17 A The ortho-tolidine in the presence of a heme group will
18 act as a catalyst.
- 19 Q The heme group is part of the blood, right?
- 20 A Yes.
- 21 Q Bleach normally consisting of -- of HCl just oxidizes
22 the peroxide without any catalyst; isn't that correct?
- 23 A It might.
- 24 Q Similarly with ortho-tolidine, microorganisms will, in
25 combination with the ortho-tolidine, catalyze an
26 oxidizing reaction with the peroxide just as the blood

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Q

A.

(No omissions.)

3 A. I have none with the ortho-tolidine test.

7 | A. I don't know.

10 A. It was in just the lower portion of the shower.

12 A I'd say below four or five feet.

15 | A. Yes.

19 | A. I don't know.

21 MR. KOCHIS: No recross.

23 THE WITNESS: Thank you, Your Honor.

26 He won't be very long. Mr. Cooper needs to use the bathroom.

007170

1 THE COURT: Okay. Call me as soon as you're
2 ready.

3 Brief recess.

4 (Recess.)

5 MR. NEGUS: Mr. Stockwell.

6
7 D A V I D C. S T O C K W E L L, called as a witness
8 by the defendant, was examined and testified as
9 follows:

10 THE CLERK: You do solemnly swear the testimony
11 you are about to give in the action now pending before
12 this court shall be the truth, the whole truth, and
13 nothing but the truth, so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Please be seated.

16 State your name, please, for the record, and spell
17 your last name.

18 THE WITNESS: David C. Stockwell, S-t-o-c-k-w-e-l-l.

19
20 DIRECT EXAMINATION

21 BY MR. NEGUS:

22 Q On June 8, 19 -- excuse me. On June 7, 1983, did
23 you go to 2991 English Road to help process a crime
24 scene?

25 A Yes, I did.

26 Q And while you were inside that crime scene, were you

K9-3

- 1 looking for bloodstains?
- 2 A Yes.
- 3 Q Did you see any that were visible to the naked eye?
- 4 A I believe at some point during that day, I did see
- 5 one that was visible to the naked eye.
- 6 Q Where was that?
- 7 A That was as you were coming in the southernmost entrance,
- 8 if you turn directly to your right, which would be
- 9 headed towards the bathroom and the northeast bedroom,
- 10 right on that walkway there was a very small spot.
- 11 Q Where?
- 12 A As I recall, there was a patio-type window with
- 13 curtains there, and it was near that window.
- 14 Q Was it on the window itself or --
- 15 A No. It was on the floor.
- 16 Q Did you collect that -- that stain?
- 17 A No, I did not.
- 18 Q Did you point it out to somebody else?
- 19 A I believe I pointed it out to Mr. Ogino.
- 20 Q Did he collect it?
- 21 A Not to my knowledge.
- 22 Q Was it large enough to collect?
- 23 A I suppose so, for certain studies.
- 24 Q Did you do any screening tests on it to see if in
- 25 fact it was blood?
- 26 A Yes. The reason that it was first brought to our

6 Q Did it appear to be blood or at least consistent with
7 blood?

9 Q And why was it not seized?

17 Q Did you ever notice a counter in approximately the same
18 area along the south part of the living room?

22 Q Did you see any bloodstains on that counter?

24	6	On any day.
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26 | Q | When?

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19-5

- 1 A On the previous day. There were bloodstains or possible
2 bloodstains seen on a pair of knobs which opened into
3 the cupboard area.
- 4 Q Was that on the counter of that particular cabinet or
5 some other place?
- 6 A It was on that particular cabinet.
- 7 Q Were those knobs seized?
- 8 A Yes, they were.
- 9 Q Were those very small stains that -- on those knobs?
- 10 A Excuse me? What was the question?
- 11 Q Were those very small stains on those knobs?
- 12 A When the knobs were seized, the stains were still intact
13 on them, yes.
- 14 Q Were they big -- a lot of blood on the stain or just
15 a very small amount?
- 16 A Very minimal amount.
- 17 Q Did you see any stains on the counter top?
- 18 A I don't recall seeing any, no.
- 19 Q Did you note that there was a light switch down at
20 the end of the counter where the counter ran to the
21 wall that led to the southeast bedroom?
- 22 A I don't recall that light switch, no.
- 23 Q Do you recall seeing any -- any bloodstains on the
24 wall that would be where the counter led into the
25 southeast bedroom?
- 26 A No.

4 | A. Yes.

9 A I don't recall that mark, offhand.

11 A. We were searching the entire house, which would also
12 mean that area.

19 A We were attempting to ascertain with the luminol
20 technique whether a person may have been bloody or
21 not. We didn't know before that time if that was the
22 case or not.

25 A. Yes.

26 Q So you were paying particularly close attention to that

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19-7

- 1 particular path in looking for blood?
- 2 A I don't believe we paid any more particular attention
3 to that path than to any other part of the house.
- 4 Q Did you participate in spraying a shower in the
5 bathroom right near where that counter ends with
6 luminol?
- 7 A Yes.
- 8 Q Did you tell the -- any members of the Sheriff's
9 investigators at the scene the results of that spraying?
- 10 A Yes.
- 11 Q Whom?
- 12 A I don't recall offhand exactly who we told.
- 13 Q When you say "we", you're talking about yourself and
14 Mr. Ogino?
- 15 A That's correct.
- 16 Q Who did the speaking, yourself or Mr. Ogino?
- 17 A I believe we both did.
- 18 Q What did you tell the investigators?
- 19 A We told the investigators the results that we
20 observed, that the shower and the sink in that bathroom
21 both tested positive with a luminol, and that subsequent
22 tests with the ortho-tolidine were also positive;
23 that that would indicate the possible presence of
24 blood, and that it was also possible that blood had
25 been washed down the -- the sink and the shower.
- 26 Q Did you tell them that that was conclusive evidence

19-8

1 that that was blood?

2 A I don't recall offhand using any word whether it was
3 conclusive or not. Normally when I speak in our
4 scientific jargon, as it were, I describe whether or
5 not our tests are conclusive.

6 (No omissions.)
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1 Q Well, were you using the scientific jargon when you were
2 talking to the homicide people, or were you just using
3 it in more lay terms?

4 A Well, what I'm trying to say is that normally, when I
5 am trying to tell a person what we have done, I try and
6 get across the idea also what that means, whether that
7 is conclusive or not. And, therefore, I assume that
8 would -- I would have told the investigators that this
9 is not entirely a conclusive test.

10 MR. NEGUS: Nothing further.

11

12

CROSS EXAMINATION

13

BY MR. KOCHIS:

14 Q Mr. Stockwell, how many different types of tests did
15 you perform or witness being performed on the shower
16 and the sink to determine whether or not there was
17 blood?

18 A I and -- or Mr. Ogino used two tests, the luminol
19 technique and the ortho-tolidine.

20 Q Did you get a positive reaction on both those tests?

21 A Yes, sir, we did.

22 Q Did you communicate that to the deputy sheriffs that
23 were at the scene with you?

24 A Yes.

25 Q When you say "a positive reaction," did the chemical
26 react positively on both tests for the presence of blood?

1 | A. Yes.

2 Q Was there anything about the pattern of the reaction
3 that you observed that was consistent or inconsistent
4 with the substance in the blood?

5 A The patterns that we observed, in my opinion, are
6 consistent with blood stains in that nature, very dilute
7 blood stains.

8 Q Did you communicate that to the deputy sheriffs that were
9 there as well?

10 | A Yes.

11 Q Is it fair to say that the conversation you had with
12 them about what you had seen was not as detailed or
13 exact as the discussion we have had here in the courtroom
14 today?

15 A I would say it's not quite as extensive. But, basically,
16 the same facts were told at that time.

17 MR. KOCHIS: Thank you.

18 I have nothing else.

19 THE COURT: Anything?

20

21 REDIRECT EXAMINATION

22 | BY MR. NEGUS:

23 Q What about the pattern did you -- made you believe it
24 was consistent with blood?

25 A First of all, luminol is used at times when the blood
26 would not normally be seen by the unaided human eye,

1 that is, in cases where the blood would be very dilute.
2 That was the purpose for using the luminol. And the
3 luminol gave typical reactions for dilute blood stains.
4 And the ortho-tolidine was used to back up those studies.

5 If the luminol were reacting to something other than
6 blood, for instance, some active metal to which luminol
7 reacts, it would be more consistent to be a more uniform
8 nature reaction. You would see a very broad pattern,
9 or, with blood, you would expect to see smaller patterns
10 leading down if it were being washed with water. Those
11 were the types of stains or patterns that we were seeing,
12 patterns that were not uniform and appeared to be flowing
13 down.

14 Q Over what area of the shower did they appear to be flowing
15 down?

16 A I would say there were no stains above my shoulder height,
17 which would be approximately five feet six to eight inches.
18 And all those things that I observed were below that
19 point.

20 Q Were they all above the knee, too?

21 A The majority, yes.

22 Q At the Prelim, you testified they were all between the --
23 the shoulder and the knee of a six foot tall person;
24 is that correct?

25 A Yes. I believe I did say that at the Prelim.

26 Q The luminol will -- will react with other than metals

1 and blood, will react with bleach; is that correct?

2 A Certain types of bleach, yes.

3 Q Oxidizing bleaches?

4 A Yes.

5 Q And it will also react with various and sundry micro-
6 oranisms and fungi; is that correct?

7 A It can, yes.

8 Q And it can react with the type of microorganisms and
9 fungi which are often found in the groutings of showers;
10 is that correct?

11 A I don't know the types that would often be found in
12 shower grouting. I assume it could very well be.

13 Q And when you sprayed the -- when the luminol was applied,
14 it is applied in a liquid spray; is that correct?

15 A Yes.

16 Q And as it's applied by the force of gravity, it starts
17 to run down; is that also correct?

18 A Yes.

19 Q So what you saw was also consistent with the reaction
20 of microorganisms to the luminol, is it not? Is that
21 correct?

22 A The reaction with the liminol might be consistent with
23 patterns of microorganisms. However, I'm not all that
24 familiar with microorganisms and the pattern that they
25 would give with luminol.

26 MR. NEGUS: Nothing further.

1 RECROSS EXAMINATION

2 BY MR. KOCHIS:

3 Q The second test you performed, the ortho-tolidine test,
4 was that consistent with the presence of blood or the
5 presence of microorganisms?6 A It's definitely consistent with the presence of blood.
7 I would really have to consult the literature further
8 to see if it's consistent with microorganisms. However,
9 I would say that it would be only a small minority of
10 microorganisms. Otherwise, we would see many more
11 positive reactions with ortho-tolidine than we do.

12 MR. KOCHIS: I have nothing else.

13 THE COURT: Anything?
14

15 FURTHER REDIRECT EXAMINATION

16 BY MR. NEGUS:

17 Q This is the first time you ever sprayed ortho-tolidine
18 and luminol in a shower; is that correct?19 A I have sprayed orth -- excuse me, I have sprayed luminol
20 in showers before. We don't spray the ortho-tolidine.21 Q This -- the June 3rd -- June, excuse me, the June 8
22 spraying of luminol was the first time that you had ever
23 done it in a shower; is that correct?

24 A As a -- at that time, yes.

25 Q At the Preliminary Hearing, I asked you, in connection
26 with the same issue, whether you're familiar with an

007-1002

1 article by the name -- by a man named Ed Blake about the
2 effects of presumptive tests for blood on microorganisms.
3 Do you remember that?

4 A Yes.

5 Q Did you consult that article after I asked you about it?

6 A Not -- not at this time, I have not, no.

7 MR. NEGUS: Nothing further.

8 MR. KOCHIS: No recross.

9 THE COURT: Thank you very much, sir. You may step
10 down.

11 Another witness?

12 MR. NEGUS: Not that I think we can finish in five
13 minutes. We have a couple --

14 THE COURT: You can go a little beyond, if it won't
15 hurt.

16 MR. NEGUS: We have a couple other pieces of business
17 that we could --

18 THE COURT: All right.

19 MR. KOCHIS: Your Honor, one of those is a stipulation,
20 and it's a stipulation that me and Negus -- Mr. Negus and I
21 have agreed upon, that the Court may consider at this
22 hearing the testimony of certain witnesses that testified
23 at the Prelim so that it's not necessary to call them.

24 They are the following people. From Volume No. 1,
25 which was testimony which was taken on November the 9th, 1984
26 (sic), at the Preliminary Hearing, the testimony of the

1 following witnesses: Officer Shephard, Officer Rojo --

2 THE COURT: Spell the second one.

3 MR. KOCHIS: R-o-j-o.

4 THE COURT: Okay.

5 MR. KOCHIS: Sergeant Billy Roberts and Teresa Cordua
6 as they pertain to the 969b papers.

7 Also from that volume, the testimony of Kathleen
8 Bilbia, B-i-l-b-i-a.

9 From Volume 2, which was testimony which was taken
10 on November the 10th of 1983, the testimony of Richard
11 Sibbitt, S-i-b-b-i-t-t, and the testimony of Susan Walker.

12 From Volume 3, which was the testimony adduced on
13 the 14th day of November, 1983, the testimony of Yolanda
14 Jackson. From Volume 5, which was testimony taken on the
15 16th of November of 1983, the testimony of Diane Williams.
16 And, from Volume 11, four pages of testimony which appears,
17 I believe, on Pages 69 through 73, the testimony of a nurse
18 whose last name is spelled B-e-i-l-b-y; first name, I believe,
19 is Neville, N-e-v-i-l-l-e.

20 MR. NEGUS: So stipulated.

21 THE COURT: All right. I'll read the testimony.
22 Anything else?

23 MR. KOCHIS: Not from me.

24 MR. NEGUS: Do you want to do the --

25 MR. KOCHIS: Oh, there --

26 MR. NEGUS: -- in the five minutes?

4-00-1-00-1

MR. KOCHIS: We're willing to let Mr. Negus' expert choose all the tests for all the samples. Our only request is that we be present when the samples were tested. Mr. Negus now wants to divide the samples in half and have his expert

1 independently analyze half, have those results not available
2 to the People, then we would analyze the other half, and,
3 of course, I assume, make our results available to Mr. Negus.
4 That's where we have the disagreement.

5 THE COURT: Is that your position?

6 MR. NEGUS: Yes.

7 THE COURT: You're not willing to do that, sir?

8 MR. KOCHIS: No. My request was to be present during
9 the testing and expenditure of all the samples and did not
10 have 50 percent of the sample results remain unavailable to
11 me or available to me after Mr. Negus rests, which is going
12 to put a burden on me to be properly prepared if I have to
13 present that evidence at that late stage in the game after
14 we have tried the case.

15 THE COURT: Do you wish to argue your position or
16 explain it or anything else?

17 MR. NEGUS: I would be glad to explain mine.

18 THE COURT: Yes. Anything you want to say?

19 MR. NEGUS: Yes.

20 THE COURT: How can you justify that, Mr. Negus?
21 It's going to be destroyed. You would be able to come in
22 and, without ever having an obligation to furnish to the
23 Prosecution the results of your test, you could spring any
24 favorable material upon them. They, on the other hand,
25 when they test and run the tests on the remaining 50 percent,
26 have to discover to you, reveal to you, the results of all

007186

1 their tests. What's fair about that?

2 MR. NEGUS: What's unfair about it is that I have
3 to reveal to them -- what's unfair about it is that there
4 are eight different tests that one can do. One only picks
5 one. A trained criminalist can figure out what you're looking
6 for by which test you do. And I have to reveal to them
7 information that I have -- they can make inferences about
8 information that I have that I don't -- I don't have to
9 reveal to them in any other way. And to even articulate
10 what that information is would be to reveal information
11 which Mr. Cooper has a con -- Constitutional Right not to
12 be forced to reveal.

13 THE COURT: That's -- that's where we fall down. I
14 don't see this as a privileged communication or a communication
15 of any sort but, rather, a scientific analysis of physical
16 evidence.

17 MR. NEGUS: No. They want to give discovery of the
18 results of Defense independent analysis. It is a matter of
19 Prosecution discovery of my testing. I am perfectly willing
20 to give them eight of the sixteen samples, and they can
21 choose whichever tests they want to do, and I'm not going
22 to -- and I'm not going to try and say to them which tests
23 they should do and which test they shouldn't do. I just
24 want to have the right to choose in confidence a test that I
25 do.

26 These particular samples, Your Honor, are taken in --

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1 THE COURT: Well, let me interrupt you just a
2 second.

3 MR. NEGUS: Let me give you an example.

4 THE COURT: What authority, what case citation
5 at all says that I've got to divide up the evidence in
6 a particular case? Give me one case or --

7 MR. NEGUS: People versus Nation says that they
8 have a duty to preserve evidence so that I can do an
9 independent test.

10 THE COURT: None of the authorities given to me
11 before cover this factual situation.

12 MR. NEGUS: This factual situation has not been
13 litigated before. What I am saying is that what he wants
14 to do is to have his cake and eat it too. I mean, he
15 wants to use my expert, have -- learn from my selection
16 of the tests what I'm looking for, because, for example,
17 what tests you pick will tell you whether you're looking
18 for an assailant in a certain drop of blood, whether
19 you're looking for a victim in a certain drop of blood.
20 If, for example, you thought that -- I thought that the
21 prosecution had made a mistake on certain -- on something,
22 what I was looking for would tell them what mistake I
23 thought they'd made, and I don't have to reveal that kind
24 of information prior to trial, and if you -- if you do
25 Mr. Kochis' way of doing it, you're going to force me to
26 either not test it or reveal that kind of confidential

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1 information. Your Honor, you were the one yourself. You
2 said can I divide them 50-50. The only reason we didn't --
3 I didn't accede to it right away was Mr. Ogino said he
4 wouldn't do it that way, but on further consultation, there
5 are -- if I could characterize the stains, there are four
6 stains that came from a wall. Those could be divided
7 easily 50-50, two apiece.

8 There are two stains that came from a door. That
9 could be divided 50-50.

10 There are six stains that you probably will not
11 be able to get results on (a) because they -- they already
12 have sprayed stuff all over it, this luminol stuff, which --
13 which means that you're not going to get a result; and one,
14 according to the description of it, may not even be blood.

15 And then there's two stains at the end, which we
16 could just divide up, which are both -- they're both
17 independent. We're not talking about -- we're not talking
18 about they don't get a chance to analyze the same as I do.

19 THE COURT: Anything that the parties can do by
20 way of agreement and stipulation is, of course, fine with
21 the Court. Barring that, however, I do not consider such
22 analysis and scientific tests to be part of the game, but
23 rather a search for truth by the experts in the particular
24 case. It's not communications. It's not privileged in
25 any way. Whichever side it may benefit should benefit
26 also the search for truth and justice, and I simply am not

8 MR. NEGUS: I think you're running into error
9 this way, because you're forcing me to reveal things which
10 the discovery cases say I don't have to reveal.

14 MR. NEGUS: Well, there's none -- the thing is
15 there's no authority on it one way or the other, and if
16 there was, I'm sure we both would have had it before you
17 by now.

21 | Anything further?

24 All right. Let me know if there's any more
25 difficulty. Okay.

26 (Whereupon, at 4:07 p.m. an adjournment
27 was taken in this matter.)

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