

1 CASE NO. GRIM 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-72787
MOTIONS

10 APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY

11 HONORABLE RICHARD C. GARNER, JUDGE PRESIDING

12 REPORTERS' TRANSCRIPT ON APPEAL

13
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I N D E X T O W I T N E S S E SWITNESSPAGE**BILL ARTHUR**

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JOHN T. CLIFFORD

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1 SAN BERNARDINO, CALIFORNIA, THURSDAY, MAY 31, 1984

2 9:30 O'CLOCK A.M.

3 DEPARTMENT NO. 10

HON. RICHARD C. GARNER, JUDGE

4 APPEARANCES:

5 The Defendant with his Counsel, DAVID

6 NEGUS, Deputy Public Defender of San

7 Bernardino County; JOHN P. KOCHIS,

8 Deputy District Attorney of San

9 Bernardino County, representing the

10 People of the State 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. Everybody is present.

15 Sergeant Arthur is again on the stand.

16 Mr. Kochis.

17 MR. KOCHIS: Yes, your Honor.

18
19 CROSS-EXAMINATION RESUMED

20 BY MR. KOCHIS:

21 Q Sergeant Arthur, when we left off yesterday, I believe
22 one of the areas we were discussing is the procedure you
23 routinely follow when you investigate a homicide.

24 Do you recall that area?

25 A Yes.

26 Q I believe to orient you, you testified yesterday that

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1 routinely the procedure you employ is to arrive and be
2 briefed by the personnel that are at the scene; is that
3 correct?

4 A That's correct.

5 Q And then you yourself conduct a walkthrough of the
6 crime scene; is that correct?

7 A Yes.

8 Q Picking it up from there, in your routine procedures,
9 what steps, if any, do you take after you do the
10 walk through the crime scene?

11 A I return to a second briefing with the personnel that
12 I'm waiting for and the personnel that are still there
13 during -- that were there during the first briefing.

14 Once all encompassing investigators arrive, we
15 re-brief. I tell them what I have seen inside in
16 addition to the briefing that we may receive from the
17 first briefing officer.

18 Q Would other divisions then be present at this second
19 briefing?

20 A Yes.

21 Q Is that traditionally, for example, the Crime Lab and
22 the I.D. Bureau?

23 A Yes.

24 Q What type of decisions, if any, are routinely made at
25 the second briefing in which Homicide is present,
26 I.D. is present and the Crime Lab is present?

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1 A Those decisions would be as to whose responsibility it
2 will be for the scene investigation, the area search,
3 any interviews to be conducted, neighborhood contacts,
4 those kinds of things, who was to be doing in a case
5 such as this photographs inside the house and outside
6 the house, Crime Lab work inside or outside, and who
7 would go in first.

8 Q Do you then discuss sequence of which division goes
9 in first?

10 A Yes.

11 Q Then after the second briefing, you more or less attempt
12 to follow the agreement which has been reached in the
13 briefing in terms of responsibility and sequence of
14 entering the scene?

15 A That's correct.

16 Q Now, on this particular case on Sunday, June the 5th,
17 why did you conduct a walkthrough of the crime scene
18 prior to the time the other divisions arrived?

19 A That's my normal routine is to align myself with what
20 I see inside so that I can better establish the need
21 for additional personnel or equipment that we might
22 need.

23 In case of a dark room, I would know that I need
24 lighting. In a case like this, I would know that I
25 need additional personnel.

26 And then it helps me to brief those people as to

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1 what to expect when they go in and to make assignments,
2 specific assignments of what I saw and not just leave
3 it up to the investigators in the scene.

4 Q In this particular case, did you hold a second briefing
5 after you conducted the walkthrough of the crime scene?

6 A I did.

7 Q And at that briefing, was Homicide present, for example?

8 A Yes.

9 Q And by "Homicide", when you are assigned as a sergeant
10 to a crime scene, do you do the diagramming?

11 A Not normally.

12 Q Do you use the assigned detectives who work under your
13 supervision to conduct that?

14 A Yes.

15 Q Was that done in this case?

16 A It was.

17 Q Are there cases in which because of the nature of the
18 crime scene, it's sufficient to have one detective work
19 on the scene?

20 A Yes.

21 Q Was this such a case?

22 A No.

23 Q How many detectives did you assign to diagram the crime
24 scene, for example?

25 A Two.

26 Q Would those have been Detectives Hall and Clifford?

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- 1 A Yes.
- 2 Q Was the Crime Lab likewise present at the crime scene?
- 3 A Yes.
- 4 Q Are there crime scenes you have investigated in which
- 5 one criminalist is sufficient to collect evidence at
- 6 the scene?
- 7 A There are crime scenes that I don't even call for the
- 8 Crime Lab.
- 9 Q Was this, first of all, such a case that you would not
- 10 call for the Crime Lab?
- 11 A No, it was not.
- 12 Q Was this a case that you felt one criminalist would be
- 13 able to collect all the evidence that was necessary?
- 14 A No.
- 15 Q How many criminalists were at the scene prior to the
- 16 time the processing began?
- 17 A Two, possibly three.
- 18 Q Do you recall Stockwell and Schechter being there?
- 19 A I do.
- 20 Q And do you recall whether or not Mr. Baird arrived prior
- 21 to the time processing began?
- 22 A I don't.
- 23 Q Are there times when you can process a crime scene with
- 24 simply one member of the I.D. Bureau?
- 25 A Pardon?
- 26 Q Are there crime scenes that you have gone to where

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1 based on your walkthrough you felt confident that the
2 scene could be processed in terms of what the I.D. Bureau
3 could do by simply having one member from that division
4 there?

5 A Yes.

6 Q Was this such a case?

7 A No, it wasn't.

8 Q How many people from I.D. did you have there?

9 A Three.

10 Q Who were those people?

11 A Roper, Duffy and Bellomy.

12 Q What method of approach was adopted on June 5th as to
13 which responsibilities would pertain to which division
14 and the sequence with which the various divisions would
15 enter the home?

16 A I established that our division, of course, would do
17 the crime scene investigation and that would be left
18 up to Hall. That Wilson and Danna would start a
19 neighborhood canvas. That I.D. Detective Duffy --
20 At that time, we were still waiting for Roper to
21 arrive, but that I.D. at that time would start inside
22 the scene photographing the scene before anyone else
23 went in, and that Schechter and Stockwell would go into
24 the scene after I.D. with Homicide to work in conjunction
25 with collection of evidence.

26 Q In addition to the two roadblocks which were maintained

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- 1 Q What are those?
- 2 A FP period.
- 3 Q Now, when you investigate a crime scene as a homicide
4 sergeant, do you take some steps to preserve the way
5 the scene appeared when you arrived?
- 6 A Yes.
- 7 Q Is photography a method that you use to do that?
- 8 A It is.
- 9 Q In this case, was photography utilized?
- 10 A Yes, it was.
- 11 Q Of the photographs that you were shown yesterday on the
12 stand by Mr. Negus, were all of those photographs which
13 were taken by Sheriff's personnel?
- 14 A Yes, they were.
- 15 Q Were those all the photographs that were taken of the
16 crime scene in this case?
- 17 A No.
- 18 Q Is it fair to say that on Sunday, June the 5th, the
19 inside of every room in the Ryen house was photographed?
- 20 A Yes.
- 21 Q The master bedroom was photographed before the bodies
22 were removed on the 5th; is that correct?
- 23 A Yes.
- 24 Q And there were photographs taken after the bodies were
25 removed; is that correct?
- 26 A Yes.

1 Q Was likewise the grounds outside the Ryen residence
2 photographed on June the 5th and June the 6th?
3 A Both on the ground and by air.
4 Q Are diagrams also used to preserve dimensions at a
5 crime scene?
6 A Yes, they are.
7 Q Were diagrams completed in this case?
8 A Yes.
9 Q A diagram of the floor plan of the entire Ryen residence?
10 A Yes.
11 Q A diagram of the master bedroom of the Ryen residence?
12 A Yes.
13 Q Locations of the bodies within that room?
14 A Yes. And furniture and everything there.
15 Q Now, is Homicide's duty essentially at a crime scene to
16 diagram the scene and measure the furniture within the
17 scene, for example?
18 A That's one of the responsibilities, yes.
19 Q And also to measure the location of bodies that are
20 still at the scene?
21 A Yes.
22 Q I.D. then photographs the scene and lifts fingerprints;
23 is that correct?
24 A That's correct.
25 Q And the Crime Lab removes evidence that may have
26 significance from the scene itself; is that correct?

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- 1 A Yes.
- 2 Q In this case, are you aware that the Crime Lab removed
3 essentially 43 separate items from the Ryen crime scene
4 on June the 5th and the early morning hours of June 6th?
- 5 A Yes.
- 6 Q Those items were transported to what location?
- 7 A The Sheriff's Crime Lab.
- 8 Q The furniture and carpet which was removed on Monday,
9 June the 6th, was taken to the I.D. Bureau in
10 San Bernardino; is that correct?
- 11 A Yes.
- 12 Q Was it stored at that location?
- 13 A The I.D. Bureau is a separate area from the storage area.
14 There is a large building that's secured where evidence
15 is stored.
- 16 Q That building is under the control of the I.D. Bureau;
17 is that correct?
- 18 A Yes.
- 19 Q And it's a locked building?
- 20 A It is, and an alarm.
- 21 Q The public does not have access to it?
- 22 A That's correct.
- 23 Q And the items placed in that building, for example, are
24 not used, they are simply stored there; is that correct?
- 25 A That's correct.
- 26 Q Is that what was done with the furniture and carpet which

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- 1 was removed from the Ryen home?
- 2 A Yes.
- 3 Q The carpet that was taken from the master bedroom, was
- 4 that wall-to-wall carpet?
- 5 A Yes, it was.
- 6 Q And are you aware of the approximate dimensions of that
- 7 bedroom?
- 8 A Approximately 14 by 16.
- 9 Q Is that feet or yards?
- 10 A Feet.
- 11 Q Do you have any facilities in the Homicide Division at
- 12 the Sheriff's Office to freeze a piece of carpet that
- 13 size?
- 14 A No, we do not.
- 15 Q Do you have any facilities within Homicide to freeze
- 16 evidence whatsoever?
- 17 A No.
- 18 Q Does the Identification Bureau, to your knowledge, have
- 19 facilities to store a piece of carpet that size?
- 20 A Yes.
- 21 Q Where is that facility?
- 22 A That would be in the building behind I.D.
- 23 Q Do they have a freezer in there?
- 24 A No. You said "store".
- 25 Q Do they have a freezer large enough to freeze that
- 26 piece of carpet, I.D. Bureau?

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- 1 Q No, they do not.
- 2 Q Do they have any freezer inside that storage building?
- 3 A Not that I'm aware of.
- 4 Q Do you recall approximately what time did the Crime Lab
- 5 start processing the Ryen crime scene?
- 6 A Probably around 2 or 2:15 in the afternoon.
- 7 Q And how long did they remain continuously at the scene
- 8 on June the 5th and June the 6th?
- 9 A I would say until around 3:30 or 4.
- 10 Q And both Ms. Schechter and Mr. Stockwell were involved
- 11 in collecting evidence during that period of time?
- 12 A Yes, they were.
- 13 Q Did you in any fashion rush them as they were collecting
- 14 the various pieces of evidence that they chose to take?
- 15 A No, they were never rushed.
- 16 Q Did you likewise follow them around and look over their
- 17 shoulder each time they collected a piece of evidence?
- 18 A No.
- 19 Q Do you recall testifying at the preliminary hearing as
- 20 to when you learned that items that had blood on them
- 21 must be frozen to preserve them?
- 22 A Yes.
- 23 Q Did you review a portion of your testimony at the
- 24 preliminary hearing yesterday here in the courtroom on
- 25 a recess?
- 26 A I did.

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1 Q And do you recall now when you first learned that you
2 had to freeze items that had blood on them to preserve
3 all the serological analysis that could be done?

4 A Yes.

5 Q When was that?

6 A August.

7 Q Of 1983?

8 A Of '83.

9 Q Sometime during the month of June of 1983, did you
10 contact the substation in Yucaipa about a pair of
11 overalls?

12 A I either contacted them or they contacted me. I was
13 in contact with them.

14 Q Do you recall, was that a telephonic communication or
15 did you go to the substation?

16 A It was a telephonic communication.

17 (No omissions.)
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1 Q Do you recall who spoke to you from that substation?

2 A Sergeant Stodelle.

3 Q And did he in fact inform you that a pair of coveralls
4 had been turned in to the substation in Yucaipa?

5 A Yes.

6 Q Did you have a conversation with him about the coveralls?

7 A Yes, I did.

8 Q At the end of that conversation, did you feel that those
9 coveralls were evidence that pertained to the suspect in
10 this particular case?

11 A No, I have never felt that way.

12 Q Prior to December of 1983, did Mr. Negus ever request to
13 view those coveralls?

14 MR. NEGUS: Objection, irrelevant.

15 THE COURT: Overruled, foundational.

16 THE WITNESS: Not that I'm aware of.

17 Q (BY MR. KOCHIS:) Were you present at the --

18 MR. NEGUS: Move to strike. Without foundation
19 that's irrelevant.

20 MR. KOCHIS: Your Honor, my offer of proof would be
21 that a report was prepared of Mr. Eckley's receipt of these
22 in Yucaipa, that a copy of that report was made available to
23 my office, which in turn make it available to Mr. Negus on
24 approximately August the 1st of 1983.

25 MR. NEGUS: It's still --

26 MR. KOCHIS: Between that time and December, neither

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1 Mr. Negus's office nor my office apparently made any
2 inquiry into these particular coveralls and requested that
3 they be maintained.

4 MR. NEGUS: It's still irrelevant. People versus Moore,
5 34 Cal 3d, says that the duty is to preserve the coveralls
6 until the hearing for which they are taken whether with or
7 without a request by the Defense.

8 THE COURT: Mr. Negus, we're concerned somewhat with
9 the state of mind of the officers, their intentions,
10 inadvertence, things such as that as well.

11 MR. NEGUS: But --

12 THE COURT: Sir, I'm going to overrule your objection.
13 Proceed. It may remain in so far.

14 Q (BY MR. KOCHIS:) Were you present with Mr. Negus when
15 he and Mr. Forbush viewed some evidence at the I.D.
16 bureau in San Bernardino?

17 A Yes, sir.

18 Q Were you in telephonic communication with Deputy Sharp
19 on Sunday, June 5th?

20 A Yes.

21 Q And did he relate some information he believed he
22 obtained from Joshua Ryen?

23 A Yes.

24 Q Did that information include descriptions of three
25 individuals?

26 A It did.

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- 1 Q Did you receive two separate communications, each one
2 with a different description?
- 3 A Yes.
- 4 Q Did the description between the first and second
5 communications with Deputy Sharp vary in terms of the
6 race of the people?
- 7 A Yes, it did.
- 8 Q The first description that Deputy Sharp gave you on
9 Sunday via the telephone in terms of race was what?
- 10 A Was Caucasian, white.
- 11 Q How much time passed between the first and second
12 communication?
- 13 A I don't think it was but a matter of minutes. It seemed
14 like 20 or 30 minutes.
- 15 Q And did he then give you a description that he allegedly
16 got from Joshua Ryen that differed in race?
- 17 A Yes.
- 18 Q And what was the race you got on the second conversation?
- 19 A Of Mexican.
- 20 Q Did you follow Detective Duffy around the Ryen home every
21 time he dusted a particular location for fingerprints?
- 22 A No, I did not.
- 23 Q Did you follow Detective Duffy around the location and
24 were your present every time he lifted latent fingerprints
25 from the Ryen residence?
- 26 A No.

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1 Q When did you first become aware that the residence at
2 2991 Old English Road contained evidence which had some
3 significance with this case?
4 A On the afternoon of the 7th.
5 Q On Sunday, June the 5th, did you take any steps to
6 determine if that residence contained any evidence which
7 related to this particular case?
8 A Yes.
9 Q What steps did you take?
10 A During the area search from -- well, during the area
11 search of the entire community, I had Detective Gaul
12 cover that location, that address.
13 Q And did he report back to you after he had gone to that
14 residence?
15 A Yes, he did.
16 Q Did he give you any information that led you to believe
17 that the inside of that residence contained evidence
18 of this case?
19 A No.
20 Q Would that be one of the reasons you did not take steps
21 on the 5th to secure that residence?
22 A That's correct.
23 Q The rip in the screen door, the sliding glass section of
24 the living room of the Ryen home, did you have a chance
25 to look at that rip?
26 A Yes, I did.

- 1 Q Did it have any blood on the screen?
- 2 A No, it didn't.
- 3 Q Prior to the time that that living room was opened up as
- 4 a command center, had Detective Roper located a hatchet
- 5 on Old English Road?
- 6 A Yes, he had.
- 7 Q Had you see the hatchet priot to the time the living room
- 8 was opened?
- 9 A Yes, I had.
- 10 Q Did the hatchet have any blood on it?
- 11 A Yes, it did.
- 12 Q On the 5th of June of 1983, was the press ever allowed
- 13 inside the Ryen home?
- 14 A No.
- 15 Q Was anyone allowed inside the home other than sheriff's
- 16 officers and support personnel?
- 17 A Not after the investigation began.
- 18 Q Mr. Negus asked you several questions yesterday about
- 19 blood splatter patterns. Do you recall that?
- 20 A Yes.
- 21 Q In this case were steps taken to preserve the actual
- 22 blood splatter pattern or patterns that may have
- 23 appeared in that residence?
- 24 A Yes.
- 25 Q Was photography used for that purpose?
- 26 A It was.

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- 1 Q Were photographs taken of every blood splatter pattern
2 inside the Ryen residence?
- 3 A I believe so.
- 4 Q Was there a wall behind the water bed in the master
5 bedroom?
- 6 A Yes.
- 7 Q Did that wall contain what appeared to you to be blood
8 splatter patterns?
- 9 A Yes.
- 10 Q In addition to photography, were any other steps taken
11 to preserve the patterns themselves on the wall?
- 12 A The wall was removed.
- 13 Q And do you know where that's stored?
- 14 A That's I believe in the sheriff's crime lab.
- 15 Q Did there appear to you to be blood on various items
16 within the master bedroom itself, specifically furniture?
- 17 A Yes.
- 18 Q In addition to photography, were any steps taken to
19 preserve the pattern of blood on the items of furniture
20 themselves?
- 21 A Yes.
- 22 Q Were the items in fact seized and stored in evidence?
- 23 A They were, yes.
- 24 Q Did the residence at 2943 Old English Road have a washer
25 and dryer in it?
- 26 A Yes, it did.

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1 Q Did you have occasion to look into that washer and dryer
2 during the investigation of this case on either Sunday
3 the 5th or Monday the 6th?

4 A One of those two days. I believe it was Sunday the 5th.

5 Q Did you see any clothes inside either the washer or
6 the dryer?

7 A Yes.

8 Q Did Sergeant Swanlund eventually supervise the removal
9 of items of evidence from that scene?

10 A Yes, he did.

11 Q Is there a reason you did not return to the Ryen scene
12 on Monday the 6th after you left at approximately 3:00
13 a.m. in the morning?

14 A Yes.

15 Q What was that reason?

16 A Well, I had set up a command post at the West End
17 Station. We were in the process of investigating this
18 case further and the apprehension of whoever was
19 responsible.

20 Q And was Sergeant Swanlund then assigned to supervise
21 the removal of items you would have supervised had you
22 remained at the scene?

23 A That's correct.

24 MR. KOCHIS: Your Honor, may I have just a moment to
25 check my notes?

26 THE COURT: Yes.

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1 MR. KOCHIS: I have nothing further at this time.

2 THE COURT: Mr. Negus.

3
4 REDIRECT EXAMINATION

5 BY MR. NEGUS:

6 Q At the point in time that you talked to Mr. Gregonis
7 and became knowledgeable about what you had to do in
8 order to preserve the blood, at that point in time you
9 were aware, were you not, that there were all these
10 items of furniture and carpet in the I.D. loft where the
11 blood wasn't being preserved; is that correct?

12 A It wasn't, couldn't be.

13 Q Well, did Mr. Gregonis tell you that in the middle of
14 August there was nothing that could be done to preserve
15 that?

16 A It was the end of August before I was aware of that.

17 Q Did Mr. Gregonis tell you that there are no enzymes that
18 survive more than two and a half months?

19 A Yes.

20 Q That was what he told you?

21 A I was aware that enzymes -- not no enzymes, but certain
22 enzymes that he was looking for degraded after two and a
23 half months.

24 Q Do you remember which particular enzymes he was looking
25 for?

26 A I believe it was a black variant.

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- 1 Q That would have been the peptidase A?
- 2 A Yes.
- 3 Q There however were numerous other enzymes, some of which
- 4 last longer than three months; is that correct?
- 5 A I didn't go totally into that with him.
- 6 Q Well, once you found out that blood evidence had to be
- 7 preserved in order to be typed, which was apparently
- 8 news to you, did you do anything at that point in time
- 9 to try and preserve as best you could at that point in
- 10 time the blood evidence that you had seized?
- 11 A I believe that the blood evidence that we had seized
- 12 even up to that time was sufficient.
- 13 Q You had seized from the master bedroom exactly ten samples
- 14 of unknown blood, correct?
- 15 A I believe it to be more than that.
- 16 Q From the master bedroom, and preserved so it could be
- 17 typed?
- 18 A From the house, I believe it to be more than that.
- 19 I'm not sure of the master bedroom.
- 20 Q There were ten from the master bedroom, two from the
- 21 hall, and three from the master bathroom; correct?
- 22 A Up to what time are you talking about? At the time of
- 23 the crime scene?
- 24 Q That were removed in a timely fashion on June the 5th,
- 25 1983, there were 15 total blood samples taken; right?
- 26 A I'm not sure of June the 5th.

1 Q When you went back on June the 30th to try and seize
2 more, you didn't seize any from the master bedroom, did
3 you?

4 A Not that I recall.

5 Q Let's assume for the sake of discussion that there
6 were ten items taken from the master bedroom on the night
7 of June the 5th. Out of all the different blood samples
8 and patterns that were in there, did you do anything to
9 try and check to see whether those ten were sufficient
10 to give you one sample from each independent pattern that
11 existed in that room?

12 A I'm not sure if I did or not. I just -- I felt secure
13 that we had enough. As far as checking to see at that
14 point in time, I'm not sure whether I did or not.

15 Q Why did you feel secure?

16 A I had faith in our crime lab that they would take the
17 appropriate samples to conduct the investigations that
18 they needed to conduct.

19 Q When you talked to Mr. Gregonis about this, did he
20 indicate to you that he felt that he had not been given
21 enough time to correct all the samples that he needed?

22 A No.

23 Q Did you ask him?

24 A I never heard that until during the prelim.

25 Q The what?

26 A I never heard that until during the prelim.

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1 Q Did you ever ask him before the prelim?

2 A No, I did not.

3 Q The first time that you ever heard anybody asking that
4 was when I asked him that at the prelim?

5 A First time I ever knew there was a problem was during
6 the prelim.

7 (No omissions.)

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- 1 Q I know that, but was that the first time you ever heard
2 anybody ask Mr. Gregonis whether there was a problem?
- 3 A I believe that's correct.
- 4 Q Yesterday you indicated that the photographic
5 documentation using the lab numbers or I.D. numbers --
- 6 A Yes.
- 7 Q -- little black numbers --
- 8 A Yes.
- 9 Q -- will allow you to tell where blood was obtained from.
10 Let's look at H-95 here for a second.
11 There is a number "37" sitting on the typewriter?
- 12 A Yes.
- 13 Q According to that coding system that you used, what
14 item was blood taken from in that photograph?
- 15 A I would have to refer to the Crime Lab notes in
16 conjunction with this photograph.
- 17 Q So you can't tell from what item the blood was taken
18 just by looking at the photograph?
- 19 A I believe that it was taken from the typewriter.
- 20 Q That's what you testified yesterday?
- 21 A Yes.
- 22 Q And if you looked at that photograph, that would --
- 23 A I would feel that that came from the typewriter, but to
24 be absolutely sure, I would have to refer to the Crime
25 Lab report.
- 26 Q With respect to Exhibit H-71, a photograph with the

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1 black numbers, or black background, white number 34,
2 where does that indicate that the blood was taken from?

3 A Well, this indicates that it was taken from the area of
4 the nightstand located against the wall next to the bed
5 in the Ryen bedroom. The exact location, because this
6 photograph was taken before the blood was removed, I
7 cannot tell you.

8 Q Yesterday you testified when Mr. Kochis showed you that
9 photograph, did you not, that from that photograph you
10 could tell whether the blood was taken from the ceiling,
11 the wall or the carpet?

12 MR. KOCHIS: Excuse me. I believe that's a
13 misstatement of the evidence. My questions yesterday were
14 with the Crime Lab notes and the photographs, "Could you
15 tell whether it was from what room and what portion".

16 If he has the notes with the photographs, then he
17 can answer the question.

18 MR. NEGUS: If the Court would like to look at
19 page 2477, lines 13 through 22.

20 THE COURT: Read it, please.

21 MR. NEGUS: "Q And the number 34 also
22 corresponds to a sample of blood that
23 was collected by the Crime Lab from
24 that portion of the Ryen house; is
25 that not correct?

26 "A That's correct.

009071

3-3

1 "Q And from the photograph, you
2 can tell what room the blood was
3 collected?

4 "A Yes.

5 "Q Whether it was collected from
6 the ceiling, the wall or the rug?

7 "A Yes."

8 THE COURT: You did not mention the notes, apparently.

9 MR. NEGUS: I will reread that portion later, your
10 Honor.

11 Q (BY MR. NEGUS) The question was yesterday you testified,
12 did you not, that you could tell from that photograph
13 whether that came from the ceiling, the wall or the rug?

14 A This is not a photograph of the ceiling, not a photograph
15 of the rug. It's a photograph of the table, the lamp,
16 a radio, a clock, and the wall, the table and the lamp
17 all have blood on them. All objects have blood on them.

18 Q So then you were incorrect yesterday to say that you
19 could tell from that photograph which of those items
20 the blood came from; is that correct?

21 A I don't necessarily believe I'm incorrect.

22 Q Showing you page 2477 --

23 THE COURT: Counsel, as long as the record reflects
24 the discrepancy, you needn't get his assent to it.

25 MR. NEGUS: What I really was trying to do, your
26 Honor, was see whether he has an explanation.

00090072

3-4

1 THE COURT: I'm not stopping you. Go ahead, if
2 you wish. I just don't think it's necessary.

3 MR. NEGUS: It may not be the most appropriate thing
4 I have ever done.

5 Q (BY MR. NEGUS) Do you have an explanation for lines 13
6 through 22 on page 2477 as to why you answered that way?

7 A I believe I answered that way because that was the way
8 I understood the question.

9 Q So you understood the question that you were being asked
10 whether it was being collected from the ceiling, the
11 wall or the rug, you could tell from that photograph?

12 A Yes.

13 Q And you answered yes?

14 A Yes.

15 Q But you can't, is that correct?

16 A Only by a guess at this point.

17 Q When you were coming inside so that people could take
18 notes about the Sheriff's statement to the press that
19 he was going to release at his news conference down at
20 Peyton and English Road on June the 5th, did you all go
21 over that information to try and screen out any
22 information which, if released, might jeopardize the
23 investigation?

24 A I believe there was more concern about information that
25 might enhance the investigation, information we could
26 release that would locate the vehicle and all subjects

009073

3-5

- 1 in the vehicle and make the public aware of what had
2 gone on.
- 3 Q Yesterday I believe -- maybe my notes are mistaken on
4 this -- I believe that you indicated that you were
5 discussing what should be released to the press and what
6 should not?
- 7 A That's correct.
- 8 Q So it should not be stuff that you didn't want released
9 that would jeopardize the investigation?
- 10 A Certainly.
- 11 Q Anyway, the upshot of that conversation was to make sure
12 that when the Sheriff has his press conference, that the
13 information that he released was accurate and desirable
14 to be released; is that correct?
- 15 A As much as possible, yes.
- 16 Q So the Sheriff was briefed as thoroughly as you could on
17 the areas that we have been talking about so he would
18 know what to tell the press; is that correct?
- 19 A I have a problem with "as thoroughly as I could". I'm
20 not sure.
- 21 Q As thoroughly as practical under the circumstances?
- 22 A I hope so.
- 23 Q Well, the Sheriff's press conference was at about 8:30
24 that evening; is that correct?
- 25 A I do not know.
- 26 Q It was after dark?

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3-6

- 1 A I thought it was around midnight. I don't know.
- 2 Q At the approximate same time as you were discussing
- 3 what the Sheriff was going to say, did you also discuss
- 4 putting out over the radio a, I suppose, an all-points
- 5 bulletin, whatever they are called, describing the
- 6 vehicle that you were looking for and the suspects?
- 7 A No. That had previously been done.
- 8 Q When you first were arriving at the scene, you are aware,
- 9 are you not, that press monitor police radios?
- 10 A Yes.
- 11 Q And sometimes even criminals monitor police radios?
- 12 A Sometimes.
- 13 Q Did you put out an order over the radio within the first
- 14 hour to not discuss suspect information, that sort of
- 15 thing, over the radio?
- 16 A No. Not to discuss the names of the victims, I believe.
- 17 Q At approximately 7:57 in the evening, did the West End
- 18 dispatcher broadcast an all-points bulletin, or whatever
- 19 they call it, for the Ryen automobile?
- 20 A That would sound possible. I had 30-minute broadcasts,
- 21 every 30 minutes broadcasts made, I think, for a 24-hour
- 22 period through the Sheriff's Office central radio,
- 23 West End radio, the Highway Patrol, and I think Arizona
- 24 Highway Patrol and Nevada Highway Patrol.
- 25 Q Did those broadcasts indicate that the vehicle being
- 26 sought was a 1977 Buick station wagon and that you were

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3-7

1 looking for three white males that were driving it?

2 A I don't believe that broadcast came from the West End.

3 I believe that broadcast came from Central.

4 Q Was it also broadcast over the West End radio?

5 A Well, they have that capability, but West End is on one

6 channel and our Central radio is on another channel and

7 normally they don't bleed over each other to the cars.

8 Q Did you cause that broadcast to be broadcast from

9 Central?

10 A Yes.

11 Q You put out, then, at that point in time, a little before

12 8:00, that you were looking for three white male suspects?

13 A No. I caused a broadcast. Where they got the three

14 white males, I'm not sure. I don't believe that that was

15 ever broadcast or put out. By myself, I should say.

16 Q Who was giving the dispatchers the information as to

17 what to put out over the broadcast?

18 A I can only make an assumption.

19 Q Was that you?

20 A No, it was not me.

21 Q Did you assign somebody to that particular task?

22 A To give them that information?

23 Q Yes, to give the information.

24 A No, I did not assign anyone that task.

25 Q The various broadcasts that go out from the dispatcher,

26 are those recorded in any manner?

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3-8

- 1 A Yes.
- 2 Q How are they recorded?
- 3 A Some kind of tape system that runs 24 hours.
- 4 Q And it's possible to play back that 24-hour tape and
- 5 record it with regular little cassettes; is that correct?
- 6 A Yes.
- 7 Q And Mr. Woods of your office and Mrs. Johnson of my
- 8 office have been attempting to do that with respect to
- 9 the West End tapes for June 5th and June 6th over this
- 10 last week; is that correct?
- 11 A Yes.
- 12 Q On August the 8th, 1983, did I serve the Sheriff's
- 13 Department with a subpoena duces tecum requesting the
- 14 tapes of all the broadcasts that went out with respect
- 15 to the DR number of the Cooper case from June the 5th
- 16 to July 31, 1983?
- 17 A What date?
- 18 Q August the 8th.
- 19 A I know that you made a request, but I'm not sure of the
- 20 date. That sounds about right.
- 21 Q And the tape recordings of the broadcast that went out
- 22 from the West End have been preserved and are continuing
- 23 to be preserved; is that correct?
- 24 A That's correct.
- 25 Q Are the tape recordings of the broadcasts from the
- 26 Central dispatch available?

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3-9

1 A I don't believe they were ever available. Once you
2 made your request, I believe that they had already been
3 reused.

4 Q So by the early part of August, they had already been
5 reused?

6 A I believe they had.

7 Q What was the Sheriff's policy, if you know, about
8 preserving those tapes in Central? How quickly did they
9 get reused?

10 A I don't know what the policy is.

11 Q Who would be the person that is in charge?

12 A I have no idea.

13 Q Did Mr. Woods bring a tape of a conversation that he had
14 with Calvin Fisher to the Homicide Department?

15 A That's possible. I don't recall offhand.

16 Q In the Homicide Department, do you have a machine called
17 the Copy-ette where you can take a cassette and duplicate
18 it?

19 A I do recall now, yes, we do have, and he did bring the
20 Calvin Fisher tape in.

21 (No omissions.)

22

23

24

25

26

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1 Q On that particular machine there's a spot for an original
2 and a spot for a copy; is that correct?

3 A Yes.

4 Q And if you put an original with something on it on the
5 original spot and a blank tape on the copy spot, you
6 end up with two tapes with the same material that are
7 on the original; is that correct?

8 A That's correct.

9 Q If you put a blank tape in the original spot and the
10 tape with something on it in the copy spot, you end up
11 with two blank tapes; is that correct?

12 A That's correct.

13 Q Did that happen with respect to the tape with respect
14 to Calvin Fisher?

15 A Yes, it did.

16 Q When did that happen?

17 A That happened when I was running tapes, copying tapes
18 for you.

19 Q When you were attempting to interpret the bloodstain
20 pattern -- by the way, is there any tape left, any
21 tape recording still in existence of the conversation
22 that Mr. Woods had with Calvin Fisher?

23 A I don't believe tape recordings. There was a report
24 written, there was -- of the tape recordings that were
25 done that day, I think 10 or 15 of them, I think they
26 were each -- there were some tapes that contained more

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1 that one interview and I think --

2 Q Mr. Fisher's was on its own tape, right, and there
3 was only Mr. Fisher that that erased?

4 A I remember that one of them did get erased and that
5 Fisher's was there, and I believe that's the only
6 interview that was on there.

7 Q When you were interpreting the bloodstain patterns in
8 the Ryen master bedroom --

9 A Yes.

10 Q -- on June the 5th, were you and the people that were
11 consulting with you attempting to determine the number
12 of assailants that had been involved by interpreting
13 those patterns?

14 A Yes.

15 Q Were you able to do that?

16 A No.

17 Q In attempting to interpret the patterns, did that process
18 itself suggest items of evidence which were particularly
19 significant to be seized?

20 MR. KOCHIS: Objection, that calls for speculation
21 on anyone's part other than himself. He can't --

22 MR. NEGUS: I'll be glad to limit it to himself or
23 to people that were discussing that.

24 THE COURT: You can answer what it may have meant
25 to you, sir.

26 THE WITNESS: If I understand the question correctly,

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1 I think that we did seize those items by the use of a
2 photograph.

3 Q (BY MR. NEGUS:) Okay. A photograph will not distinguish
4 between different people as to the source of a bloodstain;
5 is that correct?

6 A Depending on the location of the person, the continued
7 sling pattern coming from a person, yes, it might.

8 Q Starting off here with one of the overall photographs,
9 H-51, can you tell which person any of the blood that's
10 depicted in that photograph came from just by looking
11 at the photograph?

12 A I can only make an assumption from this and from viewing
13 the room, and that's all I can make from that photograph.

14 Q Is there any amount of photographs that you have that
15 could tell you, for example, whose blood was in the
16 rather large complex of patterns that are above the
17 left side of the headboard of the bed?

18 A No, because I do not have a person lying near that
19 pattern. I only know who was lying near that pattern at
20 one time. It was a direct sling from that person to that
21 pattern. Again, I would have to make assumptions as to
22 that pattern.

23 Q There is some blood that may not be shown in that, but
24 it's directly pooled under Douglas Ryen in that photo-
25 graph. One can make a reasonable assumption that that
26 blood probably came from Douglas Ryen --

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1 A Sure.

2 Q -- without typing it; is that correct?

3 A Reasonable assumption, yes.

4 Q But to know, for example, the blood that's shown on
5 the sheet at the foot of the bed, there would be no way
6 that you could tell whose blood that would be without
7 some sort of typing; is that correct?

8 A That's correct.

9 Q And similarly, for the sheet -- for the blood on the
10 sheet on the side of the bed away from Douglas Ryen, there
11 would be no way you could tell that without typing it;
12 is that correct?

13 A And certainly an assumption as to who had been there.

14 Q Did you receive contradictory reports as to who slept
15 on which side of the bed in the Ryen master bedroom?

16 A No.

17 Q What reports did you receive?

18 MR. KOCHIS: Well, Your Honor, again I would object
19 as to its relevance depending on its point in time. If he
20 received reports in November or December, how is it relevant
21 as to his state of mind on the 5th or 6th of June?

22 MR. NEGUS: Relevant to the materiality of preserving
23 any evidence.

24 THE COURT: Overruled.

25 Q (BY MR. NEGUS:) What information did you receive?

26 A The only information I had was that Douglas Ryen slept

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1 on the side of the bed nearest his closet, nearest
2 where he was found, and that Peggy slept on the side of
3 the bed nearest the patio doors and nearest her closet
4 and her dresser.

5 Q So the particular pattern that would be on the wall that
6 we're talking about would be on the side of the bed that
7 Peggy Ryen slept on?

8 A Yes.

9 Q Would you then make the assumption that that might be
10 her blood?

11 A Yes, sir.

12 MR. KOCHIS: Your Honor, I'd move to strike the
13 last answer. It calls for speculation. That's all it is,
14 pure speculation.

15 THE COURT: It calls for opinion. He's a very
16 experienced investigator. It's a fine line sometimes,
17 Mr. Kochis. But it can remain. That's what he does for a
18 living. He's a detective.

19 Q (BY MR. NEGUS:) In interpreting blood patterns, you
20 have to be able to see the individual drops of blood
21 closely enough to determine their directionality; is
22 that correct?

23 A Somewhat.

24 Q As an example, showing you Photograph A-54 and asking you
25 to look at the portion of the east wall which appears
26 to have some specks on it which might be blood, can you

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1 determine the directionality of that blood from that
2 photograph?

3 A You said A-54. I believe this is H-54.

4 Q You're correct. I'm sorry.

5 A And from that photo, I cannot.

6 THE COURT: It seems like we're just opening up your
7 initial examination, Mr. Negus, far beyond Mr. Kochis's
8 questions.

9 MR. NEGUS: There's a few areas that I would request
10 to do just that --

11 MR. KOCHIS: Your Honor, it was my understanding
12 that yesterday I started my cross with the caveat that he had
13 not finished his direct.

14 THE COURT: Okay.

15 Q (BY MR. NEGUS:) Showing you again Photograph H-112, it
16 appears to be a close up of a portion of that east wall
17 that was shown in H-54; is that correct?

18 THE COURT: Is the east wall behind the bed?

19 MR. NEGUS: No, the east wall is the wall that has
20 the sliding glass door in it.

21 THE WITNESS: I'm not sure that's correct. Could I
22 use this?

23 Q (BY MR. NEGUS:) Certainly.

24 MR. NEGUS: The record should reflect that I've
25 handed Mr. Arthur a magnifying glass.

26 THE WITNESS: The way the photo's cropped, I wouldn't

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1 agree or disagree that those are the same objects. There's
2 a possibility they're the same objects. I don't see anything
3 that's a reference except a corner of a piece of furniture
4 on this photograph. I do not see the drops that I would
5 expect to see or that I see in this photograph. The angles
6 deceptive.

7 Q (BY MR. NEGUS:) I understand that problem. But let us
8 assume for the questions that I'm going to ask you that
9 in fact this Photograph H-112 does depict a portion of
10 the area up near the top of the dresser that's depicted
11 in H-54.

12 A Yes.

13 Q Is it possible to see many more drops of blood in the
14 H-112 photograph than it is in the larger one, that is,
15 the H-54 photograph; is that correct?

16 A Yes. This is a close up.

17 Q And you can see the directionality of the particular
18 drops in H-112?

19 A Yes.

20 Q You can't say the same thing for these drops, but those
21 drops to appear on H-54; is that correct?

22 A Yes.

23 Q Do similar close up photographs exist to your knowledge
24 for the areas of the eastern wall which are not
25 depicted in this photograph H-112?

26 A I believe they do.

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1 Q Do you have your photographs here in the form of --
2 indexed so that you could find them?

3 A Yes.

4 MR. NEGUS: Could Detective Arthur look at his own
5 photographs?

6 THE COURT: Why don't we take the recess at this
7 time. We'll take the morning recess.

8 (Recess.)

9 (No omissions.)
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1 THE COURT: You may proceed.

2 Q (BY MR. NEGUS) With respect to the photographs we were
3 talking about beforehand, this H-112 and H-54, we
4 determined that there wasn't any other -- you determined
5 over the break there were no closeups of that east wall
6 other than one and that is 112?

7 A That's correct.

8 Q With respect to the area of the north wall which is
9 depicted in photograph H-108, H-107, partly in H-104
10 and H-109, there appears to be small splatters of blood
11 on the wall and on the closet doors and around the
12 heater in various photos all over that wall; is that
13 correct?

14 A That's correct.

15 Q Have you seen any photographs other than those which I
16 have shown you and H-105 which depict that particular
17 area?

18 A Not that I'm aware of.

19 Q And the closet doors to that particular closet were not
20 seized and preserved; is that correct?

21 A I believe they were. We have a number of closet doors.
22 I don't remember those being left in the house. There
23 is a possibility they were, but I believe we have those
24 doors.

25 Q You don't know for sure?

26 A I'm not sure, no.

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5-2

1 Q And the photograph that shows the closest of the upper
2 area of that north wall and closet doors is photograph
3 H-109; is that correct?

4 A That's correct.

5 Q And that was taken at an unknown angle to the wall; is
6 that correct? It's not a perpendicular photograph?

7 A That's correct.

8 Q And if the angle that the photograph is taken at is not
9 directly right on, it's almost impossible, if not
10 impossible, is it not, to determine directionality of
11 blood splatter patterns from an oblique photograph?

12 A An oblique photograph helps, but it does not eliminate
13 it if there is not one.

14 Q I mean you cannot tell what direction those blood drops
15 hit that wall from an oblique photograph; is that correct?

16 A With the equipment I have here, I wouldn't be able to say.
17 But I wouldn't definitely say no at this point. If this
18 was looked at under a high-intensity, a comparator
19 instrument, I might well be able to see more than I
20 can see here.

21 Q But the problem is not the magnification that I'm getting
22 at, but the angle. And unless you have a photograph
23 that's perpendicular to the wall, you can't determine
24 the directionality; is that correct?

25 A No, that's not correct. It does not have to be
26 perpendicular all the time. This one, I think, would

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3 Q In order for it to do -- were it not perpendicular --
4 it takes complicated calculations; is that correct?
5 You have to know the angle the photograph was taken
6 from; is that correct?

7 | A Basically.

8 Q In other words, to do it if it's not perpendicular, you
9 have to know -- Was there any clothing on the bedding?
10 Was there any bedding on the coffee table in the living
11 room?

12 A Yes.

13 Q Did you determine whether or not anybody had been
14 sleeping in that bedding? Could you tell by looking
15 at it whether or not anybody had been sleeping in it?

16 | A No.

17 Q Do you have information that Peg Ryen sometimes slept
18 in the living room because of problems of sleeping?

19 | A | No.

20 Q Do you have information that she sometimes slept in the
21 family room?

22 A She sometimes slept in the trophy room which is the
23 round room, round couch in it.

24 Q When you were deciding --

25 By the way, that bedding in the living room, was
26 that seized?

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5-4

1 A I don't believe so.

2 Q When you were deciding to open up the living room, were
3 you able to rule out at that point in time that at the
4 time of the attack one of the three victims had been
5 sleeping in the living room?

6 A I believe so because I found nothing of an evidentiary
7 nature in that living room.

8 Q Were you able to determine that the bedding that was
9 on the coffee table had not been slept in by a victim
10 at the time of the attack?

11 A I found nothing of an evidentiary nature to indicate
12 that such as blood, cuts, smears, anything.

13 Q How closely did you examine that bedding?

14 A As close as I'm examining these photographs.

15 Q At what time did you do that?

16 A Prior to opening the room for the staff.

17 Q Mr. Clifford went back to Pittsburgh, Pennsylvania, from
18 June 10 through the 12th; is that correct?

19 A I believe June 9. I think he left the night of June 9
20 and arrived on June 10 in Pittsburgh.

21 Q He arrived in Pittsburgh the morning of June 10?

22 A Yes. And I don't know when he returned.

23 Q While he was back in Pittsburgh, did you ask him to
24 contact the Allegheny County Crime Lab, specifically a
25 criminalist who had done a workup on a rape case that
26 had occurred in October of 1982?

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5-5

- 1 A That was done. I don't remember whether it was while
2 he was there, when he returned, or if it was him that
3 did that.
- 4 Q Did you ask somebody to contact the Allegheny County
5 Crime Lab?
- 6 A I'm not sure whether I specifically asked them or that
7 was done.
- 8 Q That was for the purpose of determining the enzyme types
9 of Mr. Cooper, some of them?
- 10 A Yes.
- 11 Q Mr. Clifford was only sent back to Pittsburgh once, is
12 that correct, on this case?
- 13 A No.
- 14 Q Excuse me. He was sent back once in June and then
15 once in November to get Miss Williams?
- 16 A Yes.
- 17 Q By the time he went to get Miss Williams in November,
18 the information on Mr. Cooper's enzyme types from the
19 Allegheny Crime Lab had already been obtained; is that
20 correct?
- 21 A I don't know.
- 22 Q Mr. Kochis mentioned to you that there was an ax that
23 was, or a hatchet that was taken into custody by
24 Mr. Roper on June the 5th; is that correct?
- 25 A Yes.
- 26 Q And that ax appeared to have a substance of what looked

1 like blood on it; is that right?

2 A Yes.

3 Q Did you do anything to try and get samples of that blood
4 on Sunday to test it to see what kind of blood it was?

5 A Not on Sunday.

6 Q Why not?

7 A I wanted a fingerprint raised off of that as soon as
8 possible.

9 Q Did you do anything to determine whether -- Which method
10 of raising fingerprints did you want done?

11 A Whatever would work with raising those fingerprints.
12 That was more important than a blood sample.

13 Q When you examined the blood on the hatchet, were there
14 any fingerprints that you could see in the blood?

15 A I don't remember a distinct fingerprint, no.

16 Q No fingerprint impression whatsoever has ever been
17 raised from that hatchet; is that correct?

18 A No.

19 Q They haven't?

20 A Have not.

21 Q Isn't it a fact that any chemical means of developing
22 latent fingerprints, be it Dura-print, argon laser,
23 Ninhydrin, whatever chemical means that you use will
24 not develop fingerprints in areas that are covered by
25 blood?

26 A I don't know that.

3 A No.

8 A There is that possibility.

13 A Not that I'm aware of.

17 A Well, at that time, Rick Roper had recovered it. He
18 was the fingerprint expert that was to use the dura-print,
19 fingerprint powder, whatever it took to raise a
20 fingerprint. I don't know what background he had at
21 that time as to what chemical action may occur with
22 that blood as a result of literature he had read or
23 received. I had not, though I was aware of dura-print
24 fingerprint powder processes, I had never been aware,
25 nor am I aware now, that that prevents us from later
26 testing blood. I think in fact that's still in the

5-8

1 testing process to see if it does.

2 Q Well, then your answer would be it would have been
3 Mr. Roper's duty to give you that information or try
4 to figure that out?

5 A I don't think it would be a duty. I think that --
6 When I told him that I wanted that processed for
7 fingerprints, I'm sure that between he and either
8 Bellomy or Baird, who was also looking at it, I'm sure
9 that had any of those folks had an indication that we
10 would deliberately destroy evidence from a hatchet that
11 was obviously comingled with blood, I'm sure they would
12 have told me that, and I'm also sure that I would have
13 told them that I wanted the fingerprints, we had plenty
14 of blood.

15 (No omissions.)
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1 Q You didn't have the blood from that hatchet, did you?

2 A After reviewing the scene, I'm aware that you can't do a

3 lot with comingled blood. After reviewing the scene

4 I'm aware that that hatchet would have probably 99

5 percent probability had comingled blood on it, which

6 it did.

7 Q You don't know that it did.

8 A I felt it did at that time.

9 Q There's no evidence --

10 A Call it an educated guess or whatever.

11 Q It's your understanding, then, that comingled blood

12 is totally useless as far as typing is concerned?

13 A It's my understanding at that time that comingled blood

14 would not answer the question as to who the murderer

15 was. That's the question I wanted. I wanted his finger-

16 prints on that hatchet.

17 Q Didn't you first have to answer the question whether

18 the hatchet was the murder weapon?

19 A I don't believe so. I feel it was. I still feel it is.

20 Q But you destroyed the blood evidence that could have

21 answered that question.

22 A I don't believe I destroyed any evidence on that at all.

23 Q Mr. Baird and Mr. Bellomy don't do serology; is that

24 correct?

25 A I'm not sure what Bellomy's background is. He is a prior

26 criminalist.

- 1 Q His specialty and what he's lectured in and what he's
2 well known in is documents; is that correct?
- 3 A That's correct.
- 4 Q To your knowledge he's never done serology?
- 5 A I don't know.
- 6 Q You don't know that he has, right?
- 7 A I don't know whether he has or hasn't.
- 8 Q And Mr. Baird doesn't do serology; is that correct?
- 9 A That's correct.
- 10 Q Did you try and consult with --
- 11 A Pardon me. I don't know Mr. Baird's status, whether he
12 has done in the past or is just aware of serology.
13 I don't know about either of those men.
- 14 Q You didn't consult with any serologists, though, anybody
15 in the crime lab who had expertise?
- 16 A No, I did not.
- 17 Q Were you consulted before the Ryen residence was sprayed
18 with luminol?
- 19 A Yes.
- 20 Q By whom?
- 21 A I don't recall. It may have been Swanlund.
- 22 Q And were you the person that decided to go ahead and
23 spray the place with luminol?
- 24 A I don't think so. I think I was told that it was
25 available, that we could use it, our lab had the
26 chemical, and I said absolutely, let's go for it.

009096

25 A. I'm sure there's been testing done by laboratories that
26 designed the technique to start with, and that there's

009097

1 been pamphlets and brochures read or passed out and
2 read. But the things that you're asking is a real
3 iffy situation. Certainly had I known certain things
4 that had happened, certain things would have been
5 deleted, omitted, or done differently had I had the
6 insight that you now have or that I now have as a result
7 of this case. I'd have done things somewhat differently.

8 Q What I'm asking you, then, is are there any -- are there
9 just no procedures in the sheriff's department to give
10 you that information before you do it rather than when
11 some Defense lawyer asks you about it in court?

12 A There are procedures that the people that deal with the
13 equipment follow. To my knowledge they found something
14 out that the lab had not found out that did the testing,
15 the original testing.

16 Q But you don't have -- like for example if you're dealing
17 with blood, you don't have any procedures where you
18 consult a serologist before you do it or if you're dealing
19 with different --

20 A I don't think even in this case had we consulted a
21 serologist as you're indicating that even a serologist
22 would have given us all the answers that we now have,
23 because they have found additional steps to take as a
24 result of their testing in this case.

25 Q Yesterday you indicated that you had a conference before
26 you opened up the living room. At the Preliminary Hearing

0090908

1 did you testify that you consulted with Mr. Baird before
2 you opened up the living room?

3 A I believe that's correct.

4 Q By the time that you were getting around to opening up
5 the living room, Mr. Baird wasn't even there; is that
6 true?

7 A No, I don't believe that's so at all. I believe I had
8 a conference with Baird, Hall, Clifford, Stockwell,
9 Bellomy, anybody that was there in the residence or
10 around the residence, certainly Duffy, in regards to that
11 living room being processed. I had viewed the living
12 room, I was satisfied there was nothing there, and I
13 made the decision to open it based on information I had
14 received and seen.

15 Q At the Preliminary Hearing, did you testify that you
16 felt that it was the duty of Deputy Beltz and Detective
17 Hall to make a careful record of who went in and out
18 of the crime scene?

19 A Yes.

20 Q Do you still feel that?

21 A Yes. However, I don't see a great need. At a certain
22 period of time, I don't see a great need in continuing
23 that process.

24 Q That was the point in time after -- before you let --
25 the time that you let the brass into the living room?

26 A Around that point in time.

00090999

1 Q When you testified at the Preliminary Hearing, do you
2 remember saying -- and I'm on Page 58 of Volume 14 --
3 that "it would have been nice if maybe I had remembered
4 what I'd been taught or maybe what somebody else had
5 been taught," and that "say, hey, if we do this, we can
6 do this," and saying that statement in the context of
7 freezing serological evidence?

8 A Yes.

9 Q You had been taught in the past prior to June that you
10 had to freeze it but then you had forgotten it?

11 A I might possibly have heard that.

12 Q So August wasn't the first time that you actually had
13 heard that?

14 A August was the first time it became very apparent to me.

15 Q That was just because it hadn't been done; is that right?

16 A No, it's not that it hadn't been done, but it became
17 apparent that that was the only way that you could do
18 that. And I found out at that time it has to be a
19 certain centigrade below zero and that normal freezers
20 won't do it.

21 Q On June the 23rd you determined, did you not, that the
22 Ryen residence was no longer needed as a crime scene?

23 A I believe that was the date, yes.

24 Q And you gave the keys of the locks that had been changed
25 to the house to Dr. Howell?

26 A Yes.

009100

1 Q On June 30th, you decided that your original decision
2 was incorrect; is that true?

3 A I believe so.

4 Q And you went back and tried to get more evidence?

5 A That's correct.

6 Q What made you think that your original decision was
7 incorrect?

8 A The request of the crime lab to do additional testing.

9 MR. NEGUS: Nothing further.

10

11 RECROSS EXAMINATION

12 BY MR. KOCHIS:

13 Q Sergeant Arthur, when you saw the hatchet on Sunday,
14 June the 6th, was that after you'd seen the bodies inside
15 the crime scene?

16 A Yes, it was.

17 Q And in your opinion did each of the victims have wounds
18 that were consistent with being administered by the
19 hatchet that you saw?

20 A Yes, they did.

21 Q When you saw the hatchet, did it have a substance on it
22 that appeared to you to be blood?

23 A Yes.

24 Q Were you of the opinion at that time that the hatchet
25 was the murder weapon?

26 A Yes.

009101

3 | A. I did.

7 | A. Absolutely.

10 | A. Absolutely.

14 A Well, he already had the hatchet, but I directed him to
15 keep it to do that, yes.

16 (No omissions.)

17

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009102

7-1

- 1 Q Mr. Fisher's interview by Detective Woods, was a
2 report written of that interview?
- 3 A Yes, it was.
- 4 Q Is that report still available?
- 5 A Yes, it is.
- 6 Q Were you one of the people who made copies of the
7 interviews for Mr. Negus?
- 8 A Yes.
- 9 Q Was the Fisher interview the only interview you attempted
10 to tape record?
- 11 A No. You mean to copy?
- 12 Q To copy. I'm sorry.
- 13 A No, it was not.
- 14 Q How many interviews did you copy for Mr. Negus, if you
15 can estimate? And specifically directing your attention
16 to hospital personnel at Loma Linda.
- 17 A A rough guess, 20 to 25.
- 18 Q Of those, were any of the interviews erased?
- 19 A Only the Fisher interview.
- 20 Q Why did you erase the Fisher interview?
- 21 A It was an oversight. I had other things to do and I
22 plugged it into the wrong side.
- 23 Q Was it your intention to erase anything?
- 24 A No.
- 25 Q Was it your intention to erase the tape recorded copy of
26 Mr. Fisher's statement?

0009103

7-2

1 A No.

2 Q Directing your attention to a series of questions and
3 answers that were posed to you by Mr. Negus on Monday,
4 December the 5th of 1983, which are contained in
5 Volume 14, on page 58, starting at line 17, continuing
6 through line 26, do you recall being asked, "You say
7 you remembered what you'd been taught. You mean you'd
8 been taught about freezing serological evidence somewhere
9 in the past, but you'd forgotten it?"

10 Do you recall being asked that question?

11 A Yes.

12 Q And do you remember your answer, "I am aware that those
13 samples have to be frozen for preservation. Yet those
14 are the samples that are taken in the purple-top bottles,
15 the EDTA samples?"

16 A Yes.

17 Q Do you recall Mr. Negus next asking you, "Well, what
18 about dry blood? Are you aware that that has to be
19 frozen?" Do you recall that question?

20 A Yes.

21 Q Do you recall your answer, "I wasn't aware of that"?

22 A Yes.

23 Q Do you recall Mr. Negus' next question, "And you learned
24 that sometime in August?" Do you recall that?

25 A Yes.

26 Q Then on page 59, line 1, did you answer, "Yes"?

0009104

2 | MR. KOCHIS: I have nothing further, your Honor.

5 BY MR. NEGUS:

9 A I think with the technology that we had on June the 5th
10 that I was aware that we were able to raise fingerprints
11 on almost everything anymore using certain techniques.

14 A You may not have to raise it if it were in butter. It
15 depends on the state of the butter and whether or not
16 you could photograph it.

19 | A I believe that's correct.

21 | A Yes.

23 MR. KOCHIS: Nothing further.

25 (Witness excused.)

26 MR. NEGUS: Mr. Clifford.

009105

7-4

1 J O H N T. C L I F F O R D, called as a witness
2 by and on behalf of the defendant, was duly sworn,
3 examined and testified as follows:

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

8 THE WITNESS: I do.

9 THE CLERK: Please be seated.

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

12 THE WITNESS: John T. Clifford, C-l-i-f-f-o-r-d.

13

14

DIRECT EXAMINATION

15 BY MR. NEGUS:

16 Q Mr. Clifford, what is your occupation?

17 A I'm employed as a Deputy Sheriff for the County of
18 San Bernardino.

19 Q What was your assignment in that capacity in June of
20 1983?

21 A I was assigned as a detective to the Central Detective
22 Division, Homicide Detail.

23 Q On that date, June 5, 1983, did you go to 2943 English
24 Road?

25 A Yes, I did.

26 Q What time did you arrive?

009106

7-5

- 1 A Sometime after 2:00 in the afternoon.
- 2 Q How many people were at the scene when you arrived?
- 3 A The immediate scene or the surrounding scene?
- 4 Q Well, what is the difference between the immediate scene
5 and the surrounding scene?
- 6 A Well, I was stopped at a roadblock at the location of
7 Peyton Road and English Road, and again I was stopped
8 at the bottom of the hill leading to the Ryen residence
9 and again at the end of the driveway in front of the
10 Ryen residence.
- 11 Q Showing you S-25, does that indicate to you two of the
12 places that you were stopped as you came in?
- 13 A There was one that's not even on here. A second location
14 was at the bottom of the palm trees. A third location
15 was in this area.
- 16 Q Taking a green pencil, could you put a "2" and "3" for
17 the two locations on that photograph?
- 18 A Yes.
- 19 Q Taking from "3" on up to the Ryen residence, how many
20 people were in that particular area?
- 21 A I could only guess at this time about seven or eight
22 people standing to the east side and to the rear of the
23 house.
- 24 Q When you say "the rear", you are talking about where the
25 spa is?
- 26 A That's correct.

009107

2 A Other than Sergeant Arthur and Detective Hall, an I.D.
3 technician, which I can't even recall the name of right
4 now, I have no idea as far as names.

8 | A It may have been Duffy.

10 A Yes, there was.

13 | A Two, I believe.

15 | A I believe they were.

17 A There was a briefing going on. After Detective O'Campo
18 and I arrived, we were briefed of the situation. There
19 was already work going on when I arrived.

21 A Detective Hall and the I.D. technician were already
22 inside photographing.

25 A I made a radio broadcast that I was 97 at the location.

26 Q What were your call numbers at that point in time?

009108

7-7

- 1 A 20 David 2. 20 Henry 2.
- 2 Q 20 stands for specialized detectives?
- 3 A That's correct.
- 4 Q And Henry stands for Homicide?
- 5 A Homicide.
- 6 Q And 2 was the particular car that you had?
- 7 A 2 was the number that was designated to me.
- 8 Q And you did that at the time that you left your homicide
9 car; is that correct?
- 10 A Yes, I did.
- 11 There were also several requests for directions on
12 how to arrive at the location.
- 13 Q But the Code 97 would have been on the broadcast at
14 the time of your actual arrival?
- 15 A That's correct.
- 16 Q When you were briefed, was that by Sergeant Arthur?
- 17 A Yes, it was.
- 18 Q At that point in time, were you given a particular
19 assignment?
- 20 A Yes, I was.
- 21 Q What was that?
- 22 A To go with Detective O'Campo to the Blade residence in
23 the Los Serranos area and conduct an interview with the
24 Blade family.
- 25 Q That took place at approximately 5:00 at night; is that
26 right?

009109

7-8

1 A I'm not sure.

2 Q Do you have your report with you?

3 A Yes, I do. I did not write the interview. I was
4 present when it was done.

5 Q You don't have Mr. O'Campo's?

6 A No, I don't. I know it was still in the daylight hours
7 before evening.

8 Q Showing you a copy of Detective O'Campo's report
9 indicating that at about 4:45 you and he made contact
10 with the Blades, does that refresh your recollection?

11 A That's about the approximate time.

12 Q Do you recall what you were doing in the interim between
13 the time of your arrival and the time that you went to
14 the Blade residence?

15 A Prior to that, I contacted two other people in the
16 immediate area and conducted interviews with two other
17 subjects. They stated they either lived in that area
18 or were in the area for business.

19 Q At some point in time, were you assigned to enter the
20 residence and to assist Mr. Hall?

21 A After returning back from the Blade residence, yes, I
22 was.

23 Q Was Mr. O'Campo assigned the same task at the same time?

24 A I was assigned additional tasks.

25 Q When you entered the residence, was that the first
26 time that you had gone in?

0009110

7-9

1 A The first time I went through the entire residence. I
2 was walked around the residence. I was shown the scene
3 from the sliding door. I was also shown some footprints
4 outside of the sliding door. I was shown the perimeter
5 of the residence, the stables, the garage, the driveway,
6 the vehicles, to familiarize myself with what was
7 going on.

8 Q That was when you first arrived?

9 A That's correct.

10 Q Then when you went in after the Blade interview, you
11 actually walked all the way through the house and
12 observed?

13 A I remained in there for several hours.

14 Q When you went in after the Blade interview, how many
15 people were in the master bedroom?

16 A Mike Hall was there, two criminalists and an I.D.
17 technician.

18 Q Mr. Duffy still?

19 A I believe it was Mr. Duffy.

20 Q Was there anybody there from the Coroner's Office?

21 A Not at the time I arrived there, no. He arrived later.

22 Q Did you happen to go in the living room area at that
23 point in time?

24 A During the course of the investigation, yes, I did.

25 Q When you first came back from the Blade interview?

26 A I don't believe right away, but I did go into it

009111

2 Q When you went into it, were there people from the
3 Bureau of Administration, Captain Myers, Lieutenant
4 Bradford, Deputy Chief Majors, in the living room?

6 Q Did you see those people when you arrived back from the
7 Blade interview?

9 Q What tasks were you assigned to do in the master bedroom?

17 Q Did you do the locations of the bodies first? Was that
18 the first task that you started out doing?

20	Q	Sure.
----	---	-------

23 THE WITNESS: I believe the one I did first was
24 just the major floor plan working from the outside in.

25 Q (BY MR. NEGUS) Showing you Exhibit H-220, is that a
26 Xerox copy of the floor plan that you did?

009112

7-11

1 A Yes, it is.

2 Q And that's not to scale; is that correct?

3 A No, it's not.

4 Q But it does accurately reflect the relationships in
5 space of the various rooms to each other?

6 A Yes, it does.

7 Q When you were doing the diagrams, were you actually
8 collecting any physical evidence at that point in time?

9 A When I was doing the diagrams, no. I was concerned
10 with working from the outside in without -- keeping the
11 traffic to a minimum in the area of the scene, working
12 around and then working in.

13 At that point, I took only measurements.

14 (No omissions.)

15

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0009113

1 Q After you finished the diagram, the original of which
2 was H-220 there, did you then proceed to do the diagrams
3 of the positions of the various victims?

4 A Yes, I did.

5 Q And showing you Exhibit H-218, 217, and 215, are those
6 the diagrams that you did showing the location of the
7 various victims with respect to fixed points within the
8 room?

9 A Yes, they are.

10 Q How long did that particular -- do you remember
11 approximately when you finished that particular task?

12 A No, I didn't. This did take a period of time to do this,
13 because as we were doing the measurements here we were
14 taking measurements of the size of the room and the
15 locations of the different furniture. Detective Hall
16 was taking one end of the tape and I was taking the
17 other end and we were just taking measurements without
18 moving or tampering with anything.

19 Q So did Detective Hall prepare a diagram based on those
20 measurements?

21 A He prepared two diagrams that I'm aware of; one of the
22 master bedroom, the dimensions of one showing furniture
23 in the inside.

24 Q And the measurements that you took were eventually
25 preserved through those diagrams; is that correct?

26 A Yes, they were.

009114

- 1 Q While you were taking measurements, were the crime lab
2 people actually seizing evidence?
- 3 A Yes, they were. I could observe them as they were also
4 in the room and they were collecting various points
5 of evidence and photographs were being taken.
- 6 Q Did you and Mr. Hall like make measurements of each
7 individual item of evidence that the crime lab people
8 took prior to them seizing it?
- 9 A I did not do that. Again, I was only doing what I was
10 requested by Detective Hall. He had already taken a lot
11 of measurements and categorized evidence prior to my
12 arrival. He had been there for several hours.
- 13 Q So then you were essentially doing what he told you at
14 that point in time?
- 15 A That's correct. I was doing what he had not gotten
16 completed. I was only assisting him.
- 17 Q But at that point in time you were not in the process
18 of measuring stuff before the crime lab people picked
19 it up?
- 20 A No, I was not.
- 21 Q At some point in time did the coroner and the pathologist,
22 Dr. Root, arrive?
- 23 A Yes, they did.
- 24 Q Was that before or after or during the time that you
25 were doing your diagrams of the --
- 26 A This was later.

009115

1 Q At that point in time, what were you doing when they
2 arrived?

3 A I believe when the coroner arrived ^{and} at the pathologist,
4 I was describing the different injuries on the bodies.
5 And with the pathologist and coroner, the bodies were
6 being turned and different injuries were observed and
7 then noted.

8 Q So were you doing that by writing it down in your spiral
9 pad or did you have a tape recorder or do you remember?

10 A Spiral pad, I believe.

11 Q And so you then prepared a report that was at least a
12 summary category of the injuries that were visible
13 without doing an autopsy; is that correct?

14 A That's correct.

15 Q And that was done with the help of Dr. Root and Mr.
16 Hammock?

17 A A lot of this was done prior to their arrival, what I
18 could observe, and later the bodies were moved once the
19 coroner arrived and Dr. Root. Prior to their arrival
20 we did not touch the bodies, move them in any way.

21 Q So you were just -- prior to their arrival you were
22 just noting what you could see without touching them?

23 A That's correct.

24 Q After Dr. Root and Mr. Hammock arrived, did some people
25 from a body service arrive; that is, the people that
26 transport bodies?

009116

- 1 A Yes, they did.
- 2 Q Do you remember approximately what time that was?
- 3 A Late in the evening, close to midnight or shortly after
- 4 midnight.
- 5 Q When they arrived, how did they go about removing the
- 6 bodies from the room?
- 7 A They unpackaged plastic body bags, the body bags were
- 8 laid down beside the body, they were unzipped, they were
- 9 opened, the bodies were picked up, set straight into the
- 10 body bags, zipped. The body bag was then picked straight
- 11 up, placed onto a gurney, strapped down, and placed into
- 12 the vehicle.
- 13 Q And that process took place for each of the four victims
- 14 that were in the room?
- 15 A Yes, they did.
- 16 Q How many people were engaged in that particular work?
- 17 A Two.
- 18 Q They were both just people from the body service?
- 19 A That's correct.
- 20 Q Was there anybody there supervising, I mean watching
- 21 them or making --
- 22 A Supervising their removal.
- 23 Q Yes.
- 24 A It was the coroner's responsibility, was Mr. Hammock.
- 25 Q Was there anybody from homicide that was involved in
- 26 that process?

009117

1 A Detective Hall and myself were both there when it was
2 being done.

3 Q Were you doing something else or were you just --

4 A I was making sure that when the bodies were lifted up
5 they were lifted straight up and that there was no
6 evidence beneath the bodies. It was the first time we
7 had an opportunity to look underneath, on the floor, and
8 on the back of the bodies.

9 Q Were the crime lab people there as well? Were they
10 taking any evidence off of the bodies as they were being
11 moved?

12 A There was no evidence being taken off the bodies at that
13 time. They were present. Mr. Duffy was there taking
14 photographs as the bodies were being picked up and
15 photographing underneath the bodies.

16 Q Were there any items like hair, other items, that were
17 on the bodies as they were being moved?

18 A There may have been. There was no in depth examination
19 made on the bodies because of the location they were in.
20 It was a contaminated area as far as they were laying
21 on a carpet. The lighting was poor. And it was just
22 not an ideal location to do that type of an examination.

23 Q Did they have flood lights in the room?

24 A Yes, there was.

25 Q How many?

26 A There were several small lights, high intensity lights

009118

1 on stands that were placed there by Mr. Duffy. Two that
2 I recall. There may have been more.

3 Q How long did that whole process of removing the bodies
4 take?

5 A Detective Hall was noting the time that each one was
6 removed and the order they were taken. As a guess at
7 this time, I would -- 30 to 45 minutes.

8 MR. NEGUS: If you want, I could just stop here
9 and that way I can get my photographs in order.

10 THE COURT: I need to make some phone calls before
11 noon, so we'll break now. It's shortly before 12:00 o'clock.
12 We'll resume at 1:30. Something else?

13 MR. NEGUS: I was just wondering about the witness
14 scheduling for this afternoon. I would expect Mr. Clifford
15 to be here until probably 3:30 or 4:00. Do you want me to
16 have somebody else on schedule in this case? We --

17 THE COURT: That's close enough. I'll have a lot of
18 files. Today's Thursday, isn't it? That's close enough.

19 MR. NEGUS: Then I'll tell my next witness I'll
20 call him next week.

21 THE COURT: All right.

22 (Whereupon the noon recess was taken
23 at 11:52 a.m.)
24
25
26

009119

9-1

1 SAN BERNARDINO, CALIFORNIA, THURSDAY, MAY 31, 1984

2 1:30 O'CLOCK P.M.

3 DEPARTMENT NO. 10

HON. RICHARD C. GARNER, JUDGE

4
5 (Appearances as heretofore noted.)

6
7 (Whereupon the witness, John T. Clifford,
8 resumed the witness stand.)

9 THE COURT: Deputy Clifford, you are still under
10 oath.

11
12 DIRECT EXAMINATION RESUMED

13 BY MR. NEGUS:

14 Q When the body people were moving the bodies, did they
15 bring a gurney inside the house?

16 A Best I recall, they were using the portable stretcher
17 or gurney that was hand-carried.

18 Q Was there any particular area that had been cleared prior
19 to their bringing that thing in?

20 A There was some evidence collected. Nothing that was
21 just hand-carried in. It was the folding type. It
22 was assembled and there were no wheels or anything of
23 that nature.

24 Q Let me just get some orientation here.

25 We have got H-113, H-112, H-133, H-134, and H-121,
26 which, all told, show the different positions of the

0009120

9-2

1 different bodies.

2 Do you remember where in the room that the gurney
3 arrangement was placed down?

4 A I couldn't be positive. No, I do not.

5 Q Did they put it down a different time each time they
6 moved a person out?

7 A Again, I could not be positive because I did not --
8 Again, Detective Hall was noting the time that each
9 one was removed and I was not concerned about that
10 particular phase of it. I couldn't be positive.

11 Q Okay. After the bodies were removed, did you do any
12 other processing of the house that night?

13 A Yes, I did.

14 Q What was that?

15 A We searched the residence for valuables or anything that
16 was obviously missing. We attempted to locate Mr. Ryen's
17 wallet, credit cards, and basically conducted a search
18 of all the drawers and closets of the residence.

19 Q So at that point in time, you were not really concerned
20 with measuring and collecting evidence anymore but were
21 just going through the furniture and clothing and that
22 sort of thing?

23 A That's correct.

24 Q The next day, Monday, June the 6th, were you given an
25 assignment with respect to the Ryen house?

26 A Yes, I was.

00091121

9-3

1 Q What was that assignment?

2 A To obtain a search warrant to go back to the residence
3 to examine and obtain additional evidence if any was
4 located, to reinvestigate in the daylight hours where
5 there are better conditions to do a better search.

6 Q Now, were you instructed when you got the search warrant
7 or anytime that morning as to what you were supposed to
8 go back and take?

9 A There was an additional discussion of some items and
10 some items were listed and other items were just left
11 to my discretion.

12 Q Which items were specifically decided that you would
13 take?

14 A Mainly the master bedroom.

15 Q When you say --

16 A The furniture.

17 Q All the stuff in the master bedroom?

18 A That's correct. After the photographing and the
19 criminalists finished their work, we were to remove the
20 furniture and place it into evidence.

21 Q When you left the night before, had the criminalists
22 finished their work?

23 A They had finished, but they also returned back when I
24 was doing the search warrant to assist and there were
25 more samples and photographs taken at the time the
26 search warrant was being served.

00061-22

9-4

- 1 Q That would be on Monday afternoon, essentially?
- 2 A That's correct.
- 3 Q Did the same criminalists return back the next day?
- 4 A I believe it was. I know again it was two. I think it
- 5 was. I'm not positive.
- 6 Q Do you know where the criminalists took the samples from?
- 7 Was anybody sitting there measuring that for them at the
- 8 time?
- 9 A No, I don't, because, again, I was in and out of the
- 10 house supervising different things.
- 11 Q You were not concerned with the measuring task?
- 12 A Not as the criminalists were doing their work. I'm
- 13 aware that they take their own notes and take their own
- 14 diagrams. At other crime scenes that I have been involved
- 15 in, even though I do a diagram and measurements, they
- 16 again duplicate it and do their own.
- 17 Q Were you the homicide person in charge at that point in
- 18 time?
- 19 A Yes, I was in charge of the search warrant.
- 20 Q Based on your past experience, you believed that the
- 21 Crime Lab would take their own measurements?
- 22 A I had seen them on past occasions take their own
- 23 measurements, yes. Every time that I've seen them
- 24 collect evidence, they take their own notes and their
- 25 own measurements.
- 26 Q Was there anything formally done on Monday to ensure that

0009127

9-5

1 that occurred or was that just practice?

2 A Well, again, I saw the criminalists packaging evidence
3 and taking notes, and the items being photographed
4 before they picked them up.

5 Q Do you recall what items were being packaged by the
6 criminalists?

7 A No, I do not.

8 Q Did you decide to take some items other than the
9 furniture and carpet in the master bedroom when you
10 went back with the search warrant?

11 A It was after the furniture was moved we did take the
12 doors and part of a wall.

13 Q In this series of photographs that we have sitting here,
14 do the doors that you took appear?

15 A Again, at this point, I couldn't be positive which
16 doors. I believe the one leading into the hallway and
17 there were some of the closet doors taken.

18 Q You don't remember which ones?

19 A No, I don't.

20 Q Did you make any notes or records of that when you did
21 it?

22 A No, I did not. The removal was handled by
23 Sergeant Swanlund and members of his team. I went in
24 and instructed them which items we wanted removed and
25 he handled the removing, packaging and transporting of
26 those items.

0009124

9-6

- 1 Q You don't recall which ones you pointed out?
- 2 A No, I do not. I believe the decision to take additional
3 doors was made by him or someone else out of my presence.
- 4 Q You didn't request that?
- 5 A No, I did not.
- 6 Q What did you request that Sergeant Swanlund take?
- 7 A The furniture, the carpeting and the wall where the
8 headboard of the master bed was located.
- 9 Q What time did you arrive back at the residence with the
10 search warrant on the 6th, Monday?
- 11 A Can I check my notes?
- 12 Q Sure.
- 13 A 4:15 in the afternoon on June the 6th.
- 14 Q Prior to that, then, had you been to the residence on
15 that day?
- 16 A I believe I was to the residence to obtain additional
17 descriptions as to the color of the outbuildings to
18 obtain the search warrant. But not inside of it.
- 19 Q You came by in the morning while you were preparing
20 your affidavit?
- 21 A I believe I did.
- 22 Q But basically when you were back to take the stuff, it
23 was 4:15 in the afternoon?
- 24 A That's correct.
- 25 Q At that point in time, had the work of taking apart the
26 bedroom begun?

0009125

9-7

- 1 A No, it had not.
- 2 Q So everything was still intact, carpets on the floor,
3 wall on the wall and furniture in place?
- 4 A That's correct.
- 5 Q Had a decision been made at that point in time as to
6 what to do with the stuff once it was seized?
- 7 A Yes, it had been.
- 8 Q By whom?
- 9 A I was unaware of who made that decision. I was told
10 by my supervisor where to take it.
- 11 Q That would be Mr. Arthur?
- 12 A That's correct.
- 13 Q Where did he tell you to take it?
- 14 A To the evidence locker in San Bernardino.
- 15 Q Were you the person that was responsible for preparing
16 the return to the warrant?
- 17 A I believe I was.
- 18 Q And the actual items that were taken on that particular
19 day, June the 6th, did you include those in your return?
- 20 A I believe I did.
- 21 Q You want to check your notes?
- 22 A I have it listed.
- 23 Q Is that particular list the actual items that you took
24 that day?
- 25 A Yes, it is.
- 26 MR. NEGUS: Could I get a document copied?

0099126

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009127

2 A That was never expressed to me in any way.

4 A No, I did not. They were present. They made no
5 objections when the items were taken. When they backed
6 away from an area, we would move in and load the items
7 up, and there was no vocal objection or any statement
8 made by anyone.

11 Q But you hadn't been there earlier in the afternoon --

14 A No, I did not.

17 A Back to this residence?

19 A He came through at a later time that I can recall. He
20 may have been there earlier, but the only recollection
21 I have that he was there later after property was being
22 removed.

25 A No, it was never mentioned by anyone. Again, the only
26 time I ever heard objection being used was by you.

009128

9-10

1 There was never an objection voiced by anyone or even
2 discussed.

3 (No omissions.)
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0099129

1 Q When the items were removed, was the bed taken out first?

2 A First?

3 Q Was that the first piece of furniture to be removed?

4 A I don't believe it was.

5 Q What was?

6 A I couldn't tell in what order they were taken out.

7 The items were taken out, set outside, and then loaded
8 onto a truck. There was no list of the order they were
9 taken in. Generally speaking, they were taken the
10 closest to the sliding door, the furniture was removed
11 off of the carpet, items closest to the door was taken
12 out first and then worked around and the carpet was taken
13 up last. The doors would have been the very last items,
14 the wall the next to the last item.

15 Q The wall was taken out before the carpet was completely
16 removed, was it not?

17 A The carpet was folded and rolled up prior to the wall
18 being removed. The floor was completely bare before
19 there was any cuts done on the wall.

20 Q Let me show you --

21 A This photograph indicates the carpet folded up and away
22 from the wall with the wall still intact.

23 Q Showing you Photograph H-66.

24 A The carpeting again is pulled up and folded away from
25 the wall.

26 Q But it hasn't been removed from the wall; is that correct?

- 1 A That's correct.
- 2 Q And there's various debris scattered around on the back
3 of the carpet?
- 4 A On the pad. I don't believe there's debris on the
5 carpet.
- 6 Q Showing you Photograph H-124, it shows Mr. Ogino and
7 somebody else standing in the master bedroom. Do you
8 recall various wires and things like that being used in
9 the process of cutting out the wall?
- 10 A There was extension cords used. We had to turn off the
11 electricity on that wall because of the wires running
12 through it.
- 13 Q On Photograph H-65, there appears to be a large spot on
14 the backside of the carpet. Do you recall seeing that
15 large stain on the carpet?
- 16 A That would have been the carpet around and beneath Mr.
17 Ryen.
- 18 Q There appears to be appears to be a lighter color to
19 the stain around the outside and a darker, shinier
20 color towards the inside. Did that correspond to areas,
21 parts of the carpet which had partially dried as opposed
22 to those which were still soggy?
- 23 A And also which was heavier blood and which was lighter
24 blood.
- 25 Q Was the carpet at the time that this photograph was taken,
26 H-65, was the carpet still wet?

009131

1 A Underneath it was where the air had not gotten to it.
2 It was drying on top on the shag portion of the carpet.
3 When it was pulled up underneath where the padding was
4 where air was not permitted to get to it, it was still --
5 may have been wet to the touch.

6 Q Was there anything done to dry that carpet before it
7 was transported?

8 A No, it was not.

9 Q Once the items reached their destination at identification,
10 did you go down and check them there?

11 A I did not transport the items and I did not go into the
12 storage locker.

13 Q Have you ever been back there since?

14 A No, I have not seen the items since they left that
15 bedroom.

16 Q Showing you H-92, does that show the area where
17 Christopher and Peggy Ryen were lying shown after the
18 carpets were removed?

19 A Yes, it does.

20 Q And there looks again to be some areas where some looked
21 dry, some looked not dry on the spots underneath where
22 Peggy Ryen and Christopher Hughes were; is that correct?

23 A The heavier spots, the dark spots where were the heavier
24 concentration was at.

25 Q Were those areas of the carpet likewise wet; that is,
26 the back part of the carpet?

00009-1-77

- 1 A It may have been moist.
- 2 Q Again, there was nothing done to try and dry that?
- 3 A The carpet on the shag portion of the carpet was dry
- 4 to the touch, and that's the area that was folded over.
- 5 Q Getting back to the --
- 6 A The bottom portion of the carpet would not have had any
- 7 evidence because it was underneath.
- 8 Q I understand. But this yellow part of the carpet that's
- 9 shown in this Photograph H-65 --
- 10 A That's the backing.
- 11 Q The backing. That was still attached to the shag part
- 12 when the carpet was removed, right?
- 13 A That's correct.
- 14 Q And so the part that showed in H-65 shows the wet spot
- 15 where Dr. Douglas Ryen was kneeling or crouched; is that
- 16 right?
- 17 A It was either dark or a heavier blood. I couldn't say
- 18 at this time. It may have been moist.
- 19 Q Was there likewise areas similar to that on the
- 20 yellow part of the carpet underneath where Dr. Peggy
- 21 Ryen and Christopher Hughes was?
- 22 A Yes, it was.
- 23 Q Were you aware of any procedures established by the
- 24 sheriff's department with respect to the handling of
- 25 physical evidence containing bloodstains when you were
- 26 doing this work of removing the carpets?

009133

1 A There are several ways of doing things.

2 Q Were you aware of any sort of like written procedures
3 that had been established by the sheriff's department
4 as far as that's concerned?

5 A There are guidelines. There's not a set procedure,
6 because every incident is different and requires different
7 handling.

8 Q Showing you Exhibit H-195, which is entitled San
9 Bernardino County Sheriff's Office Training Division,
10 Identification, Collection, and Preservation of Evidence,
11 and there's some 20 or 30 pages there of various items
12 including document collection, bloodstain collection.
13 Were you aware of that particular document?

14 A Without seeing a date on this document, no, I have not
15 seen this document before.

16 Q Had you seen anything similar to that?

17 A I have attended the academy at Glen Helen and also
18 seminars. If this is the -- they may have handed out
19 something similar, but I don't believe this particular
20 document was handed out to me.

21 Q Were you aware of a document entitled Physical Evidence
22 Outline, which is furnished on request to deputies or
23 investigators by the crime lab?

24 A I've never seen such a document. If you could -- by its
25 title, it doesn't mean anything to me. If you could
26 show me the form, I could be positive on that.

0099134

1 Q It hasn't arrived yet.

2 Showing you document H-211, is that a Xerox copy
3 of the list that you prepared of the stuff that you
4 took from the crime scene?

5 A That's my report.

6 Q There's a few underlinings and things in there that
7 were not part of your original report; is that correct?

8 A That's correct.

9 Q But starting at the middle of the first page and going
10 over into the next page, the different items that you
11 took pursuant to the search warrant on Monday are
12 listed; is that correct?

13 A That's correct.

14 Q Is that a complete list?

15 A Well, the major items, there's -- I didn't inventory
16 every piece of clothing in the plastic bag. I listed
17 plastic bag of clothing. Also, there was a jewelry box.
18 I did not inventory everything inside the jewelry box
19 or the chest of drawers. I listed the major unit and
20 the contents of those items were not inventoried.

21 Q But there wouldn't have been like another bed or piece
22 of furniture that would not be listed in some form on
23 that document?

24 A If there was one taken, it was taken without my knowledge
25 or without me seeing it. This is everything that I saw
26 being loaded onto the trucks or taken out of the bedroom.

0009135

26 Q So you were no longer, during the actual work of moving

1 the carpet, no longer attempting to keep it free from
2 contamination?

3 A Generally speaking we did not roll up any dirt or
4 furniture or any other items with just the carpeting
5 itself. Everything was removed from the top of it and
6 then it was folded into itself and then loaded onto a
7 truck.

8 Q But there were no particular precautions made to prevent
9 contamination of the carpet while you were doing that;
10 is that correct?

11 A That precaution is the only one that we did take was to
12 remove all foreign items from it and not to put any
13 additional ones in it.

14 Q There was no particular attempt made to like keep one
15 part of the carpet from contaminating another part,
16 prevent the transfer from one part of the carpet to
17 another?

18 A No, sir, because that was where the crime lab had taken
19 samples from the carpet. There was no paper interlaced
20 between the folds.

21 Q Did you believe that the criminalists had completed
22 their work at the time that you removed it?

23 A Yes, by their lack of objections, yes.

24 Q But you didn't specifically ask them what their opinions
25 were?

26 A No, I did not. If I was to ask each person there for

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THE WITNESS: Yes, I was.

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009138

1 A That's correct.

2 Q If they're not frozen, they'll eventually be useless
3 for testing?

4 A The majority of them would be deteriorated by that
5 point.

6 Q In looking at the furniture as you were removing it,
7 could you tell that some of the furniture had not had
8 any samples taken from them?

9 A I was present when some samples were taken, and after
10 it was done some of the locations were not obvious.
11 It's done with water and string and it doesn't make an
12 obvious smear, and nothing was X'd out or anything of
13 that nature to indicate that it had been taken. And
14 again, the two criminalists were present throughout
15 the removal of everything. And there was no objections
16 again.

17 (No omissions.)
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0009-1-7787

11-1

1 Q But you could tell, could you not, yourself, that some
2 of the items had not been tested, had not had any blood
3 removed from them?

4 MR. KOCHIS: Objection. That calls for speculation
5 based on his previous answer. No foundation.

6 THE COURT: Sustained.

7 Q (BY MR. NEGUS) Did you testify at the preliminary
8 hearing that you could tell?

9 A I don't believe that I did.

10 MR. NEGUS: If I could read, your Honor, from
11 page 90, 12 through 20?

12 MR. KOCHIS: If I could have a volume, it would
13 make it easier.

14 MR. NEGUS: Volume 14. Excuse me. 9 through 20.
15 Excuse me.

16 MR. KOCHIS: The objection I would have is that the
17 question that was asked at the preliminary hearing, I made
18 the same objection that it called for speculation and
19 Judge Merriam overruled me and allowed Mr. Negus to ask it
20 and allowed this witness to answer it.

21 I would again interpose the same objection that it
22 calls for speculation on his part and the fact that I may
23 have been overruled at a previous time, it would be an
24 improper way to get it in.

25 THE COURT: You don't think Judge Merriam is binding
26 precedent?

00091140

11-2

1 MR. KOCHIS: No.

2 THE COURT: Read the questions, please.

3 MR. NEGUS: "Q There were blood drops on
4 most of the furniture that you took out of
5 the house that day; is that correct?

6 "A That's correct."

7 Then we get to the part that we are interested in.

8 "Q In looking at those blood drops,
9 one could tell, could one not, that the
10 Crime Lab hadn't taken any chips out of
11 them or samples out of them?"

12 THE COURT: I will overrule the objection.

13 MR. NEGUS: Continuing on reading:

14 "MR. KOCHIS: Objection. That calls
15 for speculation.

16 "THE COURT: Overruled, if you know.

17 "THE WITNESS: I could tell some of
18 the items had not been tested."

19 Q (BY MR. NEGUS) Do you recall which furniture it was
20 that had not been tested?

21 A No, I do not.

22 Q While you were at the Ryen residence on Monday, did you
23 look in the refrigerator?

24 A Yes, I did.

25 Q Showing you H-183, does that appear to be a photograph
26 of some beer cans in the inside of the refrigerator?

0099141

11-3

- 1 A Yes, it does.
- 2 Q There are some brownish red stains on the wall of the
3 refrigerator next to the beer cans. Did you see those
4 on Monday, June the 6th?
- 5 A Those were brought to my attention, yes, they were.
- 6 Q By whom?
- 7 A I believe it was Duffy. He had found them, photographed
8 it and brought it to my attention.
- 9 Q When it was brought to your attention, what did you do
10 with it?
- 11 A I asked him to collect the evidence and he stated that
12 he would, that he would collect the beer cans for
13 fingerprinting.
- 14 Q Did those stains on the side of the wall appear to be
15 blood to you?
- 16 A They may have been blood.
- 17 Q Did you point those out to any criminalist?
- 18 A I did not, no.
- 19 Q Did you see the criminalists looking in that refrigerator?
- 20 A Personally, I did not see a criminalist looking in there,
21 but I was not with them all the time.
- 22 Q And H-184 is a closeup of the beer cans or some of the
23 beer cans and the stain; is that correct?
- 24 A That's correct.
- 25 Q Showing you H-175, does that appear to be a door that
26 leads from the hallway that went from the master

00991142

3 A All the doors in that house were all white doors. It
4 may be that door.

9 A That's correct.

12 A Those were also brought to my attention.

14 A I don't believe that door was seized.

16 A The door was photographed and processed for prints.

19 0 Was that door brought to the attention of

21 A I couldn't state that and be positive. I did not bring
22 it to his attention.

26 A No.

009143

11-5

- 1 Q Once the furniture that had not been tested was in
2 the loft, did you ever do anything to ensure that
3 samples were taken of that blood on that furniture?
- 4 A Personally, no, I did not.
- 5 Q Did you ever request anybody else to?
- 6 A No, I did not.
- 7 Q What time did you finish executing the search warrant
8 on June the 6th?
- 9 A I believe around 8:00 in the evening.
- 10 Q Do you know who it was that was in charge of -- I mean
11 which of the deputies took the stuff away in the truck?
- 12 A No, I don't. They were people who worked for
13 Sergeant Swanlund.
- 14 Q Do you have, other than just looking at photos, do you
15 have any independent recollection now as to which
16 deputies did which tasks as far as removal of the
17 furniture?
- 18 A No. I did not assign anyone to do any individual tasks.
19 Again, it was handled by Sergeant Swanlund and his crew.
- 20 Q So your primary task that particular day was making
21 sure that you got a valid search warrant and bringing
22 that out to the house and having it served; is that
23 correct?
- 24 A Well, to obtain the search warrant and to serve the
25 search warrant and to make sure the items that were
26 requested to be removed were removed.

00091144

11-6

- 1 Q And everything that you requested to be removed was in
2 fact removed?
- 3 A Yes, it was.
- 4 Q Did you ever return to the Ryen residence after June 6th?
- 5 A Yes, I did.
- 6 Q When was that?
- 7 A It was in August, I believe, when the house was released
8 back to the family.
- 9 Q If the house was released back to the family on June
10 23rd, would that have been the time?
- 11 A It may have been the time.
- 12 Q What was the purpose to go by there? To release it
13 back?
- 14 A Release it back.
- 15 Q That was Dr. Mary Howell?
- 16 A It might have been. Again, I just accompanied
17 Sergeant Arthur and the house was released back to the
18 people at that time. I did not personally release the
19 house back.
- 20 Q Any other times have you been back to that house?
- 21 A Since then?
- 22 Q Yes.
- 23 A I have been by it around the driveway but I have not
24 been inside of it.
- 25 Q Did you ever visit the house that is a hundred and
26 some-odd yards to the east of the Ryen residence at

00091145

11-7

1 2991 English Road?

2 A Yes, I have.

3 Q On how many occasions?

4 A I have visited the outside of it on several occasions.
5 I have been inside it on one occasion.

6 Q When were you inside of it?

7 A During the preliminary hearing.

8 Q And that was to search the attic?

9 A No. I walked through the house for the purpose of
10 doing a floor plan diagram.

11 Q Showing you Exhibit H-219, is that the floor plan
12 diagram that you did?

13 A That's the first one. There has been a correction on
14 that.

15 Q That correction is --

16 A One window should be a sliding door.

17 Q And that window that should be a sliding door is --

18 A Here.

19 Q You have drawn a green line on the window in the bedroom
20 that is closest to the Ryen residence; is that correct?

21 A To the southwest or northwest corner.

22 THE COURT: This is the Lease house?

23 MR. NEGUS: Yes.

24 Q (BY MR. NEGUS) In June of 1983, did you obtain any
25 reports from Sergeant Swanlund about evidence that had
26 been found inside of that house?

0099146

11-8

- 1 A A verbal report.
- 2 Q Did Sergeant Swanlund tell you that some bloody corduroy
3 pants had been found in that house?
- 4 A The only report that he gave me in reference to clothing
5 was there was partially washed clothing. The itemization
6 of the clothing was never given to me.
- 7 Q And that partially washed clothing was inside the
8 washer-dryer in the house?
- 9 A That's what I was told.
- 10 Q And you were told that in the morning of June the 9th
11 when you were preparing a memo in support of an
12 affidavit for an arrest warrant for Mr. Cooper; is that
13 correct?
- 14 A Either the 8th or 9th. It may have been the 9th. I was
15 typing a summary and Sergeant Swanlund was sitting
16 beside me and telling me the items he had found and
17 I was typing it on the memo at that time.
- 18 Q Did he ever tell you that he had found some partially
19 opened cans of food?
- 20 A He may have explained to me there was partially eaten
21 food or evidence that someone had eaten food in that
22 house. Again, the items were not itemized.
- 23 Q Just Sergeant Swanlund's conclusions?
- 24 A Just a general summation of what he found and what he
25 observed them to be.
- 26 Q When Sergeant Swanlund told you about the clothing, did

0009147

11=9

1 he also tell you that it appeared that the suspect or
2 suspects had come back to the Lease house afterwards
3 and cleaned up and washed their clothing and themselves?

4 MR. KOCHIS: At this time, I interpose an objection.
5 It calls for a conclusion and it's hearsay. I'm not aware
6 of any exception for it.

7 THE COURT: A conclusion on Sergeant Swanlund's
8 part?

9 MR. KOCHIS: Yes, your Honor. And it's a hearsay
10 statement as to this witness.

11 MR. NEGUS: The relevance is to identify the
12 particular clothing we are talking about. We have had
13 different clothing.

14 THE COURT: Why don't you do it with
15 Sergeant Swanlund?

16 MR. NEGUS: I have a feeling that Sergeant Swanlund
17 is going to deny making this particular statement, and I'm
18 reasonably sure that he is, and I --

19 THE COURT: If it's for impeachment, I can vary the
20 offer of proof and strike it if Sergeant Swanlund admits it.

21 MR. NEGUS: That will be fine.

22 MR. KOCHIS: As long as I have my objection that
23 it's not being offered for the truth of the matter asserted.

24 THE COURT: At this time, it's based on impeachment.

25 MR. NEGUS: If Sergeant Swanlund denies it, it can
26 become for the truth of it.

00091148

11-10

1 THE COURT: It can be received both ways under 352.

2 MR. NEGUS: Thank you.

3 Q (BY MR. NEGUS) Did Sergeant Swanlund tell you when he
4 told you about seeing the clothing in the washer and
5 dryer that it appeared that the suspect had come back
6 and washed up the suspect's clothing and himself in
7 the Lease house?

8 A That it appeared to him as if someone had come back and
9 cleaned up, true.

10 (No omissions.)

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1 Q And that included clothing and himself?

2 A Yes.

3 Q That's a reasonably close approximation to the words
4 that you put in your search warrant affidavit?

5 A Correct.

6 Q Those words were given to you by Sergeant Swanlund as
7 you set typing your memo?

8 A He was summarizing what he found and I was typing it into
9 a very short and concise summary. Those may have not
10 been his exact words, because again, I was trying to
11 summarize everything of the events that happened.

12 Q As you were summarizing it was just as you were listening
13 to Sergeant Swanlund?

14 A Correct.

15 Q When you were examining Dr. Peggy Ryen, when you were
16 taking note of her injuries, did you notice any loose
17 or cut hair on her body?

18 A I was -- no, I did not. I may have seen it, but it did
19 not register as being unusual, since she did have head
20 injuries.

21 Q So you didn't particularly take note of any hair?

22 A No, I did not. I would not, because it would not have
23 seemed out of place.

24 Q The procedure that you were using as far as removal of
25 the bodies was concerned assumed that any trace evidence
26 that would have been on the bodies would have been

009150

1 removed at the morgue; is that correct?

2 A That's correct.

3 Q You were withholding from examining trace evidence until
4 it could be done at the lab under better lighting
5 conditions?

6 A We were looking for any obvious trace evidence of bullets,
7 knives. Again, we did not have a microscope or anything
8 to do small minute trace evidence. That's the reason the
9 body was preserved in the condition that it was. There
10 was no large or obvious evidence on the body. If there
11 was, it would have been collected at the time of the
12 removal.

13 Q For example, with respect to Jessica and Christopher,
14 they both had their clothes on, their night clothing on;
15 is that correct?

16 A That's correct.

17 Q And they were taken in the body bags with the night
18 clothing still on them?

19 A That's correct.

20 Q So there was no attempt to try and remove trace evidence
21 from the clothing that they were wearing or from their
22 bodies or person or anything of that nature?

23 A Not at the scene, there was not. It was just not an
24 ideal location to do that.

25 Q Before the bodies were taken away, was there anything
26 done to try and affix like loose hairs or that sort of

009151

4 A. That would have contaminated it. To add would have been
5 the same as taking away. It would have contaminated.
6 We just preserved the body in the condition it was
7 without removing or placing items on or around the body.

10 A. Yes, it was.

13 A They were wet underneath, I believe.

14 Q Like the spot shown in Exhibit H-104?

15 | A That's correct.

16 MR. NEGUS: Nothing further.

18 CROSS EXAMINATION

19 BY MR. KOCHIS:

20 Q Detective Clifford, directing your attention to an
21 exhibit which has been marked for identification as
22 Exhibit H-216, do you recognize that particular diagram?

23 | A. Yes, I do.

24 Q Is that a diagram that you assisted in the preparation
25 of?

26 A Yes, it is.

009152

1 Q And is that a diagram of a residence and the outside of
2 a particular residence?

3 A That is the driveway and the Ryen residence looking at
4 it from an upper and aerial view.

5 Q When you participated in the preparation of that
6 particular diagram, what did your participation consist
7 of?

8 A I drew the diagram itself and placed in measurements
9 that were given to me by James Hill.

10 Q The measurements that were obtained for various blood
11 samples on the driveway, those were obtained by Mr. Hill?

12 A Yes, they were.

13 Q And at his direction you placed those on the diagram?

14 A He was with me. I did the diagram and he pointed out
15 the items that he wanted to make note of and their
16 measurements.

17 Q Directing your attention to the photograph which has
18 been marked for identification as Exhibit H-104, which
19 Mr. Negus previously showed you, are there areas on the
20 floor inside the master bedroom that appear to be blood-
21 stains?

22 A This photograph shows the master bathroom.

23 Q I'm sorry, the master bathroom.

24 A There were several stains, one larger, some smaller,
25 ranging from two to four inches in diameter. The largest
26 one, I believe, was about 18 inches in diameter.

1 Q In the photograph are portions of the stain darker than
2 others?

3 A Yes, it is.

4 Q Can you tell from the photograph whether the difference
5 in color is due to the moisture or absence of moisture
6 from the stain or due to the amount of blood that was
7 originally at the location?

8 A It could be for either reason.

9 MR. KOCHIS: Your Honor, I have nothing else from
10 Detective Clifford.

11 THE COURT: Mr. Negus.

12 MR. NEGUS: Nothing else. I'm sorry. I didn't feel
13 like it would be this quick. We could try and get Swanlund,
14 I guess.

15 THE COURT: Maybe we can take the afternoon and
16 discuss jury instructions.

17 MR. NEGUS: Okay.

18 THE COURT: Thank you very much, sir. You may
19 step down.

20 Could you perhaps give me, as long as you've run
21 out of witnesses -- we have run out of witnesses.

22 MR. NEGUS: Yes.

23 THE COURT: Give me your prognosis as to matters
24 that are coming up, other motions perhaps, duration of them,
25 as best you could.

26 MR. NEGUS: I could tell you -- when we get through

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1 with this motion, depending upon its result --

2 THE COURT: When could this finish first, then?
3 We're going over now till Monday.

4 | MR. NEGUS: End of June probably.

5 THE COURT: When?

6 MR. NEGUS: End of June. Our best guess is -- let's
7 see. We have homicide and CCD people who were involved in
8 the preservation. They should probably take another week
9 or -- week to two weeks. Then we have crime lab people.
10 They should take a similar period of time. And there's a
11 few other, I.D., high sheriff's and District Attorney
12 officials that are involved in some of the decision making
13 to add a little bit of time. But presumably about four more
14 weeks. I don't like to be pinned down on these sometimes
15 because I don't --

16 THE COURT: I'm completely in the dark. At least
17 enlighten me as much as you can.

18 MR. NEGUS: I can tell you that there are like, for
19 example, Monday there are probably six or seven civilian
20 witnesses connected with some matters that have already
21 been brought up, plus fire people. They won't take a long
22 time apiece, but there's a lot of them. Then we have --

23 MR. KOCHIS: Your Honor, I think the answer the
24 Court's looking for is it's going to be three -- somewhere
25 between three and five weeks' testimony left on this motion
26 and Mr. Negus believes there will be approximately four weeks.

3 MR. NEGUS: After that, the next motion that I would --
4 I've given you a list of four motions at one point in time.
5 The one after that had to do with foundational requirements
6 as to the actual testing that Mr. Gregonis did on this
7 particular case, did he do it right. Then that I would
8 imagine would take at least two days. You know, I'm really
9 not very good at these estimates. I don't like to be --

11 (No omissions.)

26

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1 MR. NEGUS: And I hate to give them. In fact, I
2 promised --

3 THE COURT: Several days, perhaps, then, on the
4 Gregonis foundation?

5 MR. NEGUS: Yes. If you tie in the Gregonis
6 foundation with the general relevancy, once part of the
7 issues become clear on that, then there becomes a general
8 relevancy argument as to the blood which involves some
9 argument about statistics and whatever is left of the blood
10 evidence, if anything, by the time we get there.

11 Hopefully, we won't be there so we won't have to get
12 that far.

13 There is probably a week of blood evidence with
14 serological admissibility stuff after we get through with
15 the Hitch motion, then the next obvious area of motions
16 has to do with the admissibility of the other alleged bad
17 acts that Mr. Kochis wants to bring in.

18 THE COURT: We may not have much of a dispute on
19 that.

20 MR. NEGUS: If he wants to bring in the ones that
21 he says he does, we do.

22 MR. KOCHIS: I believe -- and correct me if I'm
23 wrong -- we are down to --

24 THE COURT: Just a couple.

25 MR. KOCHIS: -- two, an escape and a rape in the
26 Pittsburg area.

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1 MR. NEGUS: And I thought something about burglaries,
2 Diane Williams and her burglary modus operandi.

3 MR. KOCHIS: There are two issues, yes. There is
4 one that relates to an escape and subsequent conduct in
5 Pittsburg, and then statements that Diane Williams made
6 as to observations.

7 MR. NEGUS: Which could be complicated.

8 But presumably, that motion won't take more than a
9 day or two, I think. But I don't know. I haven't really
10 planned out and I'm sort of preparing as I go along. I
11 haven't planned out after that.

12 I can foresee also a rather lengthy motion or more
13 lengthy, but it's lengthy up to a week or so, which has to
14 do with whether or not Joshua Ryen testifies and
15 admissibility of some of his statements. That could be
16 complicated.

17 THE COURT: Possibly a week on that?

18 MR. NEGUS: If there is an issue of Joshua's
19 personal knowledge, that could involve psychiatric and
20 psychological testimony, and that could take some time.

21 I don't know what the prosecution's position is going
22 to be on that and I haven't figured out my position on it.
23 I'm just giving you warning.

24 Then there is a bunch of other stuff I hadn't thought
25 of. I know there are other evidentiary issues that would have
26 to be litigated. Presumably none of those would be very long.

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13-3

1 And then there are issues that have to do with
2 how we pick a jury. Those are mostly legal. I don't think
3 they would take too much evidence.

4 I probably would make a motion for change of venue
5 from San Diego County if I'm not granted appellate relief,
6 and I probably would be making a motion, if that's not
7 successful, with respect to the jury composition in
8 San Diego County and the underrepresentation of blacks.

9 I can foresee at least those and I'm sure there are
10 others. I just haven't gotten them systematically set out.

11 THE COURT: If we get to the latter two, the motion
12 for change of venue from San Diego and the jury composition,
13 will that be done here or there?

14 MR. NEGUS: I don't know. I mean, I can see
15 arguments for both, so I don't presume to decide that.

16 THE COURT: It sounds interminable. You are not
17 trying to filibuster us, are you, Mr. Negus?

18 MR. NEGUS: No, your Honor.

19 THE COURT: Anything else?

20 MR. KOCHIS: No.

21 THE COURT: Let's take the recess until Monday at
22 9:30.

23 MR. NEGUS: As I indicated, your Honor, I will
24 attempt to have these various thoughts in mind as to what
25 to do next at least in writing as quickly as I can, but I
26 got behind when I was sick and I haven't caught up yet.

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13-4

1 But I will at least attempt to have it at least a
2 week or so before we get through with this motion as to the
3 stuff that I want to do next.

4 I will keep you at least a week ahead.

5 THE COURT: We lost basically four days because of
6 your illness, but now it appears that we probably
7 underestimated the time for these motions by at least a
8 couple of months.

9 MR. NEGUS: I don't know about a couple of months.
10 I'm not very good at estimates. I know that certainly
11 during the course of the motions I know that the prosecution
12 has continued their investigation. I have continued my
13 investigation. And even in the course of this motion,
14 several things have come up which I wasn't aware of before
15 which prolonged this motion, so I don't have a real good
16 grasp on how long it's going to take.

17 THE COURT: I'm not trying to intimidate you, but,
18 as you know, there are a lot of interrelated parts of this
19 system, courtrooms, counties, other Judges, media. Everybody
20 is inquiring, and I haven't the foggiest idea, so I depend
21 upon you people to give me some idea, foggy though it may be.

22 MR. NEGUS: We are foggy.

23 THE COURT: All right. See you Monday.

24 (Whereupon the proceedings taken and had
25 on this date were adjourned.)

26 --o0o--

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