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1 CASE NO. CRIM 24552

2 SUPREME COURT OF THE STATE OF CALIFORNIA

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

5 PLAINTIFF, )

6 -VS- )

7 KEVIN COOPER, )

8 DEFENDANT. )  
9

SUPERIOR COURT  
NO. CR-71787  
MOTIONS

10 APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY

11 HONORABLE RICHARD C. GARNER, JUDGE PRESIDING

12 REPORTERS' TRANSCRIPT ON APPEAL

13  
14 APPEARANCES:

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IN PROPRIA PERSONA

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LEONARD D. GUNN  
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25 VOLUME ~~25~~ OF 34

26 PAGES 2069 THROUGH 2198

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF SAN BERNARDINO

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

5 Plaintiff, )

6 vs. )

7 KEVIN COOPER, )

8 Defendant. )

NO. OCR-9319

CR-72787

VOLUME NO. 24

Pgs. 2069 thru 2198, Incl.

10  
11 REPORTERS' DAILY TRANSCRIPT

12 BEFORE HONORABLE RICHARD C. GARNER, JUDGE

13 DEPARTMENT 10 - SAN BERNARDINO, CALIFORNIA

14 Thursday, May 17, 1984

15 APPEARANCES:

16 For the People:

DENNIS E. KOTTMEIER  
District Attorney

DENNIS E. KOTTMEIER  
District Attorney

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Deputy District Attorney

20 For the Defendant:

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BY: DAVID NEGUS  
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1 SAN BERNARDINO, CALIFORNIA; THURSDAY, MAY 17, 1984; 9:43 A.M.

2 DEPARTMENT NO. 10

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, and JOHN P. KOCHIS,  
8 Deputy District Attorney of San Bernardino  
9 County, representing the People of the State  
10 of California.

11 (Leonard D. Gunn, C.S.R., Official Reporter, C-1109,  
12 Judith L. Morris, C.S.R., Official Reporter, C-2400.)

13

14 THE COURT: Good morning.

15 MR. KOCHIS: Good morning.

16 MR. NEGUS: Craig Jackson.

17 THE COURT: We're now calling a witness out of order,  
18 as I recall.

19 MR. NEGUS: Yes.

20 THE BAILIFF: Please face the clerk and raise your  
21 right hand.

22

23 C R A I G J A C K S O N, called as a witness by and on  
24 behalf of the People, was sworn and testified as follows:

25 / / / /

26 / / / /

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

5 THE WITNESS: I do.

6 THE CLERK: Please be seated. State your name,  
7 please, for the record, and spell your last name.

8 THE WITNESS: Craig R. Jackson, J-a-c-k-s-o-n.

9  
10 DIRECT EXAMINATION

11 BY MR. NEGUS:

12 Q Mr. Jackson, what's your occupation?

13 A I'm a clinical social worker.

14 Q And in June of 1983 for whom were you employed?

15 A I was employed with Loma Linda University Medical Center.

16 Q Did you have a particular unit that you were assigned  
17 to?

18 A Yes. I was assigned to basic pediatrics, what is known  
19 as 5100 and 5300.

20 Q Did you have a patient in June of 1983 named Josh Ryen?

21 A Yes, I did.

22 Q On June 14th, 1983, did you and a Dr. Jerry Hoyle have  
23 a brief conference with Josh in the morning?

24 A Yes, we did.

25 Q During that conference were you attempting to elicit  
26 information from Josh about the crime that he'd been a

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1 victim of?

2 A No, we did not.

3 Q Did Josh spontaneously give you some information about  
4 that crime?

5 A Yes.

6 Q What information did Josh spontaneously give you?

7 A As near as I can remember, he began to talk about it was  
8 late at night, he heard screams, went into his parents'  
9 room, and then that was all that he remembered.

10 Q Did he ever describe anybody, any assailant or assailants  
11 being in the house?

12 A To my recollection, no.

13 Q That same day was Josh informed that he would not be in  
14 the custody of his grandmother?

15 A It may have been either on that same day or within two  
16 days. I've been unclear as to exactly when that occurred.

17 Q Do you have records of that?

18 A I have some notes from that, but I was not a part of  
19 the conversation with regard to telling him he would not  
20 live with his parents -- with his grandmother. I'm  
21 sorry.

22 Q When Josh was giving the information about the crime,  
23 he just spoke in a narrative and you or Dr. Hoyle did  
24 not ask him any questions or give him any suggestions;  
25 is that correct?

26 A That is correct.

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

2 THE COURT: Mr. Kochis.

3

4

CROSS EXAMINATION

5 BY MR. KOCHIS:

6 Q Mr. Jackson, the date again that this took place on was  
7 what date?

8 A The conversation with Josh?

9 Q Right.

10 A June 14th.

11 Q And is it true that there was no law enforcement person  
12 present when this conversation took place?

13 A That is correct.

14 Q And what room did it take place in, if you recall?

15 A It was in the play room on 5300.

16 Q Do you know if that was before or after Detective  
17 O'Campo would later talk to Josh Ryen?

18 A That was before.

19 Q And was it your intention at that point not to question  
20 Josh about what he recalled?

21 A That's correct.

22 Q Was that due to your concern about his mental condition  
23 at the time?

24 A Well, that had been an on-going concern of ours. The  
25 purpose of that meeting with Josh was to let him know  
26 that a detective would be questioning him and our primary

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1 intent was to prepare him for that.

2 Q And did he more or less spring this information on you  
3 at that point?

4 A Yes, he did.

5 Q And I assume neither you nor Dr. Hoyle reached up and  
6 tried to stop him from talking at that time?

7 A No, we did not.

8 Q But you didn't encourage him to talk at all?

9 A That's correct.

10 Q You didn't probe into his memory at all?

11 A No.

12 MR. KOCHIS: I have nothing further.

13 MR. NEGUS: Nothing further.

14 THE COURT: Thank you, Mr. Jackson.

15 MR. NEGUS: I'm ready to return to Mr. O'Campo. We  
16 let him go till ten.

17 THE COURT: Is he outside?

18  
19 H E C T O R L. O' C A M P O, having been previously duly  
20 sworn, resumed the stand and testified further as follows:

21 THE COURT: You're still under oath, Mr. O'Campo.  
22 Just have a seat and state your name for the record again,  
23 please.

24 THE WITNESS: Hector L. O'Campo.

25 THE COURT: Mr. Negus.

26 MR. NEGUS: I think Mr. Kochis.

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1 MR. KOCHIS: Your Honor --

2 THE COURT: Mr. Kochis.

3 MR. KOCHIS: -- he's on my cross.

4 THE COURT: All right.

5

6

CROSS-EXAMINATION (Resumed)

7 BY MR. KOCHIS:

8 Q Detective O'Campo, directing your attention back to the  
9 area that we were discussing yesterday at four o'clock  
10 when we recessed, specifically your June the 14th, 1983,  
11 interview with Joshua Ryen, do you have that general  
12 area in mind at this point?

13 A Yes, sir.

14 Q During your interview with Joshua Ryen, did he tell you  
15 that he woke up at some point because he heard his  
16 mother screaming?

17 A Yes, sir.

18 Q And did he tell you that he woke Chris Hughes up after  
19 he heard his mother screaming?

20 A That's correct.

21 Q Did you place both those pieces of information in your  
22 typewritten report which was in front of you on the  
23 witness stand yesterday?

24 A Yes, sir.

25 Q Did he tell you what he did after he woke Chris Hughes up?

26 A Yes, he did.

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1 Q Did he tell you that both he and Chris Hughes went  
2 toward his mother's bedroom?

3 A That's correct.

4 Q And did you place that in your report?

5 A I did.

6 Q Did he tell you if he observed any member of his family  
7 on the way to his mother's bedroom in the hall?

8 MR. NEGUS: Objection. I believe this was asked  
9 and answered yesterday.

10 THE COURT: Yes, it was.

11 MR. KOCHIS: Your Honor, I neglected one area in my  
12 cross, and I think it's necessary for me to orient Detective  
13 O'Campo to get to that area.

14 THE COURT: Counsel, I --

15 MR. KOCHIS: I can speed it up if the Court's  
16 concerned.

17 THE COURT: No, I'm not particularly concerned.  
18 It's not going to take long. What I was hesitating about  
19 was your use of the word cross. It's not an issue, so go  
20 ahead. Proceed.

21 Q (BY MR. KOCHIS:) Did he describe the location of the  
22 various members of his family when he got to his parents'  
23 room the first time?

24 A Yes, he did.

25 Q Did you place that information in your report?

26 A Yes, sir.

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26 A. That's correct.

1 Q Did he tell you that when he came to his parents' bedroom  
2 at that point he saw his mother in the bedroom?

3 A Yes, sir.

4 Q And did he describe her approximate location in the room  
5 when he returned the second time?

6 A Yes.

7 Q Did you at that point then bring him back to the first  
8 time he came into his mother's bedroom?

9 A Yes, sir.

10 Q And do you recall how you did that?

11 A I believe I told him I wanted to stop and I wanted him  
12 to think back to the first time that he went to the  
13 bedroom when Chris was with him.

14 Q Directing your attention again, Detective O'Campo,  
15 to Exhibit H-198, and specifically to Page 4 of that  
16 exhibit, your interview with Joshua Ryen, and the last  
17 full paragraph that appears on that particular page,  
18 specifically the last sentence of that paragraph, did  
19 you ask him when he went to the bedroom the first time  
20 if he saw anyone in the bedroom or could hear anyone  
21 or could smell anyone?

22 A That's correct.

23 Q What did Joshua tell you?

24 A He told me no.

25 Q Did you then allow him to continue with his observations  
26 as to what he may have seen or heard the second time

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26 | A Yes.

1 Q Did he in fact hear a sound coming from Chris Hughes?  
2 A Yes, he did.  
3 Q Did he tell you where he was in the bedroom when he heard  
4 that sound?  
5 A Yes, sir.  
6 Q Where was he?  
7 A He was standing by Chris.  
8 Q Did you ask him at that point if he saw or heard anyone  
9 else?  
10 A Yes, sir.  
11 Q And did he tell you that he did not see anyone else but  
12 he heard Chris make a gurgling sound?  
13 A Yes, sir.  
14 Q Did he attempt to imitate that sound for you?  
15 A He did.  
16 Q Was Dr. Hoyle to your knowledge still in the room when  
17 Josh Ryen attempted to imitate that sound?  
18 A I didn't hear him leave, and he was there when I finished,  
19 so I assumed he was still in the room.  
20 Q Somewhere behind you in the room?  
21 A Yes, sir.  
22 Q Did Joshua Ryen tell you what he recalls happening to  
23 himself as he stood there in his parents' master bedroom  
24 hearing Chris Hughes making the gurgling sounds?  
25 A Yes, sir.  
26 Q What did he tell you he remembered?

- 1 A He remembered getting hit on the head.
- 2 Q Did he tell you he saw the person who hit him on the
- 3 head?
- 4 A No, he didn't.
- 5 Q Did he tell you he heard the person who hit him on the
- 6 head approach him?
- 7 A No, he didn't.
- 8 Q Did he tell you that sometime after he was hit on the
- 9 head he remembered waking up?
- 10 A Yes, sir.
- 11 Q Did he tell you whether it was light or dark outside
- 12 when he recalled being conscience again?
- 13 A I believe he said it was light.
- 14 Q Did you then question him about what he recalled taking
- 15 place from the time he awoke after being struck on the
- 16 head and the time he was taken to the hospital?
- 17 A Yes, sir.
- 18 Q And did his recollection include seeing Bill Hughes,
- 19 Chris's father, outside the sliding glass door?
- 20 A Yes, sir.
- 21 Q Did it include his recollection of paramedics being at
- 22 the scene?
- 23 A He remembered specifically people helping him. I don't
- 24 recall him using the word paramedics.
- 25 (No omissions.)
- 26

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- 1 Q And did he recall that that was after Bill Hughes somehow  
2 got into the house?
- 3 A Yes, sir.
- 4 Q Now, did you then ask him, ask Josh Ryen if he had  
5 any idea who might have done this to him and to his  
6 family?
- 7 A Yes, sir.
- 8 Q Now, up until the time you asked that question --  
9 perhaps I should stop for a moment. The exhibit which  
10 is in front of you, H-186, the 7-page typed report of  
11 your interview with Josh Ryen, when you dictated your  
12 report, did you make an attempt to include the information  
13 in chronological order to match that which Josh gave  
14 you?
- 15 A Yes, sir.
- 16 Q For example, when you started your interview with  
17 Josh, did you start with Saturday or did you start with  
18 the preceding day, on Friday?
- 19 A I started with Friday.
- 20 Q Did you run through all of the events Josh remembered  
21 on Friday first?
- 22 A Yes, sir.
- 23 Q And is that reflected in your typewritten report,  
24 Exhibit H-186?
- 25 A 189, yes.
- 26 Q Excuse me. Did you then start with what he recalled

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1 from the time he woke up Saturday morning until the  
2 time he went to bed Saturday night?

3 A Yes, sir.

4 Q Is that chronological sequence likewise reflected in  
5 your typewritten report?

6 A Yes, it is.

7 Q Then from there did you put in what he remembered from  
8 the time his mother screamed, cause him to wake up,  
9 until the time he was hit on the head?

10 A Yes.

11 Q Did you put in the events he recalled happening from  
12 the time he woke up until the time he took the helicopter  
13 ride to the hospital?

14 A Yes, sir.

15 Q Then you asked him if he had any idea who had done this  
16 to either him or his family, is that correct?

17 A That's correct.

18 Q Now, up until the time you asked that question, did  
19 Joshua Ryen ever tell you that he saw the three white  
20 men in the house attack any member of his family?

21 A No, sir.

22 Q Did he ever tell you that he saw three while males  
23 attack him?

24 A No.

25 Q Did he ever tell you up until that point in the inter-  
26 view that he ever saw three Mexican American male adults

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- 1        attack any members of his family?
- 2        A    No, sir.
- 3        Q    Did he ever tell you that he saw white male adults attack
- 4               any member of his family or himself?
- 5        A    No, sir.
- 6        Q    Up until that time did Joshua Ryen tell you that he
- 7               had seen anyone in the house other than Chris Hughes
- 8               and the members of his family?
- 9        A    No, sir.
- 10       Q    What did Joshua tell you, if anything, when you asked
- 11              him if he had any idea who did this to he and his family?
- 12       A    He said he thought it was the three Mexicans that did it.
- 13       Q    Did you then ask him questions about three Mexicans?
- 14       A    I asked him which Mexicans, which three Mexicans he
- 15              was talking about.
- 16       Q    Did he then describe an incident which took place as he
- 17              and his family were leaving for the barbecue at the
- 18              Blade's house?
- 19       A    Yes, sir.
- 20       Q    And did he describe a car in which these three people
- 21              arrived at the house?
- 22       A    Yes.    A little blue pickup.
- 23       Q    And again, was all this information obtained after Joshua
- 24              had completed with you his chronological sequence of
- 25              what he recalled taking place in the house?
- 26       A    Yes, sir.

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1 Q So in essence did you at that point in your discussion  
2 return to a point in time prior to when he and his  
3 family left their home to go to the Blade's for the  
4 barbecue?

5 A Yes.

6 Q Did he likewise give you a description of each of those  
7 three male Mexican people?

8 A Yes, he did.

9 Q Did that description include their approximate age, for  
10 example?

11 A Yes.

12 Q Their approximate height?

13 A Yes.

14 Q Their approximate build?

15 A That's correct.

16 Q And did you include all that information in your type-  
17 written report?

18 A Yes, sir.

19 Q Did he explain to you an activity which took place  
20 between his father and any of these people?

21 A Yes.

22 Q Was that essentially some type of short conversation?

23 A Yes, sir.

24 Q After Joshua related this incident to you, did you ask  
25 him again if it was his opinion that these were the  
26 people who returned to the house?

00006371

1 A Yes, I did.

2 Q And that these were the people who caused him some harm?

3 A Yes, sir.

4 Q And did he tell you that that is what he believed?

5 A Yes, sir.

6 Q Did he at that time, however, tell you that he ever saw  
7 any of these three people inside his house?

8 A No.

9 Q Did he tell you that he saw, ever saw any of these  
10 three people attacking himself or any member of the  
11 family?

12 A No.

13 Q Now, this opinion Joshua Ryen expressed to you twice  
14 during the interview, was that consistent or was that  
15 inconsistent with your belief on the 14th that Kevin  
16 Cooper was responsible for the Ryen-Hughes homicides?

17 A It would be inconsistent with my belief.

18 Q Well, if it was inconsistent with your belief, why  
19 did you put it in such detail in your 7-page typed  
20 interview?

21 A Because he said it.

22 Q Well, wouldn't it have been better for you to have  
23 left that out of your interview with Josh Ryen?

24 A Wouldn't it have been better if I would have left it out?

25 Q In terms of supporting your belief.

26 A Oh, definitely.

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3 | A No, sir.

6 | A No, sir.

13 THE COURT: Is there an objection?

15 THE COURT: It will be received.

20 | A Yes, sir.

25 | A Yes, sir.

26 Q Was that piece of evidence a shoe print impression on

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- 1 the top of a Jacuzzi spa?
- 2 A Yes, sir.
- 3 Q Was that person Mr. Duffy?
- 4 A Yes, it was.
- 5 Q After you directed his attention to that, did you see
- 6 Mr. Duffy photograph that impression to preserve it?
- 7 A Yes, I did.
- 8 Q Now, were you the detective that was assigned that
- 9 crime scene?
- 10 A No, I was not.
- 11 Q Was Mike Hall one of those people?
- 12 A Yes, sir.
- 13 Q And was there another person, another detective from
- 14 your Bureau who was later assigned with Mike Hall
- 15 to that crime scene?
- 16 A Yes.
- 17 Q Would that have been John Clifford?
- 18 A Yes, sir.
- 19 Q Would that assignment have taken place sometime in
- 20 the evening or early morning hours on either the evening
- 21 of Sunday, June the 5th, or Monday morning, June the 6th?
- 22 A Yes.
- 23 Q Were you one of the detectives that assisted Detective
- 24 Hall with the crime scene?
- 25 A Yes, sir.
- 26 Q Was it Detective Hall's responsibility to record the

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3 | A Yes, sir.

8 | A Yes, sir.

12 | A Prior to my entering?

14 A I don't specifically remember. I seem to think I did.

17 | A Yes, sir.

20 A That's correct.

23 | A Yes, sir.

26 | A Yes, sir.

- 1 Q And at that crime scene is Identification the division  
2 that does the photographing, for example?
- 3 A Pardon me. Can you repeat that?
- 4 Q Sure. At the crime scene was Detective Duffy and  
5 Detective Roper there to photograph the crime scene?
- 6 A Yes, sir.
- 7 Q For example, Homicide assisted and did not photograph  
8 the crime scene?
- 9 A That's correct.
- 10 Q Is I.D. there also to lift latent fingerprints?
- 11 A Yes.
- 12 Q Is it fair to say that Homicide did not lift any latent  
13 prints, it was the I.D. Bureau?
- 14 A I would agree.
- 15 Q You weren't involved in lifting any prints?
- 16 A No, sir.
- 17 Q Was the crime lab at that particular crime scene involved  
18 when you saw them from time to time in picking up  
19 evidence at the scene?
- 20 A Yes, sir.
- 21 Q Now, did you walk through the residence to conduct a  
22 visual search of the residence?
- 23 A Yes, sir.
- 24 Q Would one of your purposes for conducting a visual  
25 check of the residence be to look for signs of disturbance?
- 26 A That would be one of the reasons.

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1 Q Would you also check for the presence or absence of  
2 valuable items of property?

3 A Yes, sir.

4 Q Now, were you assigned after this day to interview  
5 person connected with the case?

6 A Yes, sir.

7 Q For example, you interviewed Joshua Ryen, is that true?

8 A That's correct.

9 Q He was one of several people you interviewed in connection  
10 with this case?

11 A Yes, sir.

12 Q As a Homicide detective, in your experience, do you find  
13 any value in having some first-hand observations of  
14 a crime scene that will later assist you in interviews  
15 of persons connected with the case?

16 A Yes, sir.

17 Q Can a problem arise, for example, in interviewing a  
18 survivor of a crime scene, when you have no knowledge of  
19 what the crime scene looked like?

20 A That's correct.

21 Q When you assisted the officers in their measurements of  
22 items at the crime scene, every time you engaged in that  
23 type of activity, did it appear to you that the detective  
24 at the other end of the tape was making a record of the  
25 measurement you were helping take?

26 A Yes, sir.

0000637

1 Q Now, did you follow the individuals from the crime lab  
2 around that house the entire time they were there?

3 A I did not.

4 Q Were you assigned to keep an eye on the crime lab, for  
5 example?

6 A No, sir.

7 Q At that crime scene, did they, although they are part  
8 of a team, work independently of your department? Or is  
9 that a vague question?

10 A That's vague, I guess.

11 Q By that I mean at that crime scene was a Homicide  
12 detective assigned to tag along with the crime lab and  
13 watch everything they did?

14 A No, sir.

15 Q Likewise, were you assigned to follow the individuals  
16 from the I.D. Bureau around the crime lab and see where  
17 they stood when they took their photographs to preserve  
18 the crime scene?

19 A No, sir.

20 (No omissions.)  
21  
22  
23  
24  
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1 Q While you were at that crime scene, did you see any  
2 civilians inside the Ryen home other than the victims  
3 and the persons who assisted in removing the bodies of  
4 the deceased people from the house?

5 A Dr. Root.

6 Q Dr. Root is a pathologist who works in coordination  
7 with this county on homicides; is that correct?

8 A Yes, sir.

9 Q Did you see, for example, any members of the press inside  
10 the house at that time?

11 A No.

12 MR. KOCHIS: Thank you. I have nothing else, Your  
13 Honor.

14 REDIRECT EXAMINATION

15 BY MR. NEGUS:

16 Q Mr. O'Campo, yesterday you described your note taking  
17 process as like you would put laundry room with an arrow  
18 and that would indicate to you that Joshua went into the  
19 laundry room. Is that basically the way you did most of  
20 your note taking?

21 A Are you referring to the arrow?

22 Q It is an abbreviated form where you abbreviate the  
23 verb and don't have a subject and just put that which  
24 you think is significant about the statement; that is,  
25 laundry room?

26 A I would agree with you insofar as my note taking being

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1 in an abbreviated method, yes.

2 Q Do you normally put a subject in if there's not a proper  
3 name used?

4 A I would think I'd have to.

5 Q Do you always put he's and they's and you's and we's,  
6 or do you leave those out sometimes?

7 MR. KOCHIS: Your Honor, I would object as not  
8 being relevant as to what he does in other scenes. What he  
9 did in this case would be relevant.

10 THE COURT: Yes.

11 MR. NEGUS: I thought that was what I was asking  
12 about.

13 THE WITNESS: I would say yes.

14 Q (BY MR. NEGUS:) You tend to leave the pronouns out?

15 A No, sir. I would use them.

16 Q For example, you said that there was a time that there  
17 was a description of Chris being chased; is that right?

18 A Yes, sir.

19 Q Do you remember if you wrote down whatever subject Josh  
20 used in your notes, "they chased," "Chris was chased"?  
21 Do you remember the form of the sentence?

22 A No, I don't have independent recollection of that.

23 Q Possibly you abbreviated Chris chased or chased Chris?

24 A It's possible.

25 Q And that would be a practical way to abbreviate things;  
26 is that correct?

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- 1 A It could be done that way.
- 2 Q Do you do it that way?
- 3 A Well, like I said, I don't have independent recollection  
4 of how I did it.
- 5 Q Do you remember how many pages of notes you had?
- 6 A No, I don't remember how many.
- 7 Q Were you taking notes in a spiral notebook?
- 8 A No. It was a steno note pad.
- 9 Q The same type of paper that Josh wrote his question on  
10 for you back on June the 6th; is that right?
- 11 A Yes, sir.
- 12 Q When you took your notes, you basically wrote down  
13 Josh's answers rather than your questions?
- 14 A That I don't remember.
- 15 Q Do you remember whether you were asking leading questions  
16 or open-ended questions?
- 17 A I don't remember asking leading questions, and I don't  
18 recall asking open-ended questions. I do remember asking  
19 questions that required an answer.
- 20 Q How would you define a question in between an open-ended  
21 and a leading question? Give me an example.
- 22 A If I were to ask you what color shirt you have on.
- 23 Q When you were going through the narrative, did you ask  
24 like what happened next or where did you go next?  
25 What kind of questions were you asking?
- 26 A I would probably have said what happened next or what

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1 did you do, did you hear anything, did you see anything,  
2 did you smell anything.

3 Q So you were trying to focus his attention on certain  
4 subjects without necessarily suggesting an answer; is  
5 that fair?

6 A Yes, sir, I agree with you.

7 Q Do you have any estimate as to whether -- were you  
8 writing the whole time or did you pause? How did that  
9 work? I mean, were you just taking notes constantly  
10 when something significant came up? How did you do that?

11 A I believe I would make notes as I received a response  
12 and not make them until I thought I had what was  
13 sufficient notes and make them until I thought I had  
14 what was sufficient notes to cover the response and the  
15 question.

16 Q So you would be taking some sort of note, even just a  
17 couple of words, as to each response that Josh made;  
18 is that correct?

19 A I would hope that that's what I was doing. I don't have  
20 a specific recollection.

21 Q Do you recall Josh describing the attack on himself and  
22 his family using the pronoun they or them for his  
23 attackers at least on six different occasions?

24 A No, sir.

25 Q When Mr. Kochis asked you about why did you put in  
26 information about the Mexicans in your report, you didn't

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1 MR. NEGUS: Your Honor, I don't believe that  
2 question falls within any of the three definitions of an  
3 argumentative question. Mr. Kochis asked this gentleman  
4 about why did he put inconsistent information into his  
5 police report. I think I'm entitled to examine him to  
6 bring out that he didn't.

7 THE COURT: Counsel, it calls for no new facts but  
8 merely asks a question to agree with the inferences that  
9 you may draw from the evidence thus far, which is one of  
10 the three categories.

11 MR. NEGUS: The new fact that it calls for is is there  
12 anything that was inconsistent.

13 THE COURT: I'm not quite sure that that was the  
14 way it came out.

15 MR. NEGUS: I'll rephrase it, then.

16 Q (BY MR. NEGUS:) Is there anything, any fact, that you  
17 put into your police report other than the statement  
18 about what Josh's feelings were which was inconsistent  
19 with your theory of the case?

20 A When he told me of the three Mexicans, that was  
21 inconsistent with my opinion, not with my theory.

22 Q Well, the facts that you put into the police report were  
23 that Josh had seen three Mexicans that he and his family  
24 left for a party. Was anything inconsistent in that  
25 with your opinion?

26 A No.

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25 Q At that point in time had you gone without sleep for  
26 an extended period of time?

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1 A That I don't remember.

2 Q Do you remember being up all night the night before  
3 that?

4 A Not specifically.

5 Q Monday, June the 13th, there wasn't anything specific  
6 going on with the investigation that you were involved  
7 in other than just liaison with Josh?

8 A I don't remember.

9 Q Do you have notes of anything you did on June the 13th?

10 A No, sir, I have no notes.

11 (No omissions.)

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1 Q Is your memory such that you can remember a lot more  
2 details about a conversation for the first hour or two  
3 but then after that it drops off significantly?

4 A Is my memory such?

5 Q Does your memory work by your being able to remember the  
6 details of something, a conversation, for example, best  
7 for an hour or two, but then after say two hours, your  
8 memory drops off of the small details quite a bit?

9 A Are you referring to as a conversation is taking place  
10 or after the conversation has been concluded?

11 Q The conversation ends at 7:00. Would your memory be  
12 such that you would be able to remember most of the  
13 details for say the first hour, dropping off more after  
14 two hours, and then after two hours being able to recall  
15 maybe 20 percent of the details, something like that?

16 A No, I don't think I can agree with that.

17 Q How much can you remember overnight after you have slept  
18 of the conversation? Can you remember everything that  
19 happened?

20 MR. KOCHIS: I'm going to object. It's vague as to  
21 what type of situation we are talking about. It's not  
22 relevant, your Honor.

23 THE COURT: Very general, Mr. Negus. Sustained.

24 Q (BY MR. NEGUS:) How much did you remember the next  
25 morning when you were dictating your report after 12,  
26 14 hours had expired after your interview with Josh?

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1 Did you remember 80 percent of the details, 20 percent  
2 of the details? How would you relate your memory of  
3 the details?

4 A It's difficult to answer. There would have to be a  
5 system of measuring how much information is retained  
6 after that amount of time. I have never subjected myself  
7 to such a test.

8 Q You have no way of knowing, then?

9 A I wouldn't even want to guess.

10 Q Do you think that your particular memory is significantly  
11 greater than the average persons?

12 MR. KOCHIS: Objection. That calls for speculation  
13 on his part. It's not relevant.

14 THE COURT: It's speculative. Sustained.

15 Q (BY MR. NEGUS:) Do you have a good memory?

16 A I like to think I do.

17 Q Is it outstanding so that you can amaze your friends by  
18 being able to remember more than they do about the same  
19 thing?

20 MR. KOCHIS: Objection, your Honor. Argumentative.  
21 Vague. It's not relevant.

22 MR. NEGUS: Your Honor, I think that it's known  
23 by psychologists how much people can remember on the average,  
24 and I'm just trying to --

25 THE COURT: The question of relevancy, counsel, I'm  
26 trying to weigh that relevancy to see how slight or heavy

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1 it is. You are asking his opinion as to the strength of his  
2 memory powers.

3 MR. NEGUS: I think most of us have an opinion as  
4 to where we are.

5 THE COURT: Are you about to conclude on that point?

6 MR. NEGUS: I'm about to conclude if I can get an  
7 answer.

8 THE COURT: All right. Let's permit it, if you recall  
9 it, sir. Do you?

10 THE WITNESS: No, sir, I don't.

11 THE COURT: All right, Mr. Negus.

12 Q (BY MR. NEGUS:) Would you say that your memory -- you  
13 took a conversation and say compared to other detectives  
14 in Homicide, would you be outstanding in your ability  
15 to remember or about the same as the others?

16 MR. KOCHIS: Objection. That calls for speculation  
17 absent foundation that he subjected himself and everyone else  
18 in Homicide to that test. It's also vague as to what he is  
19 talking about, whether a conversation with Mr. Negus in the  
20 hallway or --

21 THE COURT: He has to evaluate the memory powers of  
22 everybody who works around him as well as his own.

23 MR. NEGUS: Can I have the original question read  
24 back?

25 THE COURT: Yes.

26 (Whereupon the requested portion was read back

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26 | 0 (BY MR. NEGUS:) Is that correct?

1 THE COURT: If I could show the witness the statement.  
2 And it's not the way I recall the answer, but --

3 MR. NEGUS: I wasn't sure.

4 MR. KOCHIS: Your Honor, I'm prepared to stipulate  
5 that Mr. Negus did not give him a copy of his transcript.

6 MR. NEGUS: Okay.

7 THE COURT: All right. I will accept the stipulation.

8 Q (BY MR. NEGUS:) When you were listening to Josh, did  
9 he talk about a chase in a circle?

10 A I believe he said he could hear cries running in circles,  
11 something to that effect.

12 Q From your knowledge of going around the Ryen house, is  
13 it possible to be chased in a circle around the halls  
14 so that you are going in a circle through the halls?

15 A Yes, sir.

16 Q It's sort of a circular arrangement? There are halls  
17 circling around the trophy room in a circular fashion?

18 A Yes, sir.

19 Q Yesterday Mr. Kochis asked you if Joshua's statement  
20 that the first time he went into the bedroom he reached  
21 down and touched Jessica and looked into the master  
22 bedroom and was not able to see his mother, and then  
23 he asked you, "And that was not consistent with what  
24 you saw at the crime scene?" And you answered, "You  
25 are correct." Do you remember that?

26 A Yes, sir.

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24 THE COURT: If I may be permitted, if she was still  
25 able to move between the two observations, they could be  
26 reconciled, your observations and his, could they not?



1 THE WITNESS: Yes, sir.

2 Q (BY MR. NEGUS:) Why did you say Mr. Kochis was correct  
3 in saying that was inconsistent?

4 MR. KOCHIS: Objection, your Honor. That's a mis-  
5 statement of his testimony. He said it was inconsistent  
6 with what he say, not with Mr. Negus' proposed hypothetical.

7 THE COURT: Overruled.

8 THE WITNESS: If I remember correctly, at the time  
9 Mr. Kochis was questioning in that area, he was, I believe,  
10 trying to point out that from the position Josh was at when  
11 he was next to Jessica, if the mother had been in the position  
12 I had observed her in, then Joshua would have seen her then  
13 also.

14 Q (BY MR. NEGUS:) Isn't the reason for your answer,  
15 "You are correct" because Mr. Kochis asked you a leading  
16 question and you answered it in the way the question  
17 suggested?

18 MR. KOCHIS: Objection. That's argumentative.

19 THE COURT: Overruled. But it hardly seems worth-  
20 while. Try and conclude this point, Mr. Negus.

21 Can you answer the last question?

22 THE WITNESS: Yes, sir.

23 THE COURT: All right.

24 THE WITNESS: I answered correct because I agreed  
25 with what he said.

26 THE COURT: Let's try and conclude with the witness.

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(No omissions.)

1 Q In response to what question by yourself did Josh first  
2 mention three Mexicans?

3 MR. KOCHIS: Your Honor, could I give Mr. O'Campo  
4 the exhibit so he's referring to the exhibit rather than  
5 another copy to orient the Court?

6 THE COURT: Certainly. Is that 189?

7 MR. KOCHIS: Yes, Your Honor.

8 THE WITNESS: Yes, sir. The question would have been  
9 something to the effect of do you know who did this to you  
10 or do you have any idea or who do you think, something to  
11 that effect.

12 MR. NEGUS: Nothing further.

13 THE COURT: Mr. Kochis.

14 MR. KOCHIS: Yes, Your Honor.

15

16 RECROSS-EXAMINATION

17 BY MR. KOCHIS:

18 Q Mr. O'Campo, now that you have 189 in front of you,  
19 H-189, directing your attention to, for example, Page 2,  
20 the first full paragraph, does that sentence contain  
21 some of the pronouns that Josh used when he communicated  
22 to you his observations of the scene, the observations  
23 of his -- his recollections of his activities?

24 A Yes, sir. He would have said "we," and I would have  
25 written "they."

26 Q And does in fact in your report the word "they" appear

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1 several times in this seven-page document?

2 A. Yes, sir.

3 Q. Likewise, does Page 2, specifically the first and  
4 second paragraphs, contain examples of the questions  
5 that you asked Joshua during the interview?

6 A. Yes, sir.

7 Q. Does Page 4 of your typewritten interview, specifically  
8 the fifth paragraph, contain Joshua's recollection of  
9 what he heard from the laundry room?

10 A. Yes, sir.

11 Q. And does it include Joshua's recollection of hearing  
12 Chris running in circles?

13 A. Yes, sir.

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

15

16 REDIRECT EXAMINATION

17 BY MR. NEGUS:

18 Q. Your typewritten report does not purport to be a  
19 verbatim account of what Josh said; is that correct?

20 A. That's correct.

21 Q. And even with the substitution from the first person to  
22 the third person, it doesn't purport to be verbatim;  
23 correct? Even changing I to he or we to they doesn't  
24 purport to be word for word what Josh said; correct?

25 A. That's correct.

26 Q. And isn't it true that when you were dictating it you

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1       couldn't even remember for sure, you know, the order  
2       of Josh's words in the sentence but just the general  
3       idea of what he communicated?

4   A   No, I won't agree with that.

5   Q   You can remember word for word what he said?

6   A   No, I don't remember. I'm sure I can't remember or didn't  
7       remember word for word what he said.

8   Q   But you remember the order of the words in the sentence?

9       MR. KOCHIS: Your Honor, I'm going to interpose an  
10      objection to that question. It's beyond the scope of my  
11      examination. It's not relevant. It's a 352 issue.

12       THE COURT: I don't believe it's beyond the scope.  
13      Counsel, you're both belaboring this point. I can't believe  
14      the extent to which you're continuing this examination.  
15      But your objection is overruled. Anything further?

16       MR. NEGUS: I haven't gotten an answer to the  
17      question yet.

18       THE WITNESS: I did not write down word for word  
19      Josh's response. I did make notes on his responses.

20   Q   (BY MR. NEGUS:) As previously described?

21   A   As I've described, yes.

22       MR. NEGUS: Nothing further.

23       THE COURT: We'll take the morning recess.

24       MR. NEGUS: Before we resume, I'd like to have a  
25      brief in-chambers statement.

26       THE COURT: All right.

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1 (Recess.)

2 (The following proceedings were held  
3 in chambers.)

4 THE COURT: For the record, Mr. Cooper and both  
5 Counsel are in chambers.

6 MR. NEGUS: One of the requests I had was moot,  
7 because the television folks have left. The other request  
8 is that the next witness, we'd request that her name not  
9 be given in open court. She is Mary Risi, R-i-s-i, and  
10 she requests for her own privacy reasons not to have her  
11 name revealed so it will not be in the paper.

12 MR. KOCHIS: I have no problem with that.

13 THE COURT: You know the media's going to try and  
14 get her name.

15 MR. NEGUS: I know. She's not really a pivotal  
16 witness. I think all my witnesses are important for one  
17 reason or another, but I doubt seriously if the case will  
18 turn on her testimony.

19 THE COURT: Is it going to be extensive?

20 MR. NEGUS: No.

21 THE COURT: Let's have her back here and examine  
22 her here.

23 MR. NEGUS: Okay. That's okay with me.

24 THE COURT: Go ahead and bring her back. Don't  
25 call her name out there. Maybe Mr. Forbush can get her.

26 MR. KOCHIS: If we're going to conduct the entire

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1 examination, I have to get some materials.

2 MR. NEGUS: I have to get some stuff, too. It's  
3 going to be 15 or 20 minutes.

4 THE COURT: Oh, is it going to take that long? Are  
5 we being too concerned with her desires? What's the point  
6 of it?

7 MR. NEGUS: I think that she just doesn't want to  
8 have to be -- I can relate to that. I'm starting to get  
9 phone calls myself in the middle of the night and I can  
10 understand that she doesn't want to receive phone calls.  
11 For some reason this particular area arouses the phone call  
12 makers. I mean, I noticed that when we did this, when we  
13 went into this area at the prelim, all of a sudden we get  
14 a rash of phone calls.

15 I think that the lady has a point and her name is  
16 not really a big issue. What's important is her testimony.

17 MR. KOCHIS: Your Honor, I would have no problem  
18 with swearing her, taking her name in here, going into open  
19 court, and I can --

20 THE COURT: Why don't you come over here, please.

21 MR. KOCHIS: Neither Mr. Negus nor I have to refer  
22 to her in examination. We can just start with the questions.

23 THE COURT: Would you stand and raise your right  
24 hand and be sworn.

25 / / / /

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1 M A R Y R I S I, called as a witness by and on behalf of  
2 the Defense, was sworn and testified as follows:

3 THE CLERK: You do solemnly swear the testimony  
4 you 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.

8 THE CLERK: Please be seated.

9 THE COURT: State your name for the record, please.

10 THE WITNESS: Mary Catherine Risi.

11 THE COURT: Spell your last name.

12 THE WITNESS: My last name? R-i-s-i.

13 THE COURT: Is it Miss or Mrs.?

14 THE WITNESS: Mrs.

15 THE COURT: Mrs. Risi, we were just discussing your  
16 desires to keep your name confidential. That's why we brought  
17 you back to chambers. That causes a little bit of a problem,  
18 because I do know the media people are sitting outside so  
19 they're going to asking you and asking Counsel. I will  
20 instruct my clerk not to reveal her name to the media nor  
21 let them see the minutes, that portion of the minutes  
22 reflecting her name, and the court reporter as well.

23 Counsel, I trust you will try and keep it as well  
24 confidential. The media can sometimes be persistent.

25 With that, we'll take her outside in open court.  
26 We're trying to accommodate, but we've got a problem. You

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26 Take her outside and we'll commence with examination

1 there.

2 Counsel, I have one other thing before we go back  
3 outside. Mr. White apparently from the Press Enterprise,  
4 Riverside --

5 MR. NEGUS: Smith.

6 THE COURT: -- has requested -- is that the name  
7 of the paper there?

8 MR. NEGUS: Press Enterprise, but it's a Mr. Ron  
9 Smith.

10 THE COURT: Smith, yes. He requested from my  
11 bailiff a copy of Exhibit H-189, and I said not from the  
12 Court you can't have it. I would suggest that neither of  
13 you furnish it to him as well, because this is a sort of  
14 emotional thing. If he prints that verbatim, it's just  
15 going to inflame the passions of people that read it.

16 MR. NEGUS: He's already asked both of us and been  
17 denied.

18 THE COURT: Good. Okay. Then we can go outside.

19 (The following proceedings were held in  
20 open court.)

21 THE COURT: We started with a witness in chambers.  
22 We're now back in open court. Defendant and Counsel are  
23 present.

24 If you'd show that witness to the stand, we'll begin  
25 her examination. Did she leave?

26 THE BAILIFF: I didn't know who she was. I didn't

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1 see her. There's no one out there.

2 THE COURT: Mr. Forbush isn't here either? There  
3 she is.

4 You were previously sworn. Just resume the stand.

5 Mr. Negus, you may continue.

6

7 DIRECT EXAMINATION

8 BY MR. NEGUS:

9 Q Ma'am, on the night of Saturday, June the 4th, 1983,  
10 where were you employed?

11 A La Vida Hot Springs, La Vida Cafe.

12 Q Is that on Carbon Canyon in Orange County?

13 A Yes.

14 Q How far approximately -- are you familiar with a bar  
15 called the Canyon Corral Bar?

16 A Yes, I am.

17 Q Approximately how far is La Vida from the Canyon Corral?

18 A Probably about three, three miles.

19 Q La Vida would be closer to the Orange County end of  
20 the canyon?

21 A Yes, it is.

22 Q And the Canyon Corral is at the Chino area end of the  
23 canyon?

24 A Yes.

25 Q On June the 4th, 1983, that's Saturday night, did three  
26 unusual men come into La Vida?

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- 1 A Three men came in.
- 2 Q Can you describe them?
- 3 A Two Mexicans and one black man.
- 4 Q Do you remember anything more about them than that?
- 5 A No.
- 6 Q Was the black man in his thirties?
- 7 A Yes. I would say he was close to his thirties.
- 8 Q Did he have short hair?
- 9 A Yes.
- 10 Q And it was not -- was it Mr. Cooper?
- 11 A No, it does not look like him, that I recall.
- 12 Q How long were these men in the bar?
- 13 A Approximately an hour and a half to two hours.
- 14 Q After June the 4th, did some officers come to the bar
- 15 to talk to you?
- 16 A They came up and they asked some questions, yes.
- 17 Q When they first came up, whom did you see them asking
- 18 questions of?
- 19 A They just asked about one of the employees and one of
- 20 the girls that said, well, Mary worked that night. She
- 21 was the only one. And I overheard my name being
- 22 mentioned, so I walked out and I asked the officers what
- 23 they needed.
- 24 Q Can you describe those officers?
- 25 A No, I could not.
- 26 Q Were they both male?

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- 1 A Yes.
- 2 Q Were they both white?
- 3 A I can't recall.
- 4 Q Where they both in plain clothes?
- 5 A Yes. They were wearing suits.
- 6 Q Did you give them a description of these men that
- 7 you've previously described?
- 8 A I gave them a description of them saying two Mexicans
- 9 and a black and they had been wearing jeans and T-shirts.
- 10 That's the only description -- and they had short hair,
- 11 all of them had short hair.
- 12 Q Did one of the Mexicans have on a red shirt?
- 13 A I can't recall.
- 14 Q Did you talk to Mr. Forbush sometime, I believe, around
- 15 the beginning of February; Mr. Forbush being the
- 16 gentleman with the grey hair seated at the counsel
- 17 table?
- 18 A Yes.
- 19 Q At that point in time was your memory of these people
- 20 better than it is now?
- 21 A I would say so.
- 22 Q When the detectives were talking -- the interview with
- 23 you at your place of employment, did you ever describe
- 24 three white males to them?
- 25 A No, I did not.
- 26 Q Did Mr. Forbush show you before he interviewed you a

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1 police report that had been prepared of the interview  
2 of those officers with you?

3 A I can't recall right now. Oh, wait a minute. I do  
4 recall him showing me something, a piece of paper that  
5 said something that I had stated.

6 Q And did you point out to them that the people were not  
7 white but they were the two Mexicans and a black?

8 A Yes.

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

10 THE COURT: Any questions?

11 MR. KOCHIS: No.

12 THE COURT: Thank you very much. You may step down.  
13 Who is the next witness?

14 MR. NEGUS: Linda Headley.

15 THE COURT: You'll have to come to the other door.  
16 (No omissions.)

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1 L I N D A H E A D L E Y, called as a witness  
2 by and on behalf of the Defendant, having been first duly  
3 sworn, was examined and testified as follows:

4 THE CLERK: Please state your full name and spell your  
5 last name for the record.

6 THE WITNESS: Linda Headley, H-e-a-d-l-e-y.

7 THE COURT: Counsel, if I might interrupt, I know that  
8 there are members of the media present. The last witness,  
9 gentlemen, had expressed to counsel a desire that her name  
10 not be mentioned. She was obviously very nervour and indi-  
11 cated she was a private person. She revealed her name, but  
12 I see no need in volunteering it. We are trying to comply  
13 with her request. If that explains to you. Thank you.

14  
15 DIRECT EXAMINATION

16 BY MR. NEGUS:

17 Q Mrs. Headley, what is your occupation?

18 A I'm a nurse.

19 Q With whom are you employed?

20 A Loma Linda University Medical Center.

21 Q Were you so employed in June of 1983?

22 A Yes.

23 Q What was your particular assignment within the hospital  
24 on that date?

25 A I was the nurse for Joshua Ryen, I guess, on the date  
26 you are talking about.

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1 THE COURT: Could I get you to get a little closer  
2 to the microphone, please?

3 THE WITNESS: Okay.

4 Q (BY MR. NEGUS:) Was that on Monday, June the 6th, and  
5 Tuesday, June the 7th?

6 A I would have to look at things to confirm dates. I  
7 don't have the dates clearly in my mind.

8 Q In the hospital, do you as part of your duties, take  
9 records of the patients on both a flow chart and on a  
10 narrative nursing note form?

11 A That's correct.

12 MR. NEGUS: I have some documents, your Honor, that  
13 I would like to have marked as a group H-1-D.

14 THE COURT: All right. They may be stapled together.

15 Q (BY MR. NEGUS:) Asking you to look at that packet of  
16 documents that has been marked as H-1-D, does this  
17 appear to be the narrative progress notes that you take,  
18 that people take as nurses in Loma Linda Hospital?

19 A Yes, it is.

20 Q And then also included in the same batch of records would  
21 be intensive care records which you people in intensive  
22 care likewise keep in the hospital, is that correct?

23 A That's correct.

24 Q Now, showing you on page 2 of the intensive care records,  
25 do you, when you are taking care of a patient, sign in  
26 on the intensive care records?

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- 1 A Yes, we do.
- 2 Q And did you sign in for June 6, 1983?
- 3 A Yes, I did.
- 4 Q And did you likewise sign in on June 7, 1983?
- 5 A Yes, I did.
- 6 Q But on June 8, 1983, you did not?
- 7 A That's correct.
- 8 Q So the two dates that you dealt with Joshua Ryen would
- 9 have been June 6th and June 7th, is that correct?
- 10 A That's correct.
- 11 Q Now, what time was it that you first had contact with
- 12 Josh on June 6th?
- 13 A I came on duty at 6:00 in the morning, but it was probably
- 14 more like 6:30 that I actually had contact with him.
- 15 Q I would like you to look at page 2, the front part of
- 16 the intensive record, and there is a part of it that
- 17 says, "Neuro signs." Do you see that?
- 18 A Yes.
- 19 Q What does that mean?
- 20 A That means the patient's level of consciousness, whether
- 21 they answer questions appropriately, whether they are
- 22 oriented to time, place and person, and pupil responses.
- 23 Q When did you start making records of that information
- 24 with respect to Josh Ryen?
- 25 A At 7:00.
- 26 Q You are a registered nurse, is that correct?

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- 1 A That's correct.
- 2 Q What is the background and training you have had in  
3 order to be a registered nurse?
- 4 A My schooling?
- 5 Q Yes.
- 6 A I went to Valley College Nursing School, two-year  
7 nursing school.
- 8 Q And you were licensed by the State of California?
- 9 A Yes.
- 10 Q And how long have you been a registered nurse?
- 11 A Since 1978.
- 12 Q And your assignment in intensive care, how long has  
13 that been?
- 14 A Six years.
- 15 Q Now, with Joshua on the morning of June the 6th, did  
16 you do this neurological check on him at 7:00, 8:00,  
17 noon, and then again -- excuse me. Yes, seven, eight  
18 and noon?
- 19 A Yes, that's correct.
- 20 Q And during that period of time, what -- you have an  
21 entry for level of consciousness and a quote D0?
- 22 A Right.
- 23 Q What is that?
- 24 A That means drowsy but oriented to time, place and person.
- 25 Q How do you determine that?
- 26 A How do I determine that?

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1 Q Right.

2 A It's a judgment. It is, you know, just a judgment  
3 value. If the patient is fully alert like you and I,  
4 talking very clear of thought, then you would put "A"  
5 for alert. And he was drowsy, you know, sleepy. He  
6 was under medication at the time and -- does that  
7 answer?

8 Q So he was not as alert as if he hadn't been in the  
9 particular physical condition that he was in?

10 A That's correct.

11 Q Does that mean that he is hallucinating? How do you  
12 tell he is oriented?

13 A You ask a patient just if they can say their name and  
14 if they know the date or the approximate date, as long  
15 as they don't think it's, you know, several years  
16 different, you know they are pretty well oriented.

17 Q Was Josh able to speak?

18 A He mouthed words very plainly. He was not able to use  
19 his voice.

20 Q But you had no difficulty understanding him when he  
21 mouthed words?

22 A None.

23 Q Was he able to make sentences?

24 A He gave mainly just, you know, one or two word answers,  
25 but he did make short sentences.

26 Q There is a response section and there are different

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1 numbers which reveal different things. The No. 1 you  
2 didn't put anything in that because he wasn't able to  
3 speak?

4 A That's correct.

5 Q That's basically what it is?

6 A Verbally. The code up here says "responds verbally,"  
7 and, no, he could not respond verbally.

8 Q Obviously in his particular condition, that wasn't  
9 necessarily a sign of any lack of consciousness on his  
10 part?

11 A No.

12 MR. KOCHIS: Excuse me. I interpose an objection.  
13 It's his witness and they are leading and suggestive questions.  
14 I would ask that that answer be stricken.

15 THE COURT: That may remain. Hereafter.

16 Q (BY MR. NEGUS:) You then have a series of assessments  
17 of handgrip and leg movements. Were his responses  
18 consistent at all times?

19 A Yes. They were always strong.

20 Q What does that indicate?

21 A It means to commands, if we asked him to move his legs,  
22 he would move them strongly to command, or squeeze our  
23 hands, he would grip them strongly.

24 Q Then you have some measurements as to pupil reaction  
25 and size. Could you explain? They seem to vary somewhat.  
26 The first one says four over three is the size and

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1 "N". What does that mean?

2 A It means that his pupil would contract from four milli-  
3 meters to three, and that "N" is normal reaction.

4 Q So he had a normal reaction? Did he have a normal  
5 reaction?

6 A He had a normal pupillary reaction.

7 Q Now, you said that he was on medication. Did you  
8 yourself give him any medication?

9 A I would have to look at the medication record.

10 Q Do you have that there? Is that part of the --

11 A It's a different sheet than the narrative notes or the  
12 flow sheet.

13 Q Let me just ask you to look at the back of this flow  
14 chart. Like in the morning there is an indication of  
15 a half grain of Codeine being given?

16 A That was given just before I came on duty.

17 Q Would you have put any pain=killers that you gave him  
18 in that comment section?

19 A Not necessarily. We have a separate record for that.

20 Q What is that record entitled?

21 A Medication administration.

22 Q Are those charts always, medication administration  
23 charts always kept?

24 A Yes.

25 Q Are those turned into the Loma Linda University Medical --  
26 while I check my records, could you look through this

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1 packet of materials here and see if you see it?

2 A Yes.

3 (No omissions.)

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1 Q Find it?

2 A Yes.

3 MR. NEGUS: Perhaps we could have this separately  
4 marked when we get a chance.

5 THE CLERK: Counsel, that will H-1-C.

6 MR. NEGUS: H-1-C? Okay.

7 Q (BY MR. NEGUS:) And could you look at that document  
8 which we will have marked as H-1-C and indicate whether  
9 or not while you were on shift he was given any pain  
10 pills?

11 A No. But he received -- he received some at 6:20 in  
12 the morning just ten minutes before I was in the room.

13 Q And that was a half a grain of codeine?

14 A That's correct.

15 Q Is that a particularly large amount of pain killer?

16 A That's a normal dose.

17 Q A normal dose?

18 A Yes.

19 Q Would that amount of pain -- you're generally familiar  
20 with the effects of the drugs that are commonly  
21 administered to people as part of your medical training?

22 A Right.

23 Q Would that amount of codeine make -- what effect would  
24 that have on consciousness of the person?

25 A It can decrease the consciousness. Everybody reacts  
26 differently to pain medication and some people react

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1 more severely than others. And that's why when we give  
2 pain medication we have to observe very closely to see  
3 how a patient responds to medication.

4 Also, Josh had been under anesthesia the previous  
5 evening and the effects are sometimes lasting and, you  
6 know, cumulative also.

7 Q As far as you could tell in examining Josh, what effects  
8 was it having on his consciousness?

9 A It helped relieve his pain and made him somewhat drowsy.

10 Q As you previously described?

11 A Right.

12 Q As part of your duty as a nurse, do you also record  
13 the contacts of outside people with Joshua?

14 A We're supposed to.

15 Q Did you?

16 A Part of the time. I can't say I may have wrote every  
17 single time someone came in and out of the door, but  
18 hopefully --

19 Q If anybody was there for a visit, you would know that?

20 A Right. And I hopefully put it all in.

21 Q For example, did you put that at eleven o'clock the  
22 6th that Josh's grandmother and his uncle came in?

23 A At what time? Six in the morning?

24 Q No, eleven o'clock, looking at your chart there.

25 A See, this is actually the other front side of this and  
26 it comes out like this.



1 Q If you place it together as I'm doing here, does that  
2 give you an approximate time for the area of the comments?

3 A Eleven o'clock.

4 Q And then did you also note a time that a detective  
5 was questioning Josh on the 6th?

6 A Yes, at one o'clock.

7 Q And were you in the room when the detective was  
8 questioning Josh?

9 A Yes, I was.

10 Q Looking at Exhibit H-17 on the board behind you there,  
11 does that appear to be a schematic drawn of Joshua's  
12 room?

13 A Fair.

14 Q You have B for beds, and the two bracketed lines would  
15 indicate the doorway and a T.V. Is that basically --

16 A That's correct.

17 Q And the B with the J under it, is that the bed that  
18 Josh was in?

19 A Yes.

20 Q When the detective was questioning Josh, was he  
21 approximately at the spot marked X?

22 A Approximately.

23 Q Was he standing, seated, how was he?

24 A Standing.

25 Q Where were you during this particular point in time?

26 A I was doing all kinds of things in the room, so I was

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1       probably walking around, not just sitting in one -- we  
2       had this bed kind of pushed to the side and I had my  
3       desk, a table where I was charting over from his bedside  
4       where it probably was where that bed is.

5   Q    Could you in red sort of rearrange the room as you had  
6       it and then put also the D for desk in there?

7   A    Okay. We just moved this bed over about right here and  
8       then we had the desk set up here, actually about like  
9       that, facing Josh with a chair so that we weren't just  
10      hovering over him that we could observe him.

11   Q    Could you scratch out the incorrect orientation of the  
12      desk there and just leave the --

13   A    I don't know how to do it. How about if I just fill it  
14      in?

15   Q    All right. Next to that could you put D for desk?

16   A    (The witness complies.)

17   Q    B for bed at the spot that you moved the bed.

18   A    (The witness complies.)

19   Q    Now, during the time that you were attending Josh there  
20      when the detective came in, was this the first time  
21      the detective had come in that you knew of?

22   A    My memory is really faulty. It was a long time ago.  
23      And if I'm, you know, to believe my charting, that's  
24      what I would say. But I really cannot remember correctly.

25   Q    As the detective was talking to Josh, were you in fact  
26      making any effort as to not sort of pay attention to what

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1 was being said?

2 A. Yes, I was.

3 Q. And why was that?

4 A. Just personal conviction on my -- I didn't feel that  
5 the legal end was my job. I felt that my job was taking  
6 care of Josh. I was observing Josh very closely and  
7 hawkishly to make sure that he was not upset or badgered  
8 in any way.

9 Q. Did the detective that was communicating with Josh,  
10 did he seem to Josh well and establish a good rapport  
11 with him?

12 A. That's mainly what he was doing was establishing a  
13 rapport with Josh, and he was just very kind and gentle  
14 with him.

15 Q. During the time that you were taking care of Josh,  
16 did you in fact observe Josh to communicate to the  
17 detective any information which you did pick up?

18 A. Yes.

19 Q. What was that information?

20 MR. KOCHIS: I would object, vague as to time. Just  
21 the day. I can't tell from the question where we are.

22 THE COURT: Pin it down. I thought we had that  
23 established.

24 Q. (BY MR. NEGUS:) Essentially the only time that you  
25 were taking care of Josh was June 6th and June 7th; is  
26 that correct?

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1 A That's correct.

2 Q Now, on June 6th or on June 7th, do you know when you  
3 picked up this information from the detective talking  
4 to Josh?

5 A Truthfully I can't really remember which day. It would  
6 have been one of those days.

7 Q One of those two days? Okay. And you worked the  
8 swing shift both times?

9 A That's correct.

10 Q So it would have been between six in the morning and  
11 two in the afternoon on one of those two days?

12 A Well, I worked from six in the morning until four-thirty  
13 in the afternoon.

14 Q Excuse me. So six to four-thirty?

15 A That's correct.

16 Q What information did you observe Josh to communicate to  
17 the detective?

18 A Mainly what I overheard would be what the detective  
19 would have repeated out loud, you know. I couldn't really  
20 tell, you know, Josh could not speak out loud. So I  
21 could not hear him speaking. And I was really not --  
22 I was trying to avoid, you know, paying that much  
23 attention to the legal end. But I overheard something  
24 about --

25 MR. KOCHIS: Your Honor, at this point I'd interpose  
26 an objection of no foundation, if she's not paying attention

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1 to the patient.

2 THE WITNESS: I was paying attention to the patient.

3 THE COURT: Overruled, Counsel.

4 THE WITNESS: But I wasn't necessarily reading his  
5 lips at all times.

6 Q (BY MR. NEGUS:) What did you hear being discussed from  
7 the detective?

8 A I heard something about -- I know I naturally heard  
9 the questions that he asked and I'm not sure what you're  
10 getting at.

11 Q Did the detective ask any questions about suspects?

12 A Yes, he did.

13 Q And in his follow-up questions, did he indicate something  
14 about -- did he confirm a description that Josh had  
15 given of a suspect?

16 A Confirm I cannot say. Josh was acting very puzzled  
17 and he was shrugging his shoulders and seemed bewildered,  
18 so I don't know -- I heard a description of one person,  
19 a Mexican in a red shirt.

20 Q And did that come from the detective pertaining to Josh?

21 A Yes.

22 Q Did you hear Josh or any questions about the crime itself;  
23 that is, the violence that had been done to Josh's  
24 family?

25 A No.

26 Q Do you recall a question about Josh's mother screaming?

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26 A Did I say something about Josh's using his fists?

1 Q Did you tell Mr. Forbush that Josh told the detective  
2 about his mother screaming?

3 A I don't remember whether I told him he told the detective.

4 Q Did you tell Mr. Forbush that Josh told the detective  
5 about hitting the assailants?

6 A The only --

7 MR. KOCHIS: Your Honor, I'm going to object. That  
8 question is vague as to time. My offer of proof would be  
9 that may relate to a conversation that took place much  
10 later in time. I'm aware at least through an interview  
11 of at least possibly two different periods of time. I'm  
12 not sure she's talking about the 6th or a later period of  
13 time when there was a television set involved.

14 THE COURT: She's describing what occurred at one  
15 conversation. We don't know whether it was the 6th or 7th, as I  
16 understand it. But we're not talking about some later period  
17 subsequent to those dates.

18 Is that correct, ma'am?

19 THE WITNESS: Well, Josh did -- one time I went down  
20 to visit him at --

21 THE COURT: Okay. There was another time after the  
22 7th of June that you also talked with Josh?

23 THE WITNESS: Right.

24 THE COURT: Is it possible that some of these  
25 statements that are coming out now may have occurred on that  
26 occasion?

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1 THE WITNESS: That's correct.

2 Q (BY MR. NEGUS:) The time that you're talking about  
3 after Joshua had left your unit was when Josh was  
4 watching television with his grandmother; is that  
5 correct?

6 A That's correct, and he was on the pediatric unit.

7 Q So he was down on the fifth floor rather than up on  
8 the eighth floor?

9 A Right.

10 Q At that time Detective O'Campo was not there; is that  
11 correct?

12 A I don't believe he was.

13 Q I'm getting back then to the conversation with Detective  
14 O'Campo that you overheard and I'm now also talking to  
15 you about what you observed about Mr. Forbush in  
16 October about that conversation. Did you tell Mr.  
17 Forbush in October that Josh had told O'Campo that he  
18 had attacked, Josh attacked his attackers with his  
19 fists?

20 A I don't recall that.

21 (No omissions.)  
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1 THE COURT: Excuse me. If I might interrupt, I'm  
2 not trying to hasten your examination, but I remind you I  
3 cannot go beyond 12:00 today.

4 MR. NEGUS: I'm sure we will have to bring her back.

5 THE COURT: I have a medical appointment myself at  
6 noon. I simply can't go beyond 12:00.

7 MR. NEGUS: Let me ask one more question on this  
8 line and then we can break.

9 THE COURT: I'm not trying to break early. I just  
10 want you to know that. She may have had a tight schedule  
11 this afternoon. I don't know.

12 MR. NEGUS: I warned her.

13 Q (BY MR. NEGUS:) Did you tell Mr. Forbush in October  
14 that in relating this, you thought that Josh had  
15 confused two separate instances, one where he saw some  
16 Mexicans and one where he was talking about his mother.

17 A I remember telling him I thought he confused some inci-  
18 dences, but those two things were not the ones that I  
19 was talking about. I just felt that he really was not  
20 recalling appropriately what had happened.

21 Q By the way, did Mr. Forbush tape record your conversa-  
22 tion?

23 A Yes, he did.

24 MR. NEGUS: We can break now and I will come back  
25 to this afterwards.

26 THE COURT: You want to break right now?

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1 MR. NEGUS: Sure.

2 THE COURT: I regret having to have you come back.

3 THE WITNESS: That's okay.

4 THE COURT: It's a particularly long period. I  
5 indicated to counsel earlier I would have to break until  
6 2:00. We will recess for noon until the hour of 2:00 p.m.

7 MR. KOCHIS: Before you leave the bench, I would at  
8 this time be alerting the Court that I would be moving at  
9 1:30 or move at this point for discovery of the transcript  
10 Mr. Negus has of his interview of Mr. Forbush of Linda  
11 Headley. He put the witness on the stand. He is going to  
12 examine her, and I feel to adequately cross-examine her, I'm  
13 entitled to it.

14 THE COURT: All right. I will take it up this  
15 afternoon, Mr. Negus.

16 MR. NEGUS: I think that that's unconstitutional.

17 THE COURT: Well, now, there is a particular  
18 provision.

19 MR. KOCHIS: I will have that at 1:30.

20 THE COURT: There is particular authority for some  
21 discovery.

22 MR. NEGUS: That's in the Supreme Court right now.

23 (Noon recess.)  
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1 SAN BERNARDINO, CALIFORNIA; THURSDAY, MAY 17, 1984; 2:00 P.M.

2 DEPARTMENT NO. 10

HON. RICHARD C. GARNDER, JUDGE

3 (Appearances as heretofore noted.)

4  
5 THE COURT: All right. Everybody is again assembled.  
6 Just for the record, state your name once again.

7 THE WITNESS: Linda Headley.

8 THE COURT: Thank you.

9  
10 DIRECT EXAMINATION (RESUMED)

11 BY MR. NEGUS:

12 Q Mrs. Headley, the detective that was visiting Josh  
13 and establishing a rapport with him was Detective  
14 Hector O'Campo, is that correct?

15 A That's correct.

16 Q Did Mr. Forbush, when he spoke to you in October,  
17 ask you, "Taking into consideration that we do not  
18 know -- that you do not know what was said on the  
19 first or second day, but generally what might have  
20 been said or what was said during those times, can  
21 you recall some of those things?" And did you answer  
22 him. "Yes. Well, Josh, I think, was real confused about  
23 what happened. He, I think, might have been relating  
24 two different incidences together. He remembered he  
25 was in his room asleep and he remembered his mother  
26 screaming and he ran in, into where his mother was

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1 screaming, and he said it was dark and he couldn't  
2 really see, and he said he was -- that he ran up and  
3 was trying to beat somebody with his fists because his  
4 mother was screaming, and he said that he thought  
5 maybe it was three men and it was dark and he couldn't  
6 see."

7 A No, I did not say that altogether like that. I said  
8 those things, but not altogether like that. In different --  
9 relating two different things that he said at different  
10 times.

11 Q Did you say that in answer, just in this straight  
12 narrative form the way I asked the question to you, in  
13 answer to one question by Mr. Forbush?

14 A I don't remember.

15 Q Did Mr. Forbush ask you, "Can you recall if he made  
16 any particular reference to race or nationality of  
17 the men?" And you answered, "He said that he couldn't  
18 see well enough and he thought that maybe one of them  
19 might have been Mexican."

20 A I don't believe I stated it just like that. I said  
21 that one time during the questioning that he had  
22 mentioned a man in a red shirt and he said that he  
23 was a Mexican.

24 Q Did Mr. Forbush ask you, "Now, you said earlier that,  
25 in prefacing what you have just stated, that you felt  
26 he had perhaps two incidences confused?" And did you

1       answer, "Uh-huh." And then did Mr. Forbush then ask  
2       you, "With each other. And can you explain what you  
3       meant by that?" And did you answer, "Well, he said that  
4       well, I don't know that he had them confused or he was  
5       just putting them together. He said that earlier that  
6       evening before this, the incident happened, that him and  
7       his family were driving back from somewhere and somebody  
8       stopped them at the side of the road and asked them  
9       questions, and he said he didn't know what it was about.  
10      He said his dad went and talked to these, he thought it  
11      was three boys."

12           MR. KOCHIS: Objection. Compound.

13           THE COURT: He purports it to be one answer to one  
14      question thus tied together.

15           MR. KOCHIS: I believe that was the case with the  
16      previous sequence, but what he just read to this witness  
17      was a series, if my memory serves me correctly, of questions  
18      and answers.

19           THE COURT: Is that the case?

20           MR. NEGUS: There was one question with "uh-huh"  
21      in the middle of it and then that answer that I read was  
22      one answer.

23           THE COURT: What is your question to her, did you  
24      so answer, in effect?

25      Q    (BY MR. NEGUS:) Is that what you said?

26           THE COURT: Is that what you said?

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1 THE WITNESS: I can't even remember now what all  
2 you said. I'm sorry. But if I had a copy of what I said,  
3 you know, since it was tape recorded, could I have a word-  
4 for-word copy of what I said.

5 THE COURT: We don't want you to assume that you said  
6 anything. He is simply trying to ask you do you know remember  
7 saying that.

8 THE WITNESS: It was a long time ago.

9 THE COURT: All right.

10 Q (BY MR. NEGUS:) Then is the answer that you don't  
11 remember if you said that or not?

12 A I remember saying something about that.

13 Q Do you remember Mr. Forbush asking you, "And were they  
14 Mexican guys or were they described in some particular  
15 way?" And you answering, "Yeah. I know it. I know  
16 he said at least one of them was Mexican and I don't  
17 remember if he said that he knew what the other two  
18 were. And, anyway, he said that he thought maybe it  
19 was them, you know, that had been there and done, you  
20 know, what happened."

21 A I never said that, no.

22 Q Were you happy about talking to Mr. Forbush?

23 A No. I felt tricked into it.

24 Q Why were you tricked?

25 A I'm loyal to where I work. I have worked there a long  
26 time. But hospital administration called me down into

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1 one of those offices which I've never been called by a  
2 hospital administration before, and told me that I  
3 needed to answer some routine questions about the  
4 investigation into this case. I felt, No. 1, I was  
5 being paid -- this was on hospital time. I was called  
6 by hospital administration, in, you know, and I never  
7 was talked to by anyone from the hospital. They told  
8 me -- except for the secretary. She said, "You are  
9 to be in such and such room." So I knew nothing about  
10 what was going on, who was doing the questioning until  
11 I got there, and at that time I was under the impression  
12 that I had to talk to him.

13 Q Did Mr. Forbush tell you you had to talk to him?

14 A No, he did not.

15 Q Mr. Forbush had scheduled interviews with probably 20  
16 or 30 different people, is that correct?

17 MR. KOCHIS: Objection. No foundation. Calls for  
18 speculation.

19 THE COURT: If you know, you may answer. Overruled.

20 THE WITNESS: I know that there were several people  
21 from the hospital that was scheduled to talk to him. I  
22 don't know how many.

23 Q (BY MR. NEGUS:) Some of them talked to him and some  
24 of them didn't, is that true?

25 A I have no idea.

26 Q On December 29, did Mr. Arthur, sitting here at counsel

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1 table, come out to the hospital and talk to you?

2 A I couldn't say the date for sure but on one occasion he  
3 did, yes.

4 Q Did he tape record your conversation?

5 A Yes.

6 Q Did he tell you why he wanted to talk to you?

7 MR. KOCHIS: Objection. Irrelevant. It calls for  
8 hearsay.

9 THE COURT: We are in an area of credibility and  
10 to some extent the foundation is important. Overruled.

11 THE WITNESS: I believe he did and I can't remember  
12 his exact words.

13 Q (BY MR. NEGUS:) What was the general sense?

14 A Just also investigation into, you know, what happened.

15 Q Did you feel any reluctance to talk to Sergeant Arthur?

16 A A little.

17 Q Did you nonetheless do it?

18 A Yes.

19 Q Were you ordered to by the hospital administration?

20 A Not at all.

21 (No omissions.)  
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1 Q Was it on hospital time?

2 A Yes, it was.

3 Q Was it essentially the same room as you talked to Mr.  
4 Forbush?

5 A No, it was not.

6 Q Did Sergeant Arthur explain to you that the Prosecution  
7 was not entitled to interviews done by the Defense?

8 MR. KOCHIS: Objection. It's leading and suggestive,  
9 it's not relevant, calls for hearsay.

10 THE COURT: Sustained.

11 Q (BY MR. NEGUS:) Did Sergeant Arthur tell you anything  
12 about the discovery of the tape that you'd given to  
13 Mr. Forbush?

14 MR. KOCHIS: Again, I would object. It's not  
15 relevant and it calls for hearsay.

16 THE COURT: No. Overruled.

17 THE WITNESS: Am I to answer? I don't know.

18 MR. NEGUS: Yes. I'm sorry.

19 THE COURT: You may.

20 THE WITNESS: I told him that I had been recorded  
21 previously.

22 Q (BY MR. NEGUS:) Did he tell you anything about whether  
23 he had access to that tape?

24 A No. He didn't have access to it as far as I know.

25 Q Is that what he told you?

26 A I believe so.

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1 Q Did he ask you a series of questions about what you  
2 had told Mr. Forbush?

3 MR. KOCHIS: Again, I would object as not being  
4 relevant.

5 THE COURT: It is relevant, sir. Overruled. You  
6 may answer.

7 THE WITNESS: Can you repeat the question?

8 Q (BY MR. NEGUS:) Did Sergeant Arthur ask you a series  
9 of questions about what you told Mr. Forbush?

10 A Well, I believe so.

11 Q Did he ask you questions about your attitude toward Mr.  
12 Forbush?

13 A I volunteered that information. It wasn't -- it's not  
14 my attitudes towards Mr. Forbush. He was very nice  
15 during the interview. It was my attitude mainly towards  
16 the hospital. I didn't feel that he particularly tricked  
17 me. I felt that it was the hospital.

18 Q Do you read the Sun Telegram?

19 A Yes.

20 Q The day that Sergeant Arthur talked to you, had you  
21 seen the story that morning about this case?

22 A No, I had not. I don't get the Sun Telegram personally,  
23 and I read it like when I go to my mother's house or --  
24 I don't get any newspaper.

25 Q You had not read the story about Josh Ryen that appeared  
26 in the Sun Telegram that particular morning?

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1 A No, I had not. I'd been at work all day.

2 Q Did Sergeant Arthur tell you that your name had come up  
3 in the course of the Preliminary Hearing?

4 A Yes, he did.

5 Q Did he tell you that statements attributed to you  
6 contradicted the testimony of Mr. O'Campo?

7 A No, he did not.

8 Q Did he indicate to you anything about the testimony  
9 of Mr. O'Campo?

10 A No, he did not.

11 Q Was Dr. Mary Howell present in the room when Detective  
12 O'Campo was talking to Josh on June the 6th?

13 A I don't remember.

14 Q In your chart -- do you still have your chart before  
15 you? At eleven o'clock you have Dr. Howell check in;  
16 is that correct?

17 MR. KOCHIS: Objection, it's leading and suggestive  
18 again. It's his witness.

19 THE COURT: That's foundational, however. You may  
20 answer.

21 THE WITNESS: I have what?

22 Q (BY MR. NEGUS:) On the chart at eleven o'clock you have  
23 Dr. Howell and Mr. Ryen, grandmother and uncle?

24 A On the 7th?

25 Q On the 6th, June 6th.

26 A No. Oh, I do. It's hard to see this from back to --

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- 1 Q I realize that, but that's the way they gave it to us.
- 2 A No. Where is eleven o'clock?
- 3 Q Comes in blocks of four, right?
- 4 A Right. So four up from the bottom, one, two, three,
- 5 four.
- 6 Q Would be eleven o'clock?
- 7 A Oh, I see. It's this direction. Okay. Yes, I have the
- 8 grandmother and uncle were in the room.
- 9 Q There's no sign that they left the room on those four
- 10 lines on that page; is that right?
- 11 A That's correct. But that doesn't mean they did not
- 12 leave.
- 13 Q Let's just go on looking over at the next page, which
- 14 is still June 6th. At the end of your shift there's
- 15 an indication that the grandmother is still at the
- 16 bedside; is that correct?
- 17 A There's an indication that the grandmother is at the
- 18 bedside, and I would interpret that she was at the
- 19 bedside again.
- 20 Q Well, that's not made by yourself, is it?
- 21 A What's not made by myself?
- 22 Q The indication that grandmother is at the bedside.
- 23 That's made by a Shirley Barnett; is that correct?
- 24 A That's correct.
- 25 Q And there's no indication in your notes above that that
- 26 the grandmother entered the room; is that correct?

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1 A That's because she probably just entered at this time  
2 when Shirley made the notation.  
3 Q It says grandmother at bedside, officer in room.  
4 Does that mean the officer just entered the room as well?  
5 A No, it does not.  
6 Q Dr. Howell was at Josh's bedside during the day almost  
7 constantly; isn't that correct?  
8 A No. She was in and out of the room.  
9 Q When Dr. Howell was with Josh, where was she seated?  
10 Where was she?  
11 A Where was she? Well, she was at different places at  
12 different times, but mostly she was over nearest to me,  
13 this side.  
14 Q Could you put a GM for grandmother?  
15 A Okay. That's only saying she was there at one time.  
16 She at other times may have been on this side or at the  
17 foot of the bed.  
18 Q Just put the spot where she was most regularly.  
19 A (The witness complies.)  
20 Q Do you recall Mr. O'Campo was talking to Josh at the  
21 time when you heard the information about the Mexicans  
22 that O'Campo asked Josh how many there were and that  
23 Josh put up three fingers?  
24 A At the time that he was talking about the one that he  
25 said was a Mexican in a red shirt, he held up three  
26 fingers.

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- 1 Q And then Josh would go into -- then he went into what  
2 the people were wearing?
- 3 A He said a red shirt. He said one was a red shirt.
- 4 Q You remember at least that much?
- 5 A Yes.
- 6 Q There may have been more, but that's what you can  
7 remember?
- 8 A That's what I remember.
- 9 Q And did they go into age, like high school age or  
10 O'Campo's age? Did he give him that sort of selections  
11 to make?
- 12 A He did, but I don't remember what he said.
- 13 Q And did O'Campo ask Josh about beards or moustaches on  
14 people?
- 15 A I believe he did.
- 16 Q When Mr. Forbush was at the hospital in October, do you  
17 know if he and administration were attempting to  
18 coordinate so that there would be as little disruption  
19 of the hospital routine as possible?
- 20 A That would be purely conjecture on my part. I mean,  
21 I don't understand what you mean.
- 22 Q When you were told to go down to see Mr. Forbush, did  
23 the hospital people indicate that they were trying to  
24 arrange things in such a way as to minimize the  
25 inconvenience to the running of the hospital in doing  
26 these interviews?

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- 1 A Nobody told me that. I mean, it would be purely  
2 conjecture on my part.
- 3 Q On June the 7th, did Detective O'Campo take Joshua's  
4 fingerprints?
- 5 A No.
- 6 Q Did somebody take Joshua's fingerprints?
- 7 A Yes.
- 8 Q Who was that?
- 9 A I don't know.
- 10 Q Was the time that Joshua's fingerprints were taken,  
11 was that the same time as the interview about the  
12 suspects or a different time?
- 13 A That was a different time.
- 14 Q That would have been the next day?
- 15 A Right.
- 16 Q So then the interview of the suspects would have been  
17 June the 6th?
- 18 A It would have been a different time. I don't know  
19 whether it's the 6th or the 7th.
- 20 Q Do you have in your shift a Detective O'Campo logged in  
21 any other time except the time that you have him  
22 questioning Josh on June the 6th and the time that you  
23 have fingerprints being taken on June the 7th?
- 24 A This is so hard to follow.
- 25 Q It's your administration.
- 26 A No. Our flow-sheet goes out this way so this is front

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1 and back like this. It's not only front and back, it's  
2 upside down on one side. So I'm getting confused.

3 Q I appreciate the problem.

4 A I can't even tell by this what day this is.

5 Q I show you a Xerox, if Counsel has no objection.

6 MR. KOCHIS: I have no objection.

7 THE COURT: She may have found it herself.

8 MR. NEGUS: Oh, okay.

9 THE WITNESS: What was the question?

10 Q (BY MR. NEGUS:) The only two times that you have that  
11 you logged in that detectives were there were on the  
12 6th when you have Josh answering questions and mouthing  
13 words and writing and on the 7th, at which time he's  
14 being fingerprinted by detectives; is that correct?

15 A That's correct.

16 Q And then in the afternoon on the 7th, right after the  
17 fingerprinting, was the time that Dr. Howell and Dr.  
18 Jorgenson informed Josh about the death of his parents;  
19 is that right?

20 A That's correct.

21 Q So he would not have been interviewed that afternoon;  
22 is that correct?

23 A I don't know what happened after I left.

24 Q While you were there?

25 A While I was there, I believe.

26 Q That wasn't the time that you heard the discussion about

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1 the Mexicans was after Josh was informed about his  
2 parents; is that correct?

3 A That's correct.

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

5 MR. KOCHIS: Your Honor, pursuant to Penal Code  
6 Section 1102.5, at this point I'm moving for discovery of  
7 any statements that may have been reduced to writing that  
8 were obtained by Mr. Forbush in October. And I'm also  
9 moving for discovery of those on the further ground that  
10 Mr. Negus attempted and didn't use those statements in court  
11 to attempt to refresh this witness's recollection of the  
12 past interview and to impeach her..

13 THE COURT: All right.

14 MR. KOCHIS: I have a copy --

15 THE COURT: Are you resisting this motion, Mr.  
16 Negus?

17 MR. NEGUS: Yes.

18 MR. KOCHIS: -- for the Court of this section.

19 THE COURT: I believe it applies to after direct  
20 examination and before he cross-examines the witness.

21 MR. NEGUS: That's a trial, Your Honor.

22 THE COURT: I beg your pardon?

23 MR. NEGUS: The section, if it's at all Constitutional  
24 -- and its Constitutionality is before the California  
25 Supreme Court in three cases -- only exists after the  
26 Prosecution's rested, any 1118 motions have been adjudicated.  
27 People vs. Collie --

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1 THE COURT: It does speak to trial.

2 MR. KOCHIS: I have no problem with the first  
3 statement. The Code doesn't mention after 1118 motion, but  
4 as the Court recalls, we went in trial. We have entered  
5 into a stipulation that jeopardy has attached and that trial  
6 has begun, and Mr. Negus was very adamant about having that  
7 stipulation.

8 THE COURT: I would like to take a few minutes  
9 recess. Sorry to have to delay you, but I would like to  
10 study this a little more.

11 MR. NEGUS: People v. Collie, Cal. 3d. I believe  
12 it's 30 Cal. 3d. If not, plus or minus one volume. But  
13 I don't have the precise citation with me because I didn't  
14 realize we would have this problem.

15 THE COURT: I will see if I can find it. We will  
16 be in recess.

17 (Recess.)

18 THE COURT: Counsel, I suspect that -- I didn't check  
19 the time, but I probably didn't spend more than about ten  
20 minutes on this. I did not therefore, Shepardize Collie.  
21 I found Collie. It's indeed cited in 30 Cal. 3d, 43. Collie  
22 is an October, 1981, decision by the Supreme Court, prior  
23 to the enactment of Penal Code Section 1102.5. It refers  
24 to many things and gives a history of prosecution and  
25 discovery, particularly analogizing to the erstwhile law we  
26 had relating to the discovery of alibi witnesses and the

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1 defendant's privilege against self-incrimination. That  
2 statute being enacted shortly thereafter I assume was designed  
3 to overcome the objections of the Supreme Court. I don't  
4 know that. And I do not have the legislative history in this  
5 chambers. So if you have any other authority, I would appreciate hearing it.  
6

7 MR. KOCHIS: Your Honor, I do not, and I'm obviously  
8 not going to have time, even if I receive the benefit of the  
9 Court's ruling, I would not have time to read it prior to  
10 conducting my cross-examination, so if the Court --

11 THE COURT: Will you yield, then?

12 MR. KOCHIS: Yes. What I would like to do is reserve  
13 further argument until I contact the other lawyers.

14 THE COURT: There may be other cases where it might  
15 come up and you might anticipate it for the next occasion.

16 Thank you, counsel. You may cross-examine.

17 MR. KOCHIS: Thank you, your Honor.  
18

19 CROSS-EXAMINATION

20 BY MR. KOCHIS:

21 Q Mrs. Headley, is it fair to say that in your own mind  
22 you were somewhat concerned about your memory of things  
23 that may have taken place over a year ago?

24 A That's true.

25 Q And as you sit here in this courtroom today under oath,  
26 are you skeptical of your ability to recall what took

1 place over a year ago.

2 THE COURT: counsel, how do you get over a year ago?

3 MR. KOCHIS: I'm sorry.

4 Q (BY MR. KOCHIS:) Are you skeptical of your ability to

5 recall events that took place in June of 1983?

6 A That's correct.

7 Q Is it fair to say that you are relying heavily on the

8 few notes that you took in the hospital records?

9 A Yes.

10 Q When Joshua Ryen stayed at your hospital in Loma Linda,

11 was he somewhat of a special patient?

12 A Yes, he was.

13 Q By that I mean did he attract some notoriety to the

14 hospital?

15 A Well, the case was in the papers and we tried to keep

16 his identity concealed. We had a private room for him

17 and there was, you know, a guard, an officer in the

18 room.

19 Q Perhaps what I'm getting at is did you discuss with

20 other people employed at the hospital the fact that

21 you at one time attended to Joshua Ryen?

22 A Yes.

23 Q And were you aware of other people who likewise had

24 attended to Joshua Ryen at the hospital?

25 A Yes. I worked with several of them.

26 Q Would you talk with the other employees at the hospital

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1 about what you had observed Joshua's condition to be,  
2 for example?

3 A It's common when we get a report from one nurse to another,  
4 and also the way our unit is set up, our team leader,  
5 we have to give a report on the physical condition of the  
6 patient.

7 Q Would other hospital members from time to time talk  
8 to you about contact that they had had with Joshua Ryen?

9 A Yes.

10 Q When you first saw Joshua Ryen, did he appear to you  
11 as a nurse to be in critical condition?

12 A Yes.

13 Q Did he appear to have severe wounds to certain portions  
14 of his body?

15 A Yes.

16 Q Referring back to the records that are in front of  
17 you, do you believe, to the best of your recollection,  
18 that that was in June, on June the 6th?

19 A Yes.

20 Q When you first saw Joshua, is it true that he was unable  
21 to communicate verbally?

22 A That's true.

23 Q In fact, did he actually have a tube that entered his  
24 body at the throat?

25 A Yes, he did.

26 Q When you first saw him on that first date, did he appear

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1 to you to be in pain?

2 A He had just been medicated just a few minutes before I  
3 came on. He was still having pain, but, you know, he  
4 was somewhat relieved of his pain.

5 Q Did he appear to be in a state of shock?

6 A Yes, he did.

7 Q Did he appear to be confused?

8 A He appeared very dazed.

9 Q Do you recall seeing Joshua's maternal grandmother,  
10 Mrs. Mary Howell, at the hospital during those first  
11 two days?

12 A Yes.

13 Q And on the 6th, was she in and out of Joshua's room?

14 A Yes.

15 Q Was she likewise in and out of Joshua's room on the  
16 7th?

17 A That's correct.

18 Q Mrs. Howell wasn't your patient on either of those  
19 days, was she?

20 A No.

21 Q Is it fair to say that you weren't keeping track of  
22 her in the hospital?

23 A That's correct.

24 Q Is it fair to say that you weren't keeping track of  
25 every time she entered Joshua's room and every time she  
26 exited?

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1 A That's correct.

2 Q Now, do you recall Mrs. Howell from time to time  
3 attempting to communicate with Joshua?

4 A Yes.

5 Q Would she do that by talking to him?

6 A Yes.

7 Q Did you ever witness Joshua attempting to communicate  
8 back with her?

9 A Yes.

10 Q Would that have been in the fashion of attempting to  
11 mouth words?

12 A Yes. Also hand signals and the nodding of his head.

13 Q Now, when Detective O'Campo was at the hospital, did  
14 you meet him?

15 A Yes, I did.

16 Q Is there some confusion in your mind, looking back in  
17 time to June of 1983, as to who may have asked Josh  
18 Ryen a particular question, whether it was Dr. Mary Howell  
19 or whether it was Detective Hector O'Campo?

20 A Yes.

21 Q Is there likewise some confusion in your mind as to who  
22 may have have obtained certain information from Josh  
23 Ryen, whether that was Dr. Mary Howell or whether that  
24 was Detective Hector O'Campo?

25 A Yes.

26 Q The hospital records that you have in front of you --

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1 MR. KOCHIS: Excuse me, your Honor. If I could  
2 have a moment to orient myself with her copy.

3 THE COURT: Certainly. Take your time.

4 Q (BY MR. KOCHIS:) You put in the record under "Comment"  
5 a brief note about patient answering questions of the  
6 detective. Do you see that on the chart?

7 A Yes.

8 Q And are you relying on that chart to recall, for example,  
9 if Detective O'Campo talked to Joshua in your presence?

10 A Yes.

11 Q Did you also indicate on the chart that Joshua responded  
12 by writing and mouthing words?

13 A Yes, I did.

14 Q Is it fair to say that you didn't place any information  
15 anywhere on the hospital records as to what Detective  
16 O'Campo would have asked Joshua Ryen?

17 A That's correct.

18 Q And that's simply not part of your job, is it?

19 A That's right.

20 Q Is it also true to say that you didn't record in the  
21 hospital records any communication Josh Ryen may have  
22 had back towards Detective O'Campo?

23 A That's correct.

24 Q And according to your testimony this morning -- correct  
25 me if I'm wrong -- did Detective O'Campo, when you first  
26 saw him with Josh Ryen, spent most of his time trying

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1 to establish some type of rapport with Josh?

2 A That's correct.

3 Q I assume because Josh had a trach tube in his throat,  
4 that Detective O'Campo did all the talking?

5 A All the verbal talking.

6 Q And then what you would have heard was Detective O'Campo  
7 trying to establish some type of rapport with Joshua  
8 Ryen?

9 A That's correct.

10 Q You also, I believe, in response to Mr. Negus' questions  
11 this morning, and correct me if I'm wrong, saw Joshua  
12 Ryen after he left your direct care in some other portion  
13 of the hospital, is that correct?

14 A That's correct.

15 Q And when you saw Joshua Ryen in another portion of the  
16 hospital, was Dr. Mary Howell in the room with him?

17 A Yes.

18 Q Do you recall whether or not she was talking with Joshua  
19 Ryen when you later saw him in another part of the  
20 hospital?

21 A Yes.

22 Q Would that have been some period of time after the  
23 first two days that you had him in your custody?

24 A That's right.

25 Q Is there perhaps, and correct me if I'm wrong, some  
26 confusion in your mind as to what may have been said or

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1        what may have been communicated by Josh Ryen when his  
2        grandmother talked to him at a later time, as opposed  
3        to what he may have communicated during those first  
4        two days?

5        A    I'm sorry. I didn't follow that.

6        Q    When you saw Josh Ryen later in the hospital with Dr.  
7        Howell talking to him, did you take any notes of what  
8        they talked about?

9        A    No, I did not.

10       Q    Were you able to hear what they were talking about from  
11       time to time?

12       A    Yes.

13       Q    Did Mrs. Howell appear to be asking Josh questions and  
14       Josh responding?

15       A    Yes.

16       Q    Would you be able at this point to pinpoint what pieces  
17       of information came frm that interview, from that  
18       conversation as opposed to what pieces of information  
19       may have come from interviews on the first two days?

20       A    Some of it, yes.

21       Q    And some of it not?

22       A    Possibly.

23       Q    Did you also talk to Detective O'Campo when he wasn't  
24       attempting to communicate with Josh Ryen?

25       A    At the hospital?

26       Q    Yes.

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1 A Yes.

2 Q Would that be, for example, when you would be perhaps  
3 out of Joshua's immediate presence?

4 A Well, sometime Josh would kind of doze off and --

5 Q The two of you would talk?

6 A Yes. Not particularly about Josh or anything about the  
7 investigation, but more about just, you know, passing  
8 time in the room.

9 Q Is it fair to say that while you had care of Josh  
10 Ryen during the first two days in June, that you had  
11 responsibilities that would entail you not always being  
12 at this bedside?

13 A Not for very long at one time.

14 Q For example, when Detective O'Campo was in the room  
15 at the same time you were, would you be at times writing  
16 notes in the chart, for example?

17 A That's true.

18 (No omissions.)

19

20

21

22

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1 Q I assume you had to look down when you did that?

2 A That's true.

3 Q You wouldn't be looking at Josh Ryen at that time?

4 A That's correct.

5 MR. KOCHIS: I have nothing else.

6 THE COURT: Mr. Negus.

7

8 REDIRECT EXAMINATION

9 BY MR. NEGUS:

10 Q Mr. Kochis in his questioning suggested, and I believe  
11 you agreed, that you might be confused about who said  
12 what to Josh?

13 A That's true.

14 Q Are you confused that it was Hector O'Campo -- are you  
15 confused as to whether it was Hector O'Campo who got the  
16 descriptions from Josh of the Mexican subjects?

17 A No.

18 Q That was O'Campo?

19 A Yes.

20 Q And that's what you told to Mr. Forbush; is that right?

21 A I believe so.

22 Q It's what you told to Sergeant Arthur?

23 A Yes.

24 Q That's what you said consistently ever since?

25 A I hope so. I'm feeling a little insecure about my  
26 memory at the moment.

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1 Q But I take it that that particular thing is not the  
2 kind of thing that's easy to forget, at least O'Campo  
3 questioning Josh about suspects?

4 A Right.

5 Q And you were never present at a later time when O'Campo  
6 and Dr. Jerry Hoyle from your hospital did a formal  
7 two-hour interview with Josh?

8 A Never.

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

10 MR. KOCHIS: I have no recross.

11 THE COURT: We thank you very much for your patience  
12 with us. You're free to leave. Any of your record that  
13 you brought with you you may take back. But not ours.

14 Counsel, did you want to go right on or would you  
15 like a recess?

16 MR. KOCHIS: Your Honor, there's a problem with the  
17 next witness. He apparently would like to be completed today,  
18 and I have no objection to us just starting.

19 MR. NEGUS: As long as I don't get killed by court  
20 personnel, I have no objection.

21 MR. KOCHIS: I forgot about that.

22 THE COURT: Let's just take about a five-minute  
23 recess just in case somebody wants to run away for just a  
24 little while.

25 (Recess.)

26 THE COURT: Next witness.

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1 MR. NEGUS: Dr. Hoyle, Jerry Hoyle.

2 THE BAILIFF: Step up to the witness stand, raise  
3 your right hand to be sworn.

4 THE CLERK: Raise your right hand, please.

5  
6 J E R R Y H O Y L E, called as a witness by and on behalf  
7 of the Defense, was sworn and testified as follows:

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

12 THE WITNESS: Yes.

13 THE CLERK: Please be seated. State your name,  
14 please, for the record, and spell your last name.

15 THE WITNESS: Jerry Hoyle, H-o-y-l-e.

16

17 DIRECT EXAMINATION

18 BY MR. NEGUS:

19 Q Dr. Hoyle, what's your occupation?

20 A I'm a clinical psychologist.

21 Q Are you connected with any particular medical facility?

22 A With the Loma Linda University Medical Center.

23 Q And in June of 1983, did you have a patient by the name  
24 of Josh Ryen?

25 A That's correct.

26 Q On the morning of June the 14th, 1983, did you have a

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1 conference in which it was decided that Josh was well  
2 enough to undergo a formal interview with the sheriff's  
3 department?

4 A That's correct.

5 Q Prior to making that decision, did you and Calvin  
6 Jackson have a brief conversation with Josh?

7 A Yes. That was a Craig Jackson, I believe, the social  
8 worker, and, yes, we had a talk with Josh.

9 Q During that talk did Josh spontaneously tell you  
10 information about the crime?

11 A About what? I'm sorry.

12 Q About the crime of which he'd been a victim.

13 MR. KOCHIS: Your Honor, at this point I'd object  
14 as not being relevant. If there's not a law enforcement  
15 officer present, how is it related to the Hitch issue?  
16 It calls for hearsay.

17 THE COURT: I don't wish to put words in Mr. Negus's  
18 mouth, but I believe his contention is that the officer  
19 in some way deliberately suppressed or concealed evidence  
20 in some way which he's attempting to establish by this  
21 witness. Do you want to modify it?

22 MR. NEGUS: No. I can tell you why I think the  
23 question is relevant.

24 THE COURT: All right.

25 MR. NEGUS: It is again, I believe -- what I believe  
26 the answer is going to be is that Dr. Hoyle did in fact have

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1 that conversation with Josh, he did in fact spontaneously  
2 tell him things. Dr. Hoyle didn't take any notes of that  
3 conversation and Dr. Hoyle doesn't have any independent  
4 recollection of it. And the only thing that he has  
5 independent recollections of is the thing he took notes of.

6 Why I wanted to do it is because I believe he also  
7 would testify that he's not sure what Josh told him in the  
8 morning as opposed to what he told him --

9 THE COURT: Whatever Josh told him at whatever time,  
10 what's the relevancy of him --

11 MR. KOCHIS: Your Honor, hearing that offer of  
12 proof, I'm going to withdraw my objection. I'm sure if that  
13 offer of proof is anywhere accurate, I'm going to be going  
14 into the same area.

15 THE COURT: Proceed.

16 Q (BY MR. NEGUS:) Do you now remember?

17 A Repeat the question.

18 Q Do you remember what Josh told you about the crime on  
19 the morning of June the 14th when you talked to Craig  
20 Jackson?

21 A No. I don't have any independent memory of that.

22 Q And you didn't take any notes of that?

23 A That's correct.

24 Q When Mr. O'Campo -- did Mr. O'Campo from the sheriff's  
25 department and yourself talk to Josh in the afternoon  
26 of June 14th?

008716



- 1 A That was in the afternoon of June 14th?
- 2 Q Yes.
- 3 A That's correct.
- 4 Q Where did that interview take place?
- 5 A It took place in the conference room, I believe, adjacent  
6 to Unit 5300 in the medical center.
- 7 Q During the course of that interview once the introductions  
8 had been -- once Josh had been as it were set up for  
9 the interview, did Mr. O'Campo do all the questioning?
- 10 A That's correct.
- 11 Q What was your role?
- 12 A My role was simply there as one of emotional support as  
13 well as observer of Josh as he made his way through  
14 the interview for purposes of any kind of clinical  
15 follow-up that I would have to be involved in, let's  
16 say subsequent to his discussion of the incident.
- 17 Q Were you particularly concerned to get the details of  
18 the crime down in your notes or anything like that?
- 19 A That was not my intention.
- 20 Q Did you in fact take some notes of that interview?
- 21 A Yes, I did.
- 22 Q How long did that interview last?
- 23 A I would only have a rough guess, but it could have been  
24 an hour and a half, it could have been an hour.
- 25 Q How many pages of notes did you take?
- 26 A Two pages.

008717

- 1 Q Showing you Exhibit H-2, is this a Xerox copy of the  
2 original which you happen to have in front of you?
- 3 A Yes, that's correct.
- 4 Q During the course of that interview, did Josh describe  
5 his being attacked?
- 6 A Yes. He made several references, I believe, to it.
- 7 Q In your notes have you indicated that he described his  
8 assailants either by the word they, them, or 'em at least  
9 six times?
- 10 A I haven't counted the number, but it could be something  
11 like that.
- 12 Q Included in that are some direct quotes, is that  
13 correct, from Josh?
- 14 A Fairly correct quotes, yes, a few of them.
- 15 Q For example --
- 16 MR. NEGUS: Excuse me, Your Honor.
- 17 Q (BY MR. NEGUS:) Did you quote Josh as saying they  
18 snuck up behind me and hit me?
- 19 A That's correct.
- 20 Q And you have that in quotes as opposed to the rest of  
21 your notes?
- 22 A Yes, I do.
- 23 Q Now, the first time that you have "they" in your notes  
24 is down at the bottom of the first page; is that correct?
- 25 A That's correct, I think.
- 26 Q And then after that you have in quotation marks "three

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1       Mexicans"?

2   A    That's right.

3   Q    Is that three Mexicans something that Josh said at the  
4       time that he was making that first statement, or is that  
5       something you added parenthetically later?

6   A    I don't remember.

7   Q    But the sentence is they, whatever, three Mexicans,  
8       parenthetically or not, chased us around the house.

9       Is that what Josh said?

10   A    I don't recall whether or not he three Mexicans at that  
11       time.

12   Q    So he either said "three Mexicans chased us around the  
13       house," or "they chased us around the house"?

14   A    He could have said either one.

15   Q    On the second page you have an arrow with a statement  
16       leading to "saw MO," I take it meaning mother, "laying  
17       by desk"; is that correct?

18   A    That's right.

19   Q    Does that mean that that statement "saw mother laying  
20       by desk" actually refers us to the statement from which  
21       the arrow emanates?

22   A    Would you repeat that, please?

23   Q    Well, are your notes basically in chronological order  
24       of the way that Josh said them?

25   A    Basically, they are, yes.

26   Q    Now, a lot of stuff that Josh said you didn't take notes

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1       because it was of no clinical interest to you; is that  
2       right?

3   A   Possibly, among other reasons.

4   Q   Whatever.

5   A   Yeah.

6   Q   These two pages of notes that you took do not purport  
7       to be a complete record of what Josh said during that  
8       hour and a half or two hours' interview?

9   A   No, I don't think so.

10   Q   Except for the sentence which is connected by an arrow  
11       and the possibility of the three Mexicans, are they in  
12       chronological order?

13   A   Generally speaking, I think so.

14       (No omissions.)

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11-1

1 Q At one point in time did Josh describe during that  
2 interview that he tried to fight them off, he tripped  
3 them up, they fell on their teeth, loosened them up?

4 A That's correct.

5 Q Was that of some clinical interest to you?

6 A Not directly, no. Of course, I would have been  
7 interested in what initiative he might have taken to  
8 defend himself or something, yes.

9 Q Did that statement in the context in which Josh made  
10 it sound like perhaps he was imagining that?

11 MR. KOCHIS: Your Honor, I'm going to object. That  
12 calls for some speculation. The question itself, of course,  
13 is leading and suggestive. It's his witness.

14 THE COURT: I believe it does call for an expert  
15 opinion. I'm not sure you have laid the proper foundation.

16 Q (BY MR. NEGUS:) Dr. Hoyle, how long have you been a  
17 clinical psychologist?

18 A I have been licensed in California for approximately  
19 three years.

20 Q And what background or training do you have in order  
21 to be a clinical psychologist?

22 A Well, I have completed a Ph.D. with a two-year post-  
23 doctoral internship which requires taking licensing  
24 boards, oral and written boards in the State of California.

25 Q Do you have a specialty within the field of clinical  
26 psychology, that is, you specialize in any particular

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1 kind of patient?

2 | A Yes, I do.

3 Q What is that?

4 A I probably specialize in a number of areas. Stress-  
5 related disorders. And I also spend a good share of  
6 my time in consult work with children in the hospital.

7 THE COURT: That's sufficient.

8 Q (BY MR. NEGUS:) Did it appear to you during the  
9 interview that Josh was imagining in that particular  
10 description?

11 THE WITNESS: Well, your Honor, I'm a bit confused  
12 because I'm not clear whether or not I have been called  
13 today as an expert witness or as simply one who witnessed  
14 the facts of the interview.

15 THE COURT: Does the question itself in any way  
16 confuse you? For whatever role you are in, if you can  
17 answer the question, we will permit you to do so.

18 MR. KOCHIS: Your Honor, my initial objection would  
19 be that although he may be qualified as a psychologist, it  
20 would still call for speculation on his part as to whether  
21 or not that statement was a fantasy or some basis in fact.

22 THE COURT: There is a fine distinction between  
23 speculation and opinion which I'm unable to appreciate at  
24 the moment in this instance. The objection is still overruled.  
25 Doctor, if you can, will you try and answer the question.

26 THE WITNESS: Yes.

11-3

1 THE COURT: Do you recall it?

2 THE WITNESS: Would you repeat that.

3 Q (BY MR. NEGUS:) Josh's description of trying to fight  
4 them off, how he tripped them up, how they fell on their  
5 teeth, that Josh bet that loosened them up, does that  
6 appear to you to be imagining?

7 A The fact that he attempted in some way perhaps to defend  
8 himself, that maybe he tripped someone up and they fell,  
9 those facts seem clear to me as factual. However, I do  
10 believe that he very likely inserted certain details  
11 into his account in order to make it complete because  
12 a child of nine years old, when asked a question by an  
13 adult, feels that he has to have some kind of an answer  
14 and I think he could have answered some questions filling  
15 in details that he may or may not have been clear about.

16 Q Did Josh likewise describe to you a thought process that  
17 Josh himself had gone through while he was hiding in  
18 the laundry room?

19 A That's right.

20 Q What was that?

21 A He stated that he ran to the laundry room to get some-  
22 thing. He hid behind the door. He couldn't find any-  
23 thing in the laundry room. He didn't know, what if I  
24 would have killed him, or something, then I might get  
25 sued or get killed myself.

26 Q In stating that, is that Josh telling his reasoning

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3 A Yes, that's what it seems to me.

8 | A I'm not clear about that distinction you are making.

11 | A That wouldn't be unusual. It's typical.

16 MR. KOCHIS: I object to that hypothetical because  
17 it assumes some facts that are not in evidence. There is no  
18 evidence as to those characteristics belonging to Josh Ryen.

24 Q (BY MR. NEGUS:) Would Josh dealing with any feelings of  
25 guilt he might feel be consistent with him making up  
26 this thought process about worrying about being sued in

008724



4 A I think what I have read here could have flashed through  
5 Josh's mind in a matter of seconds and only in retro-  
6 spect is he verbalizing it as completely as he stated  
7 it to us. But I think it would be a normal kind of  
8 reaction for a child to have under the circumstance.

12 | A That's right.

16 MR. KOCHIS: Your Honor, I object. Hearsay.

18 Q (BY MR. NEGUS:) On the beginning of November did you  
19 speak with me at that Loma Linda University facility in  
20 the company of Michael Gendler?

22 Q Michael Gendler was or is, was and is the attorney for  
23 Dr. Mary Howell, is that correct?

25 Q At that point in time, did I ask for a copy of your  
26 notes?

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1 A Yes.

2 Q Did you give them to me?

3 MR. KOCHIS: Objection. How is that relevant?

4 THE COURT: It goes to bias and prejudice and interest.  
5 Overruled. Did you, sir?

6 THE WITNESS: I provided you with the copy of two  
7 pages of my notes regarding the interview.

8 Q (BY MR. NEGUS:) You did? Didn't you in fact refuse to  
9 give me a copy of your notes?

10 A I suppose we discussed it for a time, but I ended up  
11 giving you those notes, as I recall.

12 Q Could you be mistaken?

13 MR. KOCHIS: Your Honor, I'm having another problem  
14 with this area. This witness is not here with an attorney.  
15 There may be some patient-client privileges that may have  
16 existed at the time that may have affected his decision not  
17 to give something to Mr. Negus. He is the boy's therapist.  
18 There is a patient-therapist privilege.

19 THE COURT: Is<sup>f</sup> so, sir, he can explain and you will  
20 get a chance to ask questions. Continue, please. The last  
21 question was could you be mistaken as to whether or not  
22 you gave him --

23 THE WITNESS: Yes, I could have been mistaken.

24 Q (BY MR. NEGUS:) Didn't you read portions of the notes  
25 out loud to me?

26 A That's correct.

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5        Didn't you feel that there were clinical impressions  
6        on those notes that the psychotherapist-patient privilege  
7        prevented you from revealing to me?

9 Q That was the reason for your procedure of reading parts  
10 of the notes but not letting me see or have copies  
11 of the actual pages?

17 Q So because I handed you a copy of those notes today in  
18 court, that's why you assumed that I got them from you?

21 Q Do you remember that on December 29 Hector O'Campo,  
22 a deective from the San Bernardino Sheriff's office,  
23 came out and you handed him a copy of the notes?

25 Q And then on February 1st a Detective Woods presented you  
26 with a release signed by Dr. Mary Howell and you again

11-8

1 presented him with a copy of the notes, is that correct?

2 A I only recall one of those instances. I don't recall  
3 that there were two, but I do recall that at least  
4 one occasion I gave him a copy with a signed release.

5 Q Did you also give a copy to the Sheriff's office without  
6 a signed release?

7 A I don't recall that I did.

8 Q Do you have a copy of the signed release?

9 A I don't know that I have it with me. It could be a  
10 part of the complete clinical record which I didn't  
11 bring.

12 MR. NEGUS: Nothing further.

13

14 CROSS-EXAMINATION

15 BY MR. KOCHIS:

16 Q Dr. Hoyle, on the 14th, in the second interview with  
17 Joshua, the interview that took place with you and  
18 Detective O'Campo, do you recall the seating arrangement  
19 of the persons in that interview?

20 A I believe I can.

21 Q Was Detective O'Campo essentially seated on a bed  
22 next to Joshua?

23 A No. I believe the interview took place in an adjacent  
24 room, either a conference room or a children's play room  
25 adjacent to a patient room.

26 Q Were you seated behind Detective O'Campo and Josh Ryen

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1 | during the interview?

2 | A No, I wasn't.

3 Q Was Detective O'Campo seated closer to Joshua Ryen than  
4 you were?

5 | A I think so.

6 Q Is it fair to say that you were at the second interview,  
7 the interview with Josh Ryen and Detective O'Campo,  
8 solely for the purpose of supporting Joshua emotionally?

9 | A That's true.

10 Q And you were also there to be aware of his reaction  
11 to his attempting to recover some type of memory of  
12 what took place in the house?

13 | A That's correct.

14 Q Is it also true that your purpose for being there, at  
15 least in your own mind, was not to obtain accurate  
16 information about what happened in Josh Ryen's house?

17 | A That's correct.

18 Q I believe you testified on direct examination by  
19 Mr. Negus, and correct me if I'm wrong, that you  
20 cannot recall what information passed during the inter-  
21 view with Josh Ryen and Mr. Jackson and the information  
22 that passed during the second interview. Would that  
23 be fair to say?

24 A Well, correct. If I understand your question correctly,  
25 it would be yes to the first part. I don't recall any  
26 comments nor did I make any notes about comments that

1 Joshua made of the incident during the first interview  
2 that I and Craig Jackson had with Josh.

3 (No omissions.)  
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1 Q So is it fair to say that when you sat in the room  
2 with Detective O'Campo during the second interview you  
3 already had some information from Joshua as to what  
4 he recalled taking place in his parents' home?

5 A I had some.

6 Q Is it possible that that information that you had prior  
7 to the time O'Campo started his interview affected the  
8 manner in which you took notes?

9 A I don't think it would have had a large effect.

10 Q Is it true that during your interview with Josh Ryen  
11 that was conducted by Detective O'Campo that Josh Ryen  
12 never described actually seeing anybody inside the house  
13 when this incident took place?

14 A That's correct.

15 Q Did you place an assessment that Joshua assumed that  
16 some people he would later describe were in the house  
17 and responsible for this event?

18 MR. NEGUS: Objection. I think that is something  
19 outside the doctor's expertise, because he particularly  
20 stated that he was not trying to evaluate the circumstances  
21 of the crime. So his assessment would be irrelevant.

22 THE COURT: Overruled. You may answer that, sir.

23 THE WITNESS: Okay.

24 Q (BY MR. KOCHIS:) Now the problem is do you have the  
25 question in mind?

26 A No. Would you repeat it, please.

008731

1 Q Did it appear to you that Joshua assumed -- let me  
2 break that down.

3 In the interview did Joshua describe three male  
4 persons who came to the house prior to the time that  
5 his parents and he left for a barbecue?

6 A That's right.

7 Q Did he describe them as people of Hispanic heritage  
8 or Mexican?

9 A That's right.

10 Q In fact did you include portions of those descriptions  
11 in your notes?

12 A Yes, I did.

13 Q And did it appear to you in evaluating the interview  
14 that Joshua assumed that these persons were the ones  
15 responsible for what happened to him and his parents?

16 MR. NEGUS: Objection. Again, I think that calls  
17 for speculation.

18 THE COURT: Overruled. Did it?

19 THE WITNESS: I'm sorry. I didn't catch what just  
20 happened.

21 THE COURT: Let's read it back, Mr. Kochis, because  
22 in repeating you've been coming up with different questions.  
23 Perhaps --

24 MR. KOCHIS: Well, it's easier for me to reask it  
25 and I'll attempt to.

26 THE COURT: Every time you reask it I get another

008732



1 objection. Suit yourself.

2 Q (BY MR. KOCHIS:) Did it appear to you that Joshua  
3 assumed those people were responsible for committing  
4 those acts on his family?

5 A I didn't understand the last two or three words that  
6 you just said.

7 MR. NEGUS: Before he asks the question, could I  
8 object to it, because I know I'm going to object.

9 THE COURT: You didn't want to disappoint me, Mr.  
10 Negus?

11 MR. NEGUS: I didn't want to disappoint you, Your  
12 Honor. Mr. Kochis has changed it. I'll object now.

13 MR. KOCHIS: I want to ask a question in another  
14 area.

15 Q (BY MR. KOCHIS:) Doctor, do you have a hearing problem  
16 at all?

17 A Well, no, I don't. Your voice trailed off on those  
18 last three words and I just didn't catch what you said.

19 Q Directing your attention back to the Mexican males  
20 Joshua described sitting at his parents' house before  
21 they left for the barbecue, do you have those three  
22 people in mind?

23 A Right.

24 Q Did it appear to you during the interview that Joshua  
25 assumed those three male Mexicans were the persons  
26 responsible for committing these acts on his family?

0000733

1 MR. NEGUS: Objection.

2 THE COURT: The objection is overruled.

3 THE WITNESS: Yes, it did appear that to me.

4 Q (BY MR. KOCHIS:) That assumes that you noted -- let me  
5 strike that and start over.

6 One of the reasons you took notes was to assist  
7 you in your clinical observations. Would that be fair  
8 to say?

9 A That's right.

10 Q You're not a stenographer?

11 A That's right.

12 Q You weren't taking things down word for word?

13 A No, I wasn't.

14 Q Would you take notes that would later help you recall,  
15 trigger your memory, as to things that were important  
16 in your clinical observations?

17 A That's right.

18 Q Would those include, for example, assumptions Joshua  
19 was making?

20 A Sure.

21 Q Could that have affected -- let me strike that and start  
22 over.

23 Would you have on your notes made some type of  
24 writing that would have allowed you later to recall  
25 that in your clinical observation, in your clinical  
26 assessment, that Joshua was making an assumption?

008734



1 Q Did you ever write it down singularly?

2 A I'll have to review that.

3 Q Doctor, directing your attention to the exhibit Mr.  
4 Negus has marked Page 2, for example, on the second  
5 page approximately half way down the page on a line  
6 underneath the word that you wrote "sigh," did you  
7 indicate at that point?

8 A Yes, I see that I said "if I'd killed him or something  
9 I might get sued."

10 Q This assailant or assailants that Joshua was assuming  
11 were in the house, would he refer to them both in the  
12 singular and the plural during the interview, or do you  
13 recall?

14 A Well, the only thing I can recall is what's on the note  
15 here, and in one case it appears that I've referred to  
16 him in the singular, which I just read, and in other  
17 cases in the plural.

18 Q Do you recall when Detective O'Campo started the inter-  
19 view whether he started with Joshua's recollection of  
20 what happened when he woke up in response to his mother's  
21 screams, or if he started at some earlier point in time?

22 A Well, he started out the interview actually Saturday.  
23 I think he even talked to him in general about lots of  
24 other things, about his routine at home. So we started  
25 out well in advance of the night of the incident.

26 Q So in terms of chronology of the incidents, it's your

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1 recollection that Detective O'Campo started discussing  
2 what took place perhaps earlier on Saturday in the  
3 morning?

4 A Saturday morning.

5 Q And then progressed on through Saturday?

6 A That's right.

7 Q Now, when the topic of the three Mexicans came up, was  
8 that after Detective O'Campo had interviewed Joshua about  
9 Joshua's recollection of the incidents he observed  
10 from the time his mother screamed until the time he got  
11 in the helicopter to go to Loma Linda?

12 A I'm not sure I understand.

13 Q Let me ask the question this way: Did Detective O'Campo  
14 in a question and answer format take Joshua through  
15 what Joshua recalled from the time his mother screamed,  
16 he woke up, and the time he was taken by a helicopter  
17 to the hospital?

18 A Yes, he did.

19 Q Do you recall after that sequence whether or not Detective  
20 O'Campo asked Joshua if Joshua had any idea who was  
21 responsible for these things?

22 A I believe that the notes that I made about that at the  
23 bottom of Page 2 contain some direct statements by  
24 Joshua, because there's all the detail there about what  
25 the men looked like. I may have inserted some other  
26 information parenthetically in that statement as well.

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1 Q Now, can you recall the question or questions that  
2 triggered Joshua's response about the three Mexican men?

3 A No, I can't recall those questions.

4 Q But as you indicated in your notes, Joshua apparently  
5 related that information and that those people came  
6 Saturday as he and his family were leaving for the  
7 party?

8 A Yes.

9 Q And is it true that after Joshua related that, he then  
10 related a description of the people he saw outside his  
11 house prior to the time his parents went to the party?

12 A That's right.

13 Q Then was there a discussion between Joshua and Detective  
14 O'Campo about what Joshua observed in terms of some  
15 interaction between his father and those people?

16 A Yes.

17 Q You didn't make any notes on that?

18 A I think -- I believe I noted that -- I think I noted  
19 somewhere that his father talked to them and he sent  
20 them away and didn't have any work for them.

21 Q And is that the extent of your recollection of the  
22 conversation between Josh and Detective O'Campo on that  
23 point?

24 A Well, I recall that he stated at some point that his  
25 father didn't like Mexicans and that he assumed these  
26 three men were angry because his father didn't give them

0008738

1 any work.

2 Q Did Joshua at any time during the interview describe  
3 actually seeing three white men inside the house  
4 attacking his family?

5 A No.

6 Q Did Joshua at any time describe actually seeing three  
7 Mexican adults inside his house attacking his family?

8 A No.

9 MR. KOCHIS: I have nothing further.

10 THE COURT: Redirect.  
11

12 REDIRECT EXAMINATION

13 BY MR. NEGUS:

14 Q The first time that you used the word they or he or  
15 anything to describe the assailants was at the bottom  
16 of your first page; is that right?

17 A That's correct.

18 Q And that's also the point in time that you have three  
19 Mexicans in parenthesis?

20 A That's right.

21 Q Your notes seem to go down in a fairly even way down  
22 the page so that you're starting most of your lines  
23 about one-third of the way through the page with space  
24 for your assessment of Josh on the left; is that correct?

25 A That's right.

26 Q And the statement "they, three Mexicans chased us around

008739

1 the house," the day begins directly beneath the "mom  
2 screaming" on the line above; is that right?

3 A. That's true.

4 Q. So it doesn't appear from the way that you took your  
5 notes that the three Mexicans would have been inserted,  
6 say, after, towards the end of the interview; is that  
7 correct?

8 MR. KOCHIS: Well, objection. That's a leading and  
9 suggestive question.

10 THE COURT: Mr. Negus, sustained.

11 Q. (BY MR. NEGUS:) Looking at your notes, was the phrase  
12 three Mexicans inserted after you had finished taking  
13 the rest of your notes?

14 A. Well, what I'm allowing for is that as I was writing  
15 I could have inserted parenthetically into the text  
16 certain information even that he had told me earlier  
17 which clarified what certain pronouns might have referred  
18 to. And so what I'm telling you is that I don't remember  
19 whether or not I inserted that parenthetically or not,  
20 and there's two areas on the notes where I might have  
21 included other details not given at the time of that  
22 particular interview with Detective O'Campo.

23 Q. What's the other place on the notes?

24 A. The bottom of the second page.

25 Q. Was that "probably could recognize them"?

26 A. No, the last six lines.

008740



1 Q The description of the three Mexicans?

2 A The descriptions were in fact quite verbatim. The first  
3 part, "thinks three Mexicans who came Saturday night  
4 before as they were leaving for the party came back  
5 later that night," that's kind of a general impression  
6 that I've gleaned from probably a number of conversations,  
7 more than just that interview that day. And he probably  
8 went over it again that day.

9 Q The only other time that you talked to Josh about the  
10 actual crime and what had occurred to him that night  
11 was when he brought it up with Mr. Jackson there that  
12 morning, is that correct, prior to this?

13 A I couldn't tell you. I think it was probably not  
14 limited to that. I think there were other occasions  
15 before and after the interview that we're discussing  
16 here.

17 Q Do you remember telling myself and Mr. Gindler that you  
18 only talked to Josh about the crime twice, once in the  
19 morning with Mr. Jackson and once with Mr. O'Campo?

20 MR. KOCHIS: Your Honor, I'm going to object as  
21 leading and suggestive, and I think there's a foundational  
22 impeachment problem that I don't know that Mr. Negus is going  
23 to be able to take the stand and attempt to impeach this  
24 witness.

25 MR. NEGUS: I can always have Mr. Gindler.

26 THE COURT: Counsel, when you ask him do you recall

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1 and then state the matter to be recalled, it is leading  
2 and suggestive.

3 MR. NEGUS: But it's for the purpose of impeachment.  
4 It's a prior inconsistent statement, Your Honor.

5 THE COURT: What's the nature of your objection,  
6 Mr. Kochis?

7 MR. KOCHIS: An offer of proof as to foundation  
8 as to how he's going to prove that a prior statement was  
9 made. It appears he didn't have an investigator present.

10 THE COURT: Good point. Are there any notes in  
11 some way? How could you --

12 MR. NEGUS: I am sure that Mr. Gindler was there.  
13 Mr. Gindler has a record.

14 THE COURT: Mr. Who?

15 MR. NEGUS: Mr. Gindler. When I talked with Mr.  
16 Hoyles he was not alone. Mr. Gindler, who is an attorney  
17 from Irell and Manella law firm in Century City who was  
18 present.

19 THE COURT: If you persist, I think I perhaps have  
20 to examine the matter in camera in some manner.

21 MR. NEGUS: I don't understand. What's the problem?  
22 You're allowed to ask a witness didn't you make a statement  
23 without any foundation. I'm not aware of any foundation  
24 other than good faith.

25 THE COURT: You're not allowed to ask your own  
26 witness leading and suggestive questions. You get around

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5 Now, you bring up the attorney's name, and I assume  
6 that you're in good faith and that if put to the test that  
7 you could show me the statement back in chambers or something  
8 like that.

10 (No omissions.)

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1 MR. KOCHIS: Do I persist?

2 THE COURT: Do you want to continue your objection?

3 MR. KOCHIS: Well, your Honor, I made the objection.  
4 I will abide by the Court's ruling. If the Court overrules  
5 my objection, we will proceed.

6 THE COURT: I haven't overruled it. I'm going to  
7 go in camera for an offer of proof from counsel unless there  
8 is further objection. The reporter step in chambers, please.

9 MR. NEGUS: Can Mr. Cooper come, please?

10 THE COURT: Of course.

11 (Whereupon in camera proceedings in chambers  
12 are omitted from transcript.)

13 THE COURT: I will overrule the objection.

14 Q (BY MR. NEGUS:) Didn't you tell me in the presence  
15 of Michael Gendler in November that you only talked  
16 to Josh about the crime twice, once with Mr. O'Campo  
17 and once with Mr. Jackson?

18 A If you have a record of that, then that's what I said.  
19 I think the thing that I'm differentiating about now  
20 is that we had two interviews in which the specific  
21 purpose of those interviews was to discuss details of  
22 the day before and the night of the incident. However,  
23 I had numerous conversations with Josh both by myself  
24 and with several other people in the room, and what my  
25 answer right now referred to was that there were  
26 incidental comments that were frequently made about the

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1 crime and therefore I did talk with him or was involved  
2 in conversations with him on more than those two times.

3 Q Do you remember saying to me and Mr. Gendler that you  
4 were confused in your mind between conversation with  
5 Mr. Jackson and Mr. O'Campo and you didn't remember where  
6 the information about the suspects came from, whether  
7 it was the first conversation or the second conversation.  
8 Do you remember stating it in those terms?

9 A Yes.

10 Q So at that point in time you were stating as an alternative  
11 between your conversation with Mr. Jackson in the morning  
12 or with Mr. O'Campo in the afternoon, is that correct?

13 A Yes, I think so.

14 MR. NEGUS: Thank you. Nothing further.

15 MR. KOCHIS: No recross.

16 THE COURT: Doctor, thank you so much. If you will  
17 leave the exhibit but take your document, please.

18 (Witness excused.)

19 THE COURT: Monday morning at 9:30. Today is  
20 Thursday, isn't it?

21 MR. NEGUS: That's correct.

22 THE COURT: Anything further today?

23 MR. KOCHIS: Not from the People.

24 THE COURT: See you Monday at 9:30. The case will  
25 be adjourned until then.

26 (Whereupon the proceedings were concluded  
for the day.)

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